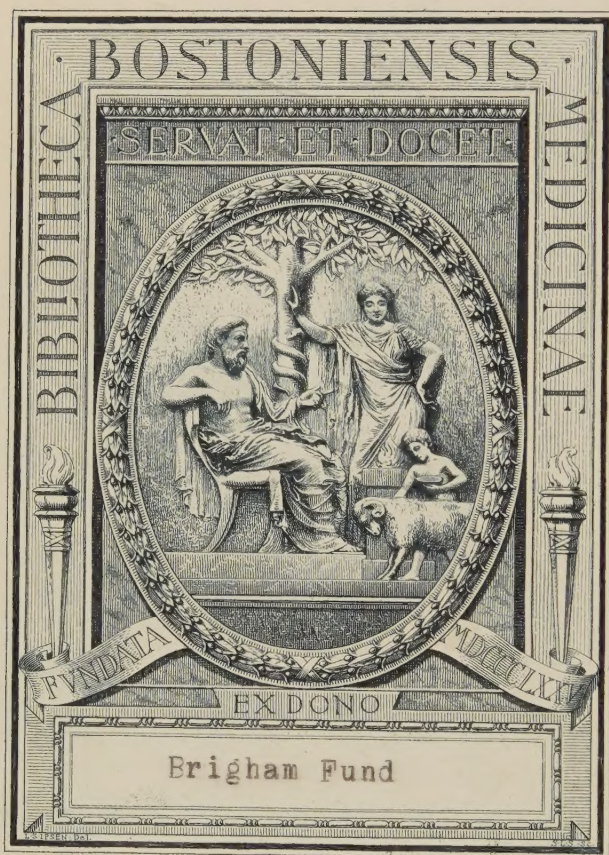


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Dunn's Food and Drug Laws

FEDERAL AND STATE
(Annotated)

IN THREE VOLUMES

Prepared and Edited by
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Of the New York Bar

FIRST EDITION—1927-1928

VOLUME II
STATES
Alabama—New Hampshire

Published by
UNITED STATES CORPORATION COMPANY
150 Broadway
New York



United States Corporation Company

25224 Br.

32. K. 67.

MacCrellish & Quigley Company
Printers
Trenton, New Jersey

To My Wife

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ALABAMA.*

PART I.

General Food and Drug Law.

1. Definitions.—For the purpose of this act the word “person” means an individual, a partnership, a corporation, or two or more individuals having a joint or common interest. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent, or other person acting for or employed by any individual, partnership, corporation, or by two or more individuals having a joint or common interest, shall in every case also be deemed to be the act or omission or failure of such individual, partnership, corporation, or of two or more individuals having a joint or common interest. The having in possession, by any person who manufactures, sells, keeps for sale, offers or exposes for sale, serves, distributes or delivers fertilizers, fertilizer materials, ground limestone, paint, white lead, linseed oil, turpentine, kerosene, and other illuminating oils, insecticides and fungicides, commercial feeds, agricultural seeds, eggs, vinegar, sausage, imitation butter and cheese; milk, cream, ice cream and other dairy products, or any article of food or drugs, shall be prima facie evidence of having in possession with intent to sell; except that this shall not apply to any common carrier when said products or articles were received by said carrier for transportation in the ordinary course of its business, and without actual knowledge of the adulteration, misbranding, under standard, grade, weight or measure claimed. Whenever the words “sell” or “sold” occur in this act, it shall imply the sale, keeping for sale, offer or exposure for sale, having in possession for sale, delivery or distribution in this State, of the product or article in question. (G. A. 1923, No. 376, Art. 1, § 2.)

2. Purposes of Article.—The purposes of this article are to prevent the manufacture, possession, sale or delivery of adulterated or misbranded food and

*CITATIONS.—“Pol. C.,” “Crim. C.” and “Civil C.” refer to the Code of Alabama, 1923, adopted by the act of August 17, 1923. Volume 1 thereof contains the Political Code, Volume 2 the Criminal Code, and Volumes 3-4 the Civil Code. “G. A. 1919” refers to the General Acts of Alabama of 1919, which include the revenue act (No. 328) of 1919. “G. A. 1923” refers to the General Acts of Alabama of 1923, which include the act (No. 376) of September 27, 1923, the Agricultural Code of Alabama. Said act was enacted after the Code of Alabama, 1923, was adopted. (See the note to section 3206 of the Criminal Code.) The Agricultural Code of Alabama codifies the general food and drug law, also numerous special food and the divers agricultural laws. Note the following sections of Act No. 376:

This act shall be known, and when cited or amended may be designated as the “Agricultural Code of Alabama.” (G. A. 1923, No. 376, Art. 1, § 1.)

All laws and parts of laws in conflict with this act shall be and the same are hereby repealed; provided that the provisions of this act shall not repeal statutes pertaining to agriculture and industries, and related subjects, not expressly treated in whole or in part in this act. (G. A. 1923, No. 376, Art. 44, § 1.)

If any provision of this act or the application thereof to any person or circumstances shall be held by the Supreme Court of the State to be unconstitutional, such holding shall not affect any other provision of this act, or the application of such provision to other persons or circumstances, it being the intent and purpose hereof that each provision hereof shall stand or fall on its own merits and that the judicial annulment for unconstitutionality of any provision hereof shall have no effect upon any other provision not so annulled. (Id. § 2.)

In lieu of any provision of this act that shall be judicially annulled for unconstitutionality, the existing law at the time of the adoption of this act governing that subject shall be and remain in full force and effect and shall take the place of and be substituted for the provision so annulled. (Id. § 3.)

This act shall, except as may otherwise be provided for certain articles contained herein, go into effect on October 1, 1923. (Id. § 5.)

drugs, and for other purposes. No person within this State shall manufacture for sale therein, have in possession with intent to sell, offer or expose for sale, sell, or deliver any article of food or drugs which is adulterated or misbranded within the meaning of this article. (G. A. 1923, No. 376, Art. 5, § 1.)

3. Definitions.—The word "article" when referring to food or drugs, is used in the broad and comprehensive sense and has reference to the food product or the drug product in question. The term "food" as used herein shall include all articles of food, drink, confectionery, or condiment, whether simple, mixed or compound, used or intended for use by man or domestic animals. The term "drug" as used herein shall include all medicines and preparations recognized in the U. S. Pharmacopœia or National Formulary for internal or external use and any substance or mixture of substances to be used for the cure, mitigation or prevention of disease in man or domestic animals. The words "standard of purity or quality" herein used shall refer to and include the standards of purity for food products promulgated and published by the United States Department of Agriculture, except where they conflict with existing statutes of this State, when in such cases the standards provided by the statutes of this State shall govern and be the standards. (Id. § 2.)

4. When Food and Drugs Deemed Adulterated.—An article shall be deemed to be adulterated: A. In the case of food: First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength. Second. If any substance has been substituted wholly or in part for the article. Third. If any valuable constituent of the article has been wholly or in part abstracted. Fourth. If it be mixed, colored, powdered, coated, stained, or otherwise treated in a manner whereby damage or inferiority is concealed, or in a manner whereby the appearance of said article is improved; provided this shall not apply to the precoloring or processing of fruits where such precoloring or processing does not conceal damage or inferiority. Fifth. If it contain any poisonous or deleterious ingredient which may render such article injurious to health: Provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such a manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package, the provisions of this article shall be construed as applying only when said products are ready for consumption. Sixth. If it consist in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. Seventh. If in the course of its preparation of manufacture an ingredient of inferior food value has been substituted in whole or in part for an ingredient of greater food value. Eighth. If it does not conform to the standard of purity or quality established for the article. B. In the case of drugs: First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary, official at the time of investigation. Second. If when an article not recognized by the United States Pharmacopœia or National Formulary, its strength or purity fall below the professed standard or quality under which it is sold. (Id. § 3.)

5. Same, When Deemed Misbranded.—The term "misbranded" as used herein, shall apply to all drugs, or foods, or articles which enter into the composition of food, the package or label of which shall bear or contain any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced. That for the purpose of this article an article of food or drugs shall also be deemed to be misbranded. A. In case of food: First. If it be offered for sale under the name of another article. Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package. Third. If in package form, the name of the article, together with the quantity of the contents in terms of weight, measure, or numerical count and the name and principal address of the manufacturer or other person responsible for placing the article on the market, be not plainly and conspicuously marked on the outside of the package. Fourth. If in package form, the package be not filled with the food it purports to contain,

within the limits of tolerance fixed by the State Board of Agriculture, irrespective of whether the quantity of the contents be plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count. Fifth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular. Sixth. If in bulk, it be colored so as to deceive or mislead the purchaser. Seventh. If it be offered for sale under false representations. Eighth. If it be an imitation of another article and it be not marked with the word "imitation," followed without intervening descriptive matter by a list of the ingredients contained therein. Ninth. If it be a compound for which no standard of purity or quality has been established, it be not labeled with the word "compound" followed without intervening descriptive matter by a list of the ingredients: Provided, that in the case of a compound which may be now, or from time to time hereafter, known as an article of food under its own distinctive name, and not an imitation of or offered for sale under the name of another article, it shall not be deemed to be misbranded, if the name of the article be accompanied on the same label or brand with a statement of the place where such article was manufactured or produced. B. In the case of Drugs: First. If it be an imitation of or offered for sale under the name of another article. Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol or any narcotic or habit-forming drug, together with a statement that such drug is narcotic or habit-forming, as the case may be. Third. If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false or fraudulent. (Id. § 4.)

6. Standards of Purity Fixed by Whom.—It shall be the duty of the State Board of Agriculture, with the assistance of the State Chemist to fix the standards of purity for all food and drug products, in accordance with those promulgated by the Secretary of Agriculture, the Secretary of the Treasury, and the Secretary of Commerce and Labor of the United States, when such standards have been published; and when not yet adopted they shall fix such standards. (Id. § 5.)

7. Penalties.—Any person, firm or corporation, violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than ten dollars nor more than fifty dollars, or imprisoned in the county jail not exceeding thirty days. (Id. § 6.)*

8. Guaranty.—No dealer shall be prosecuted under the provisions of this article when he can establish a bona fide guarantee signed by the wholesaler, jobber or manufacturer within the United States, from whom he purchased such articles, that they are not adulterated or misbranded within the meaning of this article, designating it, and that he has [had] no knowledge of such adulteration or misbranding at the time they were purchased. Such guaranty shall contain the name and address of the vendor who shall, if a resident of this State, be amenable to the prosecutions, fines, and other penalties to which the purchaser would otherwise be amenable. (Id. § 7.)

9. Enforcement of Article.—The Commissioner of Agriculture and Industries shall enforce or cause to be enforced the provisions of this article, and

* Note also:

Penalty.—Any person violating any provision of this act shall be guilty of a misdemeanor and, upon conviction, unless otherwise provided in this act, shall be fined not less than ten nor more than fifty dollars for the first offense and double that amount for each such succeeding offense. (G. A. 1923, No. 376, Art. 44, § 4.)

Violations of the Provisions of the Agricultural Code of Alabama.—Any person, firm or corporation who violates any of the provisions of the act of the Legislature of Alabama, approved September 27th, 1923, p. 399, and designated as the Agricultural Code of Alabama shall be guilty of a crime as is provided for in said act, and on conviction shall be punished as is specifically provided for in said act of the Legislature; and any person, firm or corporation who fails or refuses to perform or discharge any duties or obligations imposed upon them by the said act of the Legislature known as the Agricultural Code of Alabama, shall be guilty of a crime as is provided for in said act, and, upon conviction, shall be punished as is provided for in said act. (Crim. C. 1923, § 3206.)

such rules and regulations as are promulgated by the State Board of Agriculture for its prompt and effective enforcement, and shall make or cause to be made all necessary examinations. (Id. § 8.)

10. Samples for Analysis.—Samples of articles of foods or drugs drawn by the Commissioner of Agriculture and Industries or his authorized agents shall be sealed by himself or his agents and shall be delivered to the department for analysis. One sample shall be preserved, when practicable, in the laboratory of the department and shall be delivered to the person from whom it was taken or to his agent or attorney upon application. Any person who shall hinder or obstruct any authorized agent of this department by refusing to allow entrance into any place of business for the purpose of carrying out the provisions of this article, or by refusing to deliver samples as herein provided, when same are requested and value tendered, is hereby declared to be guilty of a misdemeanor, and upon conviction shall be fined in the sum of not less than fifty and not more than one hundred dollars. (Id. § 9.)

11. Sale of Products Not Complying With Requirements of Act, May be Suspended.—If at any time the Commissioner of Agriculture and Industries, or his duly authorized agent, shall have reason to believe that any products or articles mentioned in section 2 of this article, which are offered or exposed for sale in this State, do not comply with the requirements of this act as to ingredients, substances, analysis, weights or measure of the same, it shall be his duty by written order to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such article or product is made up or compounded as required by this act. If he shall find that the same does not comply with any article or provision of this act, then he is authorized to proceed with regard to the same as provided in section 2 of this article. (G. A. 1923, No. 376, Art. 21, § 1.)

12. Proceedings; Seizure and Condemnation, etc.—Any fertilizer, fertilizer material, ground limestone, paint, white lead, linseed oil, turpentine, kerosene or other illuminating oils, insecticides and fungicides, commercial feeds, agricultural seeds, eggs, vinegar, sausage, milk, cream, ice cream or other dairy products, imitation butter and cheese, or any article of food or drug which is adulterated, misbranded, or under standard, grade, weight or measure claimed within the meaning of any article or provision of this act, and which is manufactured for sale, held in possession with intent to sell, offered or exposed for sale, or sold or delivered within this State, shall be liable to be proceeded against in the Circuit Court of the county where the same is found, and seized for confiscation by writ of attachment for condemnation. Such writ shall issue upon the sworn complaint of the Commissioner of Agriculture and Industries or his duly authorized agent, taken by an officer authorized to administer an oath to the effect that such article or product is adulterated or misbranded or is under standard, grade, weight or measure claimed, as the case may be, within the meaning of this act. The said sworn complaint by said Commissioner of Agriculture and Industries or his duly authorized agent, may be amended at any stage of the proceedings. Said writ shall be returnable in five days to the court issuing the writ; such court shall hear and decide whether the allegations of the complaint are true and whether said article or product shall be condemned and confiscated. Such hearing shall not be had until five days' notice of the date therefor shall have been served on the owner, his agent, or any other party having an interest in the same, except in cases defined in subhead (a). Service of a copy of the writ of attachment showing the returns of the attaching officer shall be sufficient notice for the purposes of this section. Such writ may be executed by the Commissioner of Agriculture and Industries, his duly authorized agent, or by any sheriff or constable in the State. Upon the seizure of the article or product described in the affidavit, it shall be the duty of the officer or person executing the writ to return same to the Circuit Court, with his return thereon, and within five days after its return, the court shall make up an issue between the State as plaintiff and the property seized as defendant. (a) In the event that the owner or his agent cannot be found in this State, then said service may be perfected by posting a copy of the writ in a conspicuous place upon the premises where the goods were found and seized, and by mailing a copy thereof by registered mail to the owner, or his agent, to his last known address, and this shall be deemed to be sufficient service of the notice required by this section. If upon the return day of such writ of attachment, the owner of the article or product, his agent or other party having an interest in same thus notified fails to appear and show cause why said goods should not be condemned, judgment of condemnation and confiscation shall, upon such default, be rendered by the court on the basis of said complaint. If such owner or agent or other party having an interest in such article or product shall

on or before the return day of the writ of attachment, or upon such other day as the court upon application of such party may determine, shall file an answer upon oath denying the allegations of adulteration, misbranding or under standard, grade, weight or measure, as the case may be, in said complaint, the issue thus raised may be determined by the court after hearing all the evidence offered by or on behalf of all the parties to the proceedings. Any such party may demand a jury trial of any issue of fact to be determined in the proceedings instituted hereunder, and in case a jury trial is demanded, the judgment rendered by the court shall be in accordance with the facts as found by such jury; provided, however, that the verdict of the jury may be set aside by the court where manifestly contrary to the evidence or law. If a judgment of condemnation and confiscation is rendered against such article or product as being adulterated, misbranded, or under standard, grade, weight or measure, within the meaning of this act, the same shall be disposed of by destruction or sale, as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the treasury of this State, but such goods shall not be sold contrary to the provisions of this act; provided, however, that upon the payment of the costs of such attachment proceedings and the execution and delivery of a good and sufficient bond to the effect that such article shall not be sold or otherwise disposed of contrary to the provisions of this act, the court may by order direct that such article or product shall be delivered to the owner thereof. (Id. § 2.)

13. Further Procedure in Case of Violations.—If it shall appear from examination or analyses of fertilizer, fertilizer material, ground limestone, paint, white lead, linseed oil, turpentine, kerosene or other illuminating oils, insecticides and fungicides, commercial feeds, agricultural seeds, eggs, vinegar, sausage, milk, cream, ice cream or other dairy products, imitation butter and cheese, or any articles of food or drugs that any of the provisions of this act have been violated, the Commissioner of Agriculture and Industries shall certify or cause to be certified the facts to the county or State solicitor, with a copy of the results of the analysis or examination, and said county or State solicitor, upon receipt of this information, shall cause appropriate proceedings to be instituted in the proper court, for the imposition of fines and penalties herein provided. (Id. § 3.)

14. Reports of Analysis of Samples; Investigations, etc.—The professor of agricultural chemistry of the Alabama Polytechnic Institute shall be the official chemist of the department, and ex-officio State Chemist. On the application of the Commissioner of Agriculture and Industries, he shall analyze or cause to be analyzed and certify the analyses of all samples of soils, fertilizer, fertilizer material, ground limestone, paint, white lead, linseed oil, turpentine, kerosene or other illuminating oils, insecticides and fungicides, commercial feeds, agricultural seeds, eggs, vinegar, sausage, milk, cream, ice cream or other dairy products, imitation butter and cheese, or any article of food or drugs which are furnished him in the manner prescribed by law. The analysis reports of such samples shall be made to the Commissioner of Agriculture and Industries with the least possible delay. He shall also, at the request of the commissioner, make or cause to be made investigations and reports on such matters as may be deemed of interest to the department. He may, when necessary, depute the ranking member of the staff of the chemical laboratory of which he has charge to report and sign analyses and to make reports upon such matters as the chemist may refer to him. He may depute the ranking professor of pharmacy to analyze and report on samples of drugs, and the ranking professor of botany to examine and make reports upon the quality and purity of agricultural seed. The said ex-officio State Chemist or his assistants shall be entitled to necessary traveling expenses while on duty assigned by the commissioner, payable out of the "Agricultural Fund" or of any funds to the credit of the Department of Agriculture and Industries; provided, that the State Chemical Laboratory shall be organized and manned with employees (with the exception of the State Chemist) who shall devote their entire time to the work of the State Chemical Laboratory, and that no part of the State's funds available for analytical work and reports by the State Chemical Laboratory shall be expended for the salary, in whole or in part of any member of the teaching staff of the Alabama Polytechnic Institute, with the exception of the State Chemist (whose salary shall be prorated between the Alabama Polytechnic Institute and the State Chemical Laboratory, according to a fair division of the time devoted to the State Chemical Laboratory, following an agreement with the Commissioner of Agriculture and Industries, approved by the Governor) and with the exception of such members of the teaching staff as may be employed to devote their entire time to the work during a non-teaching term,

nor for any purpose or purposes other than those authorized in this act, the object of this provision being to secure the service of full time employees, and to preclude the concurrent employment and payment of chemists for analytical work and teaching work, thereby guaranteeing quick service in making the required analyses. Provided, further, that all charges involved in making tests and analyses and in reporting on samples tested or analyzed shall be at actual cost and certified by the State Chemist to the Commissioner of Agriculture and Industries in itemized form and after being approved by the commissioner and by the Governor shall be paid out of the appropriation for analytical work provided in this act, with the restriction that no payment be made on account of rent nor on account of equipment and supplies, excepting such equipment and supplies as are required for the specific use of the State Chemical Laboratory and devoted exclusively to this use, and with the further restriction that no charge whatever on any account (excepting for necessary traveling expenses) shall be made for analyses of and making reports on fertilizer, fertilizer materials, kerosene and other illuminating oils, funds having been otherwise provided for those purposes. (Id. § 4.)

15. Duties of State Chemist.—The State Chemist shall test or analyze and promptly report on all samples of soils, fertilizer, fertilizer material, ground limestone, paint, white lead, linseed oil, turpentine, kerosene or other illuminating oils, insecticides and fungicides, commercial feeds, agricultural seeds, eggs, vinegar, sausage, milk, cream, ice cream, or other dairy products, imitation butter and cheese, bleached flour, or any article of food, drugs or other products, submitted by the Commissioner of Agriculture and Industries for analysis, and to perform other services for the Department of Agriculture and Industries, as required by law. (Id. § 5.)

16. Certificate of Analysis or Examination, Prima Facie Evidence in Courts, etc.—A certificate of analysis or examination by the State Chemist or the ranking assistant to the State Chemist in the work of the chemical laboratory, when properly verified by affidavit, shall be admissible and shall be prima facie evidence of the facts therein stated in any of the courts of this State, on the trial of any issue involving the merits, and the quality of the bulk from which the sample was taken shall prima facie be presumed to be the same as the quality of the sample as shown by the analysis or examination. (Id. § 6.)

17. Access to Premises, etc., by Proper Officers; Bulletins and Information, by Whom.—The Commissioner of Agriculture and Industries is authorized in person or by deputy or by his agents to have free access to all premises, places of business, m.l.k, buildings, carriages, cars, vessels, parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any fertilizer, fertilizer material, ground limestone, paint, white lead, linseed oil, turpentine, kerosene or other illuminating oils, insecticides and fungicides, commercial feeds, agricultural seeds, eggs, vinegar, sausage, milk, cream, ice cream or other dairy products and containers thereof, imitation butter and cheese, or any article of food or drugs, and shall have the power and authority to examine or inspect said article or product or to open any parcel, package, bag, vessel or other receptacle containing, or supposed to contain, any of said products or articles, and upon paying or offering to pay full value of said sample, to take therefrom in the manner prescribed in this act, samples for analysis. The Commissioner of Agriculture and Industries is also authorized to publish, from time to time, in reports or bulletins, results or analyses of samples, together with copies of the laws and such additional information as may be of interest to the public. (Id. § 7.)

18. Powers of State Board of Agriculture.—The State Board of Agriculture is hereby empowered: (1) To co-operate with the United States Department of Agriculture and any Federal board, and with county and municipal officials, in the enforcement of such regulatory or police matters as are set forth for example in articles five and six of this act. (2) To co-operate with the Agricultural Experiment Station and Extension Service of the Alabama Polytechnic Institute in promoting the interests of agriculture in Alabama. (3) To make and promulgate reasonable rules and regulations not in conflict with the provisions of this act, and to direct the expenditure of the funds appropriated for carrying out the objects and purposes of this act. (4) To proceed, without delay, and do all things necessary to the end that samples of all the soil divisions and soil types in Alabama are carefully drawn and analyzed and that the soil survey of Alabama, and the necessary re-survey and revision of the soil survey work, are completed and State soil survey maps and reports are printed for distribution. (5) To meet emergencies that may arise because of any defect in the language or purpose of this act, the State Board of Agriculture shall have the power to make rules

and regulations as will give full force and effect to any or all of its provisions. (G. A. 1923, No. 376, Art. 2, § 4.)

19. Same; Inspection of Books, etc.—The State Board of Agriculture, by its presiding officer or any of its or his duly appointed agents, shall have authority to inspect books, and records and to hear complaints, to administer oaths, to certify to all official acts, and to examine under oath in any part of the State, witnesses in any matter pertaining to its or his duties, and cause such examination to be reduced in writing. If any person who having been sworn by any of the above officers to tell the truth shall willfully give false testimony, he shall be guilty of perjury; provided also, that except in his report to the State Board of Agriculture, or the report of any of his agents to the Commissioner of Agriculture and Industries, or when called upon to testify in any court or proceeding at law, the presiding officer of the board or any employee or agent thereof or of the Commissioner of Agriculture and Industries, who shall divulge any information acquired by him from the private books, documents, or papers of any person, firm or corporation, while acting or claiming to act under any authorization or destination, in respect to the confidential or private transaction, property or business of any person, firm or corporation, shall be guilty of a misdemeanor and such employee or agent shall be disqualified from acting in any official capacity in the Department. (Id. § 5.)

19a. Duties of Commissioner of Agriculture and Industries.—The Commissioner of Agriculture and Industries shall explain the true intent and meaning of the regulatory laws pertaining to agriculture and of the rules and regulations of the State Board of Agriculture. (G. A. 1923, No. 376, Art. 3, § 5.)

19b. Same.—The Commissioner of Agriculture and Industries shall execute the agricultural and industrial policies of the State Board of Agriculture. He shall call and conduct conferences of agricultural and industrial leaders, on matters relating to the condition, need and improvements of agriculture and the industries of the State. He shall prepare and publish the laws pertaining to agriculture of the State and the rules and regulations of the State Board of Agriculture, and such other pamphlets as will stimulate public interest, and promote the work and development of agriculture and industries. (Id. § 8.)

19c. Same.—The Commissioner of Agriculture and Industries, acting under the rules and regulations of the State Board of Agriculture, shall be responsible for the administration of the Department of Agriculture and Industries, and shall have general supervision of all the professional and clerical assistants of the Department. (Id. § 10.)

Miscellaneous General Provisions.

20. Adulterating Sugar and Other Articles of Food.—Any merchant, grocer, or other person who mixes any foreign matter or substance with sugar, syrup, or molasses, lard or butter, or other article of food, so as to deteriorate or change the quality thereof, or sells, or offers or exposes for sale, such adulterated sugar, syrup or molasses, lard or butter or other article of food, or who suffers his servant, agent, apprentice, or other person for him, so to adulterate, or sell, offer, or expose for sale, such adulterated sugar, syrup or molasses, lard or butter, or other article of food, must, on conviction, be fined not less than fifty nor more than five hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months. (Crim. C. 1923, § 4434.)

20a. Nuisances Menacing Health and Their Abatement.—The following things, conditions and acts, among others, are hereby declared to be public nuisances per se, menacing public health and unlawful. . . . (4) Unwholesome or decayed or infected meats, fish, fruits, or other food or foodstuffs, medicines, drugs, beverages, or drinking waters which are, or are likely to become menaces to public health. . . . (Pol. C. 1923, § 1136.)

20b. Nuisance; by Whom Abated.—Any such nuisance shall be abated by the county board of health and the county health officer in any of the ways provided in this article that may be appropriate or in any other lawful manner including abatement by bill in equity. And an effort to abate by one method shall not preclude resort to any other method or methods. In litigation undertaken by such board for the abatement of a nuisance, said litigation may be conducted in the name of said board. (Id. § 1137.)

20c. When Property Destroyed.—When such nuisance consists of one or more of the diseased animals mentioned in this section, or of insanitary clothing or bedding, furniture, vehicles, containers, receptacles or appliances, or of unwhole-

some or decayed or infected meats, fish, fruits, or other foods or foodstuffs, medicines, drugs or beverages, or consists of personal property of small value, and which nuisance in the opinion of the county board of health should be abated by destroying rather than curing or cleansing or disinfecting the animal or animals or thing or material involved; or consists of equipment which by reason of its nature cannot be used without being such a nuisance; or consists of a privy of an insanitary or improper type; the county board of health shall, if after a careful investigation of the facts it considers such a course necessary for the protection of the public health, adjudicate such animal or animals, or things or material involved, or such privy, as the case may be, to be such nuisance and order its summary destruction without compensation to the owner thereof, and thereupon the county health officer shall proceed with such destruction, in such manner as reasonably to avoid danger of infection. (Id. § 1138.)

PART II.

Special Food Laws.

Baking Powder.

21. [Baking Powder] Labels.— . . . But in case of baking powders every can or other package shall be labeled so as to show clearly and exactly what acid salt and what amount has been used in making the same. . . . (Crim. C. 1923, § 4408.)

Query: Is this section repealed by the Agricultural Code of 1923?

Beverages.

22. Adulterating Soda Water, Etc.—Any person, firm or corporation that shall manufacture, or knowingly sell or give away, or keep for sale any soda water or other soft drink or beverage colored with any coal tar preparation (except those colors which are certified to and whose use has been authorized and indorsed by the Board of Pure Food and Drug Inspection of the Department of Agriculture of the United States), or other mineral substance, or sweetened with any other than pure fruit syrups or pure cane or beet sugar, shall be guilty of a misdemeanor, and, upon conviction thereof, may be punished by a fine of not less than ten nor more than two hundred dollars. (Crim. C. 1923, § 4437.)

NOTE.—See also No. 20a et seq.

Bread, Etc.

23. Selling or Exposing for Sale Unwholesome Bread.—Any baker or other person who sells, or offers or exposes for sale, or suffers his servant, apprentice, agent, or other person for him, to sell, offer, or expose for sale, any bread made from sour or unwholesome flour, must, on conviction, be fined not less than twenty nor more than two hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months. (Crim. C. 1923, § 4431.)

24. Selling Bread Without Baker's Name Stamped Thereon.—Any person who sells or exposes for sale any bread, biscuit, or cracker, without having the name or the initials of the Christian and surname of the baker legibly marked on each biscuit, cracker, or loaf of bread, must, on conviction, be fined not more than twenty dollars. (Id. § 4432.)

25. Counterfeiting or Using Another's Name on Bread.—Any person who counterfeits the name or initials of another on any bread, biscuit, or cracker, or who marks any bread, biscuit, or cracker, with any other initials or name than his own, must, on conviction, be fined not less than twenty nor more than fifty dollars. (Id. § 4433.)

Cold Storage.

See Eggs.

Confectionery.

26. When Confectionery Deemed Adulterated.—In case of confectionery: If it contains terra alba, barytes, talc, chrome yellow, burnt umber or other mineral substance, or poisonous coloring or flavoring or other ingredients detrimental to health, or any vinous, malt or spirituous liquor, or compound or narcotic drug. (Crim. C. 1923, § 4402.)

27. Adulterating Candies and Selling Same; Special Charge.—Any person, firm or corporation that shall manufacture, or knowingly sell or give away, or keep for sale, any candies, [or] confections of any kind adulterated by the admixture of terra alba, barytes, talc, or other earthy or mineral substance, or any poisonous colors, flavors, or extracts, or other ingredients injurious to health, shall be guilty of a misdemeanor, and, upon conviction thereof, may be punished by a fine of not less than fifty dollars and not more than five hundred dollars, and may be imprisoned in the county jail, or sentenced to hard labor for the county, for a period not exceeding six months, at the discretion of the court. This section shall be given in charge to the grand jury. (Id. § 4436.)

Query: Are these sections repealed by the Agricultural Code of 1923?

Corn Meal.

28. Standard Weights for Corn Meal.—Any miller, or person shall be guilty of a misdemeanor who manufactures, grinds, or repacks corn meal, or who conducts a merchant mill, to pack or cause to be packed, or be offered for sale to merchants or the general public, or to carry in stock with intent to sell, corn meal, bolted or unbolted, packed in any other than six pounds, twelve pounds, twenty-four pounds, forty-eight pound, and ninety-six pound sacks, or ninety-six pound barrels, and one hundred and ninety-six pound barrels, wood; or shall fail to have plainly printed or stenciled upon them "bolted meal," or "unbolted meal," steam or water ground, as the case may be, as indicating the kind of power used in the mill producing the same, "eighth bushel," "fourth bushel," or "peck," "half bushel," "one bushel," "two bushels," and the barrel and half barrel, or who shall fail to show the net weight in pounds. (G. A. 1923, No. 376, Art. 11, § 1.)

29. Misdemeanor to Sell by Any Other Weights.—Any merchant, dealer, vendor, hawker, or other person, who sells any corn meal, bolted or unbolted, in any other than six pounds, twelve pounds, twenty-four pounds, forty-eight pounds, and ninety-six pound sacks, or ninety-six pound half barrels, and one hundred and ninety-six pound barrels, wood, shall be guilty of a misdemeanor; provided any retail merchant, may, on order, weigh and sell, from bulk meal, any number of pounds desired by any individual customer. (Id. § 2.)

30. Penalties for Preceding Sections.—Any person convicted under either of the two preceding sections, shall be fined not less than fifty nor more than one hundred dollars for the first offense, but on the second conviction shall be fined not less than one hundred nor more than five hundred dollars, one-fourth of said fine in either instance shall be paid to the informer furnishing proof leading to a conviction, out of the county treasury, after the payment of such fine upon the order of the solicitor prosecuting the case. (Id. § 3.)

31. Investigations, Etc.—The Commissioner of Agriculture and Industries shall cause to be made from time to time such investigations as may be necessary to determine whether the provisions of this article have been complied with. If it shall appear from such investigations that any provisions of this article have been violated, he shall certify the facts to the solicitor in the county or district in which the violation was committed and furnish that officer with the facts in the case. (Id. § 4.)

32. Concerning Interstate and Intrastate Commerce.—Should during the operation of this article, a national decimal weight bill or other bill be passed by Congress, authorizing the sale in interstate commerce of corn meal in packages or bags differing in weight and branding from the weights and branding prescribed in sections 1 and 2 of this article, the weights and branding described in the national bill for interstate commerce may for the sake of uniformity become operative in the intrastate trade of Alabama, in lieu of the weights and branding herein prescribed in sections 1 and 2: provided that the Commissioner of Agriculture and Industries issue and give publicity to this effect. (Id. § 5.)

Cottonseed Oil.

See No. 115.

Dairy Products—Substitutes for Dairy Products.

33. Milk, Cream and Butter Defined.—The term "milk," within the meaning of this article, is fresh, clean lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within ten days before and five days after calving, and contains not less than 8.5 per cent of solids not fat, and not less than $3\frac{1}{4}$ per cent of milk fat, and not less than 11.75 per cent of total solids; and that the term "cream," within the meaning of this article, is that portion of milk rich in milk fats, which rises to the surface of milk standing or is separated from it by centrifugal force, is fresh and clean and contains not less than 18 per cent of milk (butter) fat. Butter is the clean, non-rancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which contains a small portion of the milk constituents, with or without salt or added coloring matter, and contains not less than 80 per cent of milk fat nor 16 per cent or more of moisture content. (G. A. 1923, No. 376, Art. 6, § 1.)

34. Sale of Adulterated Milk or Cream Prohibited.—No person shall sell any adulterated milk or cream, or any milk or cream having therein any foreign substance or coloring matter, or any chemicals or preservatives, whether for the purpose of increasing the quantity of milk or cream or for improving its appearance, or for the purpose of preserving the condition or sweetness thereof, or for any other purpose whatsoever. (Id. § 2.)

35. Fat or Oil Other Than Milk Fat Not to be Added to Milk, Etc.—No person himself or by his servant or agent shall for the purpose of sale or exchange, add any fat or oil other than milk fat to, or blend or compound the same with, any milk, cream or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, nor shall any person himself or by his servant or agent sell, any milk, cream or skimmed milk in any of the aforesaid forms to which has been added or with which has been blended or compounded any fat or oil other than milk fat. (Id. § 3.)

36. Unsanitary Premises and Utensils Defined.—All premises and utensils used in the handling of milk or cream and the by-products of same, and all premises and utensils used in the preparation, manufacture or sale of any food product, for man, from milk or cream, or by-products of same, which shall be kept in an unclean, filthy or noxious condition are hereby declared to be unsanitary. (Id. § 4.)

37. Care of Cans, Etc.—Any person within the State who receives in cans, bottles, or other vessels any milk or cream, ice cream or other dairy products intended for human food, when such vessels are to be returned, shall cause the said cans, bottles or other vessels to be thoroughly washed and cleaned before returning. The said cans, bottles or other vessels, after being thoroughly washed and cleaned, shall be returned to, or delivered to, the express company or other company, concern or person, for return, within seven days after the receipt of same. (Id. § 5.)

38. Unlawful to Maintain Premises or Utensils in Unsanitary Condition, etc.—It shall be unlawful for any person engaged in the business of handling or selling milk or cream, or by-product of the same, or in the preparation, manufacture, or sale of any food products, for man, from milk or cream, or by-product of the same, to maintain his premises or utensils in an unsanitary condition, or to knowingly sell milk or cream drawn from sick or diseased cows, or cows kept in an unsanitary place or cows fed on unwholesome feeds or slops. (Id. § 6.)

39. License Required for Cream Station, etc.—Every cream station, receiving station, shipping station, creamery, cheese factory, ice cream factory or condensory or any person buying or paying for milk or cream on the basis of the butter-fat contained therein, shall be required to procure and have a State license, such license to be issued by the Commissioner of Agriculture and Industries upon the applicant therefor complying with the rules and regulations adopted by the State Board of Agriculture, and upon the payment of a license fee of one dollar. The license so issued, unless it be revoked, shall be valid until the next succeeding January 1. Any license issued under the provisions of this section may be, with the approval of the State Board of Agriculture, revoked by the Commissioner of Agriculture and Industries upon proof being made, or submitted, to the Commissioner of Agriculture and Industries, that the licensee's plant or premises is [are] in an unsanitary con-

dition, after five days' notice being given in writing to the licensee thereof, by the Commissioner of Agriculture and Industries, or by his duly authorized agent, or after such notice having been given the agent of licensee in charge of such place or premises; or such license may be revoked by the Commissioner of Agriculture and Industries for the repeated nonobservance by the licensee of any of the provisions of this article. If after the revocation of a license, the former holder of such license shall comply with the requirements of the provisions of this article, and shall make manifest his intention to observe them in the future, the Commissioner of Agriculture and Industries with the approval of the State Board of Agriculture must issue to him another license upon his paying the requisite fee therefor. (Id. § 7.)

40. Unlawful to Operate Testing Apparatus for Milk or Cream Without License.—It shall be unlawful for any person to operate a milk or cream testing apparatus to determine the percentage of milk fat in milk or cream for the purpose of purchasing same, either for himself or another, without first securing a license from the Commissioner of Agriculture and Industries, who shall issue such license upon a form prepared by him, upon payment of a fee of one dollar, for a period of twelve months; provided the applicant for license shall pass a satisfactory personal examination that shall satisfy said commissioner that he is competent and qualified to operate and use such apparatus and make an accurate test with same, which license may be revoked by the commissioner when it shall be shown that such licensed person is incompetent or unreliable. Any person making application for tester's license may be issued a permit by the commissioner to do testing until such time as a personal examination can be given by the commissioner or his duly authorized agent. The testing of each lot of milk or cream by any unlicensed person shall constitute a separate offense under this article; provided, that any licensed person may for a valid reason satisfactory to said commissioner, appoint a substitute for a period not to exceed fifteen days, and subject to the approval of said commissioner. (Id. § 8.)

41. False Manipulation, etc., of Babcock Test, or Other Contrivance, Unlawful.—It shall be unlawful for any person, either for himself or another to falsely manipulate or under-read or over-read or take inaccurate samples or take any false determinations by Babcock test or any other contrivance used to determine the quantity of fat in milk or cream or value of milk or cream delivered to a creamery, cheese factory, condensory, ice cream plant, milk plant, or milk depot, or when sold or purchased. The test shall be clear oil, free from sediment, solids, or other foreign substance, and must be read at a temperature of 125 degrees—140 degrees F. Cream test must be weighed. The scales must be sensitive and accurate. The tester and owner or owners are jointly responsible for their accuracy. All licensed receiving stations, conducted for the purchase of butter-fat, either in the form of cream or milk, shall retain in a cool, clean, sanitary place, and in tightly stopped bottles, or tightly covered jars the exact, properly labeled samples of cream or milk from which the butter-fat test has been conducted, until 4 P. M. of the day following the application of the test where daily testing is practiced, and until 4 P. M. of the second day following the application of the test where composite testing of individual deliveries is practiced. (Id. § 9.)

42. Ice Cream Defined; When Deemed Adulterated or Misbranded.—For the purpose of this article, ice cream is hereby defined and standardized: 1st. Ice cream is the frozen compound, varied as to kind and proportion of ingredients, within the limit established by custom and usage. 2d. Ice cream consists chiefly of a sweetened and flavored mixture of cream, or milk and cream, or milk with or without added milk fat in the form of sound, sweet butter, or as contained in condensed, evaporated or concentrated milk or in milk powder and with or without added milk solids, not fat, and in the form of skimmed milk powder or as contained in milk powder or in condensed, evaporated or concentrated skimmed milk or of sweetened and flavored homogenized or emulsified mixture of sound sweet butter, milk powder, or skimmed milk powder and water, with the addition of gelatine, vegetable gums or other wholesome stabilizer. 3d. Standard ice cream contains not less than eight per cent. butter-fat and the total contents of solids shall be not less than thirty-one per cent., except that when the ingredients of standard ice cream include eggs, fruit, or fruit juices, cake, confection, cocoa, or chocolate or nuts, such reduction of the percentage of butter-fat as may be due to the addition of such ingredients shall be allowed, provided such milk fat content is not less than six per cent. For the purpose of this article, ice cream shall be deemed to be adulterated: 1st. If in quantity or grade it is lower than the professed standard of quality or grade under which it is sold or offered for sale. 2d. If it contains any poisonous or other deleterious ingredients which may render such ice cream injurious to health. 3d. If it contains any rancid or renovated or process butter or any fat or oil other than

milk fat and the fat or oil of contained eggs and nuts, and the fat or oils of substances used for flavoring. 4th. If it contains in whole or in part any filthy or decomposed substances which may render such ice cream injurious to health. 5th. If it contains less weight per unit volume than the standards promulgated from time to time by the State Board of Agriculture. For the purpose of this article ice cream shall be deemed to be misbranded: 1st. If the label, brand, tag or notice under which it is sold is false or misleading in any particular as to the kind, grade or quality, or composition of such ice cream. 2d. If it is sold as the product of one manufacturer when in reality it is the product of another manufacturer; or if on the label, brand, tag or notice under which it is sold there is any false statement concerning the sanitary conditions under which it is manufactured. (Id. § 10.)

43. Owner's Consent to Use, etc., of Containers Necessary.—No person shall hereafter, without the consent of the owner, use, sell, dispose of, buy or traffic in, any milk can, jar or bottle, or cream can, jar or bottle, or tub or willfully mar, erase or change by remarking or otherwise any name or initials of any such owner so stamped, marked or fastened upon such can, jar, bottle or tub; nor shall any person, without the consent of the owner, place in any can, jar or bottle or tub, any substance or product other than milk or cream. (Id. § 11.)

44. Standard Specifications for Bottles and Pipettes.—Whenever any person receives or purchases milk or cream upon the basis of the amount of milk fat contained therein, and used [uses] for ascertaining the amount of such fat, the system or test known as the Babcock test, the bottles and pipettes used in such test shall conform to the standard specifications promulgated by the State Board of Agriculture. All bottles and pipettes used in measuring milk or milk products for making determination of the per cent. of fat in said milk or milk products, shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "sealed," and in the side of the pipette, or the side or the bottom of the bottle, the name, initials, or trade-mark of the manufacturer and his designating number, which designating number shall be furnished by the Commissioner of Agriculture and Industries upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of one thousand dollars, with the sureties to be approved by said commissioner, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number and to whom furnished shall be kept in the office of said commissioner. Any manufacturer who sells Babcock or other milk, cream, or butter test bottles or pipettes, to be used in this State, that do not comply with the provisions of this section, shall suffer a penalty of five hundred dollars, to be recovered by the Attorney General of the State in action in the name of the State upon the bond of such manufacturer. No person shall use, for the purpose of determining the per cent. of milk fat in milk or milk products, any bottles or pipettes purchased after six months from the date on which this article shall take effect, unless they comply with the provisions of this section relating thereto. The Commissioner of Agriculture and Industries shall make or cause to be made, from time to time, tests of individual bottles and pipettes used by the various firms in this State in order to ascertain whether the above provisions are being complied with, and shall report any violations found to the prosecuting attorney. (Id. § 12.)

45. Annual Reports by Creameries, etc.—Creameries, ice cream plants (milk plants and cream and milk stations, when buying cream, or milk for plants operating outside this State), shall report annually on or before the first day of December of each year the amount of milk or cream, or both, purchased during the preceding year, ending November first, with the amount of fat in the milk or cream, or both, and the total price paid for same, according to and on blanks furnished by said Commissioner of Agriculture and Industries. (Id. § 13.)

46. Rules and Regulations by State Board of Agriculture.—The State Board of Agriculture shall make such reasonable rules and regulations as may be deemed necessary for the protection and development of all dairy interests in Alabama; provided, that such rules and regulations shall not go into effect until after all State dairying (creamery, ice cream, etc.) associations have been given due notice and a reasonable time and opportunity to be heard before the said board on them, and provided that such rules and regulations shall not invade the domain of public health laws or ordinances, nor restrict the powers of the State Board of Health, nor local boards of health. (Id. § 14.)

47. Penalties.—Any person violating any provisions of this article shall be guilty of a misdemeanor, and, on conviction shall, unless otherwise provided, be fined not more than fifty dollars for each offense, and may be confined in the county jail for not more than thirty days. (Id. § 15.)

48. Manufacture, etc., of Imitation Butter and Cheese Regulated.—Every article, substitute or compound, save that produced from pure milk or cream from milk cows, made in the semblance of or designed to be used for and in the place of butter is imitation butter; and every article, substitute or compound, save that produced from pure milk or cream from milk of cows, made in the semblance of or designed to be used for and in the place of cheese, is imitation cheese. No person shall manufacture, sell, solicit or take orders for delivery, ship, consign or forward by any common carrier, public or private, and no common carrier shall knowingly receive or transport any such imitation butter or cheese except in the manner and subject to the regulations provided in this article. (G. A. 1923, No. 376, Art. 7, § 1.)

49. Substitutes for Butter and Cheese.—A substitute for butter and cheese, not having a yellow color nor colored in imitation of butter and cheese as prohibited in this article, may be manufactured, sold, shipped, consigned or forwarded by common carriers, public or private, if each tub, firkin, box or other package in which the same is kept, sold, shipped, consigned or forwarded shall have branded, stamped or marked on the side or top thereof in the English language in a durable manner the words "substitute for butter" or "substitute for cheese," as the case may be, the letters of the words to be not less than one inch in length by one-half inch in width. The defacing, erasure, cancelling or removal of this brand or mark with intent to mislead, deceive, or violate any section of this article is prohibited. Substitute for butter or cheese may be kept, used or served as a food or for cooking in hotels, restaurants, lunch counters, boarding houses, or other places of public entertainment, only in case the proprietor or persons in charge of such place shall display and keep constantly posted a card opposite each table or other place where the guests or others are served with the same, which card shall be white, at least ten by fourteen inches in size, the words "substitute for butter used here" or "substitute for cheese used here," as the case may be, printed in black Roman letters of the same size as herein required to be placed upon the tubs, firkins, boxes, or other packages in which substitute for butter or cheese is kept, and no other words or figures shall be printed thereon. No substitute for butter or cheese shall be offered for sale in the manufacturers' original package under the name of or for true butter or cheese made from the milk or cream of cows, nor shall any substitute for butter or cheese be offered for sale or sold unless the purchaser at the time was informed thereof, and, in addition, furnished with a printed statement in the English language in prominent type that the substance sold is such substitute, and giving the name and place of business of the maker. Nothing herein contained, however shall be so construed [construed] as to prohibit the transportation of imitation butter or cheese through and across the State. (Id. § 2.)

50. Branding; Use of Words on Substitutes.—No person shall have in his possession or under his control any substance designed as a substitute for butter or cheese, unless the tub, firkin, box or package holding the same is branded or marked as required in this article. No person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "butter," "creamery," or "dairy" or the name or representation of any breed of dairy cattle, or any combination of such word or words and representations, or any other words or symbols or combination thereof commonly used in the sale of butter. (Id. § 3.)

51. Renovated Butter.—No person shall sell, in this State, any butter that is produced by taking original packing stock butter, or other butter, or both, and melting the same so that the butter fat can be drawn off or extracted, then mixing the said butter fat with skimmed milk, or milk, or cream, or other milk product, and reurning or re-working the said mixture or that produced by any process that is commonly known as boiled, process or renovated butter, unless the words "renovated butter" shall be plainly branded with Gothic or bold faced letters at least three-fourths of an inch in length on the top and sides of each tub or box, or pail, or other kind of case, or package, or on the wrapper of prints or rolls in which it is put up. If such butter is exposed for sale uncovered or not in a case or package, a placard containing the labels so printed shall be attached to the mass of butter in such manner as to easily be seen and read by the purchaser. The branding or marking of all packages shall be in the English language, and in a conspicuous place so as to be easily seen and read by the purchaser. (Id. § 4.)

52. Enforcement of Article.—The Commissioner of Agriculture and Industries and his duly authorized agents shall be charged with the proper enforcement

of all the provisions of this article, and any necessary rules and regulations adopted by the State Board of Agriculture. (Id. § 5.)

53. Penalties.—Any person who violates any provisions of this article shall be deemed guilty of a misdemeanor and shall for each offense, upon conviction thereof, be subject to a fine of not less than fifty dollars, nor more than one hundred dollars or of imprisonment in the county jail for any period not to exceed six months. (Id. § 6.)

54. Manufacturing or Selling Oleomargarine.—Any person who renders and manufactures, sells, or offers for sale, exposes for sale, or has in his possession with intent to sell or serve to persons, guests, boarders or inmates, in any hotel, eating-house, restaurant, dining-car, boarding house, public or private hospital, school, or penal institution, any article, product, or compound, made wholly or partly of any fat, oil, oleaginous substance, or compound thereof, not produced directly and at the time of manufacture from unadulterated milk, or cream from the same, which shall be in imitation of yellow butter produced from pure, unadulterated milk, or cream from the same, must, on conviction, be fined not less than twenty nor more than one hundred dollars; but this section shall not be so construed as to prohibit the manufacture or sale of oleomargarine in such manner as will advise the consumer of its real character, free from coloration or ingredients that cause it to look like butter by having it stamped with its true name. (Crim. C. 1923, § 4435.)

NOTE.—See also No. 1 et seq. and No. 20 et seq.

Eggs.

55. When Eggs are Deemed Unfit for Human Food.—No person shall sell any egg unfit for human food, unless the same is broken in shell and then denatured so that it cannot be used for human food. For the purposes of this article, an egg shall be deemed unfit for human food if it be addled or moldy, a black rot, a white rot, or a blood ring, or if it has an adherent yolk, or a bloody or green white, or if it be incubated beyond the blood ring stage; or if it consists in whole or in part of a filthy, decomposed or putrid substance. (G. A. 1923, No. 376, Art. 10, § 1.)

56. Dockage and Candling of Eggs.—No person shall, in buying or selling eggs, take or give a greater or less dockage for eggs unfit for food as defined in section one of this article than the actual dockage which has been determined by the careful candling of the eggs so purchased or sold, and he shall keep such candling records as may be required by the rules and regulations of the State Board of Agriculture. All such records shall be open at all reasonable times for examination by the Commissioner of Agriculture and Industries or his agent. Every person engaged in the business of buying eggs in this State for re-sale or consignment shall provide and maintain an adequate place for the accurate candling of eggs and a suitable place for the proper handling of eggs which are intended to be used for human food. (Id. § 2.)

57. Candling Certificate.—There shall be placed in the top layer of every case of candled eggs, by the person candling same, a candling certificate. Such candling certificate shall be printed on cards or sheets of paper not smaller in size than $2\frac{3}{8} \times 4\frac{1}{4}$ inches, and shall give the date of candling the eggs contained in the case in which it is placed, the name, initials or number of the person candling the eggs, and the name of the State and the license number of the persons, firm or corporation for which the eggs were candled. Such certificate shall be in the following words and form: The eggs in this case were candled..... (date) by (signature of person candling the eggs), License No. Ala. (Id. § 3.)
(Address.)

58. Legal Weight Standards.—The legal weight standard of eggs in the State of Alabama shall be as follows: Extras; No. 1; No. 2; and No. 3. Extras must weigh over 26 ounces per dozen net. No. 1 must weigh 24-26 ounces per dozen net. No. 2 must weigh 20-24 ounces per dozen net. No. 3, those eggs that weigh less than 20 ounces per dozen net. When eggs are sold on the basis of the legal weight standard, the retail price will be quoted as of grade No. 1. If other than grade No. 1, proper adjustment must be made. (Id. § 4.)

59. Definition of Terms.—Unless the context otherwise requires, words and phrases employed in this article shall have the meaning hereinafter defined. (a) The term "eggs" or "fresh eggs" shall be used only for eggs that are sound, sweet, clear and full (not more than two and five-tenths milligrams of ammonia per one hundred grams of eggs), and which have not been held for more than

fourteen days after having been dropped from the hen. (b) The term "cold storage eggs" shall be used on all eggs which have been held in cold storage for a period exceeding thirty days. They shall be sound, sweet, clean [clear] and reasonably full, and shall contain not to exceed four milligrams of ammonia per one hundred grams of egg. (c) "Preserved" eggs means all eggs in which the natural deterioration has been prevented or retarded by any means, process or treatment whatsoever. (d) "Yolk stuck to the shell" means an egg in which the yolk has settled to one side and become fastened to the shell. (e) "Heavy blood rings" means an egg in which the germ has developed to such an extent that blood has formed, and when this development stops the blood collects in a ring on the inside of the shell. (f) "Partly hatched" eggs means eggs in which the germ has developed to such an extent that the outline of the embryo chick can be detected. (g) "Moldy" eggs means eggs which through improper care have deteriorated so that mold spores have formed within the eggs. Such eggs when broken usually have a moldy or musty smell. (h) "Black spots" mean eggs in which mold or bacteria have developed in isolated areas inside the shell. (i) "Black rots" means eggs which have deteriorated to such an extent that the whole interior presents a darkened appearance. (j) "A container" means any standard egg case, carton, can, basket, box, bag or any other receptacle in which eggs are handled. (k) The term "candle" means the determination of the condition of any egg by holding it before a strong light in such a way that the rays of light will shine through the egg and reveal its contents to the operator. (Id. § 5.)

60. Cold Storage and Preserved Eggs.—No person, firm or corporation, by himself or his agents, shall sell, agree to sell, or advertise for sale any cold storage or preserved eggs without making it known to the purchaser, or prospective purchaser, that the eggs are cold storage or preserved eggs, and all boxes or other receptacles in which cold storage or preserved eggs are displayed for sale, sold, or delivered, in wholesale or retail, shall be marked or lettered in a conspicuous manner with the words "cold storage eggs" or "preserved eggs." (Id. § 6.)

61. Licenses, etc.—For the purpose of enforcing the provisions of this article it is hereby required that thirty days after this article takes effect, and on or before the first day of April annually thereafter, no person shall engage in the business of buying, selling, dealing in or trading in eggs, except those retailers who buy direct from licensees only and who do not sell in lots greater than one case, without first obtaining from the Commissioner of Agriculture and Industries, license to conduct such business. Said commissioner, upon receipt of a proper application upon forms such as he may prescribe, accompanied by an annual license fee of \$1.00, shall thereupon issue to such person an annual license to engage in such business. Provided, that any person operating more than one place of business where eggs are bought, shall procure a license for each such place of business. All such licenses shall expire at the close of business on March 31 of each year. (Id. § 7.)

62. Enforcement of Article, etc.—The Commissioner of Agriculture and Industries shall enforce the provisions of this article and all suitable standards, definitions, rules and regulations for carrying out its provisions as are adopted by the State Board of Agriculture. He shall determine the conditions under which eggs previously candled shall be recandled before sale, in order to safeguard the purchaser against buying such eggs as are unfit for human food, which may be contained in such lot. (Id. § 8.)

63. Penalties.—Any person failing to comply with the requirements of, or violating any of the provisions of this article, shall be guilty of a misdemeanor, and shall, upon conviction for the first offense, be fined not less than \$10.00 nor more than \$50.00. For any subsequent offense his license may be suspended or revoked, at the discretion of the Commissioner of Agriculture and Industries. Should any person be convicted of buying or trading in eggs during the time of the suspension of his license as specified in a written order by said commissioner, or his agent, or after the date on which his license was ordered to be revoked, the offender shall be punished by a fine of one hundred dollars for each offense. (Id. § 9.)

NOTE.—See also No. 1 et seq.

Feeding Stuffs.

64. Commercial Feeds Defined.—The term "commercial feeds" shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seed or grains; the unmixed meals made directly from entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir and milo; whole hays, straws, cotton seed hulls and corn stover when unmixed with other materials; all other materials containing sixty (60) per cent. or more water. (G. A. 1923, No. 376, Art. 15, § 1.)

65. Tags and Labels.—Every lot or parcel of commercial feeds sold in this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying the net weight of the package (provided that all commercial feeds shall be in standard weight bags or packages of 25, 50, 100, 150 or 200 pounds, except that packages weighing eight and one-third pounds net may be distributed to retailers in one hundred-pound containers and sold only when the packages are tagged or labeled as provided in this article, and the one hundred-pound container have affixed thereto a one cent tax stamp); the name, brand, or trade-mark under which the article is sold; the name and address of the manufacturer, jobber or importer, the names of each and all ingredients of which the article is composed; a statement of the minimum percentage of crude protein, minimum percentage of crude fat, and carbohydrates in terms of maximum percentage of crude fiber, and minimum percentage of nitrogen free extract. All four constituents to be determined by the methods in use at the time by the Association of Official Agricultural Chemists of the United States. (Id. § 2.)

66. Statements, Fees, etc.—Before any person shall sell, in this State, any commercial feeds, he or they shall file with the Commissioner of Agriculture and Industries, a certified copy of the statement specified in section two of this article for each brand of commercial feeds, said certified copy to be accompanied by a fee of two dollars for each brand offered for registration, and it is further provided that said brand shall be registered each fiscal year. Said statement shall be accompanied, on request, by a sealed glass jar or bottle containing at least one pound of such seeds [feeds] to be sold, which sample shall correspond within reasonable limits to the feeds which it represents in the percentage of crude protein, crude fat, and carbohydrates which it contains. (Id. § 3.)

67. Stamp Tax Fee.—Each and every person manufacturing or selling any commercial feeds as defined in section one of this article, shall pay to the Commissioner of Agriculture and Industries a stamp tax fee of twenty (20) cents per ton for each ton of commercial feeds sold in this State, and shall affix to or accompany each lot shipped in bulk, each bag or parcel of such commercial feeds, a stamp to be furnished by the Commissioner of Agriculture and Industries, specifying that all charges specified in this section have been paid. Provided that the fact that any commercial feeds as defined in section one of this article may have value or utility as a fertilizing material, or is capable of being used as a fertilizer, shall not operate to exempt such material from the stamp tax or fee herein specified, or from tagging with regard to its feed constituents. Provided further, that the same material shall not be subject to the imposition of both the feed stuff tax stamp and the fertilizer tag tax. Whenever any commercial feeds as defined in section one of this article, is kept for sale in bulk, stored in bins, or otherwise, the person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section two of this article, and when such feeds are sold at retail in bulk, or in packages belonging to the purchaser, the person shall furnish the purchaser with sufficient stamps to cover the sale, and upon request with a card or cards, upon which appears the statement required by the provisions of section two of this article; provided that nothing in this article shall be construed to restrict or prohibit the sale of commercial feeds in bulk to each other by persons who mix commercial feeds for sale; but all such persons shall attach to such feeds a tag stating that it is to be used for mixing purposes only, and this tag shall give the number of pounds in bulk, or package, the name of the manufacturer, the name of the feeds, and its analysis, showing crude protein, crude fat, and carbohydrates; and a duplicate of said tag shall be sent to the Commissioner of Agriculture and Industries together with a request for inspection. The Commissioner of Agriculture and Industries is hereby empowered to prescribe the form of such tax stamps; but no stamp or label shall be used or authorized by him until and after the same has been copyrighted according to the laws of the United States Patent Office. (Id. § 4.)

68. Filing Statement and Paying Fee or Tax Required But Once.—Whenever a person manufacturing or selling a brand of commercial feeds shall have filed a statement required by section three of this article and paid the stamp tax or fee, as required by section four of this article, no other person shall be required to file such statement or pay such tax or fee upon such brand. (Id. § 5.)

69. Power to Refuse Registration, etc.—The Commissioner of Agriculture and Industries shall have the power to refuse to register any commercial feeds under a name, brand, or trade-mark, or with a mixture of ingredients, which would be or tend to be misleading or deceptive as to the materials of which it is composed, or when the specific name of each and all the ingredients used in the manufacture are not stated. He shall also have the power to refuse to register

more than one commercial feed under the same name or brand when offered by the same manufacturer, or other person. Should any commercial feeds be registered in this State and it is afterwards discovered that such registration is in violation of any of the provisions of this article, the Commissioner of Agriculture and Industries shall have power to cancel such registration. He shall also have power to refuse to allow any manufacturer, or other person, to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeds during the term for which registered, unless satisfactory reasons are presented for making such change or changes. (Id. § 6.)

70. Suspension of Sale.—If at any time the Commissioner of Agriculture and Industries, or his duly authorized agent, shall have reason to believe that any feed offered for sale in this State does not comply with the requirements of this article, it shall be his duty by written order to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such feed meets the requirements of this article. If he shall find that the same does not comply with this article, then he is authorized to seize or cause to be seized the feed for confiscation as provided in Article 21 of this act.* (Id. § 7.)

71. Samples for Analysis.—The Commissioner of Agriculture and Industries is hereby authorized to collect for analysis at least one sample of every brand of commercial feeds that are found to be sold in this State. Said sample shall consist of one pound in weight, and shall be taken from not less than ten bags or packages, or if there be less than ten bags or packages, then the sample shall be taken from each bag or package if it be in bag or package form, or if such feed be in bulk, then it shall be taken from ten different places of the lot. The sample or samples taken shall be kept a reasonable length of time by the Department of Agriculture and Industries and on demand a portion of such sample or samples shall be furnished to the manufacturer, or other person having interest in the feed for examination by the chemists or other experts of said manufacturer or person. (Id. § 8.)

72. Commercial Feeds Not to Contain Certain Ingredients.—It shall be unlawful, and shall be punished as other violations of this article, to sell any commercial feed containing as an ingredient corn-cobs or shucks, or a mixture of ground corn-cobs and shucks, except that the whole ear (consisting of the shucks, grain and cob intact) may be ground and used as an ingredient when the percentage of the amount so used is stated on the tag or label. Crushed or ground whole ear corn when sold by itself is a commercial feed, as defined in section one of this article, and the sale thereof within this State shall be governed by the provisions of this article and the rules and regulations prescribed by the State Board of Agriculture. The State Board of Agriculture is authorized, from time to time, to establish standards of classification for commercial feeds according to grade by which their quality, condition, or feeding value may be judged, to alter or modify such standards as they [it] may find necessary, and to make such investigations as may be required for such purpose. It shall be the duty of every person manufacturing or selling any commercial feed on the markets of this State to produce any records and to answer orally or in writing correctly to the best of his knowledge, under oath or otherwise, as may be required, all questions propounded by the Commissioner of Agriculture and Industries concerning said feeds or of the raw materials entering into the composition of such commercial feeds as may be desired for the purposes of this section; provided, however, that no information thus obtained shall be used as a basis for any criminal prosecution against the person furnishing the same. The commissioner shall give public notice of the establishment of such standards or any alteration or modification thereof, not less than sixty days before the date when the same shall become effective, by such means as he shall find appropriate. Such standards shall be known as the Official Feeds Standards of Alabama. The State Board of Agriculture is also authorized from time to time to prescribe and promulgate definitions of the ingredients of commercial feeds and to alter the same as they [it] may deem necessary; provided, that if the secretary has established and published standards and definitions, the standards established and the definitions prescribed and promulgated by the board under this article shall be in accordance with those promulgated at that time by the Secretary of the United States Department of Agriculture, and that the tag or label shall plainly show in addition to the statements required by section two of this article, the grade of such commercial feeds in accordance with the Official Feed Standards of Alabama. (Id. § 9.)

*See No. 11 et seq.

73. Penalties for Violations of Article.—Any person who shall violate any of the provisions of this article, or the standards and regulations adopted and promulgated by the State Board of Agriculture, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars, nor more than one hundred dollars for the first offense, and not less than fifty dollars, nor more than two hundred dollars for each subsequent offense, and the proceeds from such fine shall be paid into the State treasury to the credit of the Department of Agriculture and Industries. (Id. § 10.)

NOTE.—See also No. 1 et seq.

Fish (Oysters and Shrimp).

74. Regulations for Catching Oysters; Size of Oysters; Culling.—Dredging shall not be permitted upon the public reefs of this State. All oysters must be taken therefrom by oyster tongs manipulated by hand. Oysters taken from the public reefs for shucking or for market shall be not less than two and a half inches from hinge to mouth, and not less than two inches wide. Oysters taken from the public reefs shall be culled thereon, and the small oysters and dead shells returned thereto, except such as may be lawfully used for planting purposes and this must be done in such manner that the oysters so returned will not be piled so thickly as to smother or destroy those underneath. (Pol. C. 1923, § 2728.)

74a. Standard Measures for Oysters; Stamped by Inspectors; Record of Measures.—A standard measure for oysters is established, which said measure shall consist of a tub or other round vessel of the following dimensions, to-wit: It shall measure seventeen inches in diameter inside at the bottom and twenty-one and a half inches in diameter, inside at the top, and fourteen and a half inches inside from bottom to top, or a box containing the equivalent number of cubic inches or a box twenty inch by twenty inch by twelve and sixty-one one-hundredths of an inch. Two of these measures filled to the top shall make one barrel, and all oysters bought and sold in this State in the shell shall be measured in a measure of these dimensions, or a measure holding a fraction or multiple thereof, and it shall be unlawful for any person to have in his possession any measure for oysters in the shell which shall differ inside from the measure herein provided for, or demand or require a greater or less measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters until it has been measured and stamped by the oyster inspector. The oyster inspector shall measure such measures and shall visit for that purpose each place where oysters are bought and sold, and he shall keep a book in which shall be recorded the dimensions of all measures so measured. (Id. § 2729.)

74b. No Oysters, Except Canned Oysters, Carried Out of State.—No oysters from public reefs of this State, except canned oysters, shall be carried out of this State by water if the oyster factories in this State shall pay as much for them as factories located in Florida, Mississippi, or Louisiana, pay for oysters caught in said States. (Id. § 2740.)

74c. Inspecting Oysters; Rules for; Condemnation.—The oyster inspector or his deputies shall inspect all oysters taken from the public reefs of this State at said reefs, and, when in his judgment they are not properly culled, that is to say, that they contain more than five per cent of dead shells and oysters less than two inches wide and two and one-half inches in length, or three inches long where they are less than two inches in width, shall condemn the same and the party, or parties, catching or in possession of such oysters shall forthwith separate from the same such amount of small oysters and dead shells that those remaining shall not contain more than five per cent of small oysters and dead shells, and the dead shells and small oysters so removed shall be at once replaced on the public reefs of the State by the party, or parties, so catching or in possession of the same, but this section shall not apply to oysters removed for planting purposes. (Id. § 2751.)

74d. Removing Oysters for Canning.—Any person or corporation, being a bona fide resident and citizen of the State of Alabama for one year or more, and engaged in the business of canning oysters within the State, may employ or contract with any person or persons, whether residents of Alabama or not, to catch and remove oysters from any oyster reefs within the State for use in the conduct of such business, and may use such oysters in such business as their own property. (Id. § 2759.)

74e. License to Take Oysters for Canning.—Any person under such employment or contract may catch and remove oysters from any of the public reefs of the State for use, in said canning business, as well as from all private reefs, from

the owners or proprietors of which such person or persons or corporations so engaged in such canning business shall have first obtained a license to catch and remove such oysters; but no person under such employment or contract, who is not a resident of this State, shall catch and remove oysters from any public or private reefs in the State except for use in such canning business, as aforesaid. (Id. § 2760.)

74f. Limit of Number Taken for Canning.—No person or corporation shall take more than thirty-five hundred barrels of oysters a week from the public reefs of this State, under the provisions of this article. (Id. § 2761.)

74g. Size of Oysters Taken from Public Reefs.—No person or corporation shall take or buy, receive or have in possession when taken by another, any oyster or oyster shell from any public reef of this State, whether single or in cluster, of less size than two and one-half inches in length in the shell, such length to be covered by the shell when laid on a practically level surface, except where the same may be taken by resident catchers or private owners for the purpose of planting, in which case the burden of proof showing such intent and purpose shall be upon the person so taking or receiving such oysters. (Id. § 2762.)

74h. Size of Oysters Taken from Private Reefs.—No person or corporation shall take, or buy, receive, or have in possession, when taken by another, any oyster or oyster shell from any private reef of this State, whether single or in cluster, of less size than two and one-half inches in length in the shell, such length to be that covered by the shell when laid on a practically level surface. (Id. § 2763.)

74i. Baldwin County Exempt.—The provisions of this article shall not apply to the county of Baldwin. (Id. § 2764.)

74j. Record Kept by Packer, Canner, Etc.—Each packer, canner, shipper, dealer, seller, commission-man and boat-man shall keep a record of all oysters, shrimp, terrapin, turtle, fish or other sea-food products purchased by him or them, with the names of the parties from whom purchased, the date thereof, the quantity purchased, to whom sold by him or them, and when sold, and shall keep an itemized account of all oysters, shrimp, terrapin, turtle, fish and other sea-food products caught by such packer, canner, dealer, commission-man, or other person and all caught and taken by boats controlled by them, showing the date and place where they were caught or taken and the quantity of each item, in a manner which the commissioner of game and fisheries may prescribe, and they shall exhibit the said records at all times, when called on by the Commissioner of game and fisheries or his inspectors. (Id. § 2771.)

74k. Monthly Report of Packer, Canner, Etc.—Each packer, canner, shipper, dealer, seller, commission-man, and boat-man shall make report under oath, monthly, as to the number of barrels of oysters or shrimp, or the amount of terrapin, turtle, fish or other sea-food products purchased or caught and where caught during the month preceding said report, and the making of any false oath to any report shall be perjury and shall be punished as provided by law in cases of perjury. The report so made to the commissioner of game and fisheries shall be admissible in evidence in any court to prove the facts therein contained. (Id. § 2772.)

75. Violating Oyster Regulations.—Any person who violates any of the provisions of chapter 47 (35) of this Code, (Pol. C. 1923, § 2728 et seq.), must, on conviction, be fined not less than fifty nor more than one hundred dollars; and for each subsequent offense, not less than two hundred, nor more than five hundred dollars, and may also be imprisoned in the county jail for thirty days. (Crim. C. 1923, § 5112.)

75a. Illegal Measurement in Buying and Selling Oysters.—Any person buying or selling oysters in the shell by measure who uses any other than the box measure of the shape and dimensions required by law must, on conviction, be fined not less than ten nor more than one hundred dollars. (Id. § 5115.)

75b. Violation of Law Pertaining to Oysters; Penalty.—The violation of any provisions of the laws of this State relating to the taking, canning, having in possession and selling of oysters shall constitute a misdemeanor, which shall be punished by a fine of not over five hundred dollars, to which may be added imprisonment for not more than six months. (Id. § 5120.)

75c. Person Catching Oysters Failing to Make Daily Report to Oyster Inspector of Amount of Oysters Taken.—Any person or corporation failing to make report to the oyster inspector daily of the number of barrels of oysters he has caught; and any purchaser of oysters from such catchers, or dealers or factories catching their own oysters, who shall fail to make monthly reports to the chief oyster inspector of the number of barrels of oysters so bought from catchers or caught by themselves; and any person who shall make a false report as to any matters about which report is required to be made, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than five hundred dol-

lars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months. All fines collected hereunder shall be paid over to the chief oyster inspector and by him paid into the oyster fund. (Id. § 5121.)

76. Standard Measure for Shrimp.—A standard measure for shrimp is established which said measure shall consist of a tub or other round vessel, seventeen inches in diameter inside at the bottom, twenty-one and one-half inches in diameter inside at the top, and fourteen and one-half inches inside from bottom to top; two of these measures filled to the top shall make one barrel. (Id. § 4085.)

77. Labeling of Shrimp Packed in Alabama.—No person, firm, partnership or corporation shall pack within the State of Alabama, any shrimp which have been taken within the waters of this State, or within the waters subject to the territorial jurisdiction of such State, without printing, or stamping, on the label used on the can, or container, in which such shrimp are packed, the following words: "Packed under the supervision and inspection of the department of conservation, State of Alabama." (Id. § 4094.)

78. Size of Shrimp Allowed.—No person, firm, corporation, or partnership shall catch or have in possession any fresh salt water shrimp of below average medium size, and when any haul is made by any person fishing for salt water shrimp and the shrimp so taken in any haul is below the average medium size, such shrimp shall be immediately returned to the water. (Id. § 4096.)

78a. Disposition of Shrimp Not Fit for Food.—No person shall purchase, sell, can, ship, or otherwise transport any fresh salt water shrimp which are not in prime condition, that is, suitable to be eaten by human beings as food, and upon condemnation by the chief oyster inspector and his assistants of any fresh water shrimp which have deteriorated to the extent that they are not suitable for human consumption, the person, firm, corporation or partnership having such fresh salt water shrimp so condemned in his possession shall make such disposition thereof as the chief oyster inspector or his assistants may direct. (Id. § 4097.)

79. Violations of Article, Penalty for.—Any person, firm, corporation or partnership violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense, which fine shall be paid in lawful money of the United States of America, and shall be forwarded by the court, collecting the same, to the State treasury and paid into the oyster fund. (Id. § 4098.)

NOTE.—See also No. 20a et seq.

Fruits, Vegetables, Nuts, Etc.

80. Inspection of Packing Houses, Etc.—Upon a petition of fruit growers, vegetable growers or farmers growing or preparing to grow fruits, nuts, vegetables, flowers or other horticultural crops in any county of the State, to the county commissioners or board of revenue of said county and to the State Board of Agriculture, the county commissioners or board of revenue, as the case may be, shall, on its approval and the approval of the Commissioner of Agriculture and Industries of said petition, appoint a county plant inspector, whose duty it shall be in accordance with the Commissioner of Agriculture and Industries, or his agent, the State Plant Inspector, to inspect orchards, nurseries, trees, shrubs, vines, fruits, vegetables, plants, packing houses, warehouses, storerooms, farms, and all other premises within said county, and to enforce all laws of the State relating to such insect pests and such diseases as affect trees, vines, plants of any kind, or fruits or vegetables of any kind, and other horticultural laws, rules and regulations of the State; provided, however, that the State Plant Inspector so to be appointed shall be nominated by the Commissioner of Agriculture and Industries, and approved by the State Board of Agriculture, and shall be a graduate of an accredited or agricultural college and shall have not less than five years of practical experience in horticultural pursuits; and said county plant inspector shall hold his office during the time he performs the duties of said office in a manner satisfactory to the Commissioner of Agriculture and Industries. Upon a similar petition, the County Commissioners or Board of Revenue of said county shall appoint one or more assistant county plant inspectors; provided that such assistant or assistants, be first recommended in the manner herein provided for the appointment of a county plant inspector, and shall hold office during the pleasure of said county commissioners and of the county plant inspector, for said county. Every such assistant county plant inspector shall have and perform all the powers and duties of a county plant inspector, but shall work under his direction. (G. A. 1923, No. 376, Art. 25, § 14.)

80a. Same.—It shall be the duty of the County Plant Inspector, whenever he deems it necessary on written approval of the Commissioner of Agriculture and Industries, to cause an inspection to be made during reasonable hours of any orchard, nurseries, trees, plants, vegetables, vines, or any fruit packing houses, storerooms, sales rooms, or any other place within his district, and also of any fruit trees or nursery stock shipped within the limits of this State, and if found infected or infested with any pests, diseases or fungous growth injurious to fruits, plants, trees, vegetables, or vines, or with their eggs or larvæ liable to spread to other plants or localities, or of such nature as to be of public danger, he shall notify the owner or owners or persons in charge or in possession of such articles, things or places, that the same are so infested or infected or in case such fruit trees or nursery stock, although apparently sound and not infested or infected by any pests, shall have been from an infested district beyond the limits of this State, he shall also so notify the owner or owners or persons in charge of or in possession of the same to eradicate or destroy said insects or pests or their larvæ, or such imported fruit trees or nursery stock from infested districts without the limits of this State, or to treat such contagious diseases within a certain time to be specified in said notice. Said notice may be service [served] upon the person or persons, or any of them, owning, having charge of or having possession of such infested place, article, or thing by said county plant inspector, or by any person deputed by him for that purpose, or they may be served in the same manner as a summons in an action at law. Such notice shall contain directions for the application for such treatment approved by the county plant inspector for the eradication or destruction of said pests or the eggs or larvæ thereof, or the treatment of contagious diseases of fungous growth. Any and all such places, orchards, nurseries, trees, plants, shrubs, vegetables, vines, fruits or articles thus infested are hereby declared to be a public nuisance, and should they exist at any place in the State on the property of any owner or owners upon whom or upon the person in charge or possession of whose property notice has been served as aforesaid, and who shall have failed or refused to abate the same within the time specified in such notice, or if it is the property of any non-resident or any property not in the possession of any person and the owner or owners of which cannot be found by the County plant inspector after diligent search within the county, it shall be the duty of the county plant inspector to cause such nuisance to be at once abated by eradicating or destroying said insects or pests or their eggs or larvæ, or by treating or disinfecting or destroying the infested or diseased article, or imported fruit trees or nursery stock imported from an infested district without the limits of this State. The expense thereof shall be a county charge and the board of county commissioners or board of revenue shall allow and pay the same out of the general fund of the county. (Id. § 18.)

80b. Unlawful Sales.—It shall be unlawful for any person to import, sell, give away, or have in possession for sale or barter, fruits, nuts, vegetables, or flowers of any kind in the State of Alabama that are infested or infected with insects or diseases of a kind and to such an extent that it is likely to cause serious damage to products susceptible to the disease or insect. (Id. § 21.)

81. Unlawful Packing.—Every person who packs or prepares for shipment to any point within a prohibited area in the State, which may be prescribed by the State Board of Agriculture, or who delivers or causes to be delivered to any express agent or railroad agent, or other person, or to any transportation company, or corporation for shipment to any point within a prohibited area which may be prescribed by the State Board of Agriculture, any fruit or fruits either fresh, cured or dried, that is infested with certain designated diseases and pests, designation to be made by the board, communicable insect pests or diseases injurious to trees, shrubs, plants, fruits, or vegetables, shall be deemed guilty of a misdemeanor. (Id. § 24.)

82. Penalties.—Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten dollars, nor more than five hundred dollars, or by imprisonment in the county jail not less than ten nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court. (Id. § 25.)

83. Frosted Citrus Fruit; Unlawful to Ship, etc.—It is unlawful for any person to ship, offer for shipment, or to sell citrus fruits in boxes or in bulk, if the contents of any package, or if the fruit in bulk contains fifteen per cent. or more of citrus fruits which on a transverse section through the center, shows a marked drying in twenty per cent. or more of the exposed pulp. (G. A. 1923, No. 376, Art. 26, § 1.)

84. Enforcement and Power to Enter Premises Where Fruit is Grown, etc., by Whom.—It shall be the duty of the Commissioner of Agriculture and Indus-

tries and his agents to enforce the provisions of this article, and bring to [the] notice of the proper authorities any violation thereof. The Commissioner of Agriculture and Industries and his agents shall have full power and authority to enter any place where oranges, lemons or grapefruit are grown, picked, packed, shipped or offered for shipment or sold, and to inspect such place or any part thereof. (Id. § 2.)

85. Penalty for Violation of Article.—Any person violating any provision of this article is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten nor more than fifty dollars, and may be imprisoned in the county jail for a period not exceeding six months. (Id. § 3.)

85a. Agricultural Products Defined.—In this article the term "agricultural products" shall include horticultural, viticultural, dairy, bee, poultry and any farm product; the word "person" shall include individuals, partnerships, corporations, associations, or two or more individuals having a joint or common interest; words used import the singular or the plural as the case may demand. (G. A. 1923, No. 376, Art. 30, § 1.)

86. Official Standards for Agricultural Products.—In order to promote, protect, further, and develop the agricultural interests of this State the Commissioner of Agriculture and Industries, with the advice and counsel of the State Board of Agriculture is hereby authorized and empowered after investigation and public hearing to fix and promulgate official standards for grading and classifying any or all agricultural products grown or produced in this State and to fix and promulgate official standards for containers of farm products and to change any of them from time to time. (Id. § 2.)

87. Public Notice of Date When Standards, etc., Effective.—In promulgating the standards or any alterations or modification of such standards the Commissioner of Agriculture and Industries shall specify the date or dates when the same shall become effective and shall give public notice not less than thirty days in advance of such date or dates by such means as he deems proper, and he is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standards that may be fixed by him for any agricultural product or container. (Id. § 3.)

88. Co-operation of State and Federal Departments.—The Commissioner of Agriculture and Industries with the advice and counsel of the State Board of Agriculture is authorized to fix and promulgate as the official standards for this State for any agricultural product or container, the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this article the said commissioner is authorized to co-operate with the United States or any department thereof in accomplishing the matters and things provided for herein. (Id. § 4.)

88a. Inspection and Classification.—The Commissioner of Agriculture and Industries is hereby authorized to designate any competent employee or agent of the Department of Agriculture and Industries, and upon satisfactory evidence of competency may license any other person and charge and collect a reasonable fee for such license, to inspect or classify, or cause to be inspected or classified, agricultural products, in accordance with such regulations as may be prescribed by the State Board of Agriculture, at such places as the volume of business may be found to warrant the furnishing of such inspection service, at the request of persons having an interest in such products, and to ascertain and certify to such persons the grade, classification, quality or condition thereof, and such other pertinent facts as the Commissioner may require. The Commissioner of Agriculture and Industries, with the advice and counsel of the State Board of Agriculture, is authorized to fix, assess and collect or cause to be collected fees for such services when they are performed by employees or agents of the Commissioner of Agriculture and Industries. Licensed inspectors may charge and collect as compensation for such services only such fees as may be approved by the State Board of Agriculture. The Commissioner of Agriculture and Industries may suspend or revoke any license whatever, after an opportunity for hearing has been afforded to the licensee, when he shall determine that such licensee is incompetent or has knowingly or carelessly failed to grade or classify any agricultural product in accordance with such standards, or has knowingly or carelessly failed to correctly certify the grade, classification, quality or condition of any agricultural product, or has violated any provision of this article or of the regulations made hereunder. Pending investigations the said commissioner may suspend a license temporarily without a hearing. (Id. § 5.)

88b. Same.—Whenever any quantity of any agricultural product shall have been inspected hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality or condition of such product,

any interested person, subject to the regulations prescribed by the State Board of Agriculture, may appeal the question to him and he is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and issue a finding of the true grade or classification of the product or of the quality or condition thereof. Whenever, an appeal shall be taken to the commissioner under this article, he shall charge and assess and collect, or cause to be collected, a reasonable fee, to be fixed by the State Board of Agriculture, which shall be refunded if the appeal is sustained. (Id. § 6.)

88c. Same.—A certificate when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any agricultural product, issued under this article and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality or condition of agricultural products shall be accepted in any court of this State as prima facie evidence of the true grade, classification, condition or quality of such agricultural product at the time of its inspection. (Id. § 7.)

88d. Regulations.—The State Board of Agriculture is hereby authorized and empowered to promulgate regulations for carrying out the purposes and provisions of this article. (Id. § 8.)

89. Grade, etc., of Agricultural Products Not to be Misrepresented.—If any quantity of any agricultural product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate. Whenever any standard for a container for an agricultural product becomes effective under this article, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell and deliver, in a container, any such agricultural product to which the standard is applicable, unless the container conform to the standard subject to such variations therefrom as may be allowed in the regulations made under this article, unless such product be brought from outside the State and offered for sale, consigned for sale or sold in the original package. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned not more than one year or both. (Id. § 11.)

NOTE.—See also No. 4 and No. 20a et seq.

Grain and Cereals.

90. Misdemeanor to Sell Corn, etc., Except in Prescribed Quantities.—Any person who sells any corn, oats, rye, wheat, barley or cotton seed hulls, in sacks or bags, except in quantities hereinafter respectively prescribed, shall be guilty of a misdemeanor. (G. A. 1923, No. 376, Art. 20, § 1.)

91. Weights and Marking of Sacks, etc.—Oats shall be sold in sacks containing two and one-half and five bushels, weighing net respectively eighty and one hundred and sixty pounds; rye and corn in two and two and one-half bushel sacks, weighing net one hundred and twelve pounds and one hundred and forty pounds, respectively; wheat in two bushel sacks, weighing net, respectively, ninety-six and one hundred and forty-four pounds; and cotton seed hulls in one hundred pound sacks or bags; provided, that such sacks, bags or packages shall have plainly marked or stenciled thereon in large type and figures, the net quantities herein required and the name and address of the manufacturer or distributor. (Id. § 2.)

92. When Above Provisions Do Not Apply.—The foregoing provisions shall apply only when said articles are sold in sacks, bags or other packages, and shall not prevent the sale of any of said articles in bulk. These provisions shall not apply to sales of grain or cereals by the producer or grower of such grains or cereals. (Id. § 3.)

93. Seizure for Unlawful Sale of Products; Confiscation, etc.—Any person who shall sell what is known to the trade as "mill oats" or like product either by itself or in combination with a commercial feed (as defined in Article 15 of this act) [See Feeding Stuffs] or who shall sell corn, oats, rye, wheat or barley which has been adulterated, by means of the addition thereto of screenings, chaff, weed seed, wild oats, "mill oats," or water, shall be guilty of a misdemeanor, and the corn, oats, rye, wheat or barley so adulterated, shall be subject to seizure from confiscation by writ of attachment for condemnation, as provided for in Article 21 of this act.* (Id. § 4.)

*See No. 11 et seq.

94. Unlawful to Sell Grains Bleached With Sulphur Fumes; Proviso.—It shall be unlawful to sell in this State barley, oats or other grains bleached with sulphur fumes, whereby damage or inferiority has been concealed or water has been added, and such barley, oats or other grains shall be subject to seizure for confiscation by writ of attachment for condemnation as provided for in Article 21 of this act;* provided that barley, oats or other grains bleached by sulphur fumes may be sold in Alabama under such rules and regulations as may be adopted by the State Board of Agriculture, in cases where the bleaching does not conceal damage or inferiority, or water has not been added, when the product is plainly and distinctly labeled, "bleached with sulphur fumes." (Id. § 5.)

95. Penalties.—Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than five hundred dollars for each offense. (Id. § 6.)

96. Enforcement.—It shall be the duty of the Commissioner of Agriculture and Industries, and his agents, to enforce the provisions of this article. (Id. § 7.)

97. Grain Act.—This article shall be known and when cited or amended may be designated as the "Alabama Grain Standardization Act." (G. A. 1923, No. 376, Art. 29, § 1.)

98. Whose Duty to Enforce.—The Commissioner of Agriculture and Industries, with the advice and counsel of the State Board of Agriculture, is hereby charged with the duty of carrying out all of the provisions of this article, and he shall put into effect the provisions of this article relative to the grading and inspection of grains for which Federal standards have been established under authority of the United States Grain Standards Act. (Id. § 2.)

99. Powers of Commissioner of Agriculture and Industries.—He shall have the power: (a) To establish uniform grades for grain, which are hereby defined as including corn (maize), wheat, rye, oats, barley, grain sorghum and beans. Any standard for grains now or hereafter made mandatory under authority of the Congress of the United States, shall forthwith, be established and promulgated by the Commissioner of Agriculture and Industries as the official standards of this State. In establishing grades for grain that is sold on a dockage basis, dockage shall be considered and such dockage that is of value and retained shall be paid for. Dockage as used therein shall be understood to mean dockage as defined in the official grain standards of the United States. (b) To make, amend, or repeal rules and regulations for the grading and inspection of grain, for the purpose of carrying out the provisions of this article, provided that all such rules shall be published by him in such manner as to give proper publicity thereto. (c) To fix and determine all charges for sampling, grading and inspecting grain. (Id. § 3.)

100. Official Stations for Inspection of Grain.—The Commissioner of Agriculture and Industries may establish official stations for the inspection of grain at any town or place where grain is bought, sold, marketed, stored or manufactured. The Commissioner of Agriculture and Industries shall inspect and grade upon request all grain sold, offered for sale, or consigned for sale. He shall issue a uniform grade certificate stating the kind and grade of grain, test weight per bushel, and the reason for all grade below number one, and such other facts as he may require; provided, however, that none of the facts certified in such certificate shall be presumed to continue or exist beyond sixty days after the date of such certificate; provided, further, that certificates issued by authorized agents of the Commissioner of Agriculture and Industries shall be received in all courts of the State of Alabama as prima facie evidence of the truth of the statements therein contained at the time of the issuance of said certificate and for sixty days thereafter. Such certificates shall be delivered to the owner of such grain or his agent. (Id. § 4.)

101. Who May and May Not be Eligible for License as Inspector.—The Commissioner of Agriculture and Industries may designate any person as inspector under the provisions of this article who is eligible for a license under the United States Grain Standards Act. No employee of the Department of Agriculture and Industries engaged in the inspecting or grading of grain under the provisions of this article shall be interested financially or otherwise, directly or indirectly, in any grain elevator, warehouse or in the merchandising of grain, or be employed by any person, firm or corporation owning or operating any grain warehouse or elevator. (Id. § 5.)

102. Certificate Issued and Posted.—The Commissioner of Agriculture and Industries shall issue to each employee authorized to grade and inspect grains under this article a certificate showing such authority, which shall be posted in a permanent and conspicuous place at the official station of such employee. (Id. § 6.)

*See No. 11 et seq.

103. When Unlawful to Buy or Sell Grain for Intrastate Shipment.—Whenever standards and grades shall have been fixed and established under the provisions of this article for any grain, it shall be unlawful thereafter for any person, firm or corporation to buy or sell grain designed for intrastate shipment on the basis of any standard or grade that may be established under the authority of this article without first having secured certificates of grade from the Commissioner of Agriculture and Industries; provided that this section shall apply only in cases where the purchaser has made request for such inspection prior to such shipment. (Id. § 7.)

104. Determination of Grades of Grain; Samples, etc.—The grade of grain shall be determined at such points as inspectors of the department may be located, by actual sampling, grading and inspection. Such grain delivered at points where an agent or inspector of the department may not be located shall be graded on the basis of fair samples guaranteed to be such in writing by the buyer and seller. Such samples shall be taken in the manner prescribed by the Commissioner of Agriculture and Industries under the rules and regulations of this article; provided, that certificates issued on the basis of fair samples guaranteed to be such by the buyer and seller shall state only the grade of such samples. (Id. § 8.)

105. Appeal May Be Made by Aggrieved Persons, Procedure.—Any person aggrieved by the grading by any employee of the Commissioner of Agriculture and Industries of any grain for which federal standards have been fixed, may with the approval of the Secretary of the United States Department of Agriculture, appeal to the Federal Grain Supervisor of the district in which the State of Alabama may be located. The Federal Grain Supervisor is hereby appointed as an employee of the Department of Agriculture and Industries of the State of Alabama, to serve without pay, for the purpose of hearing and deciding appeals from the original grading of grain by any employee of the State Department of Agriculture and Industries. Such Federal Grain Supervisor may confer with the Commissioner of Agriculture and Industries, his duly authorized agents, and employees and any other interested parties and shall make such tests as may be deemed necessary to determine the correct grade of the grain in question. After making such tests the Federal Grain Supervisor shall issue, or cause to be issued, a federal appeal grade certificate to all interested parties, which shall state the grade of the grain as determined by such tests, the number of the inspector's certificate which is superseded by the federal appeal grade certificate, and the following statement: "This certificate is issued pursuant to the United States Standards Act and the Alabama Grain Standards Act." Such federal appeal grade certificate shall be prima facie evidence of the correct grade of the grain in any court of the State of Alabama; provided, that any person aggrieved by the grading by any employee of the Commissioner of Agriculture and Industries of any grain for which federal standards have not been fixed but for which State grades have been established under the provisions of this article, may appeal the question to the Commissioner of Agriculture and Industries. The Commissioner of Agriculture and Industries shall make such tests as shall be deemed necessary to determine the correct grade of the grain in question and after making such tests shall issue or cause to be issued an appeal grade certificate to all interested parties. Said certificate shall take such form as is prescribed by the Commissioner of Agriculture and Industries in the rules and regulations under this article. Such certificate shall be prima facie evidence of the correct grade of the grain in any court of the State of Alabama. The Commissioner of Agriculture and Industries shall charge, assess, and cause to be collected for each such appeal as is filed with the State Department of Agriculture and Industries a fee of five dollars which shall be paid to the Commissioner of Agriculture and Industries, and same shall be refunded if the appeal is sustained; provided, further, that any appeal from inspection and grading made under the provisions of this article shall be taken before the grain leaves the place where the inspection appealed from was made and before the identity of the grain has been lost, under such rules and regulations as the Commissioner of Agriculture and Industries may prescribe; provided, also, that any buyer of grain buying under the standards and grades of this article shall be entitled to appeal from any inspection or grading made under the provisions of this article at any time within two days of the transfer or delivery to said buyer by any seller of any certificate issued under the provisions of this article and regardless of any movement of said grain. (Id. § 9.)

106. Grades Established Hereunder to be Published.—The Commissioner of Agriculture and Industries shall cause all grades established hereunder to be published in one or more newspapers or farm journals of general circulation throughout the State, with the dates when such grades so established shall become

effective, which shall not be less than thirty days from the date of such publication. Official grades shall be kept on file in every official grading station for public inspection. (Id. § 10.)

107. Cleaning Devices, etc., to be Furnished.—The Commissioner of Agriculture and Industries shall provide proper sieves, cleaning devices and other apparatus necessary for separating dockage from grain, grain testers, stokers, and such other tools as shall not be disapproved by the Bureau of Markets of the United States Department of Agriculture. (Id. § 11.)

108. Misdemeanor to Violate Article.—Any person violating any of the provisions of this article shall be guilty of a misdemeanor. (Id. § 12.)

109. Inspection, Examination, etc., by Proper Officials; Misdemeanor to Resist, etc.—The Commissioner of Agriculture and Industries and his duly authorized employees may enter and inspect any place where grain is stored, shipped, sold, or offered for sale for the purpose of carrying out the provisions of this article. The Commissioner of Agriculture and Industries and his duly authorized employees may, for the purpose of inspection and examination of grain, break the seals of cars and after such inspection has been made the said officials shall securely close and reseal such doors as have been opened by them, using the special seal provided by the Department of Agriculture and Industries for the purpose. A record of all original seals broken by said officials, and the date when broken, and also a record of all State seals substituted therefor, and the date and number of said seals, shall be made by such officials. Any person who forcibly assaults, resists, impedes or interferes with said Commissioner of Agriculture and Industries or his employees in the execution of any duty authorized to be performed by him under this article shall be guilty of a misdemeanor. (Id. § 13.)

NOTE.—See also the corn meal law, No. 28 et seq.

Meat—Meat Products.

110. Sale of Adulterated Sausage Unlawful.—It shall be unlawful for any person to sell, sausage that is adulterated within the meaning of this article. Sausage when used in this article shall be deemed to include Bologna, Wienewurst, and Frankforts. (G. A. 1923, No. 376, Art. 8, § 1.)

111. Sausage and Sausage Meat Defined.—For the purpose of this article, sausage or sausage meat shall be held to be comminuted meat from meat of cattle or swine, or a mixture of such meats, either fresh, salted, pickled or smoked, with added salt and spices, and with or without the addition of edible animal fat, blood and sugar, or subsequent smoking. It shall contain no larger amount of water than the meats from which it is prepared contain when in their fresh condition. (Id. § 2.)

112. When Sausage Deemed Adulterated.—For the purpose of this article, sausage shall be deemed to be adulterated: First. If it contains added water in excess of the quantity required to bring the amount up to that which the meats from which it is prepared contain immediately after slaughter. Second. If it contains any cereal or vegetable flour. Third. If it contains any coal-tar, dye, boric acid or borates, sulphites, sulphur dioxide, sulphurous acid, or any other substances injurious or deleterious to health. Fourth. If it contains any diseased, contaminated, filthy or decomposed substance; or is manufactured, in whole or in part from a diseased, contaminated, filthy or decomposed substance, or a substance produced, stored, transported or kept in a way or manner that would render the article diseased, contaminated or unwholesome; or if it is any product of a diseased animal, or the product of any animal which has died otherwise than by slaughter. Nothing in this article shall be construed prohibiting the sale of sausage which when properly labeled shall conform to the following standard: Sausage shall not contain cereal in excess of two per cent. When cereal is added its presence shall be noted on the label or on the produce. Water or ice shall not be added to it except for the purpose of facilitating grinding, chopping and mixing, in which case the added water or ice shall not exceed three per cent except as provided in the following paragraph. Sausage of the class which are cooked or smoked, such as Frankfort style, Vienna style and Bologna style, may contain added water in excess of three per cent, but not in excess of amount sufficient to make the sausage palatable. When water in excess of three per cent is added to this class of sausage, the statement "sausage, water and cereal" shall appear on the label or on the product, but when no cereal is added, the addition of water need not be stated. (Id. § 3.)

113. Penalties.—Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than fifty dollars, nor more than two hundred dollars, or to undergo an imprisonment of not less than thirty days, nor more than sixty days, or both or either, in the discretion of the court. (Id. § 4.)

114. Enforcement of Article.—The Commissioner of Agriculture and Industries shall be charged with the enforcement of the provisions of this article, and with the execution of any necessary regulations adopted by the State Board of Agriculture for its enforcement. (Id. § 5.)

115. Standards of Purity Fixed by Commissioner of Agriculture and Industries, and Assistants.— . . . the standards for pure leaf lard, compound lard, mixed edible fats, and cotton-seed oils are defined as follows: Pure leaf lard is lard rendered at moderately high temperatures from the internal fat of the abdomen of the hog, excluding that adhering to the intestines, and has an iodine number not greater than sixty. Lard is the rendered fresh fat from slaughtered healthy hogs, free from rancidity, and contains not more than one per cent. of substances, other than fatty acids, not fat, necessarily incorporated therewith in the process of rendering. Compound lard is lard that is rendered at low temperatures from the fatty meats from fresh slaughtered healthy hogs, or which contains other ingredients than pure fat of the swine, and not over twenty-five per cent. of beef stearine which percentage shall be specified on the label of the container of such goods. Pure leaf lard and compound lard, as above named, must not be made from a diseased animal, or any portion of an animal unfit for food or contains less than the percentage of fat and of the character as specified for each one and shall be plainly labeled and shall conform in quality to specification herein set out by this article. A mixed edible fat is hereby defined to be a mixture which contains not less than ninety-nine per cent. of sweet-mixed fat, and may consist of a mixture of refined cotton-seed oil or other edible vegetable oils with sweet beef fat or other edible animal fats, and must be sold under a registered or proprietary brand and properly labeled with the names of the ingredients, and with a distinctive trade-mark or name bearing the name of the manufacturer. Edible cotton-seed oil is defined as refined cotton-seed oil free from disagreeable taste or odors. White cotton-seed oil for edible purposes is cotton-seed oil which has been refined in such a manner as to be nearly colorless, flavorless and odorless. Winter cotton-seed oils, for edible purposes, are those from which a portion of the stearine has been removed. They may be either white or yellow. (Crim. C. 1923, § 4425.)

Query: Is this section repealed by the Agricultural Code of 1923? See No. 6.

116. Selling or Exposing for Sale Tainted or Diseased Meat.—Any butcher or other person who sells, or offers or exposes for sale, or suffers his apprentice, servant, agent, or other person for him, to sell, offer, or expose for sale, any tainted, putrid, or unwholesome fish or flesh or the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, for the purpose of being sold or offered for sale, must, on conviction, be fined not less than twenty nor more than two hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months. (Id. § 4430.)

NOTE.—See also No. 20 et seq.

Molasses.

See No. 20.

Peanuts, Soy Beans, Etc.

117. Term "Misbranded" as to Food.— . . . If it consists in whole or in part of peanuts or soy beans produced in China, Japan or other foreign countries or of peanut or soy bean oil produced in China, Japan, the United States or elsewhere, from peanuts or soy beans grown in China, Japan or other foreign countries, and the words "oriental peanuts," "oriental soy beans," or "oriental peanut oil," "oriental soy bean oil," or "contains oriental peanut oil," "contains oriental soy bean oil," as the case may be, are not plainly and conspicuously labeled on the package or written or stamped on the principal label thereof in the English language, and in Gothic type larger than and in more conspicuous face type than any other words appearing on said label; but the labeling required by this subdivision shall not apply to articles of nuts, oils, or foods containing them which are now on the markets of this State, when the requirements hereinafter set out have been complied with. (Crim. C. 1923, § 4405.)

118. Cafe or Boarding House Shall Post Notice of Using Food Containing Peanut or Other Oriental Oils.—Any proprietor of a restaurant, cafe, boarding house or other place serving meals, or any person, firm, association or corporation who shall engage in the business of serving, selling, or who shall have in stock to sell, serve or offer for sale in this State any peanuts, soy beans, peanut oil, soy bean oil, or articles of food or articles that may be used as food, which have been produced in China, Japan or other foreign countries or have been produced in part from peanuts or soy beans grown in China, Japan or other foreign countries shall, first, notify the Commissioner of Agriculture and Industries of the fact of his or their engagement in or of his or their importing, selling, serving, or having in stock for sale or service such products or articles, and shall, not later than the fifteenth day of each month, report to the said Commissioner of Agriculture and Industries an itemized and written account, under oath, of the amount of said products or articles sold or served during the previous month and the name and address of the purchasers; second, display and keep constantly displayed a card of the following description, and in the following position: the card shall be white, at least 10 x 14 inches in size, on which is printed the words "oriental peanuts used here," or "foods containing oriental oils used here," or "oriental peanuts sold here," "oriental soy bean oils sold here," or "articles of food containing oriental oils sold here," printed in black Roman letters not less than one inch in length by one-half inch in width; the position of the card shall be on every wall of the room in which said articles are sold or served, approximately five feet from the floor and not farther than ten feet apart, and when not sold from a room shall be constantly displayed otherwise in a conspicuous manner. (Id. § 4406.)

119. Manufacturer or Dealer in Peanuts, Soy Beans, Oils, etc., Shall Submit to Examination.—Every manufacturer, jobber, importer, firm, association, corporation or person manufacturing or selling any peanuts, soy beans, peanut oil, soy bean oil, or other foods consisting in part of peanuts, soy beans, or peanut oil, or soy bean oil, on the markets of this State, shall produce any records and answer, orally or in writing, correctly to the best of his knowledge, under oath or otherwise, as may be required, all questions propounded by the Commissioner of Agriculture and Industries concerning said foods and their origin and manufacture as may be desired for the purpose of properly carrying into effect the provisions of this article; but no information thus obtained shall be used as a basis for any criminal prosecution against the person furnishing same. (Id. § 4407.)

120. Penalty for Violating Preceding Section.—Any person, firm, association or corporation violating any provision of the preceding section shall be guilty of a misdemeanor and on conviction shall for each offense be fined not less than fifty dollars nor more than two hundred dollars. . . . (Id. § 4408.)

Query: Are these sections repealed by the Agricultural Code of 1923?

Sugar and Syrup.

See No. 20.

Vinegar.

121. Vinegars Defined.—All vinegar made by fermentation without distillation must carry in solution the extractive matter derived exclusively from the fruit, grain, sugar or sirup from which it was derived and fermented and comply with the following definitions: The terms "cider vinegar" and "apple vinegar" or words of similar import, shall be construed to mean the product made exclusively from the expressed juice of apples by alcoholic and subsequent acetous fermentations. The terms "wine vinegar" and "grape vinegar" or words of similar import, shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of the expressed juice of grapes. The terms "malt vinegar" or words of similar import, shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations without distillation of an infusion of barley malt or cereals whose starch has been converted by malt. The term "sugar vinegar" or words of similar import shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations without distillation of solution of sugar, sirup, molasses or refiners' sirup. The terms "glucose vinegar" or "corn sugar vinegar" or words of similar import, shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations without distillation of solutions of corn sugar or glucose prepared from corn starch. The term "spirit vinegar," "distilled vinegar" or "grain vinegar" or words of similar import, shall be construed to mean the product made by the acetous fermentation of dilute distilled alcohol

derived from grain. The term "evaporated apple products vinegar" or "vinegar made from evaporated apple products" or words of similar import, shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of the aqueous extract obtained from clean, sound, unfermented dried chopped apples or dried apple skins or cores. (G. A. 1923, No. 376, Art. 9, § 1.)

122. Adulterations.—Vinegar which fails to comply with such definitions or which contains any substance or ingredient not derived exclusively from the fruit, grain, sugar or sirup from which it shall so be made, or which contains less than four grams of acetic acid in one hundred cubic centimeters of the vinegar at twenty degrees centigrade, shall be deemed adulterated. (Id. § 2.)

123. Products Made by Certain Acids Not to be Sold.—The product made by the destructive distillation of wood known as pyroligneous acid, or acetic acid derived from other sources than fruit, grain, sugar or sirup, shall not be sold, as vinegar or in any mixture of vinegars or compound vinegar. (Id. § 3.)

124. Compounds.—Mixtures of two or more of the foregoing vinegars are "compounds" and packages containing the same shall be plainly marked with the word "compound" together with the proportions of the vinegar so mixed, in addition to the other requirements hereof. No such compound shall be made in imitation of any other kind of vinegar or be sold in Alabama. (Id. § 4.)

125. Vinegar Reduced With Water, How Marked.—Packages containing vinegar which has been reduced with water must be plainly marked "reduced to.....per cent acid strength," indicating the acidity to which it has been reduced. (Id. § 5.)

126. Containers, to be Marked, etc.—Every manufacturer, producer or distributor of vinegar shall plainly mark each cask, barrel or other container of such vinegar with his name and place of business, the kind of vinegar therein contained, in the terms above defined, and no person shall falsely mark any package containing any vinegar so defined with any other brand or designation or with any additional words, marks or description which shall be false or deceptive in any particular whatever. Every person who sells any vinegar except it be delivered to the purchaser in the unbroken package of the manufacturer or distributor shall plainly and conspicuously mark the receptacle or container in which such vinegar is delivered to the purchaser, whether such receptacle or container be furnished by the seller or purchaser, with the kind of vinegar so delivered. (Id. § 6.)

127. Unlawful Manufacture, etc.—No person shall manufacture or sell, in this State: 1. Any vinegar so defined which does not comply with such definitions. 2. Any adulterated or misbranded vinegar. 3. Any vinegar or product in imitation of any vinegar so defined. 4. Any vinegar to which any artificial coloring matter has been added of any kind whatever, or which contains any substance or ingredient not derived directly from the fruit, grain, sugar or sirup from which it purports to have been made. (Id. § 7.)

128. Enforcement and Taking of Samples.—The Commissioner of Agriculture and Industries shall enforce the provisions of this article. He shall also sample or cause to be sampled vinegars, sold in Alabama, under appropriate rules and regulations adopted by the State Board of Agriculture. (Id. § 8.)

129. Violations and Penalties.—Violation of this article shall be a misdemeanor and punished by a fine of not less than \$100, nor more than \$500 for the first offense, and not less than \$500 nor more than \$1,000 for all subsequent offenses. (Id. § 9.)

NOTE.—See also No. 1 et seq.

Watermelons.

130. Violation of Law as to Loading Watermelons, Penalty For.—Any person or persons, firm or corporation loading watermelons, who shall fail to count and weigh the same, and upon such loading being completed, shall fail to make out and sign two statements of the weight of such watermelons and the number contained in such car, and to attach one copy of said statement to the car, and the other to the bill of lading for said car; or who shall make out a false statement with reference to the contents of said car or the weight thereof; or who shall fail to make affidavit to the effect that no wagon or truck scale or other practicable means of weighing is located within three miles of the gathering or shipping point of such melons, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars, nor more than one hundred dollars, to which may be added imprisonment in the county jail for not less than thirty days nor more than ninety days. (Crim. C. 1923, § 5354.)

131. Statement of Number and Weight of Watermelons in Cars Attached to Car and Bill of Lading.—Every person or persons, firm or corporation, loading watermelons into cars for transportation, before loading such watermelons, shall count and weigh the same, and upon such loading being completed, shall make out and sign two statements of the weight of such watermelons and the number thereof contained in such car. One copy of such statement shall be securely attached to the car and the other copy thereof shall be attached to the bill of lading for such car, and delivered to the consignee or purchaser thereof at his request. (Civ. C. 1923, § 10110.)

132. Affidavit in Lieu of Statement.—No person or persons, firm or corporation, shall ship, sell or offer for sale any carload of watermelons without the statement set out in the last section having been made out and one copy thereof being delivered to the purchaser or consignee of such watermelons, if he shall request it; but in lieu of the statement as to weight required under this article, a sworn affidavit to the effect that no wagon, or truck scales or other practicable means for weighing are located within three miles of the gathering or shipping point, may be executed and attached. In every case the statement as to count shall be made as required under this article. (Id. § 10111.)

133. Article Not Applicable to Interstate Shipments.—This article shall not be construed to relate or apply to interstate shipments. (Id. § 10112.)

Sanitation.

134. Inspection of Places Where Food is Sold.—The State Board of Health shall prescribe rules and regulations for the inspection and operation of all grocery stores, vegetable stores, delicatessen stands, meat stands, restaurants, dining cars, lunch stands, eating places, hotels, rooming houses, and public dining rooms and other like places, together with pantries, kitchens, and yards belonging thereto, and shall furnish copies of said rules and regulations to county boards of health and to county health officers, whereupon said county boards of health and county health officers shall enforce such rules, and the county health officer, or if there be none, the county board of health, may close any of the places named in this section which are kept in an insanitary condition, or if the owner or manager of same violates said rules and regulations. When such place is closed to the public by the county health officer, it shall not be reopened until his written permission is obtained. In the event that any establishment named in this section shall be closed by order of the county health officer the owner thereof shall have the right to appeal to the county board of health. Such board shall investigate such cases and affirm or reverse the action of the county health officer. Once every month the county health officer may announce publicly all places inspected during the previous months which have been found in good sanitary condition. In any particular case under this section, the State Board of Health and the State Health Officer may, if in their discretion the special circumstances make it advisable, take out of the hands of the county board of health and the county health officer the enforcement of this article and proceed themselves to enforce it, the State Board of Health acting in the place of the county board of health and the State health officer in place of the county health officer. (Pol. C. 1923, § 1146.)

134a. State Board of Health; Authority and Jurisdiction.—The State Board of Health shall have authority and jurisdiction— . . . (4) To inspect all . . . markets, dairies, milk depots, slaughter pens or houses, . . . and other places of like character, and whenever insanitary conditions in any of these places, institutions, or establishments, or conditions prejudicial to health, or likely to become so, are found, proper steps shall be taken by the proper authorities to have such conditions corrected or abated. . . . (Id. § 1051.)

134b. County Boards of Health; Authority and Jurisdiction.—It shall be the duty of the county boards of health in their respective counties and subject to the supervision and control of the State Board of Health—

(4) To exercise through county health officers or quarantine officers special supervision over the sanitary conditions of . . . markets, dairies, milk depots, slaughter pens or houses . . . and other institutions and places of like character; and whenever insanitary conditions are found to use all legal means to have the same abated . . . (Id. § 1052.)

NOTE.—See also the dairy law, No. 33 et seq.

PART III.

Special Drug Laws.

Insecticides and Fungicides.

135. Manufacture and Sale of Adulterated or Misbranded Insecticides, etc., Unlawful.—The provisions of this article shall govern the manufacture, sale, offering for sale, or other disposition of insecticides, fungicides or ingredients thereof, and other remedies or materials used in the control or eradication of insect pests and plant disease within the State of Alabama.

It shall be unlawful for any person to manufacture within the State of Alabama, or to sell within the State any insecticide, Paris green, lead arsenate, or a fungicide, which is adulterated or misbranded within the meaning of this article; and any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and shall upon conviction thereof, be fined not less than \$50.00 nor more than \$200.00 for the first offense, and upon conviction for each subsequent offense be fined not less than \$200.00 or more than \$500.00, each and all of which fines when collected, shall be paid to the Commissioner of Agriculture and Industries and credited to the "Agricultural Fund" and be used for the purpose of carrying out and enforcing the provisions of this article. (G. A. 1923, No. 376, Art. 17, § 1.)

136. Rules and Regulations; Samples for Analysis.—It shall be the duty of the Commissioner of Agriculture and Industries, with the assistance of the State Board of Agriculture to make uniform rules and regulations for carrying out the provisions of this article, including the collections and examination of specimens of insecticides, Paris greens, lead arsenates and fungicides manufactured and sold in this State; provided, the rules and regulations so made shall be uniform with the rules and regulations for the enforcement of the United States Insecticide Act of 1910. The Commissioner of Agriculture and Industries or his agent is hereby authorized to draw a sample from any lot, parcel or package of insecticides or fungicide, or material or mixture of materials used for insecticidal or fungicidal purposes which may be manufactured and sold in this State, and said samples shall be submitted to the official chemist of the Department (the ex-officio State Chemist), who shall make an analysis of the same at the earliest practical moment and report the results of such analysis to the commissioner. (Id. § 2.)

137. Notice of Adulterated or Misbranded Specimens; Hearing, Judgment of Court, etc.—If it shall appear from any examination herein provided for, that any such specimens are adulterated or misbranded within the meaning of this article, the Commissioner of Agriculture and Industries shall cause notice thereof to be given to the person from whom such sample was obtained. Any person so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed aforesaid, and if it appears that any of the provisions of this article have been violated by such person, then the Commissioner of Agriculture and Industries shall at once certify the facts to the proper circuit solicitor of this State, with a copy of the results of the analysis, or the examination of such article duly authenticated by the analyst or officer making such examination under the oath of such officer. After judgment of the court that article or articles is or are not misbranded or adulterated, notice of the court's judgment or finding shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 3.)

138. Proceedings in Case of Violation.—It shall also be the duty of each circuit solicitor to whom the Commissioner of Agriculture and Industries shall report any violation of this article to cause appropriate proceedings to be commenced and prosecuted in the proper courts of record of this State, without delay, for the enforcement of the penalties as in such cases herein provided. (Id. § 4.)

139. Definitions.—The term "insecticide" as used in this article shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "Paris green" as used in this article shall include the produce [product] sold in commerce as Paris green and chemically known as the aceto arsenite of copper. The term "lead arsenate" as used in this article shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_2AsO_4) by replacing one or more hydrogen atoms by lead. The term "fungicide" as used in this article shall include any

substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever. (Id. § 5.)

140. When Articles Deemed Adulterated.—For the purpose of this article, an article shall be deemed to be adulterated—In the case of Paris green: first, if it does not contain at least fifty per centum of arsenous oxide; second, if it contains arsenic in water soluble forms, equivalent to more than three and one-half per centum of arsenous oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength. In the case of lead arsenate: first, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As 205); third, if it contains arsenic in water soluble forms, equivalent to more than seventy-five one-hundredths per centum of arsenic oxide (As 205); fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; provided, however, that extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label. In the case of insecticides or fungicides, other than Paris greens, and lead arsenate: first, if its strength and purity fall below the professed standard of quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances, which, although preventing, destroying, repelling or mitigating, insects, shall be injurious to such vegetation when used. (Id. § 6.)

141. When Deemed Misbranded.—The terms misbranded as used herein shall apply to all insecticides, Paris greens, lead arsenates or fungicides or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, Paris greens, lead arsenates or fungicides which are falsely branded as to the States, territory or county in which they are manufactured or produced. For the purpose of this article an article shall be deemed to be misbranded—In the case of insecticides, Paris greens, lead arsenates, and fungicides: first, if it be an imitation or offered for sale under the name of another article; second, if it be so labelled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents as stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. In the case of insecticides (other than Paris greens and lead arsenates) and fungicides; first, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of any inert substance or substances which do not prevent, destroy, repel or mitigate insects or fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label; provided, however, that in lieu of naming and stating the percentage amounts of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients, except in so far as to state the total percentage of inert ingredients present. (Id. § 7.)

142. Guaranty, etc.—No dealer shall be prosecuted under the provisions of this article when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this article. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this article. (Id. § 8.)

143. Filing Statements of Brands of Insecticides, etc.; Fees; When Registration May Be Cancelled.—Any manufacturer of an insecticide or fungicide shall, before the same is offered for sale in Alabama, file or cause to be filed with

the Commissioner of Agriculture and Industries for each and every brand of insecticide and fungicide, a certified statement of the brand name and of the chemical analysis, showing the active or inert constituents as required by section 7 of this article (provided that whenever any inert constituent is claimed to exert especial attractions it shall be considered as active and its nature and percentage shall be filed with the said commissioner and shall be stated on the label of the product), in the form of an application for registration of the brand. Said application shall be accompanied by a copy of the label proposed for use in connection with the sale of said brand, and when said Commissioner of Agriculture and Industries shall so request, with a sealed package containing not less than one pound of the insecticide or fungicide. The manufacturer filing or causing to be filed such certificate shall accompany the application with and shall pay annually to the Commissioner of Agriculture and Industries, a fee of ten dollars on each and every brand prepared and offered for interstate shipment, and a fee of five dollars per brand for such brands as are not offered for interstate shipment (except that said feed [fees] shall not be assessed for registration of an insecticide or fungicide consisting of organic matter and not containing any added inorganic matter or mineral chemical, provided that a complete chemical analysis, showing the active or inert constituents and the proportions of same, of said insecticide or fungicide is given in, and as part of the certificate required under this section). Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee. If after a brand of insecticide or fungicide has been registered it is later discovered that the brand was registered in violation of the provisions of this article, the Commissioner of Agriculture and Industries shall have authority to cancel the registration. (Id. § 9.)

144. Penalties.—Any person who shall violate any provision of this article, or who shall sell or distribute brands of insecticides or fungicides which have not been duly registered, shall be guilty of a misdemeanor, and upon conviction thereof be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars for each offense. (Id. § 10.)

NOTE.—See also No. 1 et seq.

Pharmacy, Poisons and Narcotics.

145. Board of Pharmacy; Term of Office.—The Board of Pharmacy shall consist of five persons, members of the Alabama Pharmaceutical Association, not connected with any school of pharmacy, licensed as pharmacists, with at least ten years' practical experience and actively engaged in the practice of pharmacy in the State of Alabama, who shall be appointed by the Governor for a term of five years, or until their successors are appointed. The State Board of Pharmacy heretofore appointed and holding office on September 27, 1923, shall continue in office, and act as the State Board of Pharmacy with all the duties and powers as herein provided until the term of the said members respectively expire. (Pol. C. 1923, § 2807.)

145a. Vacancies; How Filled, Oath of.—The vacancies, as they annually occur, are to be filled in accordance with the requirements of this chapter. Annually, hereafter, the Alabama Pharmaceutical Association shall submit to the Governor the names of five persons eligible to appointment, and from this number, or from others, the Governor shall appoint one member to fill the vacancy annually occurring on said Board of Pharmacy, and vacancies occurring for any other cause, shall be filled in like manner. Each member of said Board of Pharmacy, within ten days after the receipt of notification of his appointment and commission, shall appear before the judge of probate of the county in which he resides to take and subscribe to an oath to properly and faithfully discharge the duties of his office, according to law. (Id. § 2808.)

145b. Residence of Members.—No two members of said State Board of Pharmacy shall reside in the same county. (Id. § 2809.)

145c. Organization, Election of Officers; Bonds of.—Annually said Board of Pharmacy shall organize by the election of a president, and a secretary, and treasurer, all of whom shall be members of said board, except the secretary, who shall hold their respective offices for one year, and until their successors shall have been elected and qualified. The secretary and treasurer shall each give bonds in such sums as may be prescribed by said Board of Pharmacy, conditioned to discharge the duties of their several offices according to law. Such bonds shall be made payable to said Board of Pharmacy and approved by the president of said board. (Id. § 2810.)

145d. Meetings of Board.—Said Board of Pharmacy shall hold an annual meeting, at such time and place as it may provide by rule, for the examination of candidates, and for the discharge of such other business as may legally come before

it, and said board may hold such additional meetings, as may be necessary for the examination of candidates, and for the discharge of any other business. (Id. § 2811.)

145e. Seal of Board; Rules; Attorney Employed.—Said Board of Pharmacy shall have a common seal, and shall have the power and authority to define and designate non-poisonous domestic remedies, adopt such rules, regulations and by-laws, not inconsistent with the laws of this State, as may be necessary for the regulation of its proceedings, and for the discharge of the duties imposed under this chapter, and may employ an attorney to assist in prosecutions under this chapter, and for any other assistance which said board may deem necessary. (Id. § 2812.)

145f. Record of Proceedings.—Said Board of Pharmacy shall keep a record of its proceedings, and a register of all persons to whom certificates of license as pharmacists or assistant pharmacists have been issued, and also shall keep a register of all apprentices and permits granted, and all renewals thereof; and the books and register of said Board of Pharmacy, or a copy of any part thereof, certified by the secretary, attested by the seal of said Board of Pharmacy, shall be taken and accepted as competent evidence in courts of the State. (Id. § 2813.)

145g. Reports of Board.—The Board of Pharmacy shall make annually to the Governor, and to the Alabama Pharmaceutical Association, written report of its proceedings, and of its receipts and disbursements under this chapter, and a list of all the persons licensed to practice as pharmacists and assistant pharmacists, and to whom permits are issued in this State. A majority of said board shall constitute a quorum for the transaction of all business. (Id. § 2814.)

145h. Power of Board to Administer Oaths.—Any member of said Board of Pharmacy shall have the power to administer oaths in all matters pertaining to the discharge of the duties committed to said Board of Pharmacy under this chapter. (Id. § 2815.)

145i. Compensation of Board.—The secretary of said Board of Pharmacy shall receive such salary as may be prescribed by said board, and his necessary expenses while engaged in the performance of his official duties. The other members of the Board of Pharmacy shall each receive the sum of ten dollars for each day actually employed in the discharge of their official duties, and their necessary expenses while engaged therein. (Id. § 2816.)

145j. Disposition of Fees Collected.—All fees collected by the Secretary for the examination of pharmacists and assistant pharmacists, and for the issuing of permits, and the enrolling of apprentices, authorized by this chapter, and for the renewal of certificates of registration, and all other funds collected by the secretary of the Board of Pharmacy under this chapter, shall by him be paid over to the treasurer of said board, and shall be placed to the credit of a fund which is hereby appropriated solely for the use of the Board of Pharmacy. The compensation and expenses of the secretary and members of said Board of Pharmacy, and all expenses incurred by said Board of Pharmacy in carrying out the provisions of this chapter shall be paid out of said funds upon warrants drawn upon the treasurer, and signed by the president and secretary of said board of pharmacy. (Id. § 2817.)

146. Application for Examination as Pharmacist.—Every person who shall hereafter be licensed as a pharmacist, or assistant pharmacist, in this State, shall file with the secretary of the Board of Pharmacy an application duly certified under oath setting forth the name and age of the applicant, the place, or places, at which and the time spent in the study of the science and art of pharmacy and experience in the compounding of physicians' prescriptions which the applicant has had under the direction of a legally licensed pharmacist accompanied by affidavits from employers showing same, and shall appear at the time and place designated by said Board of Pharmacy, and submit to a theoretical and practical examination as to his qualifications for registration as a licensed pharmacist, or assistant pharmacist, as may be specified by said Board of Pharmacy. (Id. § 2818.)

147. Qualification of Licensed Pharmacist.—In order to be licensed as a pharmacist within the meaning of this chapter, an applicant must be not less than twenty-one years of age, of good moral character, and shall have been licensed as an assistant pharmacist for not less than two years prior to his application for license as a pharmacist, or shall present to the said Board of Pharmacy satisfactory evidence that he has had not less than four years' practical experience in a pharmacy under the supervision of a licensed pharmacist, which experience shall include work directly related to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, and keeping of records and making reports required under the State and Federal statutes; or two years' practical experience, as above provided, and shall have graduated in pharmacy at a school or college of pharmacy, recognized by said Board of Pharmacy, and also passed a satisfactory examination by or under the direction of said Board of Pharmacy.

On and after January 1st, 1927, any applicant for a certificate as a licensed pharmacist shall be at least twenty-one years of age and a graduate of a class A college of pharmacy, that is, one holding membership in the American Conference of Pharmaceutical Faculties. On or after January 1st, 1927, no assistant's license as a pharmacist shall be issued by the Board of Pharmacy. (Id. § 2819.)

147a. Committee to Determine "A" Grade Colleges.—A committee of five consisting of the dean of the College of Pharmacy at Auburn and the associate professor of pharmacy at Auburn and three to be appointed by the Alabama Pharmaceutical Association at its annual meeting each year shall have the power to pass upon the colleges of the United States who are entitled to come within the meaning of "A" grade colleges within the meaning of this chapter. (Id. § 2820.)

148. License Issued for One Year.—Should said Board of Pharmacy determine that the applicant possesses the necessary qualifications as to experience, character and education, it shall enroll his name upon the register of pharmacists, or assistant pharmacists, as the case may be, and issue to him a license which shall entitle him to practice as a pharmacist or assistant pharmacist until December 31st of the year in which said license was issued. (Id. § 2821.)

149. Revocation of License, Causes For.—Whenever a license or permit has been granted under the provisions of this chapter, said Board of Pharmacy may, after the notice and hearing, revoke such license or permit for the following causes: Immoral or reprehensible conduct, drunkenness, or becoming addicted to the use of narcotic drugs. (Id. § 2822.)

150. License to Pharmacists From Other States.—Said Board of Pharmacy may, in its discretion, issue a license to practice as pharmacists, or assistant pharmacists, in the State of Alabama without examination, to such persons as have been legally registered or licensed as pharmacists or assistant pharmacists in other States, or foreign countries, provided the applicant for such license shall present satisfactory evidence of qualifications, as may be required by the said Board of Pharmacy, which are equal to those required from licentiates in this State, and that he was registered or licensed by examination in other States or foreign countries, and that the standard of competency required in such other States or foreign countries is not lower than that required in this State, and provided also that the board of pharmacy is satisfied that such other States, or foreign countries, accord similar recognition to the licentiates of this State. Nothing in this chapter shall be so construed as to prevent any person from securing a license as a pharmacist, or assistant pharmacist, who could have fulfilled the requirements and secured a license under the reciprocal relationship existing under the law between this State and other States, or foreign countries, prior to January 1st, 1925. Applicants for license under this section shall, with their application, forward to secretary of said Board of Pharmacy the sum of ten dollars. (Id. § 2823.)

151. License Renewed.—Every person to whom a license has been issued shall within thirty days next preceding the expiration of this license, which shall be on the 31st day of December of the year issued, file with the secretary of the said Board of Pharmacy an application for renewal thereof, or, at his option, may apply for, and if proper, receive a license to cover the term of his natural life, which application shall be accompanied by the fees hereinafter prescribed. If the said Board of Pharmacy shall find that such person is entitled to a renewal of license, or to a renewal of such permit, said board shall issue to such applicant a certificate attesting that fact. If any pharmacist or assistant pharmacist shall fail for a period of sixty days after the expiration of his license, to make application to said Board of Pharmacy for its renewal, his name shall be erased from the register of licensed pharmacists or assistant pharmacists, and such person to again become registered as a licensed pharmacist, or assistant pharmacist, shall be required to pay the same as in the case of original registration, provided that his application for renewal is filed within two years from the expiration of his license. (Id. § 2824.)

152. Second Examination Before Board.—Should the application be filed after the expiration of two years, then the applicant must stand the examination before said Board of Pharmacy, as if he was [were] originally applying for a license. (Id. § 2825.)

153. Certificates or Permits Displayed.—Every certificate or license to practice as a pharmacist, and every permit to an assistant pharmacist, or other permit to conduct a pharmacy, drug store, or apothecary shop in towns or villages, as provided in section 2829, and every renewal of such license or permit shall be conspicuously exposed in the pharmacy or store, or place of business of which the pharmacist, or assistant pharmacist, or physician to whom permit is issued, is

the owner or manager, or in which he is employed. The name of the owner or responsible manager of every pharmacy, drug store, or apothecary shop, shall be conspicuously displayed upon the outside of such place of business. (Id. § 2826.)

154. License Recorded.—All pharmacists now licensed, or hereinafter licensed by the Board of Pharmacy, shall be required within thirty days after the granting thereof or in case of removal to another county, within thirty days after such removal, to record the license in the probate office of the county in which he practices his profession. (Id. § 2827.)

155. Fees for Examinations and Renewals.—Said Board of Pharmacy shall be entitled to charge and collect the following fees: For the examination of an applicant for a license as pharmacist, ten dollars; for the examination of an applicant for a license as an assistant pharmacist, five dollars; for enrolling as apprentice, two dollars; for renewing a license of a pharmacist, and assistant pharmacist, or physician holding permit, one dollar; for issuing a life certificate to a pharmacist, ten dollars; for issuing a permit to an assistant pharmacist to conduct a drug store in town of not more than five hundred inhabitants, where there is no licensed pharmacist, one dollar; and one dollar for such renewal thereof. All fees shall be paid before any applicant may be admitted to examination, or his name placed upon the register of pharmacists or assistant pharmacists, or before any license or permit, or any renewal thereof, may be issued by said board. (Id. § 2828.)

156. License Required of Pharmacists.—No person not licensed as a pharmacist within the meaning of this chapter shall conduct or manage any pharmacy, drug store, apothecary shop, or other place of business, for the retailing, compounding or dispensing of any drugs, medicines, or poisons, or for compounding of physicians' prescriptions, or keep exposed for sale, or retail any drugs, medicines or poisons, except as hereinafter provided, nor shall any person not licensed as a pharmacist within the meaning of this chapter, compound, dispense or sell at retail any drug, poison, or medicinal preparation upon the prescription of a physician or otherwise, or compound physicians' prescriptions except as an aid to or under the supervision of a person licensed as a pharmacist under this chapter, nor shall any owner, or manager of a pharmacy or drug store or other place of business, cause or permit any other than a person licensed as a pharmacist, or assistant pharmacist, or apprentice, to compound, dispense, or sell at retail any drug, medicine, or poison, except as an aid to, or under the supervision of a person licensed as a pharmacist or assistant pharmacist. (Id. § 2829.)

157. Physician, Veterinarian or Dentist May Fill Own Prescriptions, etc.—Nothing in the preceding section shall be construed to interfere with any legally licensed practitioner of medicine, veterinary surgery, or dentistry, in the compounding or dispensing of his own prescriptions, nor with the exclusive wholesale business of any dealer who shall be licensed as a pharmacist, or who shall keep in his employ at least one person who is licensed as a pharmacist; nor with the sale of poisonous substances which are sold exclusively for use in the arts; or for use as insecticides, when such substances are sold in unbroken packages, bearing a label having plainly written upon it the name of the contents and the word "poison," and also the name of at least two readily obtainable antidotes. (Id. § 2830.)

158. Permit to Conduct Drug Store in Village.—In a village of not more than five hundred inhabitants, according to the last Federal census, or in towns where there is no person licensed as a pharmacist, the Board of Pharmacy may grant to any person who is licensed as assistant pharmacist, a permit annually to conduct a pharmacy or drug store in such town or village, which permit shall not be valid in any other than the place designated in the permit. (Id. § 2831.)

159. Merchants Excepted.—The second preceding section shall not be so construed as to apply to the sale of patent and proprietary medicines or the ordinary household remedies, and such drugs or medicines as may be specified by said Board of Pharmacy shall be permitted to be sold by those engaged in the sale of general merchandise or wholesale or retail groceries. (Id. § 2832.)

160. Chapter Not Applicable to Person Owning Drug Store.—This chapter shall not be so construed as to prevent any person, firm or corporation from owning a pharmacy, drug store or apothecary shop, provided such store shall be in charge of a licensed pharmacist. (Id. § 2833.)

161. Permit to Physician.—The said Board of Pharmacy may grant to any legally licensed practicing physician in such town or village an annual permit to conduct a pharmacy, drug store, or apothecary shop in such town or village, subject to the provisions of this chapter. (Id. § 2834.)

161a. Record of Prescriptions Kept on File.—Every proprietor or manager of a pharmacy, drug store or apothecary shop shall keep in his place of business

a suitable book or file, in which shall be preserved for a period of not less than five years, the original or the copy of same, of every prescription compounded, or dispensed at such store or pharmacy, numbering, dating, and filing them in the order in which they are compounded, and shall produce the same in court, or before any grand jury, whenever lawfully required to do so. And upon request, the proprietor or manager of such store shall furnish to the prescribing physicians, furnished to the person for whom such prescription was compounded, or dispensed, a true and correct copy thereof, and said book or file, shall at all times be open for inspection by duly authorized officers of the law: Provided, that no copies be given of prescription containing any of the substances included in section 5174 of the Criminal Code.* Every proprietor or manager of a pharmacy, drug store, or apothecary shop shall keep in his place of business the latest edition of the United States Pharmacopœia and National Formulary. (Id. § 2835.)

162. Conducting Pharmacy Without License; Penalty.—Any person not licensed as a pharmacist, who shall conduct or manage any drug store, pharmacy or any other place of business for the compounding, dispensing or sale at retail of any drugs, medicines, or poisons, or for the compounding of physicians' prescriptions, shall be guilty of a misdemeanor, and on conviction shall be fined not less than fifty dollars, nor more than two hundred dollars and each week or part thereof that such drug store or pharmacy or other place of business is so unlawfully conducted shall constitute a separate and distinct offense. (Crim. C. 1923, § 5168.)

163. Practicing Pharmacy Without License; Penalty.—Any person not licensed as a pharmacist or assistant pharmacist, who shall compound, dispense, or sell at retail any drug, medicine, or poison, or medicinal preparation, either upon a physician's prescription or otherwise, and any person who is the owner or manager of a drug store, pharmacy, or place of business, who shall cause or permit any one not licensed as a pharmacist or assistant pharmacist to dispense, sell at retail, or compound any drug, medicine, poison, or physician's prescription, contrary to law, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred dollars. (Id. § 5169.)

164. License Obtained Through Fraud; Void.—Any license or permit to practice pharmacy, or renewal thereof, obtained through fraud, or by any false or fraudulent representation, shall be void and of no effect at law. Any person who shall wilfully make any false affidavit for the purpose of procuring a license or permit or renewal thereof, either for himself or for another, shall be guilty of perjury, and upon conviction shall be subject to like punishment as in other cases of perjury. (Id. § 5170.)

165. License to Practice Pharmacy, Failure to Post or Expose; Penalty for.—Any person who is the holder of any license or permit to practice pharmacy, or renewal thereof, granted under the laws of this State, who shall fail to display it in a conspicuous position in the place of business to which such license or permit relates, or in which the holder thereof is employed, contrary to law, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than fifty dollars, and each week or part thereof that such license, permit or renewal shall not be exposed, shall be held to constitute a separate and distinct offense. (Id. § 5171.)

166. Failure to Obtain Renewal of License to Practice Pharmacy.—Any person who is the holder of any license or permit to practice pharmacy, and who shall, without renewing the same, continue to carry on the business for which such license or permit was granted, contrary to law, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars, nor more than two hundred dollars. (Id. § 5172.)

167. Failure to Display Certificate or Permit, or to Record License of Pharmacist.—Any person who shall violate any of the provisions of this code, requiring pharmacists and assistants to display their certificate or permit to practice, and also requiring pharmacists to record their certificates in the office of the probate judge within thirty days after receiving the same, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars nor more than two hundred dollars. (Id. § 5173.)

168. Cocaine, etc., Not Sold Without Prescription.—No person, firm or corporation shall sell, furnish, or give away any cocaine, alpha or beta eucaine, opium, morphine, heroin, or any salt or compound of any of the foregoing substances, or any preparation or compound containing any of the foregoing substances or their salts or compounds, except upon the original written order or prescription of a lawfully authorized practitioner of medicine, dentistry, or veterinary medicine, which order or

* See No. 168.

prescription shall be dated, and shall contain the name of the person for whom prescribed, or if ordered by a practitioner of veterinary medicine, shall state the kind of animal for which ordered, and shall be signed by the person giving the prescription or order. (Id. § 5174.)

169. Prescriptions Preserved; No Copies Given.—Such written order or prescription shall be preserved on file for a period of not less than two years by the person, firm or corporation who shall compound or dispense the article ordered or prescribed, and it shall not be again compounded or dispensed except upon the written order of the original prescriber for each and every subsequent compounding or dispensing. No copy or duplicate of such written order or prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by the prescriber and properly authorized officers of the law. (Id. § 5175.)

170. Exceptions to Preceding Sections.—The provisions of the two preceding sections shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts or alpha or beta eucaine, or any of their salts or any synthetic substitute for them, provided, such remedies and preparations are manufactured, sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intentions and provisions of this chapter. Any manufacturer, producer, compounder or vendor (including dispensing physicians), of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges or gifts of such preparations and remedies in such manner as the Board of Pharmacy shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the State Board of Pharmacy. The above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers, to retail druggists or qualified physicians, or to each other, nor to sale at retail by retail druggists to regular practitioners of medicine, dentistry or veterinary medicine, or to each other, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparations, nor to sales to hospitals, colleges, scientific or public institutions. (Id. § 5176.)

171. Unlawful to Furnish Opium, etc., to Drug Addicts.—It shall be unlawful for any practitioner of medicine, dentistry or veterinary medicine, to furnish to or to prescribe for the use of any habitual user of the same, any cocaine, heroin, alpha or beta eucaine, opium, morphine, or any salt or compound of any of the foregoing substances, or any preparation containing any of the foregoing substances, or their salts or compounds. And it shall be unlawful for any practitioner of dentistry to prescribe any of the foregoing substances for any person not under his treatment in the regular practice of his profession, or for any practitioner of veterinary medicine to prescribe any of the foregoing substances for the use of any human being; but this section shall not be construed to prevent any lawfully authorized practitioner of medicine from furnishing or prescribing in good faith for the use of any habitual user of narcotic drugs who is under his professional care such substances as he may deem necessary for their treatment when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this chapter. (Id. § 5177.)

172. Violating Provisions as to Sale of Cocaine, etc., Penalty.—Any person who shall violate any of the provisions of the four preceding sections shall be guilty of a misdemeanor, and upon conviction, for the first offense shall be fined not less than fifty nor more than two hundred dollars, and upon conviction for a second offense shall be fined not less than one hundred dollars nor more than five hundred dollars, and upon conviction for a subsequent offense shall be fined not less than five hundred dollars and shall be sentenced to hard labor for the county for not more than six months, and if a licensed pharmacist or assistant pharmacist his license shall be revoked by said Board of Pharmacy. The court record of the convictions shall be accepted as competent evidence. (Id. § 5178.)

173. Judges Shall Charge Grand Juries as to Violations.—All circuit judges at every session of their courts shall charge all regularly empaneled grand juries of their courts to diligently inquire into and investigate all cases of violation of any provisions of this code relating to the practice of pharmacy, and shall make presentment of all persons guilty of such violations. The Board of Pharmacy shall

cause the prosecution of all persons violating the provisions of this chapter. (Id. § 5179.)

174. When Prosecutions Brought for Sale of Patent or Proprietary Medicine.—No prosecutions shall be brought for the sale of any patent or proprietary medicine containing any of the drugs or preparations mentioned in section 5182 of this code until the Board of Pharmacy shall certify that such medicines contain any of said drugs or preparations in excess of the minimum percentage hereinbefore mentioned. (Id. § 5180.)

175. Federal License Prima Facie Evidence of Violation of Law.—Any person not qualified under the provisions of law to buy and sell narcotic drugs, who has been issued or who has in his possession a federal license to buy and sell narcotic drugs, such as opium and its derivatives, cocaine and its salts, beta and alpha eucaine, shall be considered a violator of the provisions of sections 5177 to 5178, and the fact that he has been issued such federal license or has such license in his possession shall be taken as prima facie evidence against him. (Id. § 5181.)

176. Unlawful to Retail Poisons.—It is unlawful for any person to retail any poisons enumerated in schedules "A" and "B" which are as follows, except upon the conditions hereinafter named: Schedule "A," arsenic and its preparations, biniodide of mercury, cyanide of potassium, carbolic acid, hydrocyanic acid, strychnine and all other poisonous alkaloids and their salts not included in section 5177 of this chapter, and the essential oil of bitter almonds; schedule "B," aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, veratrum, digitalis and their pharmaceutical preparations, croton oil, chloroform, sulphate of zinc, corrosive sublimate, red precipitate, white precipitate, mineral acids and oxalic acid. (Id. § 5182.)

177. Sale of Poisons in Schedule "A"; Record of Sales to be Kept.—Any of the poisons included in schedule "A" may be legally sold by any registered pharmacist, but he shall, before delivering the same to the purchaser, cause an entry to be made in a book kept for that purpose, stating the date of sale, name and address of purchaser, the name of poison sold and the amount, the purpose for which it was represented by the purchaser to be required, and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for at least three years. (Id. § 5183.)

178. Poisons in Schedule "B"; How Sold.—Any of the poisons named in schedule "B" may be legally sold, but only on the condition that the person, firm or corporation selling or furnishing the same shall label the box, vessel or paper in which the said poison is contained with the word "Poison" and the name and place of business of the seller. Nor shall it be lawful for any registered pharmacist to sell or deliver any poisons enumerated in schedules "A" and "B" unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for legitimate purposes. The provisions of the two preceding sections shall not apply to the dispensing of poisons in not unusual quantities or upon the prescription of practitioners of medicine. (Id. § 5184.)

179. Penalty for Violating the Three Preceding Sections.—Any person who shall violate any of the provisions of the three preceding sections shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five nor more than one hundred dollars. (Id. § 5185.)

180. Pharmacist Keeps Prescriptions for Five Years; Copies Furnished.—Every proprietor or manager of a pharmacy, drug store or apothecary shop, shall keep in his place of business a suitable book or file, in which shall be preserved for a period of not less than five years the original or a copy of same of every prescription compounded or dispensed at such store or pharmacy, numbering, dating and filing them in the order in which they are compounded, and shall produce the same in court, or before any grand jury, whenever lawfully required to do so. Upon request, the proprietor or manager of such store shall furnish to the prescribing physician, and may, except when otherwise instructed by the prescribing physician, furnish to the person for whom such prescription was compounded or dispensed, a true and correct copy thereof, and said book or file shall at all times be open for inspection by duly authorized officers of the law. No copies shall be given of prescriptions containing any of the substances included in sections 5177 and 5178 of this chapter. Every proprietor or manager of a pharmacy, drug store or apothecary shop shall keep in his place of business the latest edition of the United States Pharmacopœia and National Formulary. (Id. § 5186.)

181. Failure to Preserve and Produce Prescriptions or Copies of Same.—Any person who shall fail to preserve the original of any prescription, or a true copy of the same, or to produce same when lawfully required, in accordance with the provisions of the preceding section, shall be guilty of a misdemeanor, and upon

conviction thereof, shall be fined not less than fifty dollars nor more than two hundred dollars. (Id. § 5187.)

182. Failure of Pharmacist to Keep United States Pharmacopœia in Place of Business.—Any person who shall conduct or manage any drug store, pharmacy, or apothecary shop, who shall fail to keep in his place of business, the latest edition of the United States Pharmacopœia and National Formulary, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars. (Id. § 5188.)

183. Person Not Licensed as a Pharmacist, etc., Shall Not Take or Exhibit Such Title, Penalty.—Any person not legally licensed as a pharmacist, apothecary, or any other title of similar import, who shall take or exhibit the title of pharmacist, contrary to law, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars, nor more than two hundred dollars. (Id. § 5189.)

184. Violations of Chapter; How Investigated.—The Board of Pharmacy shall investigate all alleged violations of this chapter, or any other law of this State regulating the dispensing or sale of drugs, medicines, or poisons, or the practice of pharmacy; and the person or persons charged with the enforcement of the food and drug act or acts of this State shall take such samples and prosecute any violations of the provisions of this chapter under the direction of the Board of Pharmacy and whenever there has been a violation of said laws, the board shall call all such violations to the attention of the circuit or county solicitor of the county in which said violations occur, whose duty it shall be to prosecute any and all violations of said laws. (Id. § 5190.)

185. Poisons Must be Labeled.—Any person who shall retail arsenic or any of its preparations, corrosive sublimate, white or red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, or any poisonous vegetable alkaloids, or their salts, or the essential oil of almonds, opium or its preparations, except paregoric, and other preparations of opium containing less than two grains to the ounce, aconite, belladonna, colchicum, conium, nux vomica, henbane, savine, ergot, cotton root, cantharides, creosote, veratrum, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic and oxalic acids, without labeling the box, vessel or paper in which the said poisons are contained with the name of the article, the word "poison", and the name and place of business of the seller, and enter in a book kept for that purpose the name of the purchaser, date of sale, the name of the poison, and the quantity purchased; or any person who shall sell or deliver any of the poisons enumerated in this section to a purchaser who is not aware of its poisonous character, and who does not represent that it is to be used for a legitimate purpose, shall be guilty of a misdemeanor, and on conviction, shall be fined not less than fifty nor more than two hundred and fifty dollars. (Id. § 5208.)

186. The Same; to What Cases Not Applicable.—The provisions of the preceding section shall not apply to the dispensing of poisons in usual quantities or doses upon the prescription of licensed practitioners of medicine, nor to manufacturers making and selling poisons at wholesale. (Id. § 5209.)

Serums, Etc.

187. Manufacture, etc., of Serums, etc.—The State Board of Agriculture may make rules and regulations governing the manufacture, sale, distribution, handling and keeping and use of all veterinary, biological products and serums and also the disposal of dead carcasses, infectious, and toxic meats and feeds. (G. A. 1923, No. 376, Art. 37, § 3.)

Venereal Disease Drugs.

188. Contagious, Infectious, Communicable Diseases; License Required for Treatment or for Druggists to Fill Prescriptions For.—Any person who shall treat or prescribe for any person having syphilis, gonorrhea or chancroid, except a physician holding a certificate of qualification from the Alabama State Board of Medical Examiners issued under any pre-existing statute or under any statute that may hereafter be enacted governing the issuance of certificates to practice medicine in this State, or any druggist who shall refill a prescription for such disease, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than one hundred dollars. (Crim. C. 1923, § 4377.)

189. Venereal Diseases, Drugs, Medicines, etc., for Treatment; Prescriptions from Licensed Physician Required.—Any druggist, or any other person who shall

sell any drug, medicine, or preparation or preparations, advertised, called for, labeled or intended to be used as a cure or treatment for a venereal disease, except on the written prescription of a licensed physician, shall be guilty of a misdemeanor. The original prescription shall be retained and filed by the druggist compounding said prescription and it shall be unlawful for said druggist to furnish a copy or copies of said prescription. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars, nor more than one hundred dollars. (Id. § 4378.)

190. Advertisements Concerning Venereal Diseases, Impotency, Prostatic Troubles, etc.—Any person who shall, directly or indirectly, publish, deliver, distribute, or cause to be published, delivered, or distributed in any manner, whatsoever, any advertisement concerning genito-urinary or venereal diseases, lost manhood, lost vitality, impotency, sexual weakness, seminal emissions, stricture, drains, discharges, prostatic troubles, self-abuse or excessive sexual indulgences or calling attention to any medicine, article or preparation that may be used therefor, or to any person or persons from whom, or any office or place at which, information, treatment or advice relating to such diseases, infirmity, habit, or condition may be obtained, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. This section shall not apply to the advertising of any patent medicine not used or recommended for the treatment of venereal diseases, nor shall it apply to didactic or scientific treatises which do not advertise or call attention to any person or persons from whom, or any place at which information, treatment or advice may be obtained, nor shall it apply to advertisements or notices issued by legally constituted health authorities in the discharge of their official duties. (Id. § 4379.)

191. Druggists or Other Persons Prescribing Drugs or Substances for Treatment of Venereal Diseases.—It shall be unlawful for any druggist, or clerk or employee of any druggist, or any other person not a physician holding a certificate of qualification from the State Board of Medical Examiners of the State, to prescribe or recommend to any person any drug, medicine, or other substance to be used for the cure, treatment or alleviation of gonorrhea, syphilis, or chancre; and it shall be unlawful for any person to compound any drug or medicine for such purpose from any written formula or order, except a prescription, not theretofore filled, written for the person for whom the drug or medicine is compounded, and signed by a physician holding a certificate of qualification from the State Board of Medical Examiners. Any person violating the provisions of this section shall, on conviction, be punished by a fine of not less than ten nor more than one hundred dollars. (Id. § 4381.)

Intoxicating Liquors.

192. Definition of Prohibited Liquors and Beverages.—The term "prohibited liquors and beverages" shall include and be deemed to embrace the following: (1) alcohol, alcoholic liquors, spirituous liquors, and all mixed liquors any part of which is spirituous; foreign or domestic spirits, or rectified or distilled spirits, absinthe, whiskey, brandy, rum and gin; (2) vinous liquors and beverages; (3) malt, fermented or brewed liquors of any name or description manufactured from malt wholly or in part, or from any substitute therefor; beer, lager beer, porter and ale; and other brewed or fermented liquors and beverages by whatever name called; hop-jack, hop-ale, hop-weiss, hop-tea, malt tonic, or any other beverage which is the production of maltose or glucose, or in which maltose or glucose is a substantial ingredient; (4) any intoxicating bitters or beverages by whatever name called; but this section shall not apply to the possession of wine or cordial made from grapes or other fruit, when the grapes or other fruit are grown by the person making the same for his own domestic use, upon his own premises in this State, and when such person keeps such wine or cordial for his own domestic use on his own premises in any quantity not exceeding five gallons for one family in twelve months. (5) All liquors, liquids, drinks or beverages, made in imitation of or intended as a substitute for beer, ale, rum, gin, whiskey, or for any other alcoholic, spirituous, vinous or malt liquor; and any liquor, drink or liquid made or used for beverage purposes containing any alcohol shall be deemed an alcoholic liquor, within the meaning of the term "prohibited liquors and beverages," as defined in this article in connection with the existing prohibition laws of Alabama. (Crim. C. 1923, § 4615.)

193. Penalty for Violation.—Any violation of any provision of this article shall be punishable by a fine of not less than fifty nor more than five hundred dollars; to which may be added in the discretion of the court or judge trying the case imprisonment in the county jail or at hard labor for the county for not more than six months. (Id. § 4670.)

194. Wine and Cordial for Domestic Use, and Alcohol Regulated and Excepted.—The laws against possession, transportation or delivery of prohibited liquors shall not apply to the possession of wine or cordial made from grapes or other fruit, when the grapes or other fruit are grown by the person making the same for his own domestic use, upon his own premises in this State, and when such person keeps such wine or cordial for his own domestic use on his own premises in any quantity not exceeding five gallons for one family in twelve months. Nor shall such laws apply to the receipt or possession of pure or grain alcohol in non-prohibited quantities by persons who are permitted to buy, sell, use, or possess the same under existing laws of the State, nor to the receipt or possession of wine for sacramental purposes, when received and possessed by an authorized person in accordance with the rules and regulations prescribed by law, and when not exceeding the quantity so prescribed. (Id. § 4706.)

195. Receiving Prohibited Liquors From Common Carrier.—No person shall receive or accept any prohibited liquors or beverages from a common carrier or other carrier, except alcohol in accordance with regulations and restrictions of the existing laws of Alabama, and of this article, and for the purpose prescribed by said laws, and except wine for sacramental or religious purposes as permitted under existing laws, and then only if there is permanently pasted or attached to the container a copy of the prescription or affidavit, upon authority of which it was prescribed or obtained. (Id. § 4707.)

196. Sales by Wholesale Druggists Regulated.—Wholesale druggists may sell in wholesale quantities to retail druggists and to public or charitable hospitals, or to medical or pharmaceutical colleges, pure alcohol for medicinal purposes only, or grain alcohol to be used by chemists or bacteriologists actually engaged in scientific work, and for such purposes only, and such wholesale druggists shall, at the end of each month in which any such sales have been made, file with the probate judge of the county in which they do business, a statement in writing giving the name of the purchaser, the price paid, the date of sale, and the quantity and character of the alcohol sold. (Id. § 4718.)

197. Sales by Retail Druggists Regulated.—Any retail druggist in this State, who is himself a registered or licensed pharmacist, or who regularly employs a licensed or registered pharmacist, may sell in the manner herein set out, pure alcohol for medicinal purposes only, grain alcohol to chemists and bacteriologists actually engaged in scientific work and for such purposes only, and wine to be used for sacramental or religious purposes only; but nothing herein shall prevent such druggist from using alcohol in compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States. (Id. § 4719.)

198. Sales by Retail Druggists for Scientific, Mechanical or Sacramental Purposes.—The retail druggists may sell in quantities not greater than five gallons, alcohol to be used in the arts or for scientific or mechanical purposes, and such druggists may sell in like quantities grain alcohol to chemists and bacteriologists engaged in scientific work and for such purposes only, and such druggists may sell in quantities not greater than one-half gallon, wine to be used for sacramental or religious purposes only. Any person desiring to purchase alcohol for the purposes set out in this section shall sign a written or printed statement, giving his name, residence, and occupation, and the purpose for which he intends to use said alcohol, and he shall certify that said alcohol is purchased in good faith for such purpose and no other. (Id. § 4720.)

199. Purchase by Physicians of Alcohol Regulated.—Regularly licensed and practicing physicians may purchase grain alcohol or pure alcohol in quantities of not more than one gallon at one time, from wholesale or retail druggists and may use the same in compounding and dispensing remedies in the practice of their profession only. (Id. § 4721.)

200. Sale of Pure Alcohol for Medicinal Purposes Made Only on Prescription of Physician; Regulation as to Prescription.—No sale of pure alcohol for medicinal purposes shall be made by any person authorized by the law under proper circumstances to make sale of such liquor for medicinal purposes, except upon the prescription of a regularly authorized, practicing physician of this State, who, before writing such prescription, shall make an actual examination of the person for whom the prescription is issued. (Id. § 4722.)

201. Contents of Prescriptions.—Said prescriptions shall state the disease or ailment from which the patient is suffering and shall prescribe the method of the use or administration of said alcohol and the quantity of the dose or doses to be taken and the intervals between doses, or the time when the same are to be administered; and the prescription shall state and certify that the use of such alcohol, in the opinion of the physician, is necessary to alleviate or cure the illness or disease from which such patient is suffering. Every such prescription shall contain the name and address of the physician giving the prescription, and the name and address of the person for whom the alcohol is prescribed, also the date on which the prescription is written, and shall state the number of prescriptions for alcohol which the physician has written for said patient within twelve months, or that he has not written any within that period for said patient. (Id. § 4723.)

202. Prescription Based on Professional Opinion of Physician After Examination.—No physician shall prescribe alcohol for any patient simply upon the affirmation or statement or promise of said patient that he will use the same for medicinal purposes, but the said prescription must be based upon the professional opinion of the physician after a careful examination of the person seeking the prescription, and upon his opinion derived from such examination that the said party is bona fide applying for said alcohol to be used as a medicine and not as a drink or beverage. (Id. § 4724.)

203. Form of Prescription.—The following form of prescription shall be used: "State of Alabama, ... county. I, ... a regularly licensed and practicing physician under the laws of said State, do hereby certify that I have examined a patient under my charge, and I do hereby prescribe for the use of said patient, ... of alcohol (not exceeding one-half pint), and I further certify that the said patient is suffering from the following illness, sickness, or disease, ... and that, in my opinion, the use of such alcohol is necessary to alleviate or cure the illness or disease or sickness from which such patient is suffering, and that I believe that the patient is seeking said prescription in good faith, to use said alcohol for medicinal purposes and not as a beverage, and in writing this prescription I am not relying upon his promise or affirmation that he or she will use the alcohol for medicinal purposes, but upon my own opinion, based upon an examination, that the alcohol is necessary to alleviate or cure the sickness of which he or she is suffering. And I further certify that he or she has been suffering from said sickness as far as I can ascertain for the following period of time (to be stated in months, weeks or days) The alcohol is to be administered or used as follows: (here state dose, etc., as above directed). Then state address of patient and doctor. (Signed) M. D. Date:" (Id. § 4725.)

204. Limitations Upon Prescriptions as to Time, Quantity, and Pecuniary Interest of Physicians.—No prescription shall be filled hereunder except upon the day upon which it is issued or the following day, and no more than one-half pint of alcohol shall be sold and delivered on any one prescription, and when such prescription is filled, it shall not be refilled, but shall be delivered to the druggist filling the same, and at the end of the month in which the same is filled, shall be filed by such druggist in the office of the probate judge of the county. In towns having a population of two thousand or more, no physician's prescription shall be filled at any drug store of which he is the proprietor, or in which said physician has a financial interest, either as partner, stockholder, or otherwise. (Id. § 4726.)

205. No Prohibited Liquors Except Alcohol Shall be Prescribed.—No physician shall prescribe whiskey, rum, gin, or brandy or any prohibited liquor for medicinal purpose except alcohol as provided by law. (Id. § 4727.)

206. Copy of Prescription Filed With Probate Judge.—The physician shall immediately file a copy of the prescription signed by himself, in the office of the probate judge, who shall preserve the same and deliver all such prescriptions to the next grand jury for examination. (Id. § 4728.)

207. Affidavit Required to be Filed by Physicians Before Prescribing Alcohol.—Before any physician shall be authorized to prescribe alcohol for medicinal purposes, he shall first file with the probate judge of the county in which he practices, an affidavit in the following form, to wit: "I, ... a regularly authorized practicing physician, do solemnly swear or affirm that I am such regularly practicing physician in county; and that I will not prescribe or furnish alcohol to any one except it be in my judgment a necessity in the alleviation or cure of the disease with which the patient shall be at the time afflicted, and I will strictly comply with all the legal requirements

pertaining to the furnishing of said prescriptions, and will give no prescription for an amount exceeding one-half pint of alcohol; and I will comply with all the laws of the State of Alabama, with respect to the giving of prescriptions for alcohol for sickness; that I will not prescribe alcohol to one who is afflicted with the habit of taking narcotics or who is a person of intemperate habits, nor will I prescribe alcohol merely upon the promise or statement of the patient that the same will be used for medicinal purposes; but it shall be prescribed only upon my judgment as a physician that the same is necessary in the treatment of a disease or sickness, which I shall find upon personal examination of the patient to exist in his case." For the filing and recording of said affidavit by the probate judge in a book kept for that purpose, he may receive twenty-five cents for each affidavit from the physician filing the same. (Id. § 4729.)

208. Prescription to be Filed in Probate Office; Kept in Book and Indexed.—All statements or prescriptions required by this article to be filed in the office of the probate judge shall be recorded and properly indexed by him in a book kept for that purpose which shall at all times be open to public inspection, and a certified copy of such record, or the original statement or prescription with the certificate of the probate judge indorsed thereon showing it has been recorded shall be prima facie evidence of the facts therein recited. For making such record, the probate judge shall be entitled to charge and collect for each prescription a fee of ten cents, and for all statements other than prescriptions, a fee of twenty-five cents, which shall be paid by the party filing the same. (Id. § 4730.)

209. Jamaica Ginger, Sale or Disposition of Regulated.—It shall be unlawful for any person to give away the essence, extract or tincture of Jamaica ginger for beverage purposes, or for any person, except a druggist or proprietor of a drug store, who is entitled under existing laws to sell alcohol for medicinal purposes upon prescription of a physician to sell or dispense the essence, extract or tincture of Jamaica ginger, and the said druggist or proprietor of a drug store shall act only upon the prescription of a regularly authorized practicing physician, all in accordance with the rules and regulations prescribed by law for the furnishing of prescriptions of alcohol for medicinal purposes, with the same limitations and restrictions in all details and particulars. (Id. § 4731.)

210. Wood or Denatured Alcohol, Sale of.—It is not unlawful to sell wood or denatured alcohol. (Id. § 4733.)

211. Penalties for Violating Provisions of this Article or Prohibition Laws.—Any person who violates any provision of this article shall be guilty of a misdemeanor, when not otherwise expressed, and shall be punished as prescribed in this section, if not otherwise expressed herein. Any physician who issues any prescription containing any false statement, or who fails to comply with any requirement of the law in regard to the giving of prescription for alcohol to patients, or who uses alcohol except for authorized purposes, shall be guilty of a misdemeanor, and shall be, by the judgment of the court, disbarred from the practice of his profession for one year in this State upon conviction, in addition to the other penalties prescribed. Any person who shall sell any wine or alcohol in this State for any purpose other than allowed by law, or who shall fail to comply with any regulation respecting the sale, delivery or use of alcohol or wine, or who shall receive, have in possession, or possess, any alcohol or wine, except as authorized by the law of the State of Alabama, and for the purposes as prescribed by law, shall be guilty of a misdemeanor, and any other person who offends under any section of this article, except in cases where other punishment is prescribed, shall, on conviction, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months for the first conviction, at the discretion of the court or judge trying the case, and on the second and every subsequent conviction, in addition to the fine which may be imposed, the convicted party shall be confined to hard labor for the county for not less than three nor more than six months, to be fixed by the judge or court trying the case. (Id. § 4734.)

PART IV.

Miscellaneous Laws.

False Advertising, Etc.

212. Untrue Advertising Prohibited.—If any person, firm, corporation or association or agent or employe thereof with intent to sell or in any way dispose of merchandise, real estate, securities, service, or anything offered by such person, firm, corporation, or association, or agent or employee thereof, directly or indirectly, offers to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or an interest therein, knowingly makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in this State, in a newspaper, magazine or other publication, or in the form of a book, notice, circular, pamphlet, handbill, letter, poster, bill, sign, placard, card, label or tag, or in any other way an advertisement, announcement or statement of any sort regarding merchandise, securities, service, or anything so offered to the public which contains any assertion, representation or statement that is untrue, deceptive or misleading; such person, firm, corporation, or association, or the members of such firm, also the agent and employee shall be guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. (Crim. C. 1923, § 4133.)

213. Advertisements in Newspapers and Magazines Shall be so Marked.—If any person, firm, corporation or association, or agent or employe thereof publishes in any newspaper, magazine, or other periodical, any advertisement not clearly marked or labeled "advertisement" at the beginning or end of said advertisement, such person, firm, corporation or association, or agent or employe thereof, shall be guilty of a misdemeanor, punishable as provided in the preceding section; but this section shall not apply to advertisements wherein the name of the maker, manufacturer, agent, distributor or salesman of the article or thing advertised, together with the address of said maker, manufacturer, agent, distributor or salesman, is plainly set out in said advertisement. (Id. § 4134.)

Flag Desecration.

214. Mutilating, Defacing or Using Flag for Advertising Purposes.—Any person, who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement, of any nature, upon any flag, standard, color, or ensign of the United States or State flag of this State, or ensign, or the Confederate flag or ensign, or shall expose or cause to be exposed to public view, any such flag, standard, color, or ensign, upon which shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose, any article, or substance, being an article of merchandise, or a receptacle of merchandise, or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached, or otherwise placed, a representation of any such flag, standard, color, or ensign, to advertise, call attention to, decorate, mark, or distinguish the article, or substance, on which so placed, or who shall publicly mutilate, deface, defile, or defy, trample upon, or cast contempt, either by words or act upon any such flag, standard, color, or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days, or both, in the discretion of the court; and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered with costs in a civil action, or suit; in any court having jurisdiction. (Crim. C. 1923, § 4099.)

215. Any Citizen May Sue, Penalty; How Disposed of.—Such action or suit may be brought by and in the name of any citizen of this State, and such penalty when collected, less the reasonable cost and expense of action or suit and recovery, to be certified by the probate judge of the county in which the offense is committed, shall be paid into the treasury of this State; and two or more penalties may be sued for and recovered in the same action or suit. (Id. § 4100.)

216. Definition of Terms.—The words "flag, standard, color, or ensign," as used in this chapter, shall include any flag, standard, color, ensign, or any picture or representation, of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of, said flag, standard, color or ensign, of the United States of America, or the Confederate flag, or ensign, of [or] a picture or a representation, of either thereof, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe same to represent the flag, colors, standard, or ensign, of the United States of America or the Confederate flag or ensign. (Id. § 4101.)

217. Possession of Flag, Presumption of Guilt.—The possession by any person, other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be anything made unlawful at any time by this chapter or of any article or substance or thing on which shall be anything made unlawful at any time by this chapter, shall be presumptive evidence that the same is in violation of this chapter and was made, done, or created after September 4, 1915, and that such flag, standard, color, ensign, or article, substance, or thing, did not exist, on September 4, 1915. (Id. § 4102.)

218. Exceptions From Chapter.—This chapter shall not apply to any act permitted by the statutes of the United States of America, or by the United States army and navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence, on any of which shall be printed, painted or placed, said flag, disconnected from any advertisement. (Id. § 4103.)

Tobacco—Tobacco Products.

219. Selling Cigarettes to Minors; Jurisdiction of Justices.—Any person who sells, barters, exchanges, or gives to any minor, any cigarettes, or cigarette tobacco, or cigarette paper, or any substitute for either of them, must, on conviction, be fined not less than ten nor more than fifty dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than thirty days; and justices of the peace and notaries public with the powers of justices of peace, have jurisdiction of such offense concurrent with that of the county court. (Crim. C. 1923, § 3567.)

Trade-Marks, Etc.

220. Marks or Devices for Bottles, Boxes, Kegs, etc., May be Registered.—Any person or corporation, engaged in manufacturing, bottling, or selling soda water, mineral or aerated waters, cider, ginger ale, milk, cream, or other beverages in bottles, siphons, fountains, or kegs, with his or its name or other mark or device branded, stamped, engraved, etched, blown, impressed, or otherwise produced upon such bottles, siphons, fountains, or kegs, or on the boxes used in such business, may file in the office of the judge of probate of the county in which his or its place of business is situated, and also in the office of the Secretary of State, a description of the name, mark, or device so used, and cause such description and notice of its filing to be printed once a week for three successive weeks in a newspaper published in the county in which such notice is filed. (Crim. C. 1923, § 4899.)

221. Refilling, Dealing in, or Removing Marks Upon Bottles, Boxes, Kegs, Etc., Which Have Been Registered.—Any person or corporation who fills with soda water, mineral or aerated waters, ginger ale, milk, cream, beer, or other beverages, or with medicines, compounds, or mixtures, any bottle, box, siphon, fountain, or keg, marked or distinguished by any name, mark, or device, of which a description shall have been filed and published as provided in the preceding section, or who defaces, erases, obliterates, covers up or otherwise removes or conceals any such name, mark, or device, or who sells, buys, gives, or receives, or otherwise disposes of or traffics in the same without the written consent of, or unless the same shall have been purchased from, the person or corporation whose mark or device shall be upon the bottle, box, siphon, fountain, or keg so filled, trafficked in, used, or dealt with, must, on conviction, be punished for the first offense by imprisonment in the county jail, or at hard labor for the county, for not less than ten days nor more than one year, or by a fine of fifty cents for each such bottle,

box, siphon, fountain, or keg so filled, sold, used, disposed of, bought, or trafficked in, or by both such fine and imprisonment; and for each subsequent offense, by imprisonment for not less than twenty days nor more than one year, or by a fine of not less than one nor more than five dollars for each such bottle, box, siphon, fountain, or keg so filled, sold, used, disposed of, bought, or trafficked in, or by both such fine and imprisonment, at the discretion of the jury. (Id. § 4900.)

222. Possession or Use of Bottles, Boxes, etc., Presumptive Evidence of Guilt.—The use by any person or corporation, other than the person or corporation whose name, mark or device may be, or may have been upon the same, without the written consent of, or purchase from, the owner of any bottle, box, siphon, fountain, or keg, a description of the name, mark, or device whereon shall have been filed and published as provided in this article, for the sale of soda water, mineral or aerated water, ginger-ale, milk, cream, or other beverages, or any article of merchandise, medicines, compounds, or preparations, or for the furnishing of such similar beverages to customers; or the buying, selling, using, disposing of, or trafficking in any such bottles, boxes, siphons, fountains, or kegs, by any person or corporation other than the person or corporation owning the name, mark, or device thereon of such owner, without his written consent; or the having by any junk dealer, or dealer in second-hand articles, possession of any such bottles, siphons, boxes, fountains, or kegs, without the written consent of the owner, shall be presumptive evidence of the unlawful use or purchase of, or traffic in such bottles, boxes, siphons, fountains, or kegs. (Id. § 4901.)

223. When Search Warrant Issued for Discovery of Bottles, Etc.—Whenever any person or corporation, or his agent, shall make oath before any justice of the peace that he has reason to believe and does believe that any of his bottles, boxes, siphons, fountains, or kegs, a description of the name, marks, or devices whereon has been filed and published as provided in this chapter, are being unlawfully used or filled, or had by any person or corporation, manufacturing or selling soda, mineral, or aerated waters, cider, ginger-ale, milk, cream, or other beverages, or that any junk dealer or dealer in second-hand articles, vender of bottles, or that any person or corporation has any such bottles, boxes, siphons, fountains, or kegs in his possession, or secreted in any place, such justice of the peace must issue a search warrant to discover and seize such property, and thereupon such proceedings must be had as in other cases in which search warrants have issued. (Id. § 4902.)

224. Trade-Marks and Signs.—One who produces or deals in a particular thing, or conducts a particular business, may appropriate to his exclusive use, as a trade-mark, any form, symbol, or name which has not been so appropriated by another, to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation, or part of a designation, which relates only to the name, quality, or the description of the thing or business, or the place where the thing is produced, or the business is carried on. (Civ. C. 1923, § 10370.)

Trading Stamps.

225. Selling Trading Stamps Without License, Penalty For.—Any person, firm, or corporation who engages in or carries on the business of selling or issuing to merchants, trading stamps, or any device or substitute therefor, without first paying the privilege or license tax as required by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one thousand dollars. (Crim. C. 1923, § 5551.)

226. Trading Stamps.—Every person who engages in or carries on the business of issuing or selling to merchants, trading stamps, or any device or substitute therefor, or any stamps or certificates of like character which are to be given by merchants to purchasers of goods, wares or merchandise, and which said stamps, certificates or devices, or substitute therefor, the person issuing or selling the same agrees to accept in payment for goods, wares, and merchandise kept on hand by himself or another for redemption, or for distribution by the person issuing or selling such stamps or certificates, shall pay to the State of Alabama a privilege or license tax of three per cent on the gross receipts for such business, and such license or privilege tax shall in no event be less than one thousand dollars. The said tax shall be paid in the following manner: Any person desiring to engage in such business shall pay on or before the fifteenth day of the fiscal year to the State Treasurer, the sum of one thousand dollars, and shall also at the same time execute a bond, payable to the State of Alabama, to insure the payment to the Treasurer of the State of a privilege or license tax

of three per cent of the gross receipts of such business in this State for one year; if at the end of such year it shall appear that such three per cent of the gross receipts exceeds the sum of one thousand dollars. Any person who takes out a license and pays therefor the sum of one thousand dollars, shall on the last day of the fiscal year make out a sworn return to the State Treasurer of all trading stamps, certificates or similar devices issued or sold during that year, giving the name and address of every merchant or mercantile establishment which has bought or had issued trading stamps by the person making the return, and if it appears therefrom that the three per cent of the amount received from the issue or sale of trading stamps during the year exceeds the sum of one thousand dollars, and such person shall pay to the State Treasurer the excess of said amount, but if such three per cent does not exceed the sum of one thousand dollars, then no further payment shall be made, and said bond shall thereafter be null and void. It shall be a misdemeanor punishable by a fine of not exceeding one thousand dollars, for any person to issue trading stamps or certificates, or any device of like character, without having complied with the terms of this schedule, and said license or any part thereof herein required to be paid may be collected by attachment in any court of this State. (G. A. 1919, No. 328, § 361, Schedule 108.)

Weights and Measures.

227. State Standards Must Conform to Federal; Penalty.—There is but one standard of measure of length and surface, one of weight, and one of capacity, throughout this State, which must be in conformity with the standard of measure of length, surface, weight, and capacity established by Congress. Any firm, association, corporation or person, selling offering or exposing for sale any commodity by weight or measure which does not correspond with such standard or measure is guilty of a misdemeanor and on conviction shall be fined not less than one nor more than fifty dollars. (G. A. 1923, No. 376, Art. 22, § 1.)

228. Contracts Construed, How.—All contracts, made within this State for any work to be done, or for anything to be sold and delivered, must be construed to have been made according to the standard of weight and measure thus ascertained, unless the parties stipulate to the contrary. (Id. § 2.)

229. When Weights or Measures May Be Replaced.—If the weights and measures of any county, consisting of one weight of fifty pounds, one of twenty-five pounds, one of fourteen pounds, one of seven pounds, two of four pounds, two of two pounds, and two of one pound, avoirdupois; one measure of one yard and one of one foot, cloth measure; one measure of half a bushel, one of one peck, and one of one-half peck, dry measure; one measure of one gallon, one of a half gallon, one of a quart, one of one pint, one of one-half pint, and one of one gill, wine measure, in conformity with such standard, are destroyed, without the fault of any official who by law had charge of the same, the Commissioner of Agriculture and Industries shall, upon the requisition of the probate judge and upon satisfactory evidence that the weights and measures will be kept in a safe and suitable place, furnish weights and measures to such county. (Id. § 3.)

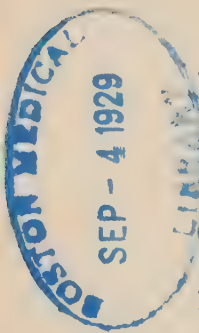
230. Legal Weights Per Bushel for Certain Commodities.—The legal weights per bushel of the commodities herein named shall be as follows: Alfalfa seed shall be 60 pounds per bu. Apples, green, shall be 50 pounds per bu. Apples, green, shall be $2\frac{1}{2}$ bushels per bbl. Apples, dried, shall be 24 pounds per bu. Apple seed shall be 40 pounds per bu. Bluegrass seed shall be 14 pounds per bu. Beans, dried, shall be 60 pounds per bu. Beans, green, in pod, shall be 30 pounds per bu. Beans, green, in pod, shall be $2\frac{1}{2}$ bushels per bbl. Beans, Castor, shall be 46 pounds per bu. Beans, velvet, shelled, shall be 60 pounds per bu. Beets shall be 50 pounds per bu. Blackberries, shall be 48 pounds per bu. Blackberries, dried, shall be 28 pounds per bu. Black Medic (cleaned) shall be 56 pounds per bu. Bran shall be 20 pounds per bu. Broom-corn shall be 42 pounds per bu. Bur clover shall be 10 pounds per bu. Buckwheat shall be 50 pounds per bu. Barley shall be 48 pounds per bu. Carrots shall be 50 pounds per bu. Cabbage shall be 50 pounds per bu. Carpet Grass seed shall be 25 pounds per bu. Cherries, with stems, shall be 56 pounds per bu. Cherries, without stems, shall be 64 pounds per bu. Corn, shelled, shall be 56 pounds per bu. Corn, in ear, shucked, shall be 70 pounds per bu. Corn, in ear, with shucks, shall be 75 pounds per bu. Corn, green, with shucks, shall be 100 pounds per bu. Corn, green, with shucks, shall be $2\frac{1}{2}$ bushels per bbl. Cornmeal, unbolted, shall be 48 pounds per bu. Cornmeal, bolted, shall be 48 pounds per bu. Cucumbers shall be 48 pounds per bu. Chestnuts shall be 50 pounds per bu. Cement

shall be 80 pounds per bu. Coke shall be 40 pounds per bu. Charcoal shall be 22 pounds per bu. Coal, stone, shall be 80 pounds per bu. Canary seed shall be 60 pounds per bu. Clover seed, red and white, shall be 60 pounds per bu. Cottonseed shall be 32 pounds per bu. Crimson clover shall be 60 pounds per bu. Eggs, extras, shall weigh over 26 ounces per doz. net. Eggs, No. 1, shall weigh 24 to 26 ounces per doz. net. Eggs, No. 2, shall weigh 20 to 24 ounces per doz. net. Eggs, No. 3, shall weigh less than 20 ounces per doz. net. Flaxseed shall be (Linseed) 56 pounds per bu. Flour shall be (in wood) 196 pounds per bbl. Gooseberries shall be 48 pounds per bu. Grapes, with stems, shall be 48 pounds per bu. Grapes, without stems, shall be 60 pounds per bu. Horse radish shall be 50 pounds per bu. Hickory nuts shall be 50 pounds per bu. Hair, plastering, shall be 8 pounds per bu. Hominy shall be 62 pounds per bu. Hungarian grass seed shall be 48 pounds per bu. Herds grass shall be 45 pounds per bu. Hemp seed shall be 44 pounds per bu. Kaffir corn shall be 56 pounds per bu. Japan clover (*Lespedeza*) shall be 25 pounds per bu. Johnson grass seed shall be 25 pounds per bu. Land plaster shall be 100 pounds per bu. Lime, unslacked, shall be 80 pounds per bu. Lime, slacked, shall be 40 pounds per bu. Liquids shall be 42 gallons per bbl. Millet seed (German, Missouri, Tenn.) shall be 50 pounds per bu. Melilotus seed (cleaned) shall be 60 pounds per bu. Orchard grass seed shall be 14 pounds per bu. Osage orange seed shall be 33 pounds per bu. Oats, seed, shall be 32 pounds per bu. Onions, matured, shall be 57 pounds per bu. Onions, top buttons, shall be 28 pounds per bu. Onion button sets shall be 32 pounds per bu. Parsnips shall be 45 pounds per bu. Paspalum shall be,* Peas, dry, shall be 60 pounds per bu. Peas, green, in hull, shall be 30 pounds per bu. Peaches, matured, shall be 50 pounds per bu. Peaches, dried, unpeeled, shall be 33 pounds per bu. Peaches, dried, peeled, shall be 38 pounds per bu. Pears, matured, shall be 50 pounds per bu. Pears, dried, shall be 26 pounds per bu. Plums shall be 64 pounds per bu. Pieplant shall be 50 pounds per bu. Potatoes, Irish, shall be 60 pounds per bu. Potatoes, sweet, shall be 55 pounds per bu. Peanuts shall be 22 pounds per bu. Popcorn, shelled, shall be 56 pounds per bu. Popcorn, unshelled, shall be 70 pounds per bu. Quinces, matured, shall be 48 pounds per bu. Raspberries shall be 48 pounds per bu. Rape seed shall be 50 pounds per bu. Rye seed shall be 56 pounds per bu. Red top shall be 14 pounds per bu. Rye grass, Italian, shall be 20 pounds per bu. Rice shall be 45 pounds per bu. Sage shall be 4 pounds per bu. Salt shall be 50 pounds per bu. Sorghum, mol., shall be 12 pounds per gal. Sorghum seed shall be 50 pounds per bu. Strawberries shall be 48 pounds per bu. Salad, turnips, kale, shall be 30 pounds per bu. Salad, mustard, spinach, shall be 30 pounds per bu. Spelt shall be 40 pounds per bu. Turnips shall be 55 pounds per bu. Turnips, Rutabagas, shall be 50 pounds per bu. Tomatoes shall be 56 pounds per bu. Timothy seed shall be 45 pounds per bu. Velvet grass seed shall be 7 pounds per bu. Walnuts shall be 50 pounds per bu. Wheat shall be 60 pounds per bu. (Id. § 4.)

231. Commissioner of Agriculture and Industries to be State Superintendent of Weights and Measures; Assistant, etc.—The Commissioner of Agriculture and Industries by virtue of his office shall be State Superintendent of Weights and Measures during his term of office acting with the advice and counsel of the State Board of Agriculture. He shall designate an assistant as Deputy Superintendent of Weights and Measures and any other competent inspector or agent of the Commissioner of Agriculture and Industries may be designated by the Commissioner as a State Inspector and Sealer of Weights and Measures. (Id. § 5.)

232. Care and Keeping of Standard Weights and Measures.—It shall be the duty of the Secretary of State to deliver to the Commissioner of Agriculture and Industries, as Superintendent of Weights and Measures, the standard weights and measures which have come into his possession under the provisions of chapter 47 of the Code of 1907. The Commissioner of Agriculture and Industries shall duly receipt the Secretary of State for the standard weights and measures received, and shall take charge of same for use as provided in this article. He shall cause them to be kept in a safe and suitable place in his office, from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safekeeping. He shall maintain the State standard weights and measures in good order and shall before they are put into use, and at least once in every ten years thereafter submit them to the National Bureau of Standards for their certification. He shall also obtain from the National Bureau of Standards new and additional weights and measures as they are adopted by the National

* So in the law.



Bureau of Standards under a resolution of Congress, approved June 14, 1836. The new weights and measures received shall be used in addition thereto or in renewal thereof of the standard weights and measures received from the Secretary of State. These standard weights and measures when certified by the National Bureau of Standards shall be the State standards. Provided that similar standard weights and measures, now in possession of the probate judges of the several counties in Alabama, and any new weights and measures when certified by the National Bureau of Standards are kept in a safe and suitable place, to be approved by the Superintendent of Weights and Measures, in the office of the probate judge, may be used in like manner and for the same purposes as are the standard weights and measures kept in the office of the Superintendent of Weights and Measures. He shall, at least once in five years, try and prove, by the State standards, all weights, measures and other apparatus which may belong to any county or city, and shall seal such, when found to be accurate, stamping on them the letter "C" and the last two figures of the year with seals which he shall have and keep for that purpose. He shall have and keep a general supervision of the weights, measures and weighing and measuring devices, offered for sale, sold, or in use, in the State. He shall, upon the written request of any citizen, firm, corporation, or educational institution in the State, test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in the State. He, or his deputy or inspectors, by his direction, shall at least once annually test all scales, weights and measures used in checking the receipts and disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned; and, at the request of such board or executive officer, the Superintendent of Weights and Measures shall appoint in writing one or more employees then in the actual service of each institution, who shall act as special deputy or deputies, without extra compensation, for the purpose of checking the receipts and disbursements of supplies. He shall keep a complete record of standards, balances and other apparatus belonging to the State and take a receipt for same from his successor in office. He shall include a report of the work done by his office, in his general report to the State Board of Agriculture. The State Superintendent or his deputy, or inspectors, at his direction, shall inspect all standards and apparatus used by the counties and cities at least once in five years and shall keep a record of the same. He, or his deputy, or inspectors, at his direction shall at least once in five years visit the various cities and counties of the State in order to inspect the work of the local sealers, and in the performance of such duties, he may inspect the weights, measures, balances or any other weighing appliance of any citizen, firm, or corporation, and shall have the same power as the local sealer of weights and measures. The superintendent shall issue from time to time regulations for the guidance of city and county sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 6.)

233. County and City Sealers.—The Board of Revenue, or court of county commissioners, of each county and the mayor of each city, who may, in their discretion, appoint a sealer under this article, shall keep, at all times, at the expense of the county or city, a complete set of weights and measures and other apparatus of such material and construction as said Superintendent of Weights and Measures may direct. All such weights, measures and other apparatus having been tried and accurately proven, shall be sealed and certified to by the State Superintendent as hereinbefore provided; and shall be then preserved by the county or city sealer as public standards for such county or city. (Id. § 6.)*

234. County Sealers.—The court of county commissioners or board of revenue, of each county may, in its discretion, appoint a county sealer of weights and measures in each county for a term of two years. He shall be paid a salary to be determined by said board, and no fee shall be charged by him, or by the county, for the inspection, testing, or sealing of weights, measures or weighing or measuring devices; and, where not otherwise provided by law, the county sealer shall have the power within his county, and the State Superintendent, his deputies and inspectors, within the State, to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measuring, and also all tools, appliances and accessories connected with any and all such instruments or measures kept, offered, or exposed for sale, sold or used or employed within the county by any proprietor, agent, lessee, or employee, in proving the size, quantity, extent, area, or measurement of quantities, things, pro-

* This and the preceding section are each numbered 6.

duce, articles for distribution or consumption offered or submitted by such person or persons for sale, hire, or award; and they shall have power to and shall from time to time weigh or measure packages or amounts of the commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold, or in the process of delivery, in order to determine whether the same contains the amount represented, and whether they be offered for sale or sold in a manner in accordance with law. The county sealer shall at least once each year, and as much oftener as he may deem necessary, see that the weights, measures, and all apparatus used in the county are correct. The county and State inspectors or agents may, for the purpose above mentioned, and in the general performance of their official duties, enter or go in upon and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever and require him, if necessary to proceed to some place which the sealer may specify, for the purpose of making the proper tests. Whenever the county sealer or State inspectors find a violation of the statute relating to weights and measures, they shall cause the violator to be prosecuted. Whenever any sealer or inspector compares the weights, measures, or weighing and measuring instruments and finds that they correspond, or causes them to correspond, with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring instruments with appropriate devices to be approved by the State Superintendent of Weights and Measures. The county sealer shall keep a complete record of all of his official acts and shall make an annual report to the Board of Supervisors and an annual report duly sworn to on the first day of July to the State Superintendent of Weights and Measures on blanks to be furnished by the Superintendent. The county sealer of weights and measures shall forthwith on his appointment give a bond in the penal sum of one thousand dollars with sureties to be approved by the appointing power for the faithful performance of the duties of his office: Provided, however, that nothing in the above shall be construed to prevent two or more counties from combining the whole or any part of their districts as may be agreed upon by the court of county commissioners or board of revenue of such counties, with one set of standards and one sealer, upon the written consent of the State Superintendent of Weights and Measures. A county sealer appointed in pursuance of such an agreement for such combination, shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are party to the agreement. (Id. § 7.)

235. City Sealers.—Any incorporated city in this State may in its discretion, appoint a city sealer of weights and measures under this article. He shall be appointed by the mayor, by and with the advice and consent of the aldermen or by the city commission, as the case may be. He shall perform in said city similar duties, and have like powers, as the county sealer in the county. In those cities in which no sealer is appointed as above, the county sealer of the county, if there be one, shall perform in said cities the duties and have like powers as in the county: Provided, however, that nothing in the above shall be construed to prevent any county and a city situated from combining the whole or any part of their districts as may be agreed upon by and between the court of county commissioners or board of revenue, of the county and the mayor and aldermen, or city commission, of such city, with one sealer, subject to the written approval of the State Superintendent of Weights and Measures. A sealer so appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement. (Id. § 8.)

236. False Weights and Measures; Sale, etc., a Misdemeanor; Penalty.—Any person who by himself or by his servant or agent or as the servant or the agent of another shall offer or expose for sale, sell, or use or retain in his possession, a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device which has not been sealed by the sealer of weights and measures within five years, in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who by himself or by his servant or agent [or] as the servant or agent of another, shall knowingly sell or offer [or] expose for sale less the quantity he represents, or sell or offer or expose for sale any such commodity in a manner contrary to law; or any person who by himself or by his servant or agent, or as the servant or agent of another, shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure,

shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for not more than three months or by both such fine and imprisonment upon first conviction; but upon a second or subsequent conviction he shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. (Id. § 9.)

237. Authority to Seize False Weights and Measures, to Whom Given.—The Superintendent of Weights and Measures, his deputy, inspectors, and the county and city sealers of weights and measures are hereby made special policemen, and are authorized to seize, for use as evidence and without formal warrant any false or unsealed weight, measure or weighing or measuring device or package or amounts of commodities, found to be used, retained or offered or exposed for sale or sold in violation of law. (Id. § 10.)

238. Penalty for Hindering or Obstructing Officers in the Performance of Their Duties.—Any person who shall hinder or obstruct in any way, the Superintendent of Weights and Measures, his deputy, or inspectors, or any county or city sealer in the performance of his official duties shall be guilty of a misdemeanor, and shall be punished upon conviction thereof, in any court of competent jurisdiction, by a fine of not less than ten nor more than two hundred dollars, or by imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment. (Id. § 11.)

239. Impersonation of Officers; Penalty for.—Any person who shall impersonate in any way the Superintendent of Weights and Measures, his deputies, inspectors, or any county or city sealer, by use of his seal or otherwise, shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment. (Id. § 12.)

NOTE.—See also No. 5; the corn meal law, No. 28 et seq.; the dairy law, No. 33 et seq.; the egg law, No. 55 et seq.; the feeding stuffs law, No. 64 et seq.; the oyster and shrimp law, No. 74 et seq.; the grain and cereal law, No. 90 et seq.; the watermelon law, No. 130 et seq.

PART V.

CASES.

1. General Food and Drug Law.

Agricultural Code of 1923: *Gibson v. State, 214 Ala. 38, 106 So. 231 (1925).

2. Special Food Laws.

Bread: *Mobile v. Yuille, 3 Ala. 137 (1841).

Dairymen-License: *Birmingham v. Goldstein, 151 Ala. 473, 44 So. 113, 12 L. R. A. (N. S.) 568, 16 L. R. A. (N. S.) 1036n, 124 Am. St. Rep. 33 (1907); *Ridgeway v. Bessemer, 9 Ala. App. 470, 64 So. 189, L. R. A. 1917 C, 245 (1914).

Feeding Stuffs: Miller Grain & Commission Co. v. International Sugar Feed Co., 197 Ala. 100, 72 So. 368 (1916); State v. Kolb et al., 201 Ala. 439, 78 So. 817, 1 A. L. R. 218 (1918); In re 500 Sacks of Feed and 165 Sacks of Feed, 205 Ala. 315, 87 So. 348 (1921); State v. Twenty-two Sacks Daisy Horse and Mule Feed, 205 Ala. 444, 88 So. 422 (1921); *Gibson v. State, 214 Ala. 38, 106 So. 231 (1925).

Markets: *Ex parte Byrd, 84 Ala. 17, 4 So. 397, 5 Am. St. Rep. 328 (1887).

Meat: *Shelton v. Mobile, 30 Ala. 540, 38 L. R. A. 645n (1857); Henback v. State, 53 Ala. 523 (1875); *Boyd v. Montgomery, 117 Ala. 677, 23 So. 663 (1897).

Milk—Skimmed Milk: Fuqua v. Birmingham, 17 Ala. App. 142, 82 So. 626 (1919).

Oleomargarine: *Cook v. State, 110 Ala. 40, 20 So. 360 (1895).

Oysters: *Mangeldorf v. State, 8 Ala. App. 302, 62 So. 373 (1913).

Sanitation: *Barrett et al. v. Rietta et al., 207 Ala. 651, 93 So. 636 (1922).

Shrimp: *Elmer v. Wallace, 275 Fed. 86 (1921).

Water: Stein v. State, 37 Ala. 123 (1861).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Drugs: Gorman-Gammil Drug Co. v. Watkins, 185 Ala. 653, 64 So. 350 (1914); Tucker et al. v. Graves, 17 Ala. App. 602, 88 So. 40 (1920); Martin et al. v. Manning, 207 Ala. 360, 92 So. 659 (1922); Corona Coal Co. et al. v. Sexton, 105 So. 716 (1925); Ex parte Corona Coal Co. et al., 213 Ala. 554, 105 So. 718 (1925); McGahey v. Albritton, 214 Ala. 279, 107 So. 751 (1926).

Food: Pantaze v. West, 7 Ala. App. 599, 61 So. 42 (1913); Travis v. L. & N. R. R. Co., 183 Ala. 415, 62 So. 851 (1913); Louisville & Nashville Railroad Co. v. Travis, 192 Ala. 453, 68 So. 342 (1915); Greenwood Cafe v. Lovinggood, 197 Ala. 34, 72 So. 354 (1916); Dothan Chero-Cola Bottling Co. et al. v. Weeks, 16 Ala. App. 639, 80 So. 734 (1918); Bellingrath v. Anderson, 203 Ala. 62, 82 So. 22 (1919); Coca-Cola Bottling Co. v. Barksdale, 17 Ala. App. 606, 88 So. 36 (1920); Birmingham Chero-Cola Bottling Co. v. Clark, 205 Ala. 678, 89 So. 64 (1921); Whistle Bottling Co. v. Searson, 207 Ala. 387, 92 So. 657 (1922); Steele-Smith Dry Goods Co. v. Blythe, 208 Ala. 288, 94 So. 281 (1922); Franklin v. Argyro, 211 Ala. 506, 100 So. 811 (1924).

4. Miscellaneous.

Trade-Marks: Scott v. Standard Oil Co., 106 Ala. 475, 19 So. 71, 31 L. R. A. 374 (1894); Kyle v. Perfection Mattress Co., 127 Ala. 39, 28 So. 545, 1 L. R. A. (N. S.) 721n (1899); Epperson & Co. v. Bluthenthal et al., 149 Ala. 125, 42 So. 863 (1906); Pippen v. Harris et al., 181 Ala. 306, 61 So. 890 (1913); Mobile Transfer Co. et al. v. Schwarz, 195 Ala. 454, 70 So. 640 (1916); Boston Shoe Shop v. McBroom Shoe Shop, 196 Ala. 262, 72 So. 102 (1916); Empire Guano Co. v. Jefferson Fertilizer Co., 201 Ala. 277, 78 So. 53 (1917); Harrison Transfer Co. v. Harris Transfer & Warehouse Co., 208 Ala. 631, 95 So. 12 (1923).

Trading Stamps: State v. Shugart, 138 Ala. 86, 35 So. 28 (1902); *Montgomery v. Kelly, 142 Ala. 552, 38 So. 67, 110 Am. St. Rep. 43, 70 L. R. A. 209 (1904); *Gamble v. Montgomery, 147 Ala. 682, 39 So. 353 (1906).

Weights and Measures: *Mobile v. Yuille, 3 Ala. 137 (1841); South and North Ala. Railroad Co. v. Wood, 74 Ala. 449 (1883); State v. Twenty-two Sacks Daisy Horse and Mule Feed, 205 Ala. 444, 88 So. 422 (1921).

ARIZONA.*

PART I.

General Food and Drug Law.

1. Adulteration or Misbranding or Mislabeling Prohibited—Penalties.—The manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale, within the State of Arizona, or the introduction into this State from any other State, territory, or the District of Columbia, or from any foreign country, of any article of food or liquor which is adulterated, mislabeled or misbranded, within the meaning of this chapter, is hereby prohibited. Any person, firm, company, or corporation, who shall import or receive from any other state or territory or the District of Columbia or from any foreign country, or who, having received, shall deliver for pay or otherwise, or offer to deliver to any other person, any article of food or liquor, adulterated, mislabeled, or misbranded, within the meaning of this chapter, or any person who shall manufacture, produce, prepare, compound, pack, sell, or offer for sale, or keep for sale, in the State of Arizona, any such adulterated, mislabeled, or misbranded, food or liquor, shall be guilty of a misdemeanor; provided that no article of food shall be deemed adulterated, mislabeled, or misbranded, within the provisions of this act, when prepared for export beyond the jurisdiction of the United States, and prepared or packed according to specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if such foods shall be in fact sold, or kept, or offered for sale, for domestic use and consumption, then this proviso shall not exempt said article from the operation of any provisions of this chapter. (R. S. 1913, Civil Code, § 4429.)

2. "Food" Defined.—The term "food" as used in this chapter shall include all articles (whether simple, mixed or compound) used for food, drink, liquor, confectionery, or condiment, by man or other animals. (Id. § 4430.)

3. Standard of Purity.—The standard of purity of food and liquor shall be that proclaimed by the Secretary of the United States Department of Agriculture. (Id. § 4431.)

4. Food Deemed Adulterated, When.—Food shall be deemed adulterated within the meaning of this chapter, in any of the following cases: (1) if any substance has been mixed or packed, or mixed and packed, with any food, so as to reduce or lower or injuriously affect its quality, purity, strength or food value. (2) If any substance has been substituted wholly or in part for the article of food. (3) If any essential, or any valuable, constituent or ingredient of the article of food has been wholly or in part abstracted. (4) If said food be mixed, colored, powdered, coated or stained in any manner whereby damage or inferiority is concealed. (5) If said food contain any added poisonous or other added deleterious ingredient. (6) If said food consists in whole or in part of a filthy, decomposed, or putrid, animal or vegetable substance, or any portion of any animal or vegetable unfit for food, whether said food be manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter; provided that an article of liquor shall not be deemed adulterated, mislabeled, or misbranded, if it be blended or mixed with like substance so as not injuriously to reduce, or injuriously to affect its quality, purity or strength. (7) In the case of confectionery, if said confectionery contains terra-alba, barytes, talc, chrome yellow, or other mineral substance, or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor, compound, or narcotic drug. (8) If said confectionery does not conform to the standard of purity therefor as proclaimed by the Secretary of the United States Department of Agriculture. Potable

* Citations: "R. S. 1913" refers to the Revised Statutes of Arizona, 1913, published by authority of the act of May 16, 1913. They consist of the Civil and Penal Codes in separate volumes. "L." refers to the session laws of the year cited.

waters requiring bacteriological or chemical examination are included under the provisions of this chapter. (Id. § 4432.)

5. Food Deemed Misbranded, When.—The term "misbranded" as used herein shall apply to all articles of food, or articles which enter into the composition of food, the package or label of which shall bear any false statement, design, or device, regarding such article, or regarding the ingredients, or substances contained therein, which shall be false or misleading in any particular, and to any food product which is falsely branded as to the county, city, town, state, territory, (or the District of Columbia) or foreign country, in which it has been manufactured, or produced. (Id. § 4433.)

6. Food Deemed Misbranded or Mislabeled, When.—Food or liquor shall be deemed mislabeled or misbranded within the meaning of this chapter in any of the following cases: (1) If it be an imitation of or offered for sale under the distinctive name of another liquor or article of food. (2) If it be labeled or branded or colored so as to deceive or mislead, or tend to deceive or mislead the purchaser or if it be falsely labeled in any respect, or if it purport (with intent to mislead the purchaser) to be a foreign product, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents placed in such package. (3) If when in package, and the contents are stated in terms of weight and measure, such weight and measure are not plainly and correctly stated on the outside of the package. (4) If the package containing it, or the label of said package, shall bear any statement, design, or device regarding the ingredients or the substance contained therein, which statement, design, or device, shall be false or misleading in any particular. (5) Unless when any package bears the name of the manufacturers, jobbers, or sellers, or the grade or the class, of the product contained therein, it bear the name of the real manufacturers, jobbers, or sellers, and the true grade or class of the product, same expressed in clear and distinct English words in legible type; provided that an article of food shall not be deemed misbranded, if it be a well known food product of a nature, quality, and appearance, and so exposed to public inspection, as not to deceive or mislead nor tend to deceive or mislead a purchaser, and not misbranded and not of the character included within the definitions of subdivisions one to four of this section. (6) If, having no label, it is an imitation or adulteration, or is sold or offered for sale under a name, designation, description, or misrepresentation, which is false or misleading in any particular whatever; and in case of butter eggs and poultry, when offered or exposed for sale, if they have been kept or packed in cold storage, or otherwise preserved, unless they be so indicated by written or printed label or placard plainly designating such fact, and the date of the placing in cold storage. (Id. § 4434.)

7. "Package" Defined.—The term "package" as used in this chapter shall be construed to include any phial, bottle, demijohn, carton, bag, case, can, or barrel, or any receptacle, vessel, or container, of whatsoever material or nature which may be used by a manufacturer, producer, jobber, packer, or dealer, for enclosing any article of food. (Id. § 4435.)

8. Possession Prima Facie Evidence of Violation of Law.—The possession of any adulterated, mislabeled, or misbranded article of food or liquor by any manufacturer, producer, jobber, packer, or dealer in food, or broker, commission merchant, agent, employee, or servant, of any such manufacturer, producer, jobber, packer or dealer, shall be prima facie evidence of the violation of this chapter. (Id. § 4436.)

9. State Laboratory Established.—For the purpose of this chapter there is hereby established a State Laboratory for the analysis and examination of foods, water supplies, and drugs, said laboratory shall be under the supervision of a director, and shall be located in rooms set aside for the purpose by the University of Arizona. The Board of Regents of the University of Arizona, acting in joint session with the Superintendent of Public Health, shall appoint a director of said laboratory, who shall be a skilled pharmaceutical chemist or bacteriologist and analyst of foods, water supplies, and drugs. Said director shall perform all duties required by this chapter and by the Board of Regents of the University of Arizona, acting in joint session with the Superintendent of Public Health. (Id. § 4437.)

10. Analyses.—The Superintendent of Public Health shall cause to be made by the Director of the State Laboratory examinations and analyses of food and liquor on sale in Arizona, suspected of being adulterated, mislabeled, or misbranded, and he may appoint such agent or agents as he may deem necessary, and the sheriffs of the respective counties of the State are hereby appointed and constituted agents for the enforcement of this chapter, and any agent or sheriff

shall have free access at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated, mislabeled, or misbranded food exists, and such agent or sheriff upon tendering the market price of said articles, if a sale be refused, may take from any person, firm, or corporation, samples of any articles suspected of being adulterated, mislabeled, or misbranded, and shall deliver or forward such samples to the said Director of the State Laboratory for examination and analysis. (Id. § 4438.)

11. Violations of Law to Be Reported to County Attorney.—It shall be the duty of the Superintendent of Public Health whenever he has satisfactory evidence of the violation of any of the provisions of this chapter, respecting the adulteration, mislabeling, or misbranding of foods, to report such facts to the county attorney of the county where the law is violated, after the hearing provided in section 16 [R. S. 1913, § 4444] of this chapter. (Id. § 4439.)

12. Penalty for Refusing to Sell Sample to Officer.—It shall be a misdemeanor for any person to refuse to sell to any sheriff or other agent of the Superintendent of Public Health, any sample of food or liquor upon tender of the market price therefor, or to conceal any such food from such officer, or to withhold from him information where such food is kept or stored. Any such person so refusing to sell, or concealing such food, or withholding such information from said officer, upon conviction shall be punished by a fine of not less than five dollars, nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 4440.)

13. Director of Laboratory to Report Adulterations.—Whenever said director shall find from examination and analysis conducted under his supervision, that adulterated, or mislabeled or misbranded, food has been on sale in this State, he shall forthwith report the same to the Superintendent of Public Health. (Id. § 4441.)

14. Certificate of Director as Evidence.—Every certificate signed by said Director of the State Laboratory shall be prima facie evidence of the facts therein stated. (Id. § 4442.)

15. Director to Make Annual Report.—The said Director of the State Laboratory shall make an annual report to the Superintendent of Public Health on or before July first of each year upon adulterated, mislabeled, or misbranded, foods and liquors, in which report shall be included the list of cases examined by him in which adulterants were found, and the list of articles found mislabeled or misbranded and the names of the manufacturers, producers, jobbers and sellers. Said report, or any part thereof may, in the discretion of the Superintendent of Public Health, be included by him in his report to the Governor. The Superintendent of Public Health may, in his discretion, publish any part of said report in any issue of his monthly bulletin. (Id. § 4443.)

16. Hearing Before Superintendent of Public Health.—When an examination or analysis of the Director of the State Laboratory shows that any of the provisions of this chapter have been violated, notice of that fact, together with a copy of the certificate of the findings shall be furnished to the party or parties from whom the sample was obtained or who executed the guaranty as provided in this chapter, and a date shall be fixed by the Superintendent of Public Health, upon which date said party or parties may be heard before the Superintendent of Public Health. The hearing shall be held in the city of Phoenix and at least fifteen days' notice thereof shall be served upon the party complained of. These hearings shall be confined to questions of fact. Parties interested therein may appear in person or by attorney and may propound interrogations and submit oral or written evidence to show any default or error in the findings made by the Director of the State Laboratory. If the examination or analysis be found correct, or if the party or parties fail to appear at such hearing after notice duly served as provided herein, the Superintendent of Public Health shall forthwith transmit a certificate of the facts so found to the county attorney of the county in which said adulterated, mislabeled, or misbranded food was found. No publication, as in this chapter provided, shall be made until after said hearing is concluded. (Id. § 4444.)

17. Duties of Sheriff.—It is hereby made the duty of the sheriff of any county of this State, on presentation to him of a verified complaint of the violation of any provision of this chapter, at once to obtain, by purchase, a sample of the adulterated, mislabeled, or misbranded food complained of, and divide said article into three parts, and each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds in weight or in volume less than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. One sample

shall be delivered to the party from whom procured, or to the party guaranteeing such merchandise, one sample shall be sent to the Director of the State Laboratory, and the third sample shall be sent to and held under seal by the Superintendent of Public Health. Provided, that in the case of potable waters requiring bacteriological and chemical examination, or of perishable foods or drinks requiring special skill and care in sampling, the Director of the State Laboratory, or his representative, may make provision or issue directions for the taking and forwarding of such samples. (Id. § 4445.)

18. Compensation of Sheriff.—For his services hereunder the said sheriff shall be allowed the same mileage for travel allowed by law to sheriffs on service of criminal process (together with such compensation as by the board of supervisors of his county may be deemed reasonable), and all amounts expended by him in procuring and transmitting the said samples, which mileage and amount expended shall be audited and allowed by the said supervisors and paid by said county as other bills of said sheriff. (Id. § 4446.)

19. Duty of County Attorney.—It shall be the duty of the county attorney of each county to prosecute all violations of the provisions of this chapter occurring within his county. (Id. § 4447.)

20. Penal Section.—Any person, firm, company, or corporation, violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars, nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Food found to be adulterated, mislabeled, or misbranded, within the meaning of this chapter, may, by order of any court or judge, be seized and destroyed. (Id. § 4448.)

21. Disposition of Fines.—One-half of all fines collected by any court or judge, for the violations of the provisions of this chapter, shall be paid to the State Treasurer, and the State Treasurer shall deposit such money to the credit of the fund for the maintenance of the State Laboratory, to be drawn against by warrants of the State Auditor, upon claims which shall be approved by the Director of the State Laboratory and the Superintendent of Public Health. (Id. § 4449.)

22. Effect of Guaranty of Wholesaler, etc.—No dealer shall be prosecuted under the provisions of this chapter when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party, residing in the United States, from whom he purchased such articles to the effect that the same is not adulterated, mislabeled, or misbranded, within the meaning of this chapter, designating it, and can also establish by satisfactory evidence that the article sold by him was mislabeled and that at the time of making such sale he was not aware of that fact. Said guaranty to afford protection must contain the name and address of the party or the parties making the sales of such article to said dealer, and an itemized statement showing the article purchased; or a general guaranty may be filed with the Secretary of the United States Department of Agriculture by the manufacturer, wholesaler, jobber, or other party in the United States and be given a serial number, which number shall appear on each and every package of goods sold under such guaranty with the words "Guaranteed under the Food and Drugs Act June 30, 1906." In case the wholesaler, jobber, or manufacturer, or other party, making such guaranty to said dealer resides within this State, and it appears from the certificate of the Director of the State Laboratory that such article or articles were adulterated, mislabeled, or misbranded, within the meaning of this chapter, or the national pure food act, approved June 30, 1906, the county attorney must forthwith notify the Attorney General of the United States of such violation. (Id. § 4450.)

23. Annual Appropriation.—The State Auditor is hereby authorized and directed to draw his warrants for all salaries, supplies, equipment and other expenses necessary to carry out the provisions of this chapter upon the presentation of vouchers duly approved by the Director of the State Laboratory, and the Superintendent of Public Health on the State Treasurer who shall pay the same out of the General Fund and the appropriation for the State Laboratory, authorized in the General appropriation bill. (Id. § 4451, as amended L. 1922, c. 35, § 67.)

Miscellaneous General Provisions.

24. Adulteration of Food, etc.—Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with a fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted, and

any person who fraudulently sells, or keeps or offers for sale the same as unadulterated or undiluted, is guilty of a misdemeanor. (R. S. 1913, Penal Code, § 389.)

24a. Powers and Duties of Board (State Board of Health).—The board shall have power, and it shall be its duty; . . .

(7) To condemn or cause to be destroyed any impure or diseased article of food that may be offered for sale. . . .

(9) To empower and direct the superintendent of public health to do or cause to be done any and all of the things mentioned in sub-divisions four, five, six, seven and eight of this chapter. . . . (R. S. 1913, Civil Code, § 4370.)

24b. Powers and Duties of Board.—The several county boards of health shall have power, within their respective counties, outside of the corporate limits of cities having a city board of health subject to the supervisory control of the State Board of Health and the Superintendent of Public Health: . . .

(7) To condemn or cause to be destroyed any impure or diseased article of food that may be offered for sale.

(8) To empower and direct the Superintendent of Public Health to do or cause to be done any and all of the things mentioned in subdivision four, five, six and seven of this chapter. . . . (Id. § 4376.)

24c. Right of Producers of Food Products to Sell Same.—The producers of food products on agricultural lands, farms, and gardens in this State, shall never under any pretext be denied or restricted in the right to sell and dispose of the same, except in the manner and to the extent expressly provided in this act. (L. 1917, c. 17, § 1.)

24d. "Producers" Defined.—"Producers," within the meaning of this act, shall be taken to include the owners, proprietors or tenants of the agricultural lands, orchards, farms and gardens, whereon or whereby such food products are grown, raised, or prepared for market. (Id. § 2.)

24e. "Food Products" Defined.—"Food products," within the meaning of this act, shall be taken to include every product of the soil in its natural or manufactured State, and all swine, fowls, eggs and milk, and all products arising therefrom: Provided, however, that this act shall not apply to wines or intoxicating liquors. (Id. § 3.)

24f. Who May Sell Products.—The right to sell and dispose of such products shall extend to the producer in person, members of his family, his agents, and all persons in his service, as long as such products are sold or disposed of on his behalf and for his benefit. (Id. § 4.)

24g. Inspection.—Nothing in this act shall be so construed as to prevent this inspection of any food product by lawful authority, so long as such inspection is uniform as to the same product, and without cost to the producer thereof, and does not hinder or harass him in the sale of any wholesome product. (Id. § 5.)

24h. Taxes, Etc., Not to be Levied; Exceptions.—No tax, license, or other burden or fee shall ever be imposed or levied upon or demanded or collected from any producer as herein defined, because of any sale or sales of any such products; nor shall any penalty or punishment ever be imposed upon him on account of any such sale, except penalty for violation of laws regarding inspection; nor shall any municipal ordinance, which in any manner or under any guise seeks to impose or subject him to any such tax, fee or penalty, have any force or effect, save and except that all such products shall, in common with similar products offered for sale by persons who are not the producers thereof, be subject to inspection; but no municipal ordinance providing for such inspection shall be valid unless it applies, in precisely the same manner and on precisely the same terms, to others offering similar products for sale. (Id. § 6.)

PART II.

Special Food Laws.

Bakery Products.

25. Handling and Sale of Bread, etc.; Exceptions.—The handling and sale of bread and all bakery products within the State of Arizona, and all practices connected therewith, shall be hereafter so conducted as to prevent dissemination of disease or contamination, and dissemination of the infection in bread commonly

known as "rope" or other bakery infections, among the consumers of bread and bakery products, and as to protect the food supply of the State against waste. No bread or other bakery product, except as hereinafter provided, shall be returned from or by any consumer or purchaser, to the dealer or baker, nor from any dealer to the baker, and no baker or dealer, directly or indirectly, shall accept any such returns or make any exchange of bread or other bakery product. All bread or other bakery product shall be kept moving from the baker to the consumer in as direct a line as may be practicable and without unreasonable delay, and without any exchange, return or other practice tending to disseminate contamination, disease, or fraud among consumers or infection among bakeshops, or which may cause waste in the food supply. The State Board of Health shall make such reasonable rules and regulations as may be necessary for carrying the provisions of this section into effect; shall forward such rules and regulations to the several boards of health in the counties, cities and towns of this State, and shall superintend the enforcement of the same. This section shall not be construed to apply to crackers or to such other bakery products as are packed at the place of production in cartons, cans, boxes or similar permanent containers, and where the product is so packed or sealed at the place of production as to fully protect the freshness and wholesomeness of the product and to protect it from contamination, adulteration, deterioration and fraud in the channels of trade, and which remain, except in so far as may be necessary to prevent waste, in the original unbroken package in which packed. The State Board of Health may establish and promulgate such exceptions or exemptions, not in conflict with the express purpose of this act, as may be necessary to facilitate the sale of accumulated or unsold stocks of wholesome bread or other bakery products. The phrase "permanent containers" shall not be construed to include the paper or parchment wrappers as used in wrapping loaves of bread. (L. 1925, c. 13, § 1.)

26. Infections in Bread to be Reported; Destruction by Health Officer.—It shall be the duty of any person discovering "rope" or any other bakery infection in bread, to immediately report the same to the health officer of the county, city or town in which the infection is discovered, or his nearest representative, whereupon such health officer, or his representative, shall immediately make an investigation, and shall cause any bread containing "rope" or any other bakery infection, to be immediately destroyed, and shall take all proper and necessary action to correct the conditions causing such infection and the spread of the same. (Id. § 2.)

27. Receptacles, etc.; Sanitary Regulations.—All wagons, boxes, baskets and other receptacles in which bread, cake, pies or other bakery products are transported, shall be kept in a clean and wholesome condition, free from dust, flies and other contamination. All showcases, shelves, or other places where bakery products are sold shall be kept well covered, properly ventilated, protected from dust and flies, and in a sweet, clean and wholesome condition. Wrapped or boxed bakery products need not be otherwise covered. Boxes and other receptacles for the storing or receiving of bread and other bakery products, during hours when the retail stores or other selling places for which such bread and other bakery products is so stored or received, are not open, shall be raised at least four inches above the sidewalk or street, and so constructed and placed as to be free from the contamination of streets, alleys and sidewalks. They shall be kept clean and sanitary, and no bread shall be placed in any such box or other receptacle along with any article of food other than a bakery product. (Id. § 3.)

28. Standard Weights.—Any loaf of bread made or procured for the purpose of sale, sold, offered or exposed for sale, as fresh bread, within the State of Arizona, shall be of the following standard weights: One pound; one and one-half pounds; two pounds; three pounds, or other multiples of one pound. Such weights shall be determined by the average of not less than twenty loaves of one unit, of one kind of bread, weighed with or without wrappers, not less than twelve hours after baking. When twin or multiple loaves are wrapped at the place where baked, or sold to the consumer wrapped and undivided, the loaf must conform to the said weight requirements, and if any such twin or multiple loaf is unwrapped or divided prior to sale, each such unit must conform to the said weight requirements. A twin or multiple loaf is hereby defined as a loaf consisting of two or more portions of dough baked in one pan. (Id. § 4.)

NOTE: See also No. 156.

29. Tolerances.—A commercial tolerance in excess of the standard weights established by this act shall be allowed as follows: One ounce on one pound loaves; one and one-half ounces on one and one-half pound loaves; two ounces

on loaves weighing two pounds or more. No tolerance below the standard weights hereby established shall be allowed. (Id. § 5.)

30. Enforcement of Act; Right of Entry to Premises.—The State Inspector of Weights and Measures shall have full authority to enforce the provisions of this act and in cities having a city sealer of weights and measures, under the provisions of Title 56, Revised Statutes of Arizona, 1913, Civil Code,* said city sealer of weights and measures shall have concurrent jurisdiction. The said State Inspector of Weights and Measures, or any city sealer of weights and measures, may for the purpose of the enforcement of this act, and at such time or times as its provisions may require, enter any room or place where bread is manufactured or sold, or offered or exposed for sale, and weigh or direct the weighing of any bread found therein. (Id. § 6.)

31. Interference, etc., With Officers, Unlawful.—It shall be unlawful for any person to prevent, or attempt to prevent, said State inspector of weights and measures, or any city sealer of weights and measures, entering any such room or place, or in any way to interfere with the performance of the duties of said State inspector of weights and measures, or of said city sealer of weights and measures, as provided by this act. (Id. § 7.)

32. Scales and Weights to be Conspicuously Placed.—Every maker, baker or manufacturer of bread, proprietor of a bakery, or bake shop, and every seller of bread in the State of Arizona shall keep scales and weights, suitable for the weighing of bread, in a conspicuous place in the bakery, bake shop or store, and shall, wherever requested by the buyer and in the buyer's presence, weigh any loaf or loaves of bread sold or offered for sale. (Id. § 8.)

33. Exceptions to Application of Act.—The provisions of this act shall not apply to fancy breads; nor to bread baked by special order of the consumer; nor to what is commonly known as "stale bread" sold as such, provided, the seller shall at the time of sale expressly state to the buyer that the bread so sold is stale bread; and, provided further, that no bread shall be offered or sold as stale bread until twelve hours or more after baking. (Id. § 9.)

34. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor. (Id. § 10.)

Baking Powder.

See No. 161.

Beverages.

See No. 124 et seq.

Cereals.

See Nos. 161 and 162.

Coffee.

See No. 161.

Cold Storage.

See No. 6; also No. 57 et seq.

Confectionery.

See No. 4.

Crackers.

See No. 165.

Dairy Products—Substitutes for Dairy Products.

35. Office of State Dairy Commissioner Created; Appointment; Term of Office; Salary; Qualifications; Bond; Oath; Power to Appoint Deputies.—The office of State Dairy Commissioner is hereby created. As soon as this act becomes effective the Governor shall appoint a State Dairy Commissioner who shall hold office until February 1st, 1919, or until his successor shall have been duly appointed and qualified. Following the first term, as hereinbefore provided, the term of office of said commissioner shall be two years. The salary of said commissioner shall be three thousand (\$3,000.00) per annum, to be paid as the

*See Nos. 144-166.

salaries of other State officers are paid. No one shall be eligible for appointment to said office unless he shall have a practical and technical knowledge of and experience in the production, manufacture, care and handling of dairy products. Before entering upon the duties of his office said commissioner shall execute his official bond in the sum of five thousand dollars (\$5,000.00) and file his oath of office as required by law of other State officers.

Said commissioner shall have power to appoint not to exceed two deputies who shall have power to perform any of the duties herein conferred upon the commissioner. Such deputies shall hold their office at the pleasure of the commissioner, and shall receive such compensation as may be provided from time to time by appropriations made by the Legislature. (Special Session L. 1918, c. 8, § 1, as amended L. 1919, c. 123.)

36. Duties of Commissioner and Health Officers.—It shall be the duty of the commissioner to inspect all places where cows are kept for dairy purposes, cream separator stations, creameries, butter, cheese or other dairy product factories, stores, warehouses, and other places where dairy products are made, stored, prepared for delivery or shipment, or exposed for sale, with a view to ascertaining such conditions as may affect the purity, wholesomeness and fitness of the products of any such place for human consumption, and make and file in the office of the commissioner written reports of the results of such inspections. Whenever the commissioner shall deem necessary he may call upon the health officers of the several counties to make or to assist in, such inspection, and said health officers are hereby required to perform such duties. (Special Session, L. 1918, c. 8, § 2.)

37. Sanitary Regulations; Care of Cows; Handling of Milk, etc.—Any person, firm or corporation engaging in the production, for sale, of milk or cream, either in its natural state or as a manufactured product, shall keep all barns and corrals in which cows are milked, in such condition of sanitation that clean, sweet milk, free from visible dirt, and from foreign odors and flavors, may be produced; before each milking, the cow's udder shall be cleaned to remove dirt and loose hair which otherwise might drop into the milking pail; each pail of milk shall be strained immediately after it is drawn, and each can of not more than ten gallons capacity shall, as soon as filled, be removed from the barn or corral to a milk house, or to some other suitable place not nearer to said barn or corrals than fifty feet and not nearer to any hog pen, wallow or other unsanitary surroundings than one hundred feet; all milk, other than milk to be used for manufacturing purposes and which is delivered to the party within three hours after milking, shall be so cooled as to remove the animal heat, and be kept cool while in the possession of the producer, so that it will reach the factory or other selling point in a sweet and sanitary condition; all milking utensils, cream separators and aerators used in handling milk or cream shall be thoroughly washed after each milking, and scalded or steamed and rinsed with a standard sterilizing solution once each day; the premises where milk or cream is stored and all cans or vessels in which milk or cream is stored shall be kept in a clean and sanitary condition, and such cans or vessels shall be cleaned and sterilized before being filled; no bottle, can or other container used in the delivery and sale of milk, cream or other dairy product shall be filled at any place other than at the dairy or creamery or at a regularly established milk depot of the person, firm or corporation engaged in such sale or delivery; all cans used in the sale and delivery of milk, cream, ice cream, or other dairy product shall be thoroughly cleaned by the consignee thereof immediately upon being emptied, and no such can shall be returned until this provision is complied with. Any person, firm, corporation or association engaged in the manufacture, packing, canning, bottling or selling of any milk product in containers bearing the name of such person, firm, corporation or association, or any such name, or other marks or devices impressed or produced thereon; or whose equipment or supplies, used in such business, bears a name or other mark or device impressed thereon, may file in the office of the county clerk of the county in which the principal place of business of such person, firm, corporation or association is situated, or if such place of business is without the State, then in the office of the county clerk of any county of the State, and also in the office of the Secretary of State, a description of the name or names, marks or devices so used, and shall also cause such description to be printed once a week for three successive weeks in a newspaper published in the county in which said description may have been filed as aforesaid. It is hereby declared to be unlawful for any person, firm, corporation or association, without the written consent of the owner, unless the same shall have been purchased from the owner, to use or to fill with any substance, any container so marked or so distinguished as aforesaid with or by any name, mark or device of which a description shall have been filed and published, as provided for above, or to erase, obliterate or otherwise

cover up or conceal such name, mark or device, or to sell, buy, give, take or otherwise traffic in the same without the written consent of the person, firm, corporation or association whose name, mark or device shall be or shall have been upon such container, or article of supply or equipment used in the said business of [or] businesses aforesaid, unless the same shall have been purchased from the person, firm, corporation or association whose mark shall be or shall have been thereon. The use by any person other than the person, firm, corporation or association whose name, mark or device shall be upon same, of any such containers, supplies or equipment, without the written consent of the owner, unless the same shall have been purchased from the owner, or the having by any junk dealer, or dealer in second hand articles, possession of any such containers, supplies or equipment, the description of the name, mark or device having been so filed and published as aforesaid, shall and is hereby declared to be presumptive evidence of unlawful use of or traffic in such containers, supplies or equipment. Whenever the owner or owners of said containers so marked or branded or of said equipment or supplies used in said business or businesses aforesaid, so marked or otherwise impressed, shall require taking or accepting of any sum of money as a deposit for security for the safekeeping and return of such articles or article, it shall not constitute a sale of such property, either optional or otherwise, in any proceeding under this act. Whenever any person, firm, association or corporation mentioned in this section, or the agent or agents of said person, firm, association or corporation, shall make oath before any magistrate that he has reason to believe and does believe, that any of the containers, supplies or equipment mentioned in this section, are being unlawfully sold, filled or used, or are secreted in any place, the said magistrate shall issue a search warrant to discover and obtain the same, and may also cause to be brought before him, the person in whose possession such articles may be found, and if said magistrate finds that such person has been guilty of a violation of this act, he must impose the punishment herein prescribed, and also award the possession of the property taken upon search warrant to the owner thereof. Any person, firm, corporation or association acquiring containers, supplies or equipment so marked, by purchase or other lawful means, shall not be required to again file and publish such description, but may acquire as a part of said purchase all such benefit as the vendor has under this act. Every person, firm, corporation or association who finds or receives such property as mentioned in this section in the regular course of business or in any other manner, shall make diligent effort to find the owner and restore said property. (Id. § 3, as amended L. 1925, c. 74.)

38. Unlawful to Sell Milk or Its Products From Diseased Cows; Milk Must be Sold in Original Bottle.—It shall be unlawful for any person, firm or corporation producing milk to sell or offer for sale any milk or products derived therefrom that is produced by unhealthy cows or in unsanitary surroundings or that is drawn from cows within fifteen days before or five days after calving, or that is handled, stored or shipped in dirty, rusty or unsanitary cans. The use of preservatives in milk or cream, except small samples for testing, shall be unlawful. Milk which is to be separated must be separated immediately after each milking, and the cream of each separation cooled before mixing with cream of another separation, and the cream must be kept in wholesome condition, in sanitary surroundings, until transported to the creamery or manufacturing plant.

It shall be unlawful for the owner, or any person having the management or control of any lunch counter, restaurant or other place where milk is sold by the glass for drinking purposes, to sell any milk to any customer other than in the original bottle in which the same was put up by the producer, creamery or milk depot, bearing on the cap or sealer the name of the producer, creamery or milk depot, and which said cap or sealer shall not have been removed prior to actual delivery to the consumer. (Id. § 4.)

39. Access to All Premises, Appliances, etc., by Health Officials; Unlawful to Obstruct or Hinder Same.—To carry out the provisions of this act the commissioner or any county health officer named by him for such purpose, shall have free and unobstructed access to all places where cows are kept and milked, and to all parts of the premises and to the implements and appliances used in connection therewith, and in connection with the care and preservation and transport of the milk, and to all places where milk products are manufactured, stored, preserved or prepared for sale, delivery or transportation. Any one who shall obstruct or hinder the commissioner or any county health officer deputized by him, in the performance of their duties as set forth in this act shall, upon conviction, be deemed guilty of a misdemeanor. (Special Session, L. 1918, c. 8, § 5.)

40. Commissioner's Power, etc.—The commissioner shall have power to investigate the manner, practices, processes and methods adopted or employed by

any person, firm or corporation, in the production of milk or milk products for sale. For the purpose of any such investigation, the commissioner may require the attendance and testimony before him of witnesses and the production of books and papers insofar as they relate to the matter under investigation. Failure to regard the subpoena of the commissioner shall subject the offender to the penalties prescribed by law for disobedience in the taking of depositions in civil cases. The commissioner shall have the power to administer oaths to witnesses and to affiants whose affidavits may be taken under the provisions of this act. (Id. § 6.)

41. Order to Abandon Unsanitary Methods, etc.; Complaints.—If, upon thorough investigation as provided for in the last preceding section, the commissioner shall find that any person, firm or corporation, has adopted or is employing any practice, process or method in the production or handling of milk or milk products, which render or tend to render such milk or milk products impure, unsanitary, unwholesome or unfit for human consumption, he shall serve upon such person, firm or corporation, a written order directing the abandonment of such practice, process or method, and to adopt and use such practice, process or method as shall insure the purity and wholesomeness, and the fitness for human consumption of such milk or milk product. All milk and cream sold for retail purposes shall conform to standards prescribed by the Bureau of Dairy Industry of the United States Department of Agriculture. Failure to comply with the provisions of this section shall be deemed a misdemeanor. Complaints to the State Dairy Commissioner regarding the production, manufacture, storing and handling of dairy products must be made in writing and signed with the name and address of the person making such complaint; provided, however, that no written notice shall be required before prosecution of any violation of the penal provisions of this act. (Id. § 7, as amended L. 1925, c. 74.)

42. Commissioner to Compile Statistics, etc.—The commissioner shall, from time to time, collect, compile, and publish in convenient form, statistics relating to the dairy business in the State and such other information relating thereto as may be of value to those engaged therein, and keep for ready reference in his office the original data so collected by him. (Special Session, L. 1918, c. 8, § 8.)

43. Duty of Commissioner to Take Samples, Make Tests, etc.; Refusal to Deliver or Permit Same by Producers, a Misdemeanor.—It shall be the duty of the commissioner, by himself or any county health officer duly appointed by him for that purpose, from time to time as it may in his opinion be necessary or proper to protect the public health, to take samples of and make tests for quality, character, purity and wholesomeness of the milk or milk products produced or manufactured for human consumption and for that purpose may demand of any person, firm or corporation engaged in the dairy business such samples as he may designate; and it shall be the duty of such person, firm or corporation to deliver at once to, or permit said commissioner or county health officer to take such samples. Any person, firm or corporation refusing, upon such demand, to deliver to or permit said commissioner or county health officer to take such samples shall be, upon conviction thereof, guilty of a misdemeanor. (Id. § 9.)

44. Record of All Analyses and Tests to be Kept by Commissioner.—The commissioner shall keep in his office, a record of all analyses and tests of milk or milk products, which shall have been made under his direction, in a book to be kept there for that purpose, in which shall be noted the source whence the sample was taken and from whom, of what the sample consisted, the date when taken, and the date of the analysis or test, and the details of the result thereof in terms usual to the industry. A copy of such record relating to such sample certified to by the commissioner shall be taken in any court as prima facie evidence of the facts therein stated. (Id. § 10.)

45. Special Dairy Inspectors; Appointment; Powers.—Special dairy inspectors may be appointed by the Dairy Commissioner for any factory or plant which buys or receives milk or cream, or for a group of such factories or plants, or for any organization which produces or handles dairy products, provided that the State shall not be liable for any compensation for any such special dairy inspector. Such special dairy inspector shall have all powers conferred by law upon dairy inspectors, and shall be under the supervision of the commissioner and make such reports as the said commissioner may require. He may supervise and inspect the weighing and testing of milk, cream, butter, cheese or condensed milk, and for such purpose may use any or all necessary apparatus in such factory or plant. (Id. § 11.)

46. Standards of Purity for Dairy Products; Definitions.—The standards for purity for dairy products shall be those prescribed by the Arizona Pure Food

Law [See Part I, General Food and Drug Law.] (1) Whole milk is the lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and five days after calving, and contains not less than three and one-fourth per cent. of butter fat;

(2) Milk for butter making or cheese making, or for condensed milk, may contain less than three per cent. of butter fat, but must be delivered pure, sweet and clean. Whole milk for consumption as a beverage shall contain not less than three and one-fourth per cent. butter fat. Cream is that portion of milk rich in butter fat which arises to the surface of the milk on standing or is separated from it by centrifugal force, and contains not less than eighteen per cent butter fat; cream to be used in the manufacture of butter that is not delivered to the point of shipment within twenty-four hours after milking must contain not less than thirty per cent. butter fat, and shall be delivered in wholesome condition. No part of any shipment of milk or cream to be used in the manufacture of food products shall be more than two days old when delivered at the point of shipment during the months of May to October, inclusive, and three days old during November to April, inclusive. Such milk or cream must not be delivered at the point of shipment more than one hour before the schedule time of train or other vehicle on which it is to be shipped, unless kept in a protected, cool and sanitary place, free from foul odors. Butter is the product made by gathering, in any manner, the fat of fresh or ripened milk or cream into a mass which also contains not less than eighty per cent. of butter fat and less than sixteen per cent. of water, or such tests as shall be established by the Department of Agriculture of the United States, and shall contain sixteen ounces in every pound package; provided, that the amount of butter fat or water in the produce of any manufacturer, or in any given quantity of butter, shall be determined as hereinafter provided with reference to renovated or process butter; butter may also contain a harmless vegetable coloring matter. Renovated or process butter is the product made by melting butter and reworking, without the addition or use of chemicals or any substance except cream, milk or salt, and contains not less than eighty per cent. of butter fat and less than sixteen per cent. of water, or such test as shall be established by the Department of Agriculture of the United States; before being offered for sale shall be stamped "renovated butter." Provided, that the amount of butter fat or water in the produce of any manufacturer, or in any given quantity of butter, renovated or process butter, shall be ascertained in the following manner, to wit: Five samples shall be taken from five different packages of any one manufacturer, or from any one tub or churning of butter, and a careful analysis made by the official method adopted by the Association of Agricultural Chemists. If this analysis shall show less than eighty per cent. of butter fat or sixteen per cent. or more of water, butter or process butter thus analyzed shall be deemed adulterated butter, and shall be condemned for food purposes by the commissioner. Renovated or process butter may also contain a harmless vegetable coloring matter. Cheese is the solid and ripened produce made from coagulating the casein of milk by means of rennet or acid, with or without the addition of ripening ferments or seasoning; cheese may also contain a harmless vegetable coloring matter. Whole milk or full cream cheese is cheese made from milk from which no portion of the fat has been removed, and contains not less than fifty per cent. of butter fat in proportion of total solids. Skim-milk cheese is cheese made from milk from which any portion of the fat has been removed, and must be stamped on cloth and containing box. Ice cream is a frozen product, made from pure sweet cream, milk, condensed milk, sugar, or harmless sugar substitutes, with or without a harmless flavoring or coloring, and contains not less than ten per cent. of milk fat, and not less than thirty per cent. total solids. Fruit ice cream is the frozen product made from pure sweet cream, milk, condensed milk, sugar, or harmless sugar substitutes, and sound, clean, mature fruits, and contains not less than eight per cent. of milk fat, and not less than thirty per cent. of total solids. Nut ice cream is the frozen product made from pure, sweet cream, milk, condensed milk, sugar, or harmless sugar substitutes, and sound nonrancid nuts, and contains not less than eight per cent. of milk fat, and not less than thirty per cent. of total solids. (Id. § 12, as amended L. 1919, c. 123.)

47. License; Investigation Before Issuing; Renewal; Fees, etc.—Every person, firm or corporation, before regularly engaging in the business of receiving, manufacturing or processing milk or products of milk shall obtain from the Dairy Commissioner of the State of Arizona, a license therefor, for each separate plant. Upon receipt of an application for such license, the said Dairy Commissioner shall investigate the equipment and the sanitary condition of the plant where milk or the products of milk are to be received, processed or manufactured and provide the applicant with a copy of the dairy laws of the State. If the condition of the plant is found to be satisfactory, a "factory license" shall be issued by said Dairy Commis-

sioner to such applicant, upon receipt of a license fee of ten dollars. All factory licenses shall expire on the twenty-fifth day of December of each year and may be renewed on the first of each succeeding year; provided, that such plant or the business thereof shall have been conducted in accordance with the requirements of this act during the next preceding year. Applications for renewal of any such license shall be made within thirty days prior to the expiration thereof. The fee for the renewal of such license shall be one dollar for each one hundred thousand pounds of milk fat or part thereof, or each four hundred thousand gallons of milk or part thereof, purchased or received during the preceding fiscal year, ending the thirtieth day of June; provided, that in no case shall the renewal fee exceed ten dollars, and no fee shall be required of any person who manufactures or sells products only from his own dairy. The commissioner may revoke any license issued under this section, if the licensee shall repeatedly and persistently violate any of the provisions of this act or the rules and regulations applicable to such licensee or his business, made and promulgated by the commissioner.

The commissioner may prescribe such rules and regulations, within the scope of the powers vested in him by this act, to carry out the provisions thereof. (Special Session, L. 1918, c. 8, § 13, as amended L. 1925, c. 74.)

48. Babcock Test, etc.—The testing, weighing, and sampling of milk or cream or other dairy products purchased on the basis of the amount of butter fat contained therein shall be done by licensed and bonded testers, who shall be responsible for the operation of the Babcock test in the testing of such dairy products. Such license shall be issued by the Dairy Commissioner upon application, accompanied by a certificate of proficiency and the payment of a license fee of \$1.50. The certificate of proficiency provided for shall be granted by the dairy division of the University of Arizona upon satisfactory evidence of ability to accurately operate the Babcock test. Examinations will be given at stated times and places to applicants for such license. Each license shall expire on January first of the year following the date of issue, but may be renewed without examination by the commissioner. Application for such license shall be made upon a blank furnished by the Dairy Commissioner. No license or renewal thereof shall be transferable, and each such license shall be subject to revocation by the Dairy Commissioner upon reasonable notice that the licensee has violated any of the rules and regulations prescribed by the commissioner, or has violated any of the laws of the State relating to milk or cream or other dairy products. A bond in the amount of one thousand dollars shall be given by each tester licensed under the provisions of this section, and shall be in such form as may be prescribed and shall be subject to approval by the commissioner. A permanent record in duplicate of all tests of milk or cream purchased or received on the basis of the amount of milk fat contained therein, must be kept by each tester, licensed as provided herein, on standard forms supplied by, or in accordance with the specifications for such records adopted by, the said Dairy Commissioner. Each test shall be legibly recorded with indelible pencil or ink and shall be accompanied by the patron's name or number in such manner as to correctly identify the test obtained upon the milk or cream of each patron. Each sheet or page shall be authenticated by the signature of the tester, and a duplicate record shall be deposited by said licensed tester, immediately after completing the test on the day's samples, in a box provided by the purchaser or receiver of milk or cream; said box to be constructed, sealed and maintained in accordance with the rules and regulations adopted by the Dairy Commissioner. The original test record sheets shall be delivered to the management of the concern for whom the tests are made immediately upon completion of the tests. The duplicate test record sheets shall be deposited immediately in an official box supplied for the purpose, made in accordance with blue print specifications obtained from the Dairy Commissioner. Such official test record box shall be kept in the test room at all times, and the contents thereof shall be open only to the State Dairy Commissioner. The said licensed tester shall retain an unmodified sample of all milk and cream tested by him for a period of not less than forty-eight hours after the tests of said milk and cream have been made, and the said purchaser or receiver of milk or cream shall provide a suitable place, acceptable to the Dairy Commissioner, where such sample so retained may be kept. (Id. § 14.)

49. Discrimination in Price, etc., of Dairy Products, a Misdemeanor.—Any person, firm or corporation engaged in the business of buying milk, cream or butter fat for the purpose of manufacture, either by himself or another who shall, with the intention of destroying or injuring the business of a competitor or restraining in any manner an open competition in said business, discriminate between the different sections, localities, communities or cities of this State by purchasing or offering to purchase such commodity at a higher price in any one locality than is paid or offered for the same commodity by such person, firm

or corporation in any other locality, after making due allowance for the difference, if any, in the grade or quality of the commodity or conditions locally affecting its production and in the actual cost of transportation from the place of purchase to the place of manufacture, sale or storage, shall be deemed guilty of a misdemeanor and punished as herein provided. (Special Session, L. 1918, c. 8, § 15.)

50. Unlawful to Manipulate Weight, Measure or Test in Handling Dairy Products, Fraudulently, or Take Unfair Samples Thereof.—It shall be unlawful for any hauler of milk or cream or any other dairy product, or any person, firm or corporation receiving or purchasing milk or cream or other dairy product by weight or test or both, or by measure or test, or by both, or any agent of such purchaser, to fraudulently manipulate the weight, measure or test of such product, or to take unfair samples thereof, or to fraudulently manipulate such samples. The hauler or other agent of the purchaser shall thoroughly mix the milk or cream of each patron by pouring or stirring until such milk or cream is uniform and homogenous in quality and contents before a sample for test is taken. The same rule shall apply when sampling is done at a creamery, cheese factory, condensory or shipping station. It shall be unlawful for any person or persons to use any test, tube, bottle, pipette or instrument in connection with testing which is not perfectly clean; and for the purpose of this act any unclean test bottle or other instrument is declared inaccurate. All tests made by the purchaser shall be maintained at a temperature of at least one hundred and twenty (120) degrees F. for ten minutes before the reading of the per cent of butter fat is made. (Id. § 16.)

51. Specifications for "Standard Babcock Testing Glassware," and Weights.—The term "Standard Babcock Testing Glassware" shall apply to glassware and weights complying to the following specifications:

(a) Standard Milk Test Bottles:

Graduation for Milk Test Bottles—The total per cent graduation shall be eight (8). The graduation portion of the neck shall have a length of no less than 63.5 millimeters, the graduation shall represent whole per cent, five-tenths per cent, and tenths per cent. The whole per cent graduation shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per cent graduations. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend for at least nine (9) millimeters below the lowest, and nine (9) millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten (10) millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five (45) c. c. (Cubic Centimeters). The charge of the bottle shall be eighteen (18) grams. The total height of the bottle shall be between one hundred and fifty (150) and one hundred and sixty-five (165) millimeters.

(b) Standard Cream Test Bottles:

Three types of bottles shall be accepted as standard cream test bottles; a fifty (50) per cent nine (9) gram short-neck bottle, a fifty (50) per cent nine (9) gram long-neck bottle, and a fifty (50) per cent eighteen (18) gram long-neck bottle.

Fifty per cent nine-gram Short-neck Bottle Graduation.—The total per cent of graduation shall be fifty (50). The graduated portion of the neck shall have a length of not less than 63.5 millimeters. The graduation shall represent five per cent, one per cent, and five-tenths per cent. The five per cent graduation shall extend at least half way around the neck to the right. The five-tenths per cent graduations shall be at least three (3) millimeters in length, and the one per cent graduations shall have a length intermediate between the five per cent and the five-tenths per cent graduations. Each five per cent graduation shall be numbered, the number being placed on the scale. The error at any point of the scale shall not exceed five-tenths per cent.

Neck. The neck shall be cylindrical, and the cylindrical shape shall extend at least nine (9) millimeters below the lowest, and nine (9) millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten (10) millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five (45) c. c. The charge of the bottle shall be nine (9) grams. All bottles shall bear on the top of the neck above the graduations in plainly legible characters, a mark defining the weight of the charge to be used (nine grams). The total height of the bottle shall be between one hundred and fifty

(150) and one hundred and sixty-five (165) millimeters, same as standard milk test bottles.

Fifty per cent nine-gram Long-neck Bottles.—The same specifications in every detail as specified for the fifty (50) per cent nine-gram, short-neck bottle shall apply for the long-neck bottle, with the exception, however, that the total height of this bottle shall be between two hundred and ten (210) and two hundred and thirty-four (234) millimeters, and that the total length of the graduation shall be not less than one hundred and twenty (120) millimeters.

Fifty per cent eighteen-gram Long-neck Bottles.—The same specifications in every detail as specified for the fifty (50) per cent nine (9) gram long-neck bottle shall apply, with the exceptions that the charge of the bottle shall be eighteen (18) grams, and the mark defining the weight of the charge placed at the top of the neck shall be eighteen (18). The total length of the standard Babcock pipette shall be not more than three hundred and thirty (330) millimeters. Outside diameter of suction tube, six (6) to eight (8) millimeters. Length of suction tube, one hundred and thirty (130) millimeters. Outside diameter of delivery tube, 4.5 to 5.5 millimeters. The length of delivery tube one hundred (100) to one hundred and twenty (120) millimeters. Distance of graduation mark above bulb, thirty (30) to sixty (60) millimeters. Nozzle straight. Delivery, 17.6 c. c. of water at twenty (20) degrees centigrade in five (5) to eight (8) seconds. The sensibility of all scales used for weighing cream samples into the test bottles shall be not more than thirty (30) milligrams, and the standard weights shall be nine (9) grams and eighteen (18) grams. (Id. § 17.)

52. Appropriation.—Sufficient money to carry out the provisions of this act shall be paid, upon duly itemized and sworn claims, approved by the commissioner, or his designated agent, to the State Auditor, who shall draw his warrants therefor on the State Treasurer, who shall pay the same out of the general fund and the appropriation for the office of State Dairy Commissioner, authorized in the General Appropriation Bill. (Id. § 19, as amended L. 1922, c. 35, § 133.)

53. Penalty for Violations.—Any person, firm or corporation, or any agent of any firm or corporation, violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine in any sum not exceeding two hundred dollars (\$200.00). (Special Session L. 1918, c. 8, § 20, as amended L. 1919, c. 123.)

54. Milk and Its Products to be Pasteurized, etc.—No person, co-partnership, association, firm or corporation engaged in the production or manufacture of milk or milk products, shall sell, give away, exchange, or barter any milk, or milk products, in its or their raw, unpasteurized or unsterilized state, from any cow afflicted with a disease dangerous to human health or life, after receiving notice of the presence of such disease in such cow from the State Board of Health, or the State Veterinarian, provided, that nothing in this act shall be construed as prohibiting any person, copartnership, association, firm or corporation from marketing his or its milk, or milk products, through channels or methods which insure, to the satisfaction of the State Board of Health, that said milk or milk products, are, at all times, thoroughly and effectively pasteurized or otherwise sterilized, before being offered to the consuming public as food. (L. 1923, c. 69, § 2.)

55. Co-operation With State Board of Health of Veterinarian and Other Officers.—The State Board of Health, any member thereof, and the State Veterinarian shall have power and authority to call upon any sheriff, deputy sheriff, constable, cattle inspector, or police officer of any city or town for aid in the execution of the provisions of this act, and it is hereby made the duty of any such officer to render such aid when so directed. (Id. § 3.)

56. Punishment For Violation of Act.—Any person violating any provisions of this act is guilty of a misdemeanor and, upon conviction therefor, shall be punished in the manner provided by law for the punishment of misdemeanors. (Id. § 4.)

NOTE: See also Nos. 6, 24e, 70-72, 157 and 160.

Eggs.

57. Receptacles for "Cold Storage Eggs" to be Marked for Period of Time Held in Cold Storage.—Every person, firm, company or corporation who sells or offers for sale any eggs that have been sold [held] in cold storage for a longer period than three months shall before so doing, cause to be stamped, marked or branded upon all sides of each receptacle holding and containing the same in

black face letters two inches in length, the period of time during which the same have been in cold storage. (L. 1915, c. 23, § 1.)

58. Sign, Indicating Sale of "Cold Storage Eggs," to be Displayed.—Every person, firm, company, or corporation selling or offering for sale any eggs that have been in cold storage for a longer period than three months shall display in a conspicuous place in his or their salesroom a sign bearing the words "Cold storage eggs sold here," in black faced letters not less than six inches in length upon a white ground. (Id. § 2.)

59. Definitions.—For the purposes of this act the words person, firm, company or corporation shall include wholesalers, retailers, jobbers and every place where eggs that have been in cold storage for a longer period than three months are sold or offered for sale. (Id. § 3.)

60. Violation of Act, Misdemeanor.—Every person, firm, company or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in misdemeanor cases. (Id. § 4.)

NOTE: See also Nos. 6, 24e, 70-72.

Feeding Stuffs.

61. "Egg Mash" to be Labeled, etc.—Chicken or hen food, commonly known or designated as "Egg Mash," manufactured in this State, or shipped into this state, by manufacturers, jobbers, or dealers therein, shall be plainly marked and labeled as to the actual ingredients and chemical analysis thereof, by attaching to each original sack, bag, or other container, of a plainly marked tag, to be not less than $2\frac{1}{2}$ x 5" in size, on which is distinctly printed the analysis, guaranteed by the manufacturer, of the ingredients thereof. (L. 1923, c. 54, § 1.)

62. Unlawful to Sell, etc., Unless Marked.—After the date when this act shall become effective, it shall be unlawful to sell, expose for sale, or offer for sale, within the State of Arizona, any hen or chicken food, unless plainly marked as provided in section 1 hereof. (Id. § 2.)

63. Penalty for Violations.—Any violations of the provisions of this act shall be deemed a misdemeanor, and any person, firm or corporation found guilty thereof shall be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than fifty (\$50.00) dollars, or by imprisonment in the county jail for a period of not less than thirty (30), nor more than sixty (60) days. (Id. § 3.)

Fish.

See No. 159.

Flour—Meal.

See No. 162.

Fruits and Vegetables.

64. Inspectors, Destruction of Diseased or Infected Plants.—The inspectors are hereby authorized and it is their duty whenever the occasion may arise, to enter in and upon any premises, building, or place, where plants may be growing, or vegetables, fruits, seeds and agricultural products, or any article connected with handling, packing and shipping of the same, may be stored, for the purpose of inspecting, or causing an inspection to be made to determine whether any injurious pest is present. To this end, and otherwise to carry out the provisions of this chapter, said inspectors may open any car, box, bundle, or package with the least possible injury to property or business. Whenever an inspector discovers a pest which is injurious to the agricultural or horticultural interests of the State, and which it is practicable to eradicate or suppress, he may, with the advice and under the direction of the entomologist or his assistants, notify in writing the owner, owners or person or persons in charge or in possession of the premises, buildings, or places as aforesaid, that the same are infested or contain or harbor an injurious insect or other pest, and said inspector may require such person or persons to eradicate, destroy or suppress such pest within a reasonable specified time by means of the most economical and effective method available. In the case of the codling moth, this provision shall apply to trees and orchards on, and in which, infested fruit has been discovered by the said inspector, or his predecessor, at any time previous to the serving of the aforesaid notice.

Any and all such plants, fruit, vegetables, seed, agricultural products or other articles, infested by or harboring any injurious insect or other pest are hereby adjudged and declared to be a public nuisance and shall be contraband pending action taken in compliance with the aforesaid notice or action taken by the inspector as herein authorized and directed and shall remain contraband until said nuisance is abated. Whenever any such nuisance, practicable to abate, shall exist within the jurisdiction of any inspector, on the property of any non-resident, or any property the owner or owners of which cannot be found by the said inspector after diligent search and publication of said notice in the official newspaper of the county where such nuisance exists, or on the property of any owner or owners upon whom notice aforesaid has been served, and who shall refuse or neglect to abate the same, or who shall in writing request the said inspector to take such action as may be necessary at his or their expense, it shall be the duty of the inspector and he is hereby authorized to cause said nuisance to be at once abated in a summary manner, or to take such steps towards the abatement of the nuisance as the danger to agricultural and horticultural interests and the welfare of the community may require. Whenever the circumstances require, the abatement of such public nuisance may include the destruction of the plants, vegetables, fruit, seed, agricultural products, or other articles, infested by an injurious insect, or harboring an injurious insect or other pest, or any portion of any or all such articles as may be necessary to the public interest.

The expense incurred in connection with such action, unless voluntarily assumed by the owner or owners of the aforesaid property, shall be charged against the State, and paid out of the fund authorized by this chapter upon vouchers of the commission. Except that when special provisions are made for the eradication or control of specified pests, any and all such sums so paid, shall be charged against the owner or owners of the property and premises from which such nuisance has been removed or abated in pursuance of this chapter and shall be recovered by the State or county as the case may be by a civil action against such owner or owners.

In the case of the shipments of plants, fruits, vegetables, seeds, or agricultural products, or other articles received into the State of Arizona from outside said State conforming to the requirements of the next section and after due notice given as specified in this chapter, the inspector detailed by the commission for service at the station, depot or other point where such shipment is received, shall inspect the plants, fruits, vegetables, seed, agricultural products, or other articles as soon as possible after receiving said notice. Upon completing the inspection of a shipment, and finding it free from any insect or other pests, the inspector shall issue a certificate of release in duplicate, the original to be given the common carrier, or person or persons, bringing the shipment into the State, and the duplicate to be given to the consignee or person who receives and removes the shipment or portion thereof from the premises where inspected. A special certificate of release affecting only a portion of any shipment may be issued when said shipment is found to be infested in part, and owing to the nature of the pest found therein, agricultural and horticultural interests of the State of Arizona or of the locality where received, will not be endangered by authorizing, by means of said special certificates, the delivery and removal of certain varieties or kinds of plants, fruits, vegetables, seeds, agricultural products, or articles contained in said shipment. In the case of shipments containing insects or other pests of common occurrence in the State of Arizona, or in the locality where received, or pests which for any reason are known to be innocuous in Arizona, or in the section of the State where received, certificates of release may be issued by a horticultural inspector in accordance with specific instructions furnished said inspector by the entomologist, and such rules and restrictions as may be adopted by the commission of agriculture and horticulture. (R. S. 1913, Civil Code, § 3311.)

65. Nursery Stock.—All nursery stock shipped into Arizona from any other State or country shall be prominently labeled with the name and address of both the shipper and consignee, and shall be accompanied by a certificate of inspection dated within one year, or a copy of such certificate, by a duly authorized official of the State or country in which said stock was grown. All shipments from other States or countries into the State, consisting of or containing plants, fruits, vegetables, or seeds, which were not grown in the locality from which shipment was made, must, in addition, specify where such plants or products were grown. Shipments into the State of Arizona shall conform to any rules or regulations promulgated by said commission. (Id. § 3312.)

66. Quarantine; Regulation.—When, within the judgment of the said commission, or a majority of the members thereof, the importation from designated

countries, States, counties, districts, or localities, of specified varieties of plants, fruits, vegetables, seeds, agricultural products, or other articles, is dangerous to the agricultural or horticultural interests of Arizona because of the likelihood of infestation with crop pests or diseases, the said commission may declare quarantine against all such varieties of plants, fruits, vegetables, seeds, agricultural products, or other articles, from such designated countries, States, counties, districts, or localities; and all common carriers concerned shall be immediately notified of all declarations of quarantine, and are hereby prohibited from bringing quarantined plants, fruits, vegetables, seeds, agricultural products, or other articles from such designated places, into the State.

Any person or persons, firm, corporation, or common carrier, who shall bring, or cause to be brought into the State, any plants, fruits, vegetables, seeds, agricultural products, or other articles herein provided for, shall immediately after the arrival thereof, notify the inspector detailed by said commission to act at the depot, station or place where the same may be received, and hold the same without unnecessarily moving or placing such articles where they may be harmful, for the immediate inspection of such inspector, and shall not deliver same until furnished with a certificate of release by the said inspector. The members of said commission, the entomologist, or the inspector, are hereby authorized and empowered to enter into any warehouse, depot, or any other place, where such nursery stock, fruits, or agricultural products, or other described articles are received, for the purpose of making the investigation or examination herein provided for. (Id. § 3317.)

67. Destruction of Infested Plants; Shipment.—When any shipment of plants, fruits, vegetables, seeds, agricultural products, or other articles, imported or brought into the State is found to be infested by, or to harbor insect or other pests dangerous to the interests of the State, or a section thereof, or when any portion of such shipment is so infested or harboring any species of dangerous pests, the entomologist or inspector shall notify the shipper, consignee, or owner, and shall require the shipper, consignee or owner, immediately to reship from the State, or immediately destroy such shipment, in whole or in part as said inspector may deem necessary, at the option of the owner, owners, agent or agents, and at his or their expense. In the event that the shipper, consignee, or owner shall neglect or refuse to reship from the State, or destroy such infested shipment or portion thereof, the entomologist or inspector shall destroy, or cause to be destroyed, by fire or otherwise, such infested shipment or portion of shipment. (Id. § 3318.)

68. Sale or Transportation of Infested Plants, etc., Forbidden.—It shall be unlawful to offer for sale, sell, give away, or transport, except from the State as provided in the preceding section, any plants, fruits, vegetables, or seeds, known to be infested by dangerously injurious insects or infested with dangerously injurious plant diseases, or known to harbor any pest whatsoever, provided that in the case of apples or pears infested by the codling moth, plain evidence of injury by this insect to any such fruit or fruits shall constitute a condition of infestation, and whenever in the judgment of said commission the protection of horticultural interests of any section of the State requires such action, fruit commonly known as "wormy" together with all other apples or pears in the same package, box, barrel or lot, together with the box, boxes, barrel, barrels, or other containers, shall be declared a public nuisance and contraband by the entomologist, assistant, or any inspector, and the offering for sale, selling, giving away, or transporting of such fruit after such declaration shall be unlawful. (Id. § 3319.)

69. Alfalfa Weevil.—In order to prevent the introduction into, or the spread within, the State, of the insect pest known as the "alfalfa weevil" now existing in neighboring states, the commission of agriculture and horticulture is hereby given authority to prohibit the introduction of packages or boxes of fruit, vegetables, hay, or other farm products, or any material or articles likely to contain or harbor said pest, from any state, county, district or locality, where the said alfalfa weevil may exist. Said commission may promulgate any rules it may deem advisable restricting shipments from countries, States, or counties, districts, or localities, known to be infested by the said alfalfa weevil, into Arizona, by common carrier, or otherwise. In the event that the alfalfa weevil becomes introduced into Arizona, the commission and entomologist shall take whatever steps may be practicable to eradicate or restrict the spread of said pest. The sum of fifteen hundred dollars is hereby appropriated as an emergency fund to be drawn upon by the commission in the regular manner for the purpose of carrying out the provisions of this section, if the necessity arises. (Id. § 3320.)

69a. Penal Section.—Any person, persons or corporation violating any of the provisions of this title or interfering with its administration is guilty of a misdemeanor. (Id. § 3322.)

NOTE: See also Nos. 162 and 165.

Ice.

See No. 158.

Meat—Meat Products.

70. Imported Meat, etc., to be Labeled; Exceptions.—It shall be unlawful for any person or persons to sell or offer to sell or dispose of to another in any manner any meat, poultry, eggs, or butter which have been imported into the United States from any foreign country, excepting products which were produced in the Dominion of Canada or the Republic of Mexico, and have been imported to this country from the Dominion of Canada or the Republic of Mexico, without the same shall be plainly labeled in such manner as to show the country of production of such product, and shall be plainly stamped or marked to show the date on which such meat, poultry, eggs or butter were exported from the country of origin. (L. 1921, c. 93, § 1.)

71. Sign to be Displayed.—The owner or owners of any store or place of business, whether wholesale or retail, which shall sell, offer to sell or dispose of to another any meats, poultry, eggs or butter in any condition whatsoever, shall display in a conspicuous place over the counter of such store or place of business, or at such other point in such store or place of business so as to be in plain view of all parties entering such store or place of business by the main entrance, a sign not less than four (4) feet long by eight (8) inches deep, which shall contain lettering as large as may be permitted by the area of such sign, containing the following inscription: "This store sells imported meats, poultry, eggs, butter;" but if such store shall handle only one or more of these products the said sign shall be so modified as to state the product or products sold. (Id. § 2.)

72. Penalty.—Any person or persons who violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00). (Id. § 3.)

73. License to Slaughter Animals.—It shall be unlawful for any person or persons, firm or corporation to slaughter, within this State, any horned or neat cattle sheep or goats for sale, barter or exchange unless he, they or it shall have a license therefor issued in accordance with the provisions of this chapter, provided that any person may slaughter during each calendar year not exceeding five head of horned, or neat cattle or twenty sheep or goats, other than range stock, the meat whereof is not disposed of or exposed for sale or other disposition in any city, town or mining camp wherein any person is licensed under the provisions of this chapter to slaughter cattle, sheep or goats for sale. (R. S. 1913, Civil Code, § 3738, as amended L. 1925, c. 31.)

74. Sale of Meat Unlawful Unless Animal Has Been Inspected.—(a) The office of county sanitary meat inspector is hereby created and established in each county of the State. On the first Monday following the date on which this act shall become effective, and thereafter, on the first Monday in January of each odd numbered year, the board of supervisors of each county is hereby authorized and directed to appoint a county sanitary meat inspector, by and with the consent and approval of the Live Stock Sanitary Board.

The salaries of such inspectors shall be as follows:

In first-class counties at the rate of three thousand dollars per annum;

In second-class counties at the rate of twenty-four hundred dollars per annum;

In all other classes of counties at the rate of eighteen hundred dollars per annum.

Each such inspector shall be entitled to receive compensation for his actual, necessary traveling expenses while engaged in the performance of the duties prescribed in this paragraph.

Each of said boards of supervisors is hereby authorized, empowered and directed to appoint such deputy county sanitary meat inspectors as in the judgment of said board shall be needed and required in carrying out the provisions of this paragraph, at salaries to be fixed respectively by said boards of supervisors.

Such inspectors shall be qualified and experienced in the business of inspection of animals and determination and detection of disease or other conditions rendering such animals unfit for human consumption.

(b) It shall be the duty of such county sanitary meat inspectors to exercise supervision over all establishments used in the business of slaughtering and preparing animals, and to inspect all animals before and after slaughtering, for food purposes in the county in and for which they, respectively, shall be appointed, in full compliance with the provisions of this paragraph and with the rules and regulations from time to time promulgated and put in force and effect by the Live Stock Sanitary Board, excepting any establishment slaughtering and preparing animals for food purposes for the sole consumption of the owner of such establishment or of his immediate family, and excepting all animals prepared for food purposes for the sole consumption of the owner thereof or of his immediate family.

Each such inspector is empowered and directed to visit at any or all times any establishment, place or premises where animals are slaughtered or prepared for food purposes, as well as all retail meat markets, meat canneries, sausage factories, curing and smoke houses and similar places, restaurants and hotels, for the purpose of determining, if any meat or meat products found therein have been inspected according to the provisions of this paragraph, the wholesomeness and healthfulness of animals slaughtered for food purposes, and meats and meat food products intended for human consumption, and the sanitary condition of buildings, drainage, sewerage, cleanliness, equipment, utensils, employees, clothing, water supply and disposal of refuse.

(c) The Live Stock Sanitary Board is authorized, empowered and directed to promulgate and put into force and effect and to enforce suitable rules and regulations necessary and requisite in its judgment to insure a healthful, wholesome and safe meat supply for the State of Arizona.

(d) Any person or persons, firm or corporation intending to slaughter any animal or animals for the sale, gift, barter or exchange of any meat or meat products thereof shall notify in writing the county sanitary meat inspector of the county in which such animal or animals will be slaughtered, of such intention, at least two full days, exclusive of the day of service of such notice and the day of slaughter of such animal or animals, prior to the commencement of the slaughtering of any thereof.

(e) It shall be unlawful for any person or persons, firm or corporation to slaughter any animal or animals for sale, gift, barter or exchange of any meat or meat products thereof unless such animal or animals, each and every thereof, before slaughter or any thereof, shall have been inspected and passed by the county sanitary meat inspector of the county in which such animal or animals are slaughtered, unless the owner thereof shall have given the notice provided in sub-paragraph (d) hereof and the county sanitary meat inspector so notified shall have failed to appear and inspect such animal or animals within the period of two full days immediately following and exclusive of the day of service of said notice.

(f) In respect to any person or persons, firm or corporation engaged in the slaughter-house business and slaughtering ten or more animals per week for sale, gift, barter or exchange of any meat or meat products thereof, upon the written application of any such person or persons, firm or corporation, it shall be the duty of the proper county sanitary meat inspector to establish and pre-determine regular slaughter days and slaughter hours, as far as possible to meet the convenience of such slaughter business and the regular and proper discharge of the duties of such county sanitary meat inspector, in which case the provisions of sub-paragraph (d) and (e) hereof shall not apply; and in each such case it shall be the duty of such county sanitary meat inspector to be present and perform the duties comprehended within the provisions of this paragraph at the days and hours so pre-determined by such inspector.

(g) At each inspection of an animal or animals for slaughter for the purposes comprehended in this paragraph, such inspector shall determine and make a record in triplicate of the sex, age, and brand, if any, of such animal or animals, the fitness of the meat or meat products of such animal or animals for human consumption, and in case the person, persons, firm or corporation slaughtering such animal or animals is not the record owner of the holding brand of such animal or animals, then the person, persons, firm or corporation from whom, and the manner by which, such person, persons, firm or corporation so slaughtering such animal or animals, shall have acquired the same.

The original of said record shall be transmitted to and filed with the Live Stock Sanitary Board; the duplicate of said record shall be transmitted to and filed with the county assessor of the county in which such animal or animals were slaughtered; the triplicate of said record shall be retained as the official record in the office of said county sanitary meat inspector.

If such inspector find such animal or animals in such condition that the meat or meat products thereof are fit for human consumption, as defined by the rules and regulations of the Live Stock Sanitary Board, and there shall be exhibited to him a valid and subsisting license for the slaughter of such animal or animals issued pursuant to the provisions of this chapter, he shall pass the same for slaughter, and it or they shall be slaughtered in his presence. Immediately following the slaughter of such animal or animals such inspector shall be permitted to and shall make such inspection of the carcass and parts thereof as he shall deem necessary and required, and if he determine thereupon that the meat or meat products thereof are fit for human consumption, he shall stamp thereon his official stamp containing the inscription: "Ariz. Inspected and Passed," in such manner and upon such parts of said carcass as may be prescribed from time to time by the rules and regulations of said Live Stock Sanitary Board. If in such examination such inspector shall determine that such animal or animals, or the meat or meat products thereof, are unfit for human consumption, as may be defined in the rules and regulations of the Live Stock Sanitary Board, he shall order, direct and effect such disposition of the said animal or animals, or meat or meat products thereof, as shall from time to time be provided by said rules and regulations of said Live Stock Sanitary Board; provided, that in every event, such animal or animals, the meat or meat products thereof, shall be so disposed of, treated or made use of as to make impossible the employment of any part thereof as human food.

(h) It shall be unlawful for any person or persons, firm or corporation to sell, give away, barter or exchange, or offer or expose for sale, gift, barter or exchange, or have in his, its or their possession, any meat of any cattle, sheep, goats or swine, and it shall be unlawful for any such person or persons, firm or corporation to purchase for re-sale or for any other purpose, any meat of cattle, sheep, goats or swine, unless the carcass or a part thereof of such animal from which such meat is cut shall have been inspected as provided in this paragraph and shall have stamped thereon the official inspection stamp provided in sub-paragraph (g) hereof and as may be further required or provided by the rules and regulations of the Live Stock Sanitary Board not inconsistent therewith; and the meat in respect to which any act or omission to act, shall have been done or performed, or omitted to be done or performed, unlawfully under the provisions of this paragraph, shall be seized, confiscated and destroyed by any such inspector or peace officer of the State or of any county or political subdivision thereof.

(i) The board of supervisors of each county in the State shall have authority, and is hereby directed by its ordinance, to establish within limits at its discretion, fees for each inspection of each animal, provided for by the terms of this paragraph, to be paid by the owner of the animal or animals, or of the premises inspected, at the time of each such inspection and to the inspector making such inspection, by him to be remitted to the county treasurer of the county in which such inspection has been made for the credit of the general county fund.

(j) It shall be unlawful for any person, firm or corporation, except any such duly appointed qualified and acting county sanitary meat inspector, or his employees, to have in his or its possession, keep or use any mark, stamp or brand provided or used in marking, stamping or branding the carcass of any animal intended for food purposes, parts thereof, meat or meat food products, or to have in his or its possession, keep or use any mark, stamp or brand, having thereon a device or words the same or similar in character or import to the marks, stamps or brands provided or used by any such county sanitary meat inspector, as provided or authorized by this paragraph or as may from time to time be authorized or provided for by the rules and regulations of said Live Stock Sanitary Board, or to place or affix any spurious, unauthorized or counterfeit stamp or brand upon the carcass of any animal intended for food purposes, parts thereof, meat or meat products, or to have in his or its possession any carcass of any animal intended for food purposes, parts thereof, meat or meat products, on which there shall have been stamped and in evidence any such spurious, unauthorized or counterfeit stamp or brand.

(k) The Live Stock Sanitary Board shall from time to time provide rules and regulations necessary for the efficient execution of the provisions of this

act and shall prescribe the form of all reports and data to be kept permanently, required by the provisions of this paragraph or by the rules and regulations of said Live Stock Sanitary Board, and all inspections and examinations made under this paragraph shall be made in such manner as prescribed therein and in rules and regulations from time to time provided by said Live Stock Sanitary Board not inconsistent with the provisions of this paragraph; provided, however, that in such rules and regulations said Live Stock Sanitary Board shall be guided by the rules and regulations governing meat inspection by the United States Department of Agriculture.

(1) It shall be unlawful for any person, firm or corporation to maintain, or operate, a slaughtering house or place for the sale of meat or meat products which is unclean or unsanitary.

(m) Any person, firm or corporation who or which shall violate any of the provisions of this paragraph, or shall do or perform, or cause to be done or performed, any act therein declared unlawful, or declared unlawful by the rules or regulations promulgated by the Live Stock Sanitary Board for the enforcement of the provisions of this paragraph, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment in the county jail not exceeding six months or by fine not exceeding three hundred dollars, or by both. (Id. § 3739.)

75. Slaughterhouses.—Every person or persons, firm, association or corporation licensed to engage in the slaughter of live stock for sale in this State, shall slaughter all such animals in a fixed and definite slaughterhouse or slaughter pen, to be kept in compliance with such conditions as are prescribed by the Live Stock Sanitary Board for that purpose, or in the slaughterhouse established by the authorities of an incorporated city or town; and before such person, persons, firm, association or corporation shall begin, enter upon or carry on the business of slaughtering any horned or neat cattle, sheep or goats for sale or for the sale of meat, or selling or exposing for sale the meat of such animals in the State of Arizona, such person, persons, firm, association or corporation shall first procure from the Live Stock Sanitary Board a license to carry on such slaughtering business, and to sell or expose for sale such meat, under the conditions and upon the payment of the fees herein provided. After procuring such license, and before engaging in such business, such person or persons shall execute upon a blank form furnished by the board, a bond with two or more good and sufficient sureties, to the State of Arizona, in the penal sum of one thousand dollars, to be approved by the chairman of the board, conditioned that such person, persons, firm, association or corporation shall not slaughter, sell or expose for sale any meat animal or the meat thereof, without first being the legal and equitable owner thereof as well in law as in fact. In case such person, persons, firm, association or corporation shall slaughter or sell, or expose for sale, any neat cattle or the meat thereof in violation of the terms and conditions of such bond, they shall pay therefor double the value of any such animal, the same to be recovered by action on said bond in the name of the true owner of such animal. The amount so recovered shall be paid as follows: One-half to the owner of such animal, one-fourth to the inspector or person discovering the wrongful possession or slaughtering of such animal, and the remaining one-fourth to the Live Stock Sanitary Board to be turned over to the General Fund; and upon the condition that they shall comply with all the provisions of this chapter relating to that business. (Id. § 3740.)

76. License Fees.—The Live Stock Sanitary Board shall grant to each and every applicant therefor, on the payment of the fees herein provided, a license to slaughter cattle, sheep and goats, as may be set forth in such license so granted. If such slaughter business is to be carried on within, or within four miles of the corporate limits of, any town of more than five thousand inhabitants, the applicant shall pay to such board the sum of one hundred fifty dollars for such license. If such slaughtering business is to be carried on within, or within four miles of, the corporate limits of any town of three thousand or more and less than five thousand inhabitants, the applicant shall pay to such board the sum of one hundred twenty dollars for such license. If such slaughtering business is to be carried on within, or within four miles of, the corporate limits of any town of one thousand or more and less than three thousand inhabitants, the applicant shall pay to such board the sum of ninety dollars for such license. In all other cases an applicant shall pay thirty dollars for each such slaughtering license. No license shall be issued for a less fee than is herein prescribed, and there shall be designated in and by the terms of each such license the pre-determined fixed and definite place where the slaughtering authorized by each such license is to be done.

The record owner of any registered brand of any cattle, sheep or goats, may apply to and shall be entitled to receive without cost or charge from said board a special license to slaughter out of any such brand so owned and of record, cattle, sheep or goats for food purposes and the consumption only by each owner, his immediate family, herders or employees engaged in the employment of such owner in running and operating such cattle, sheep or goats in such brands.

All licenses issued under the foregoing provisions of this paragraph shall expire on December thirty-first of the year in which issued.

Any person who shall slaughter any animal of the kinds mentioned in this act without first procuring a license as provided in this paragraph, shall be punished by a fine of not more than three hundred dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court. The possession of the carcass, or any portion of the meat of any such animal mentioned herein, shall be prima facie evidence of a violation of this paragraph, unless the person in whose possession such carcass or meat is found shall be able to show that the animal of which it is the whole, or part, was actually slaughtered under the authority of a license issued under the provisions of this paragraph. (Id. § 3741.)

77. Application for and Transfer of License.—The applicant for such license shall make written application to the board therefor, and state in his application where his slaughterhouse is or will be located during the term for which such license is issued, and he shall not, during the term of such license, slaughter any neat or horned cattle, swine, sheep or goats at any other place than that specified in his license. Provided, that if for any reason the holder of a license desires to change the location of such slaughtering place, he shall apply to the said board to have such license transferred to cover such change. And such board may reissue such license on application therefor without any additional charge for the unexpired term of such license. (R. S. 1913, Civil Code, § 3742.)

78. Slaughtering by Producers.—Producers who kill or slaughter animals for the sole purpose of using the meat thereof for food for themselves, their immediate family and employees, shall not be required to have such animals inspected before killing, but all animals to be slaughtered by the producer thereof, the meat of which is to be sold, shall be inspected as in this chapter provided, before the killing of same. The term "producers" within the meaning of this and succeeding paragraphs, shall be taken to include the owners of herds and the proprietors, tenants and the occupants of lands and premises whereon any of the animals mentioned in this section are raised or prepared for market. Provided, that the hide of every animal of kind mentioned in this act, and slaughtered under permission of this paragraph, shall be hung up in a conspicuous place on premises where animal is slaughtered, and remain there until such hide is inspected and tagged. (Id. § 3743, as amended L. 1921, c. 97.)

79. Sale of Uninspected Meats Prohibited.—Any person, firm or corporation who shall import or bring into the State of Arizona, the meat of any domestic animal for sale for food, or who shall offer for sale the meat of any domestic animal, whether fresh, salt or dried, that has not been slaughtered under the provisions of this chapter, or has not passed the inspection of a United States Government meat inspector, shall be subject to the same license fees, regulations and penalties as are prescribed for persons slaughtering animals for the sale of meat in the State of Arizona. (R. S. 1913, Civil Code, § 3744.)

79a. Producer to Cause Animals to be Inspected.—Before any producer shall slaughter any domestic animal intended for sale for food, he shall, at least five days before he intends to slaughter any such animal, give written notice thereof to an inspector of the Live Stock Sanitary Board. Such notice shall describe the animal, or animals, intended to be killed; the name of the owner, or owners, thereof; the brands and marks thereon, and the age and sex of such animals, and in such notice shall specify and describe the location of the place where it is intended to slaughter the animals described in such notice. It shall be the duty of such live stock inspector to inspect the animals mentioned in this notice, or he may designate two persons who shall be disinterested land owners and who are in no way related to the person intending to slaughter such animals. If disinterested persons are named to make inspection of such animals, then upon notice, they shall proceed to do so and report the result of such inspection to the inspector appointing them, and shall also transmit a duplicate report of their inspection to the Live Stock Sanitary Board at Phoenix, Arizona. No such disinterested persons specially appointed by such sanitary inspector to inspect, shall have any continued authority to make inspections, but a specific appointment shall be made in each case, where an

inspection is required, under a notice given by the producer who intends to slaughter animals for sale. (Id. § 3746, as amended L. 1921, c. 97, § 3.)

79b. Manner of Inspection and Statement of Same.—The inspector or inspectors shall examine, by daylight, the animal to be slaughtered, and shall make and sign a statement showing when and where the examination is made, the name of the owner, and the character of the animal, giving a full description of it, including color and brand, if any brand; and if it is well, sound, and fit for food, they shall so State; and the owner, within ten days after such inspection, shall deposit such statement with the county recorder of the county wherein such inspection is made and shall preserve the hide of such animal for inspection as provided by law. The recorder shall be entitled to no fee, but shall preserve such statement for public inspection for a period of six months. (R. S. 1913, Civil Code, § 3747.)

80. Producer Not to Slaughter Without Inspection and Filing Statement.—If any producer shall slaughter for food any domestic animal, or sell or offer for sale any such slaughtered animal or any part thereof, that has not been inspected and found to be well, sound, and fit for food, or shall fail to deposit the statement made by the inspector or inspectors, or fail to keep the hide of any animal slaughtered by him, for inspection as provided by law, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 3748.)

81. No License to be Required of Producer.—Except as in this act provided, no other tax, license or other burden or fee shall be imposed, levied, demanded or collected from any producers herein defined, because of any sale or sales of any such products; nor shall any penalty or punishment be imposed upon him on account of such sale, except for a violation of the terms of this act; nor shall any town or city in this State impose by municipal ordinance, under any guise, any tax, fee or penalty, save and except that all such products shall, in common with similar products offered for sale, by persons who are not the producers thereof, be subject to inspection; no municipal ordinance providing for such inspection shall be valid unless it applies in precisely the same manner and upon precisely the same terms to others offering similar products for sale.

(a) No person, whether a producer or not, shall sell or peddle the meat of any animal mentioned in this act unless he shall have the full hide of that animal in his possession at all times while so selling or peddling the meat. Every person selling or peddling the meat of such animal shall exhibit the hide thereof to any inspector or other officer of the Live Stock Sanitary Board, and do so immediately upon demand of any such inspector or officer. Any person failing to do either of the things above provided, respecting the hide of animals, whose meat is offered for sale, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine not exceeding three hundred (\$300.00) dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment.

(b) The possession by any person of any carcass, or any edible part thereof, of any cattle, sheep or goat slaughtered otherwise than in compliance with the provisions of this chapter, shall be taken and deemed to be an unlawful possession, and for the purpose of enforcing the provisions of this chapter each and every officer hereinafter specified shall be, and is hereby given the authority to make the inquiry and investigation as hereinafter provided, and any person or persons having in their possession the carcass, or any edible part thereof, of any neat cattle, sheep or goats, shall, upon the demand of any sheriff, deputy sheriff, constable or inspector of the Live Stock Sanitary Board of Arizona, state to such officer where and the name of the person from whom such meat was obtained. If the person in possession then claims to have slaughtered the animal from which said meat was taken, he shall upon request then exhibit to such officer the whole hide of such animal slaughtered; if in answer to inquiries of officer, the person then claims that such meat was procured from another person, then, upon demand made upon that person by any of the aforesaid officers, that person shall forthwith exhibit the whole hide of such animal slaughtered and from which meat was taken.

Any person who, upon demand of the proper officer, refuses to give the information herein required to be given, or who shall give false information as to such matters inquired into, or who fails or refuses to exhibit the hide, when the animal has been slaughtered by him, or at his direction, shall be prima facie guilty of having slaughtered the animal from which such meat was obtained, in violation of the provisions of this act as to the inspection and slaughtering of animals mentioned in this act; and upon a trial upon a complaint made that said animal was either slaughtered without inspection, or complaint that animal was not slaughtered under a license permitting a slaughter for sale of animal meat mentioned; or other complaint of

violation of the provisions of this act as to licenses, inspection or selling of meat, or either, made against any person in possession of any animal meat of kind above mentioned, proof that the party so charged refused, upon demand of the proper officer, to give the information demanded of him as above provided or that he gave to such officer false information relating thereto, or failed or refused to exhibit the hide, as the case may be, shall be prima facie evidence that such person is guilty of the act charged or was an accessory thereto and upon conviction either as a principal or accessory to such misdemeanor charged, such defendant or defendants shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than three hundred (\$300.00) dollars, or by imprisonment in the county jail for a term of not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 3749, as amended L. 1921, c. 97.)

82. Inspection of Animals at Slaughterhouse.—It shall be the duty of any person carrying on the business of slaughtering such animals, to notify the nearest inspector of the location of his slaughterhouse or slaughter pen, and of the time when it is proposed to slaughter any such animals, and no animal shall be slaughtered until it shall have been inspected and certified to by the inspector as being the property of the person slaughtering it or causing it to be slaughtered, or that he is authorized to slaughter it. The board shall prepare these certificates in blank, and the inspector shall keep a copy of each certificate issued in a book which shall be open at all times to public inspection and examination. When such animal, so inspected and certified to, has been slaughtered, the inspector shall inspect the hide of such animal, and shall tag the same, on the left side of the neck with a tag seal to be furnished by the board. For each animal and hide so inspected the butcher shall pay the inspector, at the time the hide is inspected and before it is tagged, the sum of ten cents, which shall be full payment for inspecting the live animal, and inspecting and tagging the hide. (R. S. 1913, Civil Code, § 3750.)

83. Record of Inspection, Penal Section.—A duplicate record of all inspections shall be sent to the board, and a triplicate given to the butcher at such times and under such rules and regulations as the board may adopt. Any person, persons, firm, or corporation selling, removing or secreting any hide or hides, or detaching, obliterating or defacing from or upon the hide any mark or brand before they are inspected and tagged, shall be guilty of a misdemeanor. (Id. § 3751.)

84. Record of Animals Slaughtered.—Every person, firm, association or corporation, who or which shall carry on the business of butchering or slaughtering cattle, sheep, goats or swine in this State shall keep a true and faithful record, in a book to be kept for that purpose, of all live stock purchased or slaughtered by him or it, with a description of all animals so purchased or slaughtered, including all the marks and brands of such animals, the name and residence of the person from whom purchased and the date of such purchase. Every such person, firm, association or corporation who fails to keep such record, or who makes any false entry in such record, or who refuses to exhibit, to any person demanding it, the said record, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than ten nor more than one hundred dollars for every day he shall have failed to keep such record or for every day he shall have failed or refused so to exhibit such record or for each false entry made in such record. (Id. § 3753, as amended L. 1925, c. 31.)

NOTE: See also Nos. 6, 24e, 159, 162 and 163.

Olive and Sweet Oils.

See No. 164.

Rice.

See No. 162.

Tapioca.

See No. 161.

Tea.

See No. 161.

Vinegar.

See No. 164.

Sanitation.

See the bakery products law, No. 25 et seq.; also the dairy law, No. 35 et seq.; the meat law, No. 73 et seq.

PART III.

Special Drug Laws.

Abortifacients.

84a. Penalty.—Every person who willfully writes, composes, or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise, to assist in the accomplishment of any such purposes, is guilty of a misdemeanor. (R. S. 1913, Penal Code, § 318.)

Distribution of Samples.

85. Drug Samples, etc.—It shall be unlawful for any person to scatter, throw, place or leave in or about any house or building used or occupied as the place of residence of any other person in this State, or in or about any yard, lawn or enclosure connected therewith, any sample of any drug, medicine or any substance injurious to health. Any person violating any of the provisions of this section is guilty of a misdemeanor. (R. S. 1913, Penal Code, § 631.)

Pharmacy, Poisons and Narcotics.

86. Registered Pharmacist.—From and after the passage of this chapter, it shall be unlawful for any person to manufacture, compound, sell, or dispense any drug, poison, medicine or chemical, or to dispense or compound any prescription of a medical practitioner, unless such person be a registered pharmacist or a registered assistant pharmacist within the meaning of this chapter, except as hereinafter provided. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions of medical practitioners only during the temporary absence of the registered pharmacist. Temporary absence within the meaning of this chapter shall be held to be only those unavoidable absences which may occur during a day's work, and when the registered pharmacist in charge shall be within immediate call, ready and able to assume the direct supervision of said pharmacy. No registered assistant shall conduct a pharmacy. Every store or shop where drugs, medicines or chemicals are dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded, which has upon it or in it as a sign, the words "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drug store," "drugs," or any of these words, or the characteristic show-bottles or globes, either colored or filled with colored liquids, shall be deemed a "pharmacy" within the meaning of this chapter. (R. S. 1913, Civil Code, § 4793.)

87. Qualifications.—Any person, in order to be a registered pharmacist, must be a licentiate in pharmacy, or a practicing pharmacist. (Id. § 4794.)

88. Licentiates in Pharmacy.—Licentiates in pharmacy are persons who have had four years' experience in stores where the prescriptions of medical practitioners are compounded, or who are graduates of a reputable school of pharmacy, and shall have passed an examination before the State Board of Pharmacy, or who shall present satisfactory credentials or certificates of their attainments to the said board. Practicing pharmacists are persons who, at the time this chapter takes effect are registered as such, and who, on or before the first day of June next succeeding the time this chapter takes effect, shall have paid to the Board of Pharmacy of this State all moneys due for renewal of registration as required by chapter 74 of the acts of the Twenty-Second Legislative Assembly, regulating the practice of pharmacy in the Territory of Arizona, approved March 19, 1903. (Id. § 4795.)

89. Registered Assistant Pharmacists.—Registered assistant pharmacists are persons who, at the time this chapter takes effect are already registered as such, and who, on or before the first day of June next succeeding in the passage

of this chapter, shall have paid to the Board of Pharmacy of this State all moneys due for renewal of registration as required by chapter 74 of the acts of the Twenty-second Legislative Assembly, regulating the practice of pharmacy in the Territory of Arizona, approved March 19, 1903; provided, that no person shall be examined or registered as a licentiate, unless such person has had four years' pharmaceutical experience in a pharmacy under the supervision of a registered pharmacist; and provided, further, that no person shall be examined or registered as an assistant pharmacist from and after the time this chapter takes effect unless such person shall be not less than eighteen years of age and has had not less than two years' instruction and experience in a pharmacy, under a registered pharmacist; and provided, further, that an applicant for registration as an assistant pharmacist must first pass a satisfactory examination before the Board of Pharmacy. (Id. § 4796.)

90. Board of Pharmacy.—The Governor shall appoint seven competent registered pharmacists residing in different parts of the State, to serve as a Board of Pharmacy. The members of the board shall, within thirty days after their appointment, individually take and subscribe before the county recorder, in the county in which they individually reside, an oath to faithfully and impartially discharge the duties prescribed by this chapter. They shall hold office for the term of four years, and until their successors are appointed and shall have qualified. In case of vacancy in the Board of Pharmacy the Governor shall fill the same by appointing a member to serve for the remainder of the term only. The office of the board shall be located in Phoenix. The board shall organize by electing a president, vice-president, secretary, and treasurer. The two last named offices may, at the discretion of the board, be consolidated. The secretary-treasurer shall give a satisfactory bond running to the Board of Pharmacy in a sum of not less than one thousand dollars, and such greater sum as the board may from time to time require, for the faithful discharge of his duties. (Id. § 4797.)

91. Duties of Secretary-Treasurer.—All moneys and fees received by said board pursuant to the provisions of this chapter shall be paid into the General Fund of the State. It shall be the duty of the Secretary-Treasurer to keep open, at the city of Phoenix, a book of registration, in which shall be entered, under the supervision of the board, the names, titles, qualifications, and places of business, of all persons coming under the provisions of this chapter. He shall give receipts for all moneys received by him. It shall be the duty of the Secretary-Treasurer of the board to erase from the register the name of any registered pharmacist, or assistant pharmacist, who has died, or who, in the opinion of the board, has forfeited his right under the law to do business in this State. In addition to the duties prescribed by this chapter, it shall be the duty of the Secretary-Treasurer to perform such other reasonable duties, appertaining to his office, as may be required of him by the Board of Pharmacy. The compensation of the Secretary-Treasurer shall be fixed by the Board of Pharmacy. If he be a member of the board, then such compensation shall be in addition to his per diem as a member of said board. Four members of the board shall constitute a quorum and they shall hold a meeting at least once in every six months. All salaries and expenses of said board shall be paid upon the verified statement thereof, of said board, to the State Auditor, who is hereby authorized and directed to draw his warrants on the State Treasurer, who shall pay the same out of the General Fund and the appropriation for the Board of Pharmacy, authorized in the General Appropriation Bill. (Id. § 4798, as amended L. 1922, c. 35, § 77.)

92. Power of State Board of Pharmacy.—The State Board of Pharmacy shall have power: (a) To make such by-laws and regulations, not inconsistent with the laws of this State, as may be necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties. (b) To regulate the practice of pharmacy. (c) To regulate the sale of poisons. (d) To regulate the quality of all pharmaceutical preparations and medicines dispensed or sold in this State, using the United States Pharmacopœia or National Formulary as the standard. (e) To investigate all complaints as to the quality and strength of all pharmaceutical preparations and medicines, and to take such action as may be necessary to prevent the sale of such as do not conform to the standards and tests prescribed in the latest edition of the United States Pharmacopœia or National Formulary. (f) To employ inspectors of pharmacies and to inspect during business hours all pharmacies, dispensaries, stores or places in which drugs, medicines and poisons are compounded, dispensed or retailed and to cause the prosecution of all persons whenever there appears to the board reasonable ground for such action. (g) To examine and register as pharmacists and assistant pharmacists all applicants whom it shall deem qualified to be such. All persons applying for

registration, under this chapter, shall pay the following fees therefor, to the Secretary of the Board of Pharmacy: Every applicant for registration, other than that of an apprentice, shall pay a fee of five dollars on filing his application, which shall be compensation to the Board of Pharmacy of investigation or examination of the applicant; and if the board finds that any applicant for registration is entitled to be registered, on experience and credentials, then he shall pay an additional fee of fifteen dollars upon the issuance of a certificate of such registration; and any licentiate found by the board of examiners to be entitled to a certificate as assistant, shall pay the additional sum of five dollars upon the issuance of such certificate; all applicants for examination, if found satisfactory by the board, shall be entitled to their certificates without further fee. (h) To issue a new certificate, in the event that any person having registered shall have lost his certificate, or the same has been destroyed, or if he desire the renewal of the same, upon the applicant paying therefor the sum of three dollars; provided, that where the original certificate is not lost or destroyed, then the certificate shall be surrendered before a renewal of same shall be issued; and provided further, that the board shall have power to require satisfactory evidence from the applicant of the loss or destruction of the certificate; and provided further, that where the applicant is delinquent for the annual dues required by this chapter, then he shall be required to pay to said board sufficient fees to cover his delinquency in that behalf before he shall be entitled to a re-issue of the certificate in this sub-division provided for. (i) To provide, by proper rules and regulations, for the revocation by said board of licenses issued under the provisions of this chapter, whenever the holder of such license shall be guilty of habitual intemperance or addicted to the use of narcotic drugs, or shall have been convicted of a felony. (R. S. 1913, Civil Code, § 4799.)

93. Compensation of Board.—No member of the board shall teach pharmacy in any of its branches, unless it be as a teacher in a public capacity and in a college of pharmacy. The members of the Board of Pharmacy shall each be paid the sum of five dollars per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage at the rate of five cents per mile for each mile necessarily traveled. All compensation of members and all other expenses of the board shall be paid out of the examination and registration fees and fines. (Id. § 4800.)

94. Registration to be Renewed Annually.—Every person holding a certificate from said board shall renew annually his registration with said board; and every registered pharmacist, and every assistant registered pharmacist who desires to retain his registration on the books of the Board of Pharmacy in this State shall annually, after the expiration of the first year's registration and on or before the first day of June of each succeeding year, pay to the Secretary of the Board of Pharmacy a renewal fee, to be fixed by the board, which shall not exceed two dollars for registered pharmacist and one dollar for assistant registered pharmacist, in return for which fee a renewal receipt of registration shall be issued. In case any person defaults in payment of said fee his registration shall be revoked by the Board of Pharmacy on sixty days' notice, in writing, from the secretary, unless within said time the fee is paid, together with such penalty, not exceeding ten dollars, as the board may approve. Upon payment of such fee and penalty the board must reinstate the delinquent's registration. (Id. § 4801.)

95. Registration Receipt to be Kept Posted.—Every person, upon receiving a certificate of registration under this chapter, or who has heretofore received a certificate of registration in this State, shall keep his last receipt for re-registration conspicuously exposed in his place of business. Every registered pharmacist, and assistant pharmacist, shall, within thirty days after the changing of his place of business as designated on the books of the Board of Pharmacy, notify the secretary of the board of his new place of business, and upon receipt of said notification the secretary shall make the necessary changes in his register. (Id. § 4802.)

96. Duties of Pharmacist.—Every proprietor or manager of a pharmacy or drug store shall be held responsible for the quality of all drugs, chemicals and medicines sold or dispensed by him, except those sold in the original package of the manufacturer and except those articles or preparations known as patent or proprietary medicines. Any person who shall knowingly, willfully, or fraudulently falsify or adulterate, or cause to be falsified or adulterated, and drug or medicinal substance, or any preparation authorized or recognized by the Pharmacopœia of the United States or used, or intended to be used in medical practice, or shall mix, or cause to be mixed, with any such drug or medicinal substance any foreign or inert substance whatever, for the purpose of destroying or weakening its medi-

cinal power or effect, or of lessening its cost, and shall willfully, knowingly, or fraudulently sell the same, or cause it to be sold, for medicinal purposes, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred and fifty dollars, or by imprisonment for not less than fifty days nor more than three months, or by both such fine and imprisonment. Every registered pharmacist shall file or cause to be filed all physicians' prescriptions, or copies thereof, compounded or dispensed in his pharmacy or store, and any person who shall willfully fail so to do shall be punished by a fine not exceeding fifty dollars, and for each subsequent offense shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars. The State Board of Pharmacy may at any time, when in their judgment it appears advisable, deputize one of their members, or any other competent person, to investigate any suspected violation of any of the provisions of this chapter, and, if the result of such investigation seems to the board to justify such action, the board shall cause the prosecution of any person violating any of the provisions of this chapter. (Id. § 4803.)

97. Penal Provisions.—Any person who shall attempt to secure, or secures registration for himself or any other person under this chapter by making or causing to be made any false representations, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment. Any person who shall permit the compounding of prescriptions of medical practitioners, or the selling of drugs and medicines, in his or her store or pharmacy, except under the direct, immediate and personal supervision of a registered pharmacist, or any person not registered who shall retail medicine, poisons or chemicals, except in a pharmacy under the direct, immediate and personal supervision of a registered pharmacist, or any person violating any of the provisions of this chapter, when no other penalty is provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, or by imprisonment for not less than twenty days nor more than three months. All fines recoverable under this chapter shall be paid by the magistrate receiving the same to the State Board of Pharmacy. Any person convicted of violating the provisions of this chapter the third time shall, in addition to the penalties hereinbefore mentioned, have his or her registration as a pharmacist canceled. Nothing in this chapter shall apply to or interfere with any practitioner of medicine, who is duly registered as such by the State Board of Medical Examiners of this State, with supplying his own patients, as their physician, and by them employed as such, with such remedies, as he may desire, and who does not keep a pharmacy, open shop, or drug store, advertised or otherwise for the retailing of medicine or poisons, nor does this chapter apply to the exclusively wholesale business of any dealer. Nor does this chapter apply to registered, trademarked or copyrighted proprietary medicines, registered in the United States Patent Office, nor to the sale of proprietary medicines, when manufactured under the supervision of a registered pharmacist in the State of Arizona for which trademarks may have been filed with the Secretary of State of Arizona, by merchants possessing a license issued by the Board of Pharmacy, as described in section 15 [R. S. 1913, § 4807] of this chapter. (Id. § 4804.)

98. Penal Provisions.—Any proprietor of a pharmacy or store which maintains a drug department who shall fail, or neglect to place in charge of such pharmacy or drug department a registered pharmacist, or any such proprietor who shall, by himself or any other person, permit the compounding of prescriptions, or the vending of drugs, medicines, or poisons, in his or her store, or place of business, except by or in the presence and under the direct, immediate and personal supervision of a registered pharmacist, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for a term of not more than fifty days, or by both such fine and imprisonment. (Id. § 4805.)

99. Temporary Certificates.—Any member of the Board of Pharmacy, or inspector duly authorized by said board, may examine applicants orally or in writing, and issue a temporary certificate to practice pharmacy, which shall authorize such practice for a period not to exceed six months from its date. The issuance of such temporary certificate shall not entitle the holder thereof to a permanent certificate, and no permanent certificate shall be issued to such holder until he passes a satisfactory examination by the board. The member or authorized inspector conducting the examination as herein set forth shall be entitled to charge

and receive the sum of three dollars for such certificate, said moneys to be paid to the Board of Pharmacy. (Id. § 4806.)

100. Permits to Dealers in Rural Districts.—The Board of Pharmacy shall issue a permit to general dealers in rural districts in which the conditions, in their judgment, do not justify the employment of a registered pharmacist, and where the store of such general dealer is not less than three miles distant from the store of a registered pharmacist, which permit shall authorize the person or firm named therein to sell in such locality, but not elsewhere, and under such restrictions and regulations as said board may from time to time adopt, the following simple household remedies and drugs, and any other, in such manner and form as may be hereafter authorized by said board, as follows, to wit:

Tincture of arnica, spirits of camphor, almond oil, distilled extract witch-hazel, syrup of ipecac, syrup of rhubarb, hive syrup, sweet spirits of nitre, tincture of iron, epsom salts, rochelle salts, senna leaves, carbonate of magnesia, seidlitz powders, quinine, cathartic pills, camomile flowers, caraway seed, chlorate of potash, moth balls, plasters, salves, ointments, peroxide of hydrogen, copperas, gum camphor, asafoetida, saffron, anise seed, saltpeter.

The board shall charge in advance an annual fee of one dollar for such permit, and it shall be unlawful for any dealer to sell any drugs or ordinary household remedies without complying with the requirements of this section. Whenever a registered pharmacist shall establish a pharmacy within one mile by the shortest road from the place of business of such general dealer, no further license shall be granted, and the license already issued shall be void; provided, that the following drugs, medicines, and chemicals may be sold by grocers and general dealers without restriction, viz.:

Glauber salts, vaseline, turpentine, condition powders, cream of tartar, carbonate of soda, bay rum, essence of peppermint, ammonia, alum, castor oil, bicarbonate of soda, chloride of lime, glycerine, witch-hazel, sheep dip, borax, sulphur, blue stone, flaxseed, insect powder, fly-paper, when prepared and labeled with the official poison labels. (Id. § 4807.)

101. List of Druggists to be Furnished Board.—It shall be the duty of the Board of Pharmacy, by resolution, when they deem it necessary, to request of the chief of police, marshal, or constable of every city, town, or township in this State, to furnish a list of all drug stores, together with the names of the owners, managers, and all employees, in said stores, and a brief statement of the capacity in which said persons are employed in said stores, and also the firm name of all stores retailing drugs, medicines or poisons. Upon such request in writing, it shall be the duty of the chief of police, marshal, or constable of said city, or town, on their respective beats, to obtain such lists as are in this section specified, and deliver the same to the Board of Pharmacy. It shall be the duty of the owner or manager of any drug store or other store retailing drugs, medicines or poisons, when called upon by an officer as above set forth, or by a member of the Board of Pharmacy, or a duly authorized inspector, to furnish said officer, member of the Board of Pharmacy or duly authorized inspector with the information required. Any person refusing to furnish the information, or willfully furnishing information that is false or untrue, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than fifty dollars, or by imprisonment for not less than twenty days nor more than fifty days, or by both such fine and imprisonment. (Id. § 4808.)

102. Prosecutions.—The several penalties prescribed in this chapter may be recovered in any court having jurisdiction, by a civil action instituted by the Board of Pharmacy, in the name of the State of Arizona, or by criminal prosecution, upon complaint being made; and it shall be the duty of the county attorney of the county wherein violations of the provisions of this chapter occur to conduct all such actions and prosecutions at the request of the board. (Id. § 4809.)

103. Pharmacists Exempt From Jury Duty.—All persons registered under this chapter shall be exempt and free from jury duty. (Id. § 4810.)

104. Poisons.—It shall be unlawful for any person to vend, sell, give away or furnish, either directly or indirectly, any poisons enumerated in schedules "A" and "B" in section 24 [R. S. 1913, § 4816] of this chapter as hereinafter set forth, without labeling the package, box, bottle or paper in which said poison is contained, with the name of the article, the word "poison," and the name and place of business of the person furnishing the same. Said label shall be substantially in the form hereinafter provided. It shall be unlawful to sell or deliver any of the poisons named in schedule "A" or any other dangerously poisonous drugs, chemical, or medicinal substance, which may from time to time be designated by the State Board of Pharmacy of Arizona, unless on inquiry it is found that the

person desiring the same is aware of its poisonous character, and it satisfactorily appears that it is to be used for a legitimate purpose. It shall be unlawful for any person to give a fictitious name or make any false representation to the seller or dealer when buying any of the poisons thus enumerated. Printed notice of all such additions to the schedule of poisons, named and provided for in this chapter, shall be given to all registered pharmacists with the next following renewal of their certificates. It shall be unlawful to sell or deliver any poison included in schedule "A" or in the additions thereto, without making or causing to be made, an entry in a book kept solely for that purpose, stating the date and hour of the sale and the name, address and signature of the purchaser, the name and the quantity of the poison sold, the statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a duly registered pharmacist.

Said book shall be in form substantially as follows:

Date and hour.....	
Name of purchaser.....	
Residence	
Kind and quantity.....	
Purpose of use.....	
Signature of dispenser.....	
Signature of purchaser.....	

Said book shall always be open for inspection by the proper authorities, and shall be preserved for at least five years after the date of the last entry therein; provided, that ant poisons, squirrel poisons, gopher poisons, and arsenical poisons used for orchard spraying, when labeled with the official poison labels shall be exempt from the special provisions concerning the sale of those poisons listed in schedule "A" of this chapter. (Id. § 4811.)

105. Poison Labels.—The label required, by this chapter, to be placed on all packages of poison, shall be printed upon red paper in distinct white letters, or in distinct red letters upon white paper, and shall contain the word "poison," the "vignette" representing the skull and cross-bones, and the name and address of the person or firm selling the same. The name of an antidote, if any there be, for the poison sold, shall also be upon the package together with directions for the use of such antidote. No poison shall be sold or delivered to any person who is less than eighteen years of age. (Id. § 4812.)

106. Entries to be in English.—The entries in the poison book and the printed or written matter provided for in section 20 [R. S. 1913, § 4812] of this chapter shall be in the English language; provided, that the vendor of said poison may enter the same in any foreign language he may desire, in addition to said entry and label in English. (Id. § 4813.)

107. Board May Make Additional Regulations.—When, in the opinion of the State Board of Pharmacy, it is in the interests of the public health to further restrict or prohibit the retail sale of any poison, it is hereby empowered to adopt such rules, not inconsistent with the provisions of this chapter, and applicable to all persons alike, as may be necessary to accomplish that purpose. It shall be the duty of the board upon the request of any dealer to furnish him with the list of all articles, preparations, and compounds, the sale of which is prohibited or regulated by this chapter or by the rules of the board. (Id. § 4814.)

108. Duties of Wholesale Dealers.—Wholesale dealers and pharmacists shall affix or cause to be affixed to every bottle, box, parcel or other enclosure of an original package, containing any of the articles named in schedule "A" or in any of the additions thereto, or in section 25 [R. S. 1913, § 4817] of this chapter, a suitable label, or brand, with the word "poison" but they are hereby exempted from the registration of the sale of such articles when sold at wholesale to a registered pharmacist, physician, dentist or veterinary surgeon duly licensed to practice in the State; provided, that the provisions of this chapter shall not apply to the sale of such articles upon prescriptions of practicing physicians, dentists or veterinary surgeons who are duly licensed to practice in this State. (Id. § 4815.)

109. Schedules "A" and "B."—The following is schedule "A" referred to in section 19 [R. S. 1913, § 4811], viz:

Arsenic, its compounds and preparations; corrosive sublimate and other poisonous derivations of mercury; strychnine; hydrocyanic acid; oils of croton, rue and tansy; phosphorus, and its poisonous derivatives or compounds; strophantus or its preparations; aconite; belladonna; nux vomica, veratrum viride, their preparations, alkaloids or derivatives.

The following is schedule "B":

Antiseptic tablets containing corrosive sublimate; cyanide of potassium; compound solution cresol; lysol; carbolic acid; denatured alcohol; hydrochloric or muriatic acid; nitric acid; oxalic acid; sulphuric acid; bromide, chloroform; cowhage; creosote, ether, solution of formaldehyde or formalin; cantharides, cocculus indicus, indian hemp or their preparations; iodine, or its tinctures; oils of savin and pennyroyal, tartar emetic and other poisonous derivatives of antimony; sugar of lead; sulphate of zinc; wood alcohol. (Id. § 4816.)

110. Prescriptions Containing Opium, etc., Not to be Refilled; Duties of Physicians.—No pharmacist, druggist, apothecary or other person shall refill, more than once, prescriptions containing opium or morphine or preparations of either of them, or cocaine or chloral, in which the dose of opium shall exceed one-quarter of a grain, or of morphine one-twentieth of a grain, or of cocaine one-half of a grain, or of chloral ten grains, except upon written order of a physician.

It shall be unlawful for any person doing business in which drugs, medicines or poisons are retailed, or physicians' prescriptions are compounded or dispensed, to sell at retail any of the drugs or preparations of either of them, mentioned in this section, without first receiving from the purchaser a prescription blank properly filled and signed by a duly licensed physician, druggist, dentist, or veterinarian. Such prescription shall be retained by the person who dispenses the same and shall be filled but once from which no copy shall be taken by any person, and he shall keep such prescription in a separate file or book and shall make or cause to be made an entry in a book kept for that purpose stating the date of same, the name and address of the purchaser and the name of the person making such sale; provided, that the above provisions shall not apply to preparations sold or dispensed without a physician's prescription, containing not more than ten grains of opium or two-thirds grain of heroin or one-fourth grain of morphia or two grains of codeine or two hundred and forty grains of chloral hydrate in one fluid ounce, providing the dose is not given as more than one fluid dram or if a solid preparation in one avoirdupois ounce and provided further that the above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers to pharmacies.

All physicians, druggists, veterinarians and dentists shall keep on record the name and address of each person to whom such physician, druggist, dentist, or veterinarian administers or disposes of in any way whatsoever any of the drugs enumerated in this section, and the quantity so administered, disposed of or given away. Such record shall be preserved for five years and shall always be open for inspection by the proper authorities.

Whenever a physician has prescribed the use of, administers, or gives to be taken, one or any of the drugs enumerated in this section, daily, for the period of three weeks, or issues a prescription for a quantity of any such drug, or gives to be taken a quantity of any such drug sufficient for a period of three weeks or more, such physician shall not continue to prescribe or give such drug to any person without first consulting with another physician, or with a physician designated by the board of health, and obtaining the consent of either to the further use of any such drug, and also making a report in writing to the health officer of the city, or town, in which such physician resides, on a form to be prepared and furnished by the State health officer, and furnished to all local boards of health. Such report shall contain the name, age, sex, color, occupation, place where employed and address of every person so treated. (Id. § 4817.)

111. Penal Provisions.—Any person violating any of the provisions of section 25 [R. S. 1913, § 4817] of this chapter shall, upon conviction, be punished as follows, viz.: For the first offense, by a fine of not less than one hundred dollars, nor more than two hundred dollars, or by imprisonment for not more than one hundred days, or by both such fine and imprisonment; for the second offense, by a fine of not less than two hundred and fifty dollars, nor more than five hundred dollars, or by imprisonment for not more than two hundred days, or by both such fine and imprisonment; and for the third offense, by imprisonment in the State Prison for not less than one year nor more than five years. Any person violating any of the provisions of this chapter, except those contained in section 25 [R. S. 1913, § 4817] shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than thirty dollars, nor more than one hundred dollars, or by imprisonment for not more than fifty days, or by both such fine and imprisonment. All fines collected shall be paid, seventy-five

per cent to the State Board of Pharmacy, and twenty-five per cent to the county treasurer of the county in which the prosecution is conducted. (Id. § 4818.)

112. County Attorney to Prosecute.—It is hereby made the duty of the county attorney of the county, wherein any violation of this chapter is committed, to conduct all actions and prosecutions for the same, at the request of the Board of Pharmacy. (Id. § 4819.)

113. Mescal-Peyote, Sale of etc., Unlawful.—It shall be unlawful for any person, firm, corporation or association to sell, furnish or give away, or offer to sell, furnish or give away, or to have in his or its possession Peyote (Pellote), botanically known as *Lophophora Williamsii*; or *Agave Americana*, commonly known as the mescal button; or any compound, derivative or preparation thereof. (L. 1923, c. 48, § 1.)

114. Penalty.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$300.00, or by imprisonment in the county jail for a period of not to exceed six months, or by both such fine and imprisonment. (Id. § 2.)

115. Penalty for Keeping Opium Resorts.—Every person who opens or maintains to be resorted to by other persons, any place where opium or any of its preparations are sold or given away, to be smoked at such place, and any person who at such place, sells or gives away any opium or any of its preparations, to be there smoked, or otherwise used, and every person who visits or resorts to any such place for the purpose of smoking opium, or its said preparations, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. (R. S. 1913, Penal Code, § 291.)

116. Renting, etc., for Such Purpose, a Misdemeanor.—Any person renting, leasing or using any house, room, apartment or other place as a resort for the purpose of indulging in the use of opium or any preparation containing opium, or being the owner of such house, room or apartment, knowingly suffers it to be used for such purpose, shall be guilty of a misdemeanor. (Id. § 292.)

117. Forfeiture of Lease for Such Illegal Use.—If any person shall use any house, room, apartment or other place leased to him, for any of the purposes forbidden by the two preceding sections, such illegal use shall, at the option of the lessor, operate as a forfeiture of such lease, and of all rights given thereby, whether the same be expressed or not in such lease. (Id. § 293.)

118. Sale Without Physician's Prescription a Misdemeanor; Penalty.—Any person who shall sell or give away opium or any of its alkaloids or extracts, cocaine or chloral, or any preparation or prescription known to contain the aforementioned drugs, except on the prescription of a reputable physician, who is in regular practice of his profession, or who shall refill a prescription containing said drugs without an order from the physician giving the same, shall be deemed guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars or more than one hundred dollars for each offense. (Id. § 294.)

119. Penalty for Giving, etc., to Habitual User.—Any person giving or selling said drugs aforementioned to any one known to be a habitual user of said drugs, except as prescribed in the preceding section shall, upon conviction of the same, be fined in any sum not less than one hundred dollars nor more than three hundred dollars for each offense. (Id. § 295.)

120. Selling to Inmates of Public Institutions; Penalty.—Any person who shall sell any of the drugs mentioned in section 294 to any one who has been confined in any public institution, the cause of which confinement has been alleged to have been the use of said drugs, shall be fined in the sum of not less than one hundred dollars and imprisonment in the county jail for a period of not less than ninety days. (Id. § 296.)

120a. Penalty for Furnishing Narcotics, Etc., to Convicts; Exceptions.—Any person who shall knowingly sell or give, furnish, or cause to be given, sold or furnished, or aid or assist in giving, selling or furnishing to any person theretofore convicted of any crime and sentenced to imprisonment in the State Prison, while outside the walls, or employed upon or engaged in the construction or repair of State roads or other public works outside the walls of the State Prison, any intoxicating liquor, or any opium, morphine, cocaine or other narcotic, except upon written prescription of a reputable physician, or who shall give, sell or furnish, or cause to be furnished or aid or assist in giving, selling or furnishing to any such person any firearms, weapons or explosives of any kind or any tools, implements or other things designed to facilitate the escape of such person, is guilty of a misdemeanor. (Id. § 163.)

Serum.

121. State Veterinarian to Dispense, etc.—It shall be the duty of the State Veterinarian to keep on hand at all times a supply of anti-hog cholera serum, vaccine for black-leg and other serums for the treatment of infectious or contagious diseases of live stock, and to dispense the same at actual cost to owners of hogs and other live stock in Arizona, whenever he may deem it necessary or advisable to do so, and under such rules and regulations as he may prescribe, to stamp out or prevent outbreaks of any such infectious or contagious diseases. (L. 1915, c. 19, § 1.)

122. Board of Supervisors Made Depository.—The State Veterinarian may, in his discretion, make any board of supervisors in the State a depository for any such serum or vaccine, to be by the said board of supervisors sold or dispensed as herein provided, and under such rules as the said State Veterinarian may prescribe. Whenever the State Veterinarian shall so deposit any of said serum or vaccine the board of supervisors with which the same is deposited shall give the said veterinarian a receipt therefor, and shall account and be responsible to him for the same or the value thereof, and that the board of supervisors of each county report on January first and July first annually, and as often additionally as he may require, to the State Veterinarian. (Id. § 2.)

123. Appropriation.—For the purpose of carrying this act into effect there is hereby appropriated from the general fund of the State two thousand dollars, or so much thereof as may be necessary, and upon the presentation of properly prepared claims for the purchase of any such serum or vaccine, certified to and approved by the State Veterinarian, the State Auditor is authorized and directed to draw his warrant and the State Treasurer is authorized and directed to pay the same. (Id. § 3.)

Intoxicating Liquors.

124. Manufacture, Sale, etc., of Intoxicating Liquors a Misdemeanor.—Ale, beer, wine or any malt, vinous or spirituous liquors or any mixture or preparation of like nature, or any intoxicating liquors of any kind shall not be manufactured in or introduced into the State or Arizona under any pretense. Every person who sells, gives, barters or disposes of any ale, beer, wine or any malt, vinous or spirituous liquors or any mixture or preparation of like nature, or any intoxicating liquors of any kind to any person in the State of Arizona, or who manufactures or introduces into or attempts to introduce into the State of Arizona any ale, beer, wine or any malt, vinous or spirituous liquors or any mixture or preparation of like nature, or any intoxicating liquors of any kind shall be guilty of a misdemeanor. (L. 1917, c. 63, § 1.)

125. Importation, Transportation, etc., of Intoxicating Liquors, Unlawful; Exceptions.—It shall be unlawful for any person in the State of Arizona to receive, or cause to be received, from without the State of Arizona for any purpose, any ale, wine, beer or any malt, vinous or spirituous liquors or any mixture or preparation of like nature, or any intoxicating liquors of any kind, and it shall be unlawful for any person in the State of Arizona to have in his possession, for any purpose any ale, wine, or beer or any malt, vinous or spirituous liquors or any mixture or preparation of like nature or any intoxicating liquors of any kind, which he has introduced or caused to be introduced into the State of Arizona, and it shall be unlawful for any person to transport or cause to be transported, within the State of Arizona any ale, wine, beer or any malt, vinous or spirituous liquors or any mixture or preparation of a like nature, or any intoxicating liquors of any kind, provided that it shall be lawful for any regularly ordained priest or clergyman of an established church to receive, transport and possess wine to be used for sacramental purposes, and provided, further, that the University of Arizona through its Board of Regents, may introduce, receive, transport and possess grain alcohol for scientific uses, and may use and may distribute such alcohol under such restrictions and regulations as said Board of Regents may from time to time adopt, to other institutions of research and learning, for scientific uses. Provided, also, that nothing herein shall prevent the manufacture and sale of such preparations as flavoring extracts, essences, tinctures, perfumes or remedies containing drugs or medicines which do not contain more alcohol than is necessary for legitimate purposes for extraction, solution or preservation, and which contain drugs in sufficient quantity to medicate such compounds, and which are sold for legitimate and lawful purposes and not as

beverages. And provided further, that nothing herein shall prevent the introduction, transportation and possession of denatured alcohol. (Id. § 2.)

126. Advertising; Common Carriers.—It shall be unlawful for any person, association or corporation, either directly or indirectly, to advertise intoxicating liquors in this State for sale or gift in any newspaper, periodical, circular, handbill, or price list, or on any sign, signboard, billboard, bulletin-board, or in any manner whatsoever; or for any owner, officer or person in charge of any newspaper, periodical, sign, sign-board, billboard, bulletin-board, printing office, advertising agency or publicity bureau, or any other person, to publish or distribute any matter in this State which either directly or indirectly advertises intoxicating liquors for sale or gift. . . .

It shall be unlawful for any common or special carrier or for any person, association or corporation, to carry any intoxicating liquors into this State or from one point to another within this State for the purpose of delivery, or to deliver the same to any person, company or corporation within the State except for such purposes as are heretofore stated. There shall be no property rights of any kind in liquors or vessels used for the purpose of violating the law. . . . (Id. § 3.)

127. Penalties.—Any person who shall violate any provisions of this act or any rule or regulation thereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned for not less than ten days or more than two years, and fined not less than twenty-five dollars and costs, nor more than three hundred dollars and costs for each offense, and the liquors received, transported, possessed, manufactured, introduced or disposed of in violation of this act shall be by the court publicly destroyed. (Id. § 4.)

128. Tulapai, etc., Sale and Manufacture, Misdemeanor.—Any person who sells or furnishes, or causes to be sold or furnished to any Indian of whole or mixed blood any tulapai, tiswin, or corn beer, or who manufactures, causes to be manufactured, or aids in any manner in the manufacture of, or in the sprouting of corn or any other cereal for the purpose of manufacturing tulapai, tiswin or corn beer, shall be guilty of a misdemeanor. (L. 1917, c. 26, §1.)

PART IV.

Miscellaneous Laws.

False Advertising.

129. False or Misleading Advertising a Misdemeanor; Exceptions.—Any person, firm, corporation or association, or any employee thereof, who with intent to sell, furnish, perform, or in any way dispose of real or personal property, choses in action, merchandise, service, professional or otherwise, or anything of any nature whatsoever offered by such person, firm, corporation or association, or any employee thereof, directly or indirectly, to the public for sale or distribution, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or any interest therein, shall make, publish, disseminate, circulate, or cause to be made, published, disseminated, or circulated or in any manner, place or cause to be placed, before the public in the State of Arizona, in any newspaper, magazine or book, pamphlet, circular, letter, notice, hand bill, poster or other publication, or any billboard, sign, card, label, or other window sign, show case or window display, or by any other advertising device, or by public outcry or proclamation, or in any other means whatever, an advertisement of any sort regarding such real or personal property, choses in action, merchandise, service or anything so offered to the public, which advertisement shall contain any statement, representation or assertion concerning such real or personal property, choses in action, merchandise, service or anything so offered to the public, or concerning any circumstances, or matter of fact, connected in any way, directly or indirectly, with the proposed sale, performance, or distribution thereof, which statement, representation or assertion is false or untrue in any respect, or which is deceptive or misleading, and which is known to be false or untrue, deceptive or misleading, by the person, firm, corporation or association making, publishing, disseminating, circulating or placing before the public such advertisement, shall be guilty of a misdemeanor; provided, however, that this act shall not apply to any

publisher of a newspaper, magazine or other publication, who publishes said advertisement in good faith, without knowledge of its false, deceptive or misleading character. (L. 1919, c. 136, § 1.)

130. Verbal or Printed False Statements as to Quality, etc., a Misdemeanor.—Any person, firm or corporation doing business in this State as a merchant, who advertises or displays any brand of goods known to the general public and quotes prices in connection therewith as an inducement to attract purchasers to the place of business so advertised, who shall make verbal or show printed or written false statements regarding quality or merits of the goods advertised, is guilty of a misdemeanor. (Id. § 2.)

131. Penalties.—Any person found guilty of violating the above statute shall be liable for the first offense to a fine of not less than \$25.00 nor more than \$250.00 or to imprisonment in the county jail for a period of not less than thirty days nor more than ninety days. For the second offense he shall be liable to a fine of not less than \$50.00 nor more than \$500.00 or imprisonment in the county jail for not less than sixty days nor more than six months. For the third offense he shall be liable to a fine of not less than \$100.00 nor more than \$1,000.00, or to imprisonment in the county jail for a period of not less than ninety days nor more than one year. (Id. § 4.)

Flag Desecration.

132. Definition.—The words flag, standard, color, ensign or shield, as used in this act, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this State, or a copy, picture or representation thereof. (L. 1919, c. 8, § 1.)

133. Desecration.—No person shall, in any manner, for exhibition or display: (a) place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this State, or authorized by any law of the United States or of this State; or (b) expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended or affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or (c) expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance. (Id. § 2.)

134. Mutilation.—No person shall publicly mutilate, deface, defile, defy, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield. (Id. § 3.)

135. Exceptions.—This statute shall not apply to any act permitted by the statutes of the United States (or of this State), or by the United States Army and Navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted such flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement. (Id. § 4.)

136. Penalty.—Any violation of section two of this act shall be a misdemeanor and punishable by a fine of not more than three hundred dollars. Any violation of section three of this act shall be punishable by a fine of not more than two thousand dollars, or by imprisonment for not more than three hundred and sixty-five days, or by both fine and imprisonment in the discretion of the court. (Id. § 5.)

Tobacco—Tobacco Products.

137. Sale of Cigars, Cigarettes, etc., to Minors, Unlawful.—It shall be unlawful for any person in the State of Arizona to sell, give or furnish, or cause to be sold, given or furnished, any cigars, cigarettes or cigarette papers, smoking or chewing tobacco, of any kind or character to any person under the age of twenty-one (21) years, and it shall be unlawful for any minor in the State of Arizona to buy, or have in his possession, or accept or receive from any person,

any cigars, cigarettes or cigarette papers, smoking or chewing tobacco of any kind or character. (R. S. 1913, Penal Code, § 299, as amended L. 1921, c. 63.)

138. Penalty.—The violation of the preceding section shall be a misdemeanor and the person guilty thereof shall be fined for each offense not less than ten nor more than one hundred dollars. (R. S. 1913, Penal Code, § 300.)

Trade-Marks, Etc.

139. Counterfeiting, etc., of Trade-Mark, a Misdemeanor.—Every person who willfully reproduces, copies, forges or counterfeits, imitates or procures to be reproduced, copied, forged, counterfeited, or imitated, any trade-mark usually affixed by any person to his goods, with intent to pass off any goods to which such forged or counterfeited trade-mark is affixed, or intended to be affixed, as the goods of such person, is guilty of a misdemeanor. (R. S. 1913, Penal Code, § 350.)

140. Sale of Goods With Counterfeited Trade-Mark, a Misdemeanor.—Every person who sells or keeps for sale any goods upon or to which any counterfeited trade-mark has been affixed, after such trade-mark has been affixed, intending to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor. (Id. § 351.)

141. "Forged" or "Counterfeited Trade-Mark" Defined.—The phrases "forged trade-mark" and "counterfeited trade-mark," or their equivalents, as used in this chapter, include every alteration or imitation of any trade-mark so resembling the original as to be likely to deceive. (Id. § 352.)

142. "Trade-Mark" Defined.—The phrase "trade-mark," as used in the three preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper, usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description. (Id. § 353.)

143. Misdemeanor to Use Any Article, Bearing Trade-Mark of Another Person, With Fraudulent Intent.—Every person who has or uses any cask, bottle, vessel, case, cover, label, or other thing bearing or having in any way connected with it the duly filed trade-mark or name of another, for the purpose of disposing, with intent to deceive or defraud, of any article other than that which such cask, bottle, vessel, case, cover, label, or other thing originally contained, or was connected with, by the owner of such trade-mark or name, is guilty of a misdemeanor. (Id. § 354.)

Weights and Measures.

144. Standards Adopted.—The weights and measures received from the United States under a resolution of Congress approved June 14, 1886, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards by which all municipal standards of weights and measures shall be tried, approved, and sealed. (R. S. 1913, Civil Code, § 5510.)

145. State Inspector.—There shall be a State Inspector of Weights and Measures who shall be appointed by the Governor by and with the advice and consent of the Senate. Such inspector shall be appointed for a term of two years, and shall receive a salary of two thousand dollars per year. The State Inspector of Weights and Measures shall be allowed for clerical services and for traveling and contingent expenses for himself such sums as shall be appropriated by the Legislature.

For inspecting, testing, and sealing, weights and measures, the State Inspector shall charge, and collect from, the person owning or using such weight or measure, the following fees; provided, however, that no fee shall be charged or collected for the inspection of weights or measures, or weighing or measuring devices, of any State institution.

For each counter scales of capacity of 6 pounds or less	\$.15
For each counter scales of capacity of more than 6 pounds	.25
For each counter scales of 1,000 pounds or less	.50
For each portable platform scales of capacity of more than 1,000 pounds	1.00
For each dormant or floor scales	2.50
For each railroad track scales	5.00
For each spring scales of capacity of 30 pounds or more	.50
For each spring scales of capacity of less than 30 pounds	.25
For all other scales, instruments, and devices for weighing, not herein specified, each	.50
For each measure containing 1 gallon or less	.05
For each measure containing more than 1 gallon, for the first gallon, and for each additional gallon or fractional part thereof	.05
For each yard measure or fractional part thereof	.05

Provided, however, that where any weight or weights, measure or measures, scale or scales, balance or balances, scale beam or scale beams, steelyard or steelyards, or any other instrument or device for weighing or measuring, used by or belonging to any person, firm, or corporation, shall be tested by said inspector oftener than once per year, no fee or fees shall be charged or collected for more than one inspection per year, except in case such instrument or device be found upon a subsequent testing to be false and incorrect, whereupon the regular fee shall be collected and paid.

The inspector shall keep an itemized list of all fees collected by him in pursuance of this title, and at the end of each month he shall turn said fees and said itemized list over to the State Treasurer and take his receipt therefor. (Id. § 5511.)*

146. Further Duties of State Inspector.—The State Inspector of Weights and Measures shall take charge of the standards adopted by this title as the standards of the State, and cause them to be kept in a fireproof building belonging to the State (or in a safe and suitable place in the office of the inspector), from which they shall not be removed except for repairs or for certification; and he shall take all other necessary precautions for their safe-keeping. He shall maintain the State standards in good order, and shall submit them at least once in ten years to the National Bureau of Standards for certification. He shall at least once in two years try and prove by the State standards, all standards, weights, measures, and other testing apparatus, which may belong to any city, and shall seal such when found to be accurate by stamping on them the letter "A" and the last two figures of the year, with seals which he shall have and keep for that purpose. He shall procure, at the expense of the State, a portable set of weights and measures, balances and other necessary testing appliances, to be used in the inspection of all weights, or measures, weighing or measuring devices, owned by the State, or by any person, firm, or corporation, or by any agent, lessee, or employee thereof in all precincts, towns or cities with a population of not more than five thousand nor less than nine hundred inhabitants according to the latest official State or United States census. He shall compare such portable set of weights and measures, balances, and other necessary testing appliances, with the State standards, at least once annually, and in the event such portable set of standards is found to be inaccurate, he shall cause it to correspond with the State standards in his custody. He shall have and keep a general supervision of the weights and measures, weighing and measuring devices, offered for sale, sold, or in use in the State. He shall upon the written request of any citizen, firm, corporation, or educational institution in the State, test or calibrate weights, measures, or other weighing or measuring devices and instruments or apparatus used as standards in the State. He shall at least once annually test all scales, weights, and measures, used in checking the receipts or disbursements of supplies in any institution for the maintenance of which moneys are appropriated by the

* The authorization of the employment of person or persons and the performance of sundry duties and things and the payment of salaries, wages, compensation, costs and expenses of whatsoever kind, provided, directed or authorized in Paragraph, * * * 5511 pertaining to the office of State Inspector of Weights and Measures, of the Revised Statutes of Arizona, 1913, Civil Code, * * * shall not be construed as an appropriation of any sum or sums of money for such purposes, and the same shall be paid only upon authority of the proper officer and out of the General Fund and the appropriation for the proper department, institution or office, authorized in the General Appropriation Bill. (L. 1922, c. 35, § 153.)

Legislature, and he shall report in writing his findings to the supervisory board, and to the executive officers of the institution concerned, and, at the request of such board or executive officers, the State Inspector of Weights and Measures shall appoint one or more employees then in the actual service of such institution who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies. He shall keep a complete record of the standards, balances, and other apparatus, belonging to the State, and take a receipt for the same from his successor in office. He shall annually on the first day of June make to the Governor a report of the work done by his office. The State Inspector shall inspect all standards and apparatus used by the cities at least once in two years, and shall keep a record of the same. He shall at least once every year visit the various cities of the State having city sealers, in order to inspect the work of such local sealers, and in the performance of such duties he may inspect the weights, measures, balances, or any other weighing or measuring appliances, of any citizen, firm, or corporation, and shall have the same powers as the local sealer of weights and measures. It shall be the duty of the State Inspector, and he is hereby empowered, in all precincts, towns, or cities of not less than nine hundred nor more than five thousand inhabitants, according to the latest official State or United States census, and in all other places and precincts whenever request is filed with his office so to do, to inspect, test, try, and ascertain if they are correct, at least once a year and as much oftener as he may deem necessary, all weights, scales, beams, measures of every kind, instruments or mechanical devices for weighing or measuring, and tools, appliances, or accessories, connected with any or all such instruments, kept, offered, or exposed for sale, sold, or used, or employed, within the city by any proprietor, agent, lessee, or employee, in proving the size, quantity, extent, area, or measurements, or quantities of things, produce, or articles for distribution or consumption, offered or submitted by any such person or persons for sale, hire, or reward; and he shall have the power to and shall from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold, or in the process of delivery, in order to determine whether the same contains the amount represented, and whether they be offered for sale or sold in a manner in accordance with law. He may for the purpose above mentioned and in the general performance of his official duties, enter and go into or upon and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some convenient place for the purpose of making the proper test. When the State Inspector finds a violation of the statutes relating to weights and measures, he may cause the violator to be prosecuted. When the inspector compares weights or measures, or weighing or measuring instruments, and finds that they correspond with the standards in his possession, he shall seal or mark such weights or measures, or weighing or measuring instruments, with appropriate devices. He shall condemn and seize, and may destroy incorrect weights, or measures, or weighing or measuring instruments, which in his best judgment are not susceptible of satisfactory repair; but such as are incorrect and yet may be repaired he shall mark or tag as "condemned for repairs." The owner or users of any weights or measures, or weighing or measuring instruments, of which such disposition is made shall have the same repaired or corrected within fifteen days, and they may not use or dispose of the same in any way, but shall hold the same at the disposal of the inspector. Any apparatus which has been "condemned for repairs" and has not been repaired as required above, shall be confiscated by the inspector.

The State Inspector shall keep in a book, together with a card index system to be furnished him by the State, a complete list of all scales, or weights, or weighing or measuring devices, inspected and tested by him, the name of the person, firm or corporation, owning the same, and the date and result of all inspections, and shall at all times keep the same open to the inspection of the public.

The State Inspector shall issue from time to time regulations for the guidance of city sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties.

The State Inspector shall forthwith on his appointment give a bond in the penal sum of five thousand dollars with sureties to be approved by the Governor for the faithful performance of the duties of his office, and for the safety of the standards entrusted to his care and for the surrender thereof immediately to his successor in office or to the person appointed by the Governor to receive them. (Id. § 5512.)

147. State Inspector to Test Apparatus.—It shall be the duty of the State Inspector of Weights and Measures, in unincorporated or incorporated cities or towns with a population of not more than five thousand or less than nine hundred inhabitants, according to the latest official State or United States census, at least once in every two years, and as much oftener as he may deem necessary, to test the accuracy of every meter used or to be used in the measuring of any water, electricity or gas furnished or to be furnished to the consumer through such meter. If the meter tested shall, upon test thereof, by the inspector, be found to measure too fast or too slow by as much as three per centum, such meter shall be condemned by him and shall not be again used or used at all until corrected and made to measure accurately. Unless any water, gas or electric meter is made to conform with the standard of such State Inspector within thirty days after the date of the condemnation by such inspector, the said State Inspector is not required to retest such condemned water, gas, or electric meter for a period of one year thereafter.

The State Inspector shall keep in a book, together with a card index system to be furnished him by the State a complete list of all meters inspected and tested by him, the name of the person, firm, or corporation owning the same, the name of the furnisher of the water, gas, or electricity, the name of the consumer thereof, and the date and result of all inspections, and shall at all times keep the same open to the inspection of the public. (Id. § 5513.)

148. Same (continued).—He shall, upon the written request of any citizen, firm or corporation, or educational institution in the State, test any water, gas or electric meters, used as standards in the State. He shall, at least once every year, test all water, gas, and electric meters used in any institution for the maintenance of which moneys are appropriated by the Legislature, and he shall report in writing his findings to the supervisory board and to the executive officers of the institution concerned. (Id. § 5514.)

148a. Powers and Duties of City Sealer.—There shall be a city sealer of weights and measures in unincorporated or incorporated towns or cities of not less than five thousand population according to the latest official State or United States census, who shall be appointed by the common council of such city for a period of one year. He shall be paid a salary determined by such board, said salary not to be less than nine hundred dollars a year.

Where not otherwise provided by law, the city sealer shall have the power within his city to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for weighing and measuring, and tools, appliances, or accessories, connected with all such instruments and measures, kept, offered or exposed for sale, sold, used, or employed, within the city by any proprietor, agent, lessee, or employee, in having the size, quantity, extent, area or measurements, of quantities, things, produce, or articles for distribution or consumption, offered or submitted by such person or persons for sale, hire, or reward; he shall have the power to and shall from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, or sold, or in the process of delivery in order to determine whether the same contains the amounts represented, and whether they be offered for sale or sold, in a manner in accordance with law. He shall at least twice each year, and as much oftener as he deems necessary, test the accuracy of weights, measures, and weighing or measuring devices, used in such city. He may for the purpose above mentioned and in the general performance of his duties, enter and go into or upon, without formal warrant, any stand, place, building or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him if necessary, to proceed to some convenient place for the purpose of making the proper test. When the city sealer finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. When the sealer compares weights or measures, or weighing or measuring instruments, and finds that they correspond with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring instruments, with appropriate devices, to be approved by the State Inspector of Weights and Measures. He shall condemn and seize, and may destroy, incorrect weights and measures, or weighing or measuring instruments, which in his best judgment are not susceptible of satisfactory repairs; but such as are incorrect and yet may be repaired, he shall mark or tag as "condemned for repairs," in the manner prescribed by the State Inspector. The owner or users of any weights or measuring instruments, and finds that they correspond with the standards in made, shall have the same repaired or corrected within fifteen days, and they may neither use nor dispose of the same in any way, but shall hold same at the disposal

of the sealer, and any apparatus which has been "condemned for repairs," and has not been repaired as required above, shall be confiscated by the sealer.

The city sealer shall keep in a book, together with a card index system to be furnished him by the common council, a complete list of all scales, or weights, or weighing or measures devices, inspected and tested by him, the name of the person, firm, or corporation, using such scales, weights, or weighing or measuring devices, and the date and result of all inspections, and shall at all times keep the same open to the inspection of the public.

The city sealer shall keep a complete record of all of his official acts, and shall make a monthly and an annual report to the common council of such city, and a monthly and an annual report duly sworn to, on the first day of each month and year, to the State Inspector of Weights and Measures, on blanks to be furnished by said inspector.

The city sealer of weights and measures shall forthwith on his appointment give a bond in the penal sum of one thousand dollars, with sureties to be approved by the appointing power, for the faithful performance of the duties of his office.

Provided, however, that nothing in the above shall be construed to prevent two or more cities from combining the whole or any part of their districts as may be agreed upon by the common councils of such cities, with one set of standards and one sealer, upon the written consent of said State Inspector. A city sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement.

For inspecting, testing, and sealing, weights, and measures, the city sealer shall charge, and collect from the person, owning or using such weight or measure, the following fees:

For each counter scales of capacity of 6 pounds, or less, ...	\$.15
For each counter scales of capacity of more than 6 pounds, ...	.25
For each portable platform scales of capacity of 1,000 pounds or less, ...	.50
For each portable platform scales of capacity of more than 1,000 pounds, ...	1.00
For each dormant or floor scales, ...	2.50
For each railroad track scales, ...	5.00
For each spring scale of capacity of 30 pounds or more, ...	.50
For each spring scales of capacity of less than 30 pounds, ...	.25
For all other scales, instruments and devices for weighing not herein specified, each, ...	.50
For each measure containing 1 gallon or less, ...	.05
For each measure containing more than 1 gallon, for first gallon, and for each additional gallon or fractional part thereof, ...	.05
For each yard measure or fractional part thereof, ...	.05

Provided, however, that where any weight or weights, measure or measures, scale or scales, balance or balances, scale beam or scale beams, steelyard or steelyards, or any other instrument or device for weighing or measuring, used by or belonging to any person, firm, or corporation, shall be tested by said sealer oftener than twice per year, no fee or fees shall be charged or collected for more than the two inspections per year, except in case such instrument or device be found upon such subsequent testing to be false and incorrect, whereupon the regular fee shall be collected and paid.

The sealer shall keep an itemized list of all fees collected by him in pursuance of this title, and at the end of each month he shall turn said fees and said itemized list over to the city treasurer and take his receipt therefor. (Id. § 5516.)

148b. City Sealer to Test Appliances.—It shall be the duty of the city sealer in unincorporated or incorporated cities of not less than five thousand population, according to the latest official State or United States census, at least once in every two years, and as much oftener as may in his judgment be necessary, or whenever requested in writing by either the furnisher of water, electricity or gas, or by the consumer of the same, to test the accuracy of any meter used or to be used in the measuring of any water, electricity, or gas, furnished or to be furnished to the consumer through such meter. If the meter tested shall, upon test thereof by the sealer, be found to measure too fast or too slow by as much as three per cent, such meter shall be condemned by him, and the owner or owners of the same shall be notified of the condemnation at the time when such condemnation is made by the city sealer, and such meter shall not be again used or used at all until corrected and made to measure accurately.

The city sealer shall keep in a book, together with a card index system to be furnished him by the city, a complete list of all meters inspected and tested by him, the name of the person, firm or corporation owning the same, the name of the

furnisher of the water, gas or electricity, the name of the consumer thereof, and the date and result of all inspections and shall at all times keep the same open to the inspection of the public. (Id. § 5517.)

149. Penalty for Use of False Weights and Measures.—Any person who by himself or by his servant or agent, or as the servant or agent of another, shall offer or expose for sale, sell, or use, or retain in his possession, a false weight or measure, or weighing or measuring device, or any weight or measure, or weighing or measuring device, which has not been sealed by the city sealer or the State Inspector of Weights and Measures within one year, in the buying or selling of any commodity or thing, or for hire or reward, or who shall dispose of any condemned weight, measure, or weighing or measuring device, contrary to law, or remove any tag placed thereon by a city sealer or the State Inspector of Weights and Measures, or any person who by himself or his servant, or agent, or as the servant or agent of another, shall use, or offer, or expose for sale less than the quantity he represents, or sell or offer, or expose for sale any such commodity in a manner contrary to law; or any person who by himself, or by his servant or agent, or as the servant or agent of another, shall sell or offer for sale, or have in his possession for the purpose of selling, any device or instrument to be used or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment, upon a first conviction; but upon a second or subsequent conviction he shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. (Id. § 5518.)

150. Evidence.—The proximity of any weight, measure, scale, balance, or other instrument or device for weighing or measuring, any goods, wares, or merchandise, kept, sold or offered by any person, firm or corporation, to any such goods, wares or merchandise, shall be prima facie evidence of the use of such instrument or device for weighing or measuring the same, and all such instruments or devices so located as aforesaid are hereby declared to be subject to all the provisions of this title. (Id. § 5519.)

151. Sealers to be Special Policemen.—The said State Inspector and city sealers of weights and measures, are hereby made special policemen, and are authorized and empowered to arrest without formal warrant, any violator of the statutes in relation to weights and measures, and to seize for use as evidence and without formal warrant, any false or unsealed weight, measure, or weighing or measuring device, or package or amounts of commodities found to be used, retained, or offered or exposed for sale, or sold, in violation of law. (Id. § 5520.)

152. Sealers Not to Deal in Appliances for Weighing or Measuring.—It shall be unlawful for the State Inspector or any city sealer of weights and measures, to keep for sale, expose or offer for sale, or to sell, to any person, firm, or corporation or dealer in goods, wares, and merchandise, doing or intending to do business as such in the State of Arizona, any weights, measures, scales, balances, or weighing or measuring devices of any kind for weighing or measuring goods, wares, merchandise, or to be interested directly or indirectly in the sale of such instruments or devices. (Id. § 5521.)

153. Penalty for Obstructing Inspector.—Any person who shall hinder or obstruct in any way the said State Inspector, or any city sealer of weights and measures, in the performance of his duty, shall be guilty of a misdemeanor, and shall be punished upon conviction thereof in any court of competent jurisdiction, by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. (Id. § 5530.)

154. Penalty for Impersonating Inspector.—Any person who shall impersonate in any way said State Inspector, or any city sealer of weights and measures, by use of his seal, or counterfeit of his seal, or otherwise, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. (Id. § 5531.)

155. Standard of Weights and Measures.—For weighing grain, hay, coal, groceries, and other like heavy articles of commerce, the standard unit of weight shall be the pound avoirdupois, containing 7,000 grains Troy; for weighing precious metals and jewels the unit shall be the pound Troy, containing 5,760 grains; for weighing goods and medicines where same are used in compound, and filling prescriptions by druggists, the unit shall be the pound apothecary's containing 5,760 grains Troy, but in all other cases, such drugs and medicines shall be sold by avoird-

dupois weight; for measuring grain, fruit, coal, vegetables, the unit shall be the Winchester bushel, containing 2,150.42 cubic inches; and for measuring all liquids, except ale, beer, and such liquids as enter into the composition of medical prescriptions, the unit shall be the wine or liquid gallon, containing 231 cubic inches; the unit for measuring ale and beer shall be the ale or beer gallon, containing 282 cubic inches. Such liquids as are used in the composition of medical prescriptions shall be measured by apothecary's fluid measure. The unit of linear measure shall be the yard, containing thirty-six inches in length, and being identical with the imperial yard of Great Britain. (Id. § 5532.)

156. Bread.—It shall be unlawful for any person, firm, or corporation or any agent or employee thereof, to make, keep, or offer for sale, or sell any bread in loaves without having written, printed or stamped thereon, or on the label attached thereto, with indelible letters and figures, the name of the manufacturer thereof, and the correct net weight thereof, in pounds, or pounds and fractions of a pound, or ounces avoirdupois, at the time when such bread is so wrapped and marked, stamped or labeled; provided, however, that an allowance of five per cent. in weight for shrinkage shall be made on all loaves of bread over one day old, and of ten per cent. on all loaves of bread over two days old, if the age of such loaf be written, printed or stamped thereon, or on the wrapper and label thereof. And provided, further, that all loaves of bread over three days old shall be deemed "stale bread" within the provisions of this section and shall be sold as such. (Id. § 5533.)

NOTE: See also the bread and bakery products law, No. 25 et seq.

157. Distilled Water, Milk and Cream.—Bottles used for the sale of distilled water, milk, and cream, shall be of the capacity of one-half gallon, three pints, one quart, one pint, one half-pint, and one gill, filled full to the bottom of the lip.

The following variations of individual bottles or jars may be allowed, but the average content of not less than twenty-five bottles selected at random from at least four times the number tested must not be in error by more than one-fourth of the tolerances:

Six drams above and six drams below on the half-gallon.

Five drams above and five drams below on the three-pint.

Four drams above and four drams below on the quart.

Three drams above and three drams below on the pint.

Two drams above and two drams below on the half-pint.

Two drams above and two drams below on the gill.

Bottles or jars used for the sale of distilled water, milk, or cream, shall have clearly blown, or otherwise permanently marked, in the side of the bottles the capacity of the bottles, and in the side or bottom of bottles the name, initials, or trademark of the dealer using the same. Any dealer who uses for the purpose of selling distilled water, milk, or cream, jars or bottles purchased after this law takes effect, that do not comply with the requirements of this section as to marking and capacity, shall be deemed guilty of using a false or insufficient measure. The said State Inspector, and city sealers of weights and measures, are not required to seal all bottles or jars used for distilled water, milk, or cream, but they shall from time to time make tests of individual bottles used by the various persons, firms, or corporations in the State over which they have jurisdiction, in order to ascertain whether the above provisions are being complied with. (Id. § 5535.)

158. Ice.—Every person, firm, or corporation, engaged in the business of selling or distributing ice at retail shall sell same by weight. (Id. § 5537.)

159. Meats.—It shall be unlawful to sell or offer to sell in the State any fresh meat, such as beef, pork, mutton, veal, sausage or fish, in any other manner than by weight. No person, firm, or corporation shall deliver such fresh meat without such delivery being accompanied by a delivery ticket on which shall be in ink or other indelible substance, distinctly expressed in pounds or fractions of a pound avoirdupois, the correct weight of such fresh meat, with the name of the purchaser thereof and the name of the dealer from whom purchased. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds or fractional parts thereof delivered over to the purchaser must be given to the purchaser at the time the sale is made. (Id. § 5539.)

160. Butter.—Where butter is sold in packages or cartons, such packages or cartons shall have written, printed, or stamped upon the wrapper of such package or carton, or upon the package or carton, the correct weight of the contents of such package or carton in pounds and ounces, or fractions of a pound avoirdupois, and it shall be unlawful for any person, firm, or corporation, or for any agent or employee thereof, to sell or offer for sale any such package or carton of butter upon the wrapper of which the correct weight of the contents of such package or carton has not been written, printed, or stamped; provided, however, that an allowance

of not exceeding two and one-half per cent in weight shall be made for shrinkage on all packages or cartons of butter. (Id. § 5540.)

161. Coffee, Tea, and Cereals.—Where coffee, tea, baking powder, oatmeal, tapioca, and all cereals and farinaceous goods are sold in packages or containers, each of such packages or containers shall have written, printed, or stamped upon the wrapper of such package or container, or upon the package or container, the correct weight of the contents of such package or container, in pounds and ounces, or fractions of a pound avoirdupois, and it shall be unlawful for any person, firm, or corporation, or for any agent or employee thereof, to sell or offer for sale any such package or container of coffee, tea, baking powder, oatmeal, tapioca, and all cereals and farinaceous goods of which the correct weight of the contents of such package or container has not been written, printed, or stamped. (Id. § 5541.)

162. Flour, etc.—Where wheat flour, buckwheat flour, cornmeal, rice, beans, sugar, barley, bran, wheat, oats, corn, potatoes, onions, seed, ham or bacon are sold in bags, sacks, or other containers, each of such bags, sacks, or other containers, shall have written, printed, or stamped upon the wrapper of such bag, sack, or other container, or upon the bag, sack, or other container, the correct weight of the contents of such bag, sack, or other container, in pounds and ounces, or fractions of a pound avoirdupois; and it shall be unlawful for any person, firm, or corporation, or for any agent or employee thereof, to sell or offer for sale any such bag, sack, or other container, of wheat flour, buckwheat flour, cornmeal, rice, sugar, barley, bran, wheat, oats, corn, potatoes, onions, seed, ham, or bacon, upon the bag, sack, or other container, of which the correct weight of the contents of such bag, sack, or other container, has not been written, printed, or stamped; provided, however, that an allowance of not exceeding two and a half per cent. shall be made for shrinkage on all such bags, sacks, or other containers, of wheat flour, buckwheat flour, cornmeal, rice, beans, sugar, barley, bran, wheat, oats, corn, potatoes, onions, seed, ham, or bacon. (Id. § 5542.)

163. Lard.—Where lard, lard compounds or lard substitutes are sold in cans or other container each of such cans or other container shall have written, printed, or stamped upon the wrapper of such can or other container, or upon the can or other container, the correct weight of the contents of such can or other container in pounds and ounces, or fractions of a pound avoirdupois; and it shall be unlawful for any person, firm, or corporation, or for any agent or employee thereof, to sell or offer for sale, any such can or other container on which the correct weight of the contents of the can or other container has not been written, printed, or stamped. (Id. § 5543.)

164. Vinegar and Oils.—Where vinegar, sweet oil, or olive oil, are sold in bottles or cans, each of such bottles or cans shall have written, printed, or stamped upon the wrapper of such bottle or can, or upon the bottle or can, the correct quantity of the contents of such bottle or can, in gallons, quarts, pints or gills, or fractional parts thereof; and it shall be unlawful for any person, firm, or corporation, or for any agent or employee thereof, to sell or offer for sale any such bottle or can of vinegar, sweet oil, or olive oil, upon the wrapper, bottle, or can, of which the correct quantity of the contents of such bottle or can has not been written, printed or stamped. (Id. § 5544.)

165. Crackers, Dried Fruits.—Where soda crackers or dried fruits are sold in boxes or other containers, each of such boxes or other containers shall have written, printed, or stamped, upon the wrapper of such box or other containers, or upon the box or other container, the correct weight of the contents of such box or other container in pounds or ounces, and in fractions of a pound avoirdupois, and it shall be unlawful for any person, firm, or corporation, or any agent or employee thereof, to sell or offer for sale any such box or container of soda crackers or dried fruits, upon the wrapper, box, or other container, of which the correct weight of the contents of such box or other container has not been written, printed, or stamped. (Id. § 5545.)

166. Penalty.—Any person, firm, or corporation that violates any of the provisions of the fourteen preceding sections shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction thereof, by a fine, where such is not hereinbefore provided, of not less than five dollars, nor more than two hundred and fifty dollars. (Id. § 5546.)

167. False Weight, With Fraudulent Intent, Punishable.—Every person who in putting up in any bag, bale, box, or barrel, or other package, any hops, cotton, wool, grain, hay, or other goods usually sold in bags, bales, boxes, barrels or packages by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel or package, with intent thereby to sell the goods therein, or to enable another to sell the same, for an increased

weight, is punishable by fine of not less than twenty-five dollars for each offense. (R. S. 1913, Penal Code, § 388.)

NOTE: See also No. 6 and the dairy law, No. 35 et seq.

PART V.

Cases.

1. Special Food Laws.

Beverages—Jamaica Ginger: Cooper v. State, 19 Ariz. 486, 172 Pac. 276 (1918).

Milk: *Gardenhire v. State, 26 Ariz. 14, 221 Pac. 228 (1923).

Meat—Slaughtering Business: Territory v. Kenney & Kenney, 11 Ariz. 353, 95 Pac. 93 (1908).

Sugar: W. W. Brookzer Company v. State, 14 Ariz. 546, 132 Pac. 1136 (1913).

2. Miscellaneous.

Weights and Measures: W. W. Brookzer Company v. State, 14 Ariz. 546, 132 Pac. 1136 (1913).

ARKANSAS.*

PART I.

General Food and Drug Law.

1. Adulterated or Misbranded Food.—It shall be unlawful for any person to manufacture within the State any article of food or drug which is adulterated or misbranded within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for such offense shall, upon conviction thereof, be fined not to exceed five hundred dollars, or shall be sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be fined not less than one thousand dollars or sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court. (Stats., 1921, § 4817.)

2. Regulations.—The State Treasurer, the Commissioner of Agriculture, Mines and Manufacture and Secretary of State shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of food and drugs manufactured or offered for sale in the State. (Id. § 4818.)

3. Examination of Specimens.—The examination of specimens of foods and drugs shall be made by the State Commissioner of Health, or under the direction and supervision of such commissioner, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the Commissioner of Mines, Manufactures and Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. (Id. § 4819.)

4. Hearing Before Commissioner.—Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the Commissioner of Mines, Manufactures and Agriculture shall at once certify the facts to the proper prosecuting attorney, with a copy of the results of the analysis or the examination of such articles, duly authenticated by the analyst or officer making such examination under the oath of such office. After judgment of the court, notice shall be given by publication in such a manner as may be prescribed by the rules and regulations aforesaid. (Id. § 4820.)

5. Duty of Prosecuting Attorneys.—It shall be the duty of each prosecuting attorney to whom the Commissioner of Mines, Manufactures and Agriculture shall report the violation of this act, or to whom any health or food or drug officer or agent of any county shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the State, without delay, for the enforcement of the penalties as in such cases herein provided. (Id. § 4821.)

6. "Drug" and "Food" Defined.—The term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animal. The term "food" as used herein shall include all articles used for food, drinks, confectionery or condiment by man or other animal, whether simple, mixed or compound. (Id. § 4822.)

7. Adulteration and Misbranding Defined.—For the purpose of this act an article shall be deemed to be adulterated:

*CITATIONS: "Stats. 1921" refers to the Crawford and Moses Digest of the Statutes of Arkansas, 1921, published by authority of the General Assembly (Act of March 17, 1919). "L." refers to the session laws of the year cited.

In case of drugs. First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary, official at the time, shall be deemed to be adulterated under these provisions if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container therefor, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary, official at the time. Second. If its strength or purity fall below the professed standard or quality under which it is sold.

In the case of confectionery. If it contains terra alba, barytes, talc, chrome yellow or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug.

In the case of food. First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength. Second. If any substance has been substituted wholly or in part for the article. Third. If any valuable constituent of the article has been wholly or in part abstracted. Fourth. If it is mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed, *provided that burned sugar or any other coloring matter whatever, including saccharine, used in the manufacture of vinegar and cider, shall be deemed an adulteration. Vinegars made from materials especially chosen to impart a color and taste similar to that of cider vinegar are held to be an imitation of cider vinegar, unless each package, wholesale and retail, as delivered to the purchaser, is distinctly marked by a label which states the true nature of the article. Fifth. If it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health. Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of any animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

For the purpose of this act, an article shall also be deemed to be misbranded:

In case of drugs. First. If it be an imitation of or offered for sale under the name of another article. Second. If the contents of the package as originally put [up] shall have been removed, in whole or in part, [and] other contents shall have been placed in such package, or if the package failed [fails] to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaïne, chloroform, cannabis indica, chloral hydrate, or acetanilid, or any derivative or preparation of any such substance contained therein. Provided, however, that nothing in this paragraph shall be construed to apply to the dispensing of prescriptions written by regularly licensed practicing physicians, veterinary surgeons and dentists, and kept on file by the dispensing pharmacist, nor to such drugs as are recognized in the United States Pharmacopœia and the National Formulary, and which are sold under the name by which they are recognized.

In the case of food. First. If it be an imitation of, or offered for sale under the distinctive name of another article. Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaïne, chloroform, cannabis indica, chloral hydrate or acetanilid or any derivative or preparation of any such substance contained therein.†

Third. If any in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. Fourth. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substance contained therein, which statement, design or device shall be false or misleading in any particular: Provided, that any

*But see the subsequent vinegar act of 1921, No. 49 et seq., which repeals all laws in conflict therewith.

†The second subdivision relating to misbranding of food is obviously a clerical misprision. The error is carried forward in the printed volume of the Acts of 1907. The copyist substituted for the language intended a part of the second subdivision relating to misbranding of drugs. Since the engrossed bill can not be found in the office of the Secretary of State, the missing lines can not be supplied. [Note by Crawford and Moses.]

article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of, or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with the statement of the place where said article has been manufactured or produced. Second. If [in] the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring or flavoring only; and provided, further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods or medicines, which contain no unwholesome added ingredients to disclose their trade formula, except insofar as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 4823.)

8. When Dealers Not Prosecuted.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the State, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecution, fines and other penalties which would attach in due course to the dealer under the provisions of this act. (Id. § 4824.)

9. Treasurer to Furnish Samples.—The State Treasurer shall deliver to the Commissioner of Mines, Manufactures and Agriculture, upon his request from time to time, samples of food and drugs which are being manufactured in the State, or offered for sale, giving notice thereof to the owner, who may appear before the Commissioner of Mines, Manufactures and Agriculture, and have the right to introduce testimony, and if it appear from the examination of such samples that any article of food or drugs offered to be manufactured or for sale is adulterated or misbranded within the meaning of this act, or is otherwise dangerous to the health of the people of the State, the State Treasurer shall cause the destruction of any goods refused to be manufactured or sold within three months from the date of notice of such refusal, under such regulations as the State Treasurer may prescribe. (Id. § 4825.)

Miscellaneous General Provisions.

10. Unwholesome Meat, Fish, Vegetables, Etc.; Importation and Sale Forbidden.—Whoever shall knowingly sell or offer or expose for sale, or bring or cause to be brought into this State, to sell or offer for sale, or shall have in his or their possession with intent to sell for food, the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased; or shall sell or offer for sale the flesh as of one animal, knowing it to be of another species, or shall offer for sale any tainted, diseased, corrupted, decayed or unwholesome meat, fish, fowl, vegetables, produce or provisions of any kind whatever, without making the same fully known to the purchaser, or shall sell or offer to sell the meat of any calf, which was killed before it had attained the age of six weeks, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months. (Stats., 1921, § 4826.)

NOTE: See also No. 64.

PART II.

Special Food Laws.

Beverages.

See No. 85 et seq.

Cider.

See No. 7.

Confectionery.

11. Adulterated Candy—Manufacture and Sale Prohibited.—Hereafter no person shall, by himself or as the servant or agent of any other person, manufacture for sale, or knowingly offer for sale, or sell any candy adulterated by the admixture of terra alba, barytes, talc, or any other mineral substance consisting of or adulterated by poisonous colors or flavors or other ingredients detrimental or injurious to health. (Stats., 1921, § 4832.)

12. Penalty.—Whoever violates any of the provisions of this act shall be punished by a fine not exceeding one hundred dollars nor less than fifty dollars. (Id. § 4833.)

13. Destruction of Such Candy.—Any candy so adulterated shall be destroyed by the officer of the court in which proceedings are begun against the person offering for sale or distribution such candy, upon order of the court after such person shall be convicted of such offense. (Id. § 4834.)

NOTE: See also No. 7.

Dairy Products—Substitutes for Dairy Products.

14. Adulterated Butter; Sale Forbidden Except as Provided.—Whoever shall sell any article, substance or compound made in imitation or semblance of butter, or as a substitute for butter, and not made exclusively or wholly of milk or cream, or containing any fats, oils or grease not produced from milk or cream, shall have the words "adulterated butter," or if such substitute is a compound known as oleomargarine or butterine, or if it is known by any other name, the word "oleomargarine," "butterine" or such other name as shall properly describe it, shall be stamped, labeled or marked in printed letters of plain Roman type, not less than one inch in length, so that said word or words can not be easily defaced, upon the top and side of every tub, firkin, box or package containing any of said article, substance or compound; and in case of retail sales of any of said article, substance or compound, the seller shall attach, or cause to be attached, to each package so sold at retail, and deliver with said package to the purchaser a label or wrapper, bearing in a conspicuous place upon the outside of said package the words "adulterated butter," or the word "oleomargarine," "butterine," or such other word or words as will correctly describe the article, substance or compound sold, as hereinbefore provided, in printed letters of plain Roman type, not less than one-half inch in length. (Stats., 1921, § 4827.)

15. Penalty.—Whoever shall sell or expose for sale, or has in his possession with intent to sell, any article, substance or compound made in imitation or semblance of butter, or as a substitute for butter, except as provided in section 4827, and whoever shall deface, erase, cancel or remove any mark, stamp, brand, label or wrapper provided for by this act, or change the contents of any box, tub, article or package marked, stamped or labeled as aforesaid, with intent to deceive as to the contents of said box, tub, article or package, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than five hundred dollars. (Id. § 4828.)

16. Hotels, etc., to Mark Butter Substitutes.—If any hotel, inn, restaurant or boarding-house keeper shall set before his guests at any meal any of said article, substitute or compound, the dish or plate holding the same shall have clearly and indelibly marked on some prominent part thereof the words "adulterated butter" or the word "oleomargarine," "butterine" or such other word or words as may correctly describe the article, substance or compound in said dish or plate. (Id. § 4829.)

17. Penalty.—Whoever shall violate the provisions of section 4828 shall be guilty of a misdemeanor, and on conviction shall be fined in any sum not less than five dollars nor more than one hundred dollars. (Id. § 4830.)

18. "Butter" Defined.—The term "butter" shall be understood to mean the product usually known by that name, which is manufactured exclusively from milk and cream. (Id. § 4831.)

19. Forbids Unfair Competition in Dairy Products.—Any person, firm, company, association, or corporation, foreign or domestic, doing business in the State of Arkansas, and engaged in the business of buying milk, cream, butter, butter fat, poultry, eggs, grain or cotton seed [who] for the purpose of destroying or injuring the business of a competitor, shall discriminate between different sections, localities, communities, cities, or towns of this State by purchasing such commodity or commodities at a higher price or rate in one section, locality, community, city or town than is paid for the same commodity by such person, firm, company, association or corporation in another section, locality, community, city or town, after making due allowance, if any, in the grade or quality of such commodity, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale or storage, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful, provided that the fact that any person, firm, company, association or corporation purchases any of the above mentioned commodities at a higher price or rate in the one section, locality, community, city or town than is paid at the time for the same commodity by the same person, firm, company, association or corporation in another section, locality, community, city or town, after making due allowance for the difference, if any, in the grade or quality and in the actual cost of transportation from the point of purchase, sale or storage, shall be prima facie evidence that such higher price or rate was paid for the purpose of destroying or injuring the business of a competitor, and that such person, firm, company, association or corporation is guilty of unfair discrimination. (L. 1923, Act 616, §1.)

20. Penalty.—Any person, firm, company, association or corporation who shall be convicted of unfair discrimination, as defined by this act, shall be fined for each offense not less than one thousand dollars nor more than ten thousand dollars, and in addition thereto, shall be enjoined upon the application of the State of Arkansas or any person, firm or corporation injured by such discrimination from engaging directly or indirectly in the business of purchasing in any such commodities. (Id. § 2.)

21. How Enforced.—It is hereby made the duty of the Attorney-General of the State of Arkansas upon being informed that any person, firm, company, association or corporation has been convicted of unfair discrimination as defined in this act, immediately to institute suit in the name of the State of Arkansas in any Chancery Court of this State where service may be had upon the defendant against such person, firm, company, association or corporation, to enjoin such person, firm, company, association or corporation from engaging directly or indirectly in the business of buying any such commodities, and upon proof that any such person, firm, company, association or corporation has been convicted of unfair discrimination, the court shall issue such injunction. (Id. § 3.)

22. Defining, Regulating Ice Cream.—Ice cream within the meaning of this act is the frozen product made from milk, cream and sugar with or without a normal flavoring, and containing not less than 8 per cent of milk (butter) fat, and not less than 32 per cent of total solids.

Fruit Ice Cream.—The frozen product made from milk, cream, sugar and sound, clean mature fruit and contains not less than 6 per cent milk (butter) fat and not less than 32 per cent total solids.

Nut Ice Cream.—The frozen product made from milk, cream, sugar and sound nuts and contains not less than 6 per cent milk (butter) fat, and not less than 32 per cent total solids.

Any ice cream manufactured, or any ice cream sold in the State that does not conform to the above standard in milk (butter) fat or total solids shall be plainly labeled on tub, package or other container with the words "Composition Cream."

Ice cream shall be deemed to be adulterated within the meaning of this act:

First. If it shall contain boric acid, formaldehyde, saccharine or any other added substance or compound that is deleterious to health.

Second. If it shall contain salts of copper, iron oxide, or fats other than milk (butter) fat, or any coloring matter deleterious to health; provided that this shall not be construed to prohibit the use of harmless coloring matter in ice cream when not used for fraudulent purposes.

Third. If it shall contain any deleterious flavoring matter not true to name.

Fourth. If it be an imitation of or offered for sale under the name of another article.

Nothing in this act shall be construed to prohibit the use of fresh eggs or other edible foods which come under the Federal Pure Food Law, or not exceeding one-half of one per cent of pure gelatine, gum tragacanth or other vegetable gums. (L. 1923, Act 703, § 1.)

23. Penalty for Sales of Adulterated Product.—Any manufacturer who shall sell, or offer for sale, or have in possession with intent to sell, any ice cream adulterated within the meaning of this act, shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not more than one hundred (\$100.00) dollars, or confined in jail not more than sixty (60) days, or both. (Id. § 2.)

24. Milk Must be Pasteurized; Penalty.—All milk and cream used in the manufacture of ice cream must be pasteurized by heating a temperature of 145 degrees and held for twenty-five minutes; or to a temperature of 150 degrees and held for twenty minutes using the intermittent system of pasteurization; or shall be heated to 170 degrees F. with the flash or continuous system of pasteurization.

Any person who does not comply with this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 2. (Id. § 3.)

25. Milk for Butter Must be Pasteurized; Penalty.—All milk and cream used in the manufacture of creamery butter must be pasteurized to a temperature of 145 degrees F. for twenty-five minutes, or to 150 degrees F. and held for twenty minutes using the intermittent system of pasteurization, or shall be heated to 170 degrees F. with the flash or continuous system of pasteurization. Or in lieu thereof the milk shall be brought to 212 degrees Fahrenheit and held there for at least three minutes.

Any person manufacturing creamery butter, who does not comply with this section, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished as provided in section 2 of this act. (Id. § 4.)

26. Regulating Use of Containers.—It shall be unlawful for any person, firm or corporation within the State to use any cans, tubs, or other containers which bear the name of any other person, firm or corporation, for the purpose of handling or shipping ice cream or other dairy products.

Any failure to comply with this section shall be deemed a misdemeanor and upon conviction shall be punished as prescribed in section 2 of this act. (Id. § 5.)

27. Filled Milk Defined; Manufacture, etc., Unlawful.—It shall be unlawful to manufacture or sell filled milk in the State of Arkansas.

Filled milk is defined, by this act, to be cow's or goat's milk which has had all or the greater part of the butter fat removed, and had substituted in lieu thereof cocoanut oil, peanut oil, or some other oil or fat. (L. 1925, Act 190, § 1.)

28. Penalty.—Every person who shall violate the provisions of section 1 of this act, shall be guilty of a misdemeanor, and upon conviction be fined in any sum not less than fifty dollars, nor more than five hundred dollars, and each day such person shall be engaged in the manufacture or sale of filled milk shall constitute a separate offense. (Id. § 2.)

Eggs.

See No. 19 et seq.

Feeding Stuffs.

29. Labels.—Every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale in this State shall have affixed thereto, or printed thereon in a conspicuous place on the outside thereof a legible and plainly printed statement, in the English language, clearly and truly certifying the weight of the package (provided, that all concentrated commercial feeding stuffs shall be in standard weight bags or packages of 5, 10, 25, 50, 75, 100, 125, 150, 175, 200 pounds); the name, brand or trade-mark under which the article is sold; the name and address of the manufacturer, jobber or importer; the name of each and all ingredients of which the article is composed; a statement of the maximum percentage it contains of crude fiber, and the percentage of crude fat, and the percentage of crude protein, and the percentage of carbohydrates, allowing 1 per cent of nitrogen to equal $6\frac{1}{4}$ per cent of protein; all four constituents to be determined by the methods in use at the time by the Association of Official Agricultural Chemists of the United States. (Stats., 1921, § 4534.)

30. Definition.—The term "concentrated commercial feeding stuff" shall be held to include all feeds used for live stock and poultry, except whole hay, straw and corn stover when the same are not mixed with other materials; nor shall

it apply to the unmixed whole seeds or grains of cereals when not mixed with other materials. (Id. § 4535.)

31. Seller to Furnish Statement and Sample.—Each and every manufacturer, jobber, importer, agent or seller, before selling, offering or exposing for sale in this State any concentrated commercial feeding stuff, shall, for each and every feeding stuff bearing a distinguishing name or trade-mark, file for registration with the Commissioner of Mines, Manufactures and Agriculture,* a copy of the statement required in section 4534, and accompany said statement by a sealed glass jar or bottle containing at least one pound of each feeding stuff to be sold, exposed or offered for sale, which sample shall correspond within reasonable limits to the feeding stuffs which it represents in the percentage of crude protein, crude fat, crude fiber and carbohydrates which it contains. (Id. § 4536.)

32. By Whom Statement Filed.—Whenever a manufacturer, importer or jobber of any concentrated commercial feeding stuffs shall have filed a statement, as required by section 4536, no agent or seller of such manufacturer, importer or jobber shall be required to file such statement. (Id. § 4537.)

33. Registration Refused, When.—The Commissioner of Mines, Manufactures and Agriculture shall have the power to refuse the registration of any concentrated commercial feeding stuff under the name which would be misleading as to the materials of which it is composed, or when the names of each and all ingredients of which it is composed are not stated. Should any concentrated commercial feeding stuffs be registered, and it is afterwards discovered that they are in violation of any of the provisions of this act, the Commissioner of Mines, Manufactures and Agriculture shall have the power to cancel such registration. (Id. § 4538.)

34. Fee For Tags.—Each and every manufacturer, jobber, importer, agent or seller, of any concentrated commercial feeding stuff, as defined in section 4535, shall forward to the State Treasurer a request for such tags, stating that said tags shall be used in brands of commercial feeding stuffs registered in accordance with this act; and said request shall be accompanied with ten cents per ton as inspection fee; whereupon it shall be the duty of the State Treasurer to place all amounts thus received to the credit of a fund to be known as the commercial feeding stuff fund. Immediately upon receipt of application for tags as provided for in this section, the Treasurer shall issue triplicate receipts for the amount received, giving one to the State Auditor, one to the Commissioner of Mines, Manufactures and Agriculture, and mail one to the party applying for the tag. (Id. § 4539, as amended L. 1925, Act 125, § 3.)

35. Duty to Forward Tags.—It shall be the duty of the Commissioner of Mines, Manufactures and Agriculture to forward the tags to the party or firm as shown by his receipts from the State Treasurer. The party receiving the tags shall affix to, or accompany each car shipped in bulk, and to each bag, barrel or other package of such concentrated commercial feeding stuff, a stamp to be furnished by the Commissioner of Mines, Manufactures and Agriculture, stating that all charges specified in this section have been paid; provided, that the inspection fee herein provided shall not apply to unadulterated wheat, corn, rye and buckwheat bran; nor to unadulterated wheat, corn, rye and buckwheat middlings; nor to unadulterated wheat, corn, rye and buckwheat shorts; and provided, whenever any concentrated commercial feeding stuff, as defined in section 4535, is kept for sale in bulk, stored in bins or otherwise, the manufacturer, dealer, jobber or importer keeping the same for sale shall keep on hand cards of proper size upon which the statement or statements in section 4534 is or are plainly printed; and if the feeding stuff is sold at retail in bulk or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber, or importer shall furnish the purchaser with one of said cards upon which is or are printed the statement or statements described in this section, together with sufficient tax stamps to cover same; provided, that the inspection tax of 20 cents per ton shall not apply to whole seeds and grains when not mixed with other whole seeds or materials. It is further provided, that upon demand said inspection stamps shall be redeemed by the department issuing said stamps upon surrender of same, accompanied by an affidavit that the same have not been used; provided, that nothing in this act shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale; but importers, manufacturers and manipulators shall attach

*This law is now administered by the Commissioner of Conservation and Inspection. (L. 1925, Act 42.)

to such feeding stuff a tag stating that it is to be used for mixing purposes only, and this tag shall give the number of pounds in bulk or package, the name of the manufacturer, the name of the stuff and its analysis, showing crude protein, crude fat, crude fiber and carbohydrates; and a duplicate of said tag shall be sent to the Commissioner of Mines, Manufactures and Agriculture, together with a request for inspection. The Commissioner of Mines, Manufactures and Agriculture is hereby empowered to prescribe the form of such tax stamps. (Stats. 1921, § 4540.)

36. Penalty.—Any manufacturer, importer, jobber, agent or dealer, who shall sell, offer or expose for sale or distribution in this State any concentrated commercial feeding stuff as defined in section 4535 without complying with the requirements of the preceding sections of this act or who shall sell, offer or expose for sale or distribution any concentrated commercial feeding stuffs which contain substantially a smaller percentage of crude protein or crude fat or carbohydrates, or a larger percentage of crude fiber than certified to be contained, or who shall adulterate any concentrated commercial feeding stuff with foreign, mineral or other substances, of little or no feeding value, or with substances injurious to the health of domestic animals, or who shall sell, offer or expose for sale any concentrated commercial feeding stuffs so mixed or adulterated, shall be guilty of a violation of this act, and the lot of feeding stuff in question shall be seized and condemned, sold or destroyed by the Commissioner of Mines, Manufactures and Agriculture, or his duly authorized representative, and the proceeds from said sales shall be covered into the State treasury for the use of the department executing the provisions of this act. Such seizure and sale shall be made by the Commissioner of Mines, Manufactures and Agriculture or under the direction of an officer of his appointment. The sale shall be made at the courthouse door in the county in which the seizure is made; provided, that whenever for sufficient reasons appearing to the Commissioner of Mines, Manufactures and Agriculture, or his representative aforesaid, another place of sale is more convenient and more desirable, such place of sale may be selected. The sale shall be advertised for thirty days in a newspaper published in the county in which the seizure is made, or, if no newspaper be published in such county, then it shall be advertised in a newspaper published in the nearest county thereto having a newspaper. The advertisement shall state the brand and the name of the goods, the quantity and why seized and offered for sale, and must show the time and place of sale. The Commissioner of Mines, Manufactures and Agriculture, however, may in his discretion release the feeding stuffs so withdrawn when the requirement of the provisions of this act have been complied with, and upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal. (Id. § 4541.)

37. Mixed Feed.—It shall be unlawful, and shall be punished as other violations of this act, to sell, offer or expose for sale any mixed or compounded commercial feeding stuff containing as an ingredient crushed or ground ear corn, provided, that nothing herein shall prevent the sale of crushed or ground ear corn by itself and not mixed with any other substance, but the crushed or ground ear corn when sold by itself is a concentrated commercial feeding stuff defined in section 4535, and the sale thereof within this State shall be governed by the provisions of this act and the rules and regulations prescribed by the Commissioner of Mines, Manufactures and Agriculture. (Id. § 4542.)

38. Suspension of Sale of Feed.—If at any time the Commissioner of Mines, Manufactures and Agriculture or his duly authorized representatives shall have reason to believe that any feeding stuff offered or exposed for sale in this State does not comply with the requirements of this act as to the ingredients or substance of the same, it shall be his duty, by written order, to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such feeding stuff is made up or compounded as required by this act. If he shall find that the same does not comply with this act, then he is authorized to proceed with regard to the same as provided in section 4541. (Id. § 4543.)

39. Access to Places of Business.—The Commissioner of Mines, Manufactures and Agriculture, together with his deputies, agents and assistants, shall have free access to all places of business, mills, buildings, vehicles, cars, vessels and packages of whatever kind used in the manufacture, importation or sale of any concentrated commercial feeding stuff, and shall have power and authority to open any package, containing or supposed to contain any concentrated commercial feeding stuff; and upon tender and full payment of the selling price of said samples, take therefrom, in the manner hereinafter prescribed, samples for analysis;

and he shall annually cause to be analyzed at least one sample so taken of every concentrated commercial feeding stuff that is found, sold or offered or exposed for sale in this State under the provisions of this act. Said samples, not less than one pound in weight, shall be taken from not less than ten bags or packages, or, if there be less than ten bags or packages, then the samples shall be taken from each bag or package, if it be in bags or package form, or if such feeding stuff be in bulk, then it shall be taken from ten different places of the lot. The Commissioner of Mines, Manufactures and Agriculture is hereby authorized to publish from time to time in reports or bulletins, the results of the analysis of such sample or samples, together with such additional information as circumstances advise; provided, however, that if such sample or samples as analyzed by the Commissioner of Mines, Manufactures and Agriculture differ from the statement prescribed in section 4534, then, at least thirty days before publishing the results of such analysis, the Commissioner of Mines, Manufactures and Agriculture shall give written notice of such results to the manufacturer, importer, agent or jobber of such stock, if the name and address of such manufacturer, jobber or importer be known; provided further, that if the analysis of any such sample does not differ substantially from the statement prescribed in section 4534 appearing upon the goods, the manufacturer shall be considered as having complied with the requirements of this act. (Id. § 4544.)

40. Rules.—The Commissioner of Mines, Manufactures and Agriculture shall from time to time prescribe and publish rules and regulations for carrying out the provisions of this act, and governing the grading of any and all concentrated commercial feeding stuffs defined in section 4535. (Id. § 4545.)

41. Dealer to Use Tax Stamps.—Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale or distribute in this State any concentrated commercial feeding stuff without having attached thereto or furnished therewith such tax stamps, as required by the provisions of this act, or who shall use the required tax stamps a second time to avoid the payment of the tonnage tax, or any manufacturer, importer, jobber, agent or dealer who shall counterfeit or use a counterfeit of such tax stamps shall be guilty of a violation of the provisions of this act. (Id. § 4546.)

42. Violations.—Any manufacturer, importer, jobber, agent or dealer who refuses to comply with [the] requirements of the provisions of this act, or any manufacturer, importer, jobber, agent or dealer or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other authorized agent in the performance of his duty in connection with the provisions of this act, shall be guilty of a violation of the provisions of this act. (Id. § 4547.)

43. Penalty.—Any manufacturer, importer, jobber, agent or dealer, who shall violate any of the provisions of this act, or the regulations adopted by the Commissioner of Mines, Manufacturers and Agriculture, upon conviction thereof, shall be fined not exceeding fifty dollars for the first offense, nor more than two hundred dollars for each subsequent offense, and the proceeds from such fines shall be covered into the State treasury for the use of the department executing the provisions of this act. (Id. § 4548.)

44. Notice of Violation Given to Prosecuting Attorney.—Whenever the Commissioner of Mines, Manufactures and Agriculture, or his duly authorized representative, becomes cognizant of any violation of the provisions of this act, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if same be known, and after thirty days shall notify the prosecuting attorney of the district where such violation occurred, who shall cause proceedings to be commenced against the persons or person so violating* the act, and the same prosecute in the manner required by law. (Id. § 4549.)

45. Certificate of Analyst as Evidence.—In all prosecutions in the courts of this State arising under this act, and the rules and regulations made in accordance therewith, the certificate of the analyst or other officer making the analysis or examination, when duly sworn to or subscribed by such analyst or officer, shall be prima facie evidence of the facts therein certified. (Id. § 4550.)

46. Appointment of Analysts, Chemists, etc.—The Commissioner of Mines, Manufactures and Agriculture shall appoint such analysts, chemists and inspectors as may be required to carry out the provisions of this act, with such compensation therefor as may be approved by the said Commissioner of Mines, Manufactures and Agriculture. (Id. § 4551.)

NOTE: See also No. 124.

Fish.

See No. 10.

Flour, Meal, Etc.

See No. 127.

Fruits, Vegetables, Etc.

46a. Name of this Act.—This act shall be known by the short title of "The Agricultural Products Grading Act of 1925." (L. 1925, Act 218, §1.)

46b. Terms Defined.—For the purpose of this Act the following terms shall be construed respectively, to mean:

"Board."—The State Plant Board of Arkansas.

"Chief Inspector."—The Chief Inspector of the State Plant Board of Arkansas.

"Agricultural Products."—Horticultural, viticultural, bee and other agricultural products.

"Persons."—Individuals, partnerships, corporations, associations, or two or more individuals having a joint or common interest.

"Places."—Vessels, cars and other vehicles, buildings, docks, railroad platforms, orchards, fields and other premises where agricultural products are grown, kept or handled.

Words used in this act shall be construed to import either the singular or plural, as the case demands. (Id §2.)

46c. Inspections of Containers, Rules.—In order to promote, protect, further and develop the agricultural interests of this State the State Plant Board is hereby authorized and empowered after investigation and public hearing to fix and promulgate official standards for grading and classifying any or all agricultural products grown or produced in this State and to fix and promulgate official standards for containers of farm products and to change any of them from time to time. The Board in its rules, regulations or notices promulgated pursuant to this Act shall prescribe such tolerances as may be deemed necessary permitting such variations from the standards fixed under the provisions of this act as are reasonably incident to the proper grading of agricultural products or to the manufacture of containers for such products. (Id. §3.)

46d. Changes by Board, Notice.—In promulgating the standards or any alterations or modification of such standards the Board shall specify the dates or date when the same shall become effective and shall give public notice not less than 30 days in advance of the date when the standard for any agricultural product shall become effective, and one year in advance of the date when the standard for any container shall become effective by such means as the Board deems proper, and the Chief Inspector is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standard that may be fixed by the Board for any agricultural product or container. (Id. §4.)

46e. To Co-operate With Federal Authorities.—The Board is authorized to fix and promulgate as the official standard for this state for any agricultural product or container, the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this act the Chief Inspector is authorized to co-operate with the United States or any department thereof in accomplishing the matters and things provided for herein. (Id. §5.)

46f. Deputy Inspectors, Licensed Inspectors, Fees.—The Chief Inspector may designate any competent deputy inspector, or other employee or agent of the Board, and upon satisfactory evidence of competency may license any other person, and charge and collect a reasonable fee for such license, to inspect or classify agricultural products in accordance with such regulations as the board may prescribe at such places as the volume of business may be found to warrant the furnishing of such inspection service at the request of persons having an interest in such products and to ascertain and certify to such persons the grade, classification, quality or condition thereof, and such other pertinent facts as the Board may require. The Board is authorized to fix, assess and collect or cause to be collected fees for such services when they are performed by deputy inspectors, employees or agents of the Board. Licensed inspectors may charge and collect as compensation for such services only such fees as may be approved by the Board. The Chief Inspector may suspend or revoke any license whenever, after an opportunity for hearing has been afforded to the licensee, the Chief Inspector shall determine that such licensee is incompetent or

has knowingly or carelessly failed to grade or classify any agricultural product in accordance with such standards or has knowingly or carelessly failed to correctly certify the grade, classification, quality or condition of any agricultural product or has violated any provision of this act or of the regulations made pursuant thereto. Pending investigations the Chief Inspector may suspend a licensee temporarily without a hearing. (Id. §6.)

46g. Appeals to Chief Inspector.—Whenever any quantity of any agricultural product shall have been inspected hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality or condition of such product, any interested person, subject to such regulations as the board may prescribe, may appeal the question to the Chief Inspector, and he is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and issue a finding of the true grade or classification of the product or of the quality or condition thereof. Whenever an appeal shall be taken to the chief inspector under this act, he shall charge and assess and collect, or cause to be collected, a reasonable fee, to be fixed by him, which shall be refunded if the appeal is sustained. (Id. §7.)

46h. Official Effect of Certificate of Inspection.—A certificate when not superseded by a finding on appeal of the grade, classification, quality or condition of any agricultural product, issued under this act and all certificates issued under authority of the Congress of the United States relating to grade, classification, quality or condition of agricultural products shall be accepted in any court of this State as prima facie evidence of true grade, classification, condition or quality of such agricultural product at the time of its inspection. (Id. §8.)

46i. Board to Make Rules.—The Board is hereby authorized and empowered to promulgate rules, regulations, and notices for carrying out the purposes and provisions of this act. All fees and moneys collected or received by Deputy Inspectors, employees or agents of the board under this act and the rules and regulations which may be promulgated pursuant thereto shall be deposited in a manner prescribed in section 8032 of Crawford and Moses' Digest* and shall be used for carrying out the provisions of this act. (Id. §9.)

46j. Violations.—It shall be unlawful for any deputy inspector, employee or agent employed under the provisions of this act or any inspector licensed hereunder to knowingly inspect, grade or classify improperly any agricultural product or to knowingly give any incorrect certificate of grade, classification, quality or condition or to accept money or other consideration directly or indirectly for any incorrect or improper performance of duty.

And it shall be unlawful for any person to improperly influence or attempt to improperly influence any such Deputy Inspector, employee, agent or licensed Inspector in the performance of his duties. (Id. §11.)

46k. Inspections Not to Be Misrepresented.—If any quantity of any agricultural product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof no person shall represent the grade, classification, quality or condition of such product at the time and place of such inspection was other than shown by such certificate. (Id. §12.)

46l. No Unauthorized Containers Offered for Sale.—Whenever any standard for a container for an agricultural product becomes effective under this act, no person shall thereafter manufacture for commerce within the jurisdiction of this State or sell, ship or offer for sale in such commerce any container either filled or unfilled, to which the standard is applicable which does not comply with such standard subject to such tolerance as may be permitted under this act. (Id. §14.)

46m. All Products to Be Graded.—It shall be unlawful for any person to offer for sale or to sell or otherwise dispose of any agricultural product in this State under any grade name or classification fixed for such agricultural product under the provisions of this act or under any description, name or designation which would reasonably be construed to refer to any such grade name or classification fixed for such agricultural product under the provisions of this act, unless such agricultural product is graded or classified in conformity with the standard which may be specified for such grade or classification of such agricultural product under the provisions of this act. (Id. § 16.)

46n. Penalties for Violations.—Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred (\$500.00) dollars

* Section 8032 provides as follows: * * * All moneys collected by the Board (State Plant Board) * * * shall be deposited with the treasurer of the Board, * * *

or by imprisonment for not more than ninety days, or by both such fine and imprisonment. (Id. § 16.)

460. Construction of this Act, Agents.—In construing and enforcing the provisions of this act, the act, omission or failure of any official, agent or other person acting for or employed by any person, association, partnership or corporation within the scope of his employment or office shall, in every case also be deemed the act, omission or failure of such person, association, partnership or corporation as well as that of the person. (Id. §17.)

NOTE: See also No. 10; the weights and measures law, No. 116 et seq.

Grain.

See Nos. 19-21 and 127.

Meat—Meat Products.

47. Discrimination in Manufactured Products.—It shall be unlawful for any person, company, corporation or association engaged in the sale of any manufactured product, coal oil or dressed beef to sell any such manufactured product, coal oil or dressed beef at a greater cash price at any place in this State than such person, company, corporation or association sells such manufactured product, coal oil or dressed beef at other points in this State, after making due allowance for difference in cost of carriage or other necessary cost, or willfully refuse or fail to allow to any person, corporation or company making purchases of such manufactured product, coal oil or dressed beef all rebates and discounts which are granted by them to other purchasers, for cash, of like quantities of such manufactured product, coal oil or dressed beef. (Stats., 1921, § 10324g.)

48. Penalty.—Any person, company, corporation or association violating any of the provisions of this act shall forfeit not less than two hundred dollars nor more than one thousand dollars for every such offense, and each unlawful sale or refusal or failure to allow such rebate or discount shall constitute a separate offense; the penalty in such cases to be recovered by an action in the name of the person, company, corporation or association damaged by such greater price, or refusal of, or failure to allow such rebate or discount, or in the name of the State at the relation of any prosecuting attorney in this State, the moneys thus collected to be paid to the person, company, corporation or association bringing the suit; and when such suit shall be brought in the name of the State, the moneys collected shall be paid, one-fourth to the prosecuting attorney bringing the suit and three-fourths to the permanent school fund. (Id. § 10324h.)

NOTE: See also Nos. 10 and 19 et seq.

Vinegar.*

49. Defines Adulterated Vinegar.—For the purpose of this act, the following vinegars shall be deemed adulterated:

1. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.
2. If any substance has been substituted, wholly or in part, for the vinegar.
3. If any valuable constituent of the vinegar has been wholly or in part abstracted.
4. If it be mixed, colored powdered, coated or stained in a manner whereby damage or inferiority is concealed.
5. If it contain any added poisonous or other added deleterious ingredient, which may render such articles injurious to health. (L. 1921, Act 156, § 1.)

50. Defines Misbranded Vinegar.—For the purposes of this act the following vinegars shall be deemed to be misbranded:

1. If it be an imitation of or offered for sale under the distinctive name of another article.
 2. If it be labeled or branded so as to deceive or mislead the purchaser.
 3. If in package form the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or other numerical count; provided, however, that reasonable variations shall be permitted.
- that vinegar which does not contain any added poisonous or deleterious ingredients

*See No. 7.

4. If the package containing it or its label, shall bear any statement, design, or device regarding the ingredients, or the substances contained therein, which statement, design, or device shall be false or misleading in any particular; provided, shall not be deemed to be adulterated or misbranded in the following cases: (a) In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food under their own distinctive name, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced. (b) In the case of articles labeled, branded or tagged, so as to plainly indicate that they are compounds, imitations, or blends and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided, further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except insofar as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 2.)

51. Rules and Regulations Promulgated by the United States Department of Agriculture Shall Apply.—The standards of purity and quality together with all rules and regulations governing the quality and the labeling of vinegar which have been or which may hereafter be promulgated and adopted by the Secretary of the United States Department of Agriculture under the Federal Food and Drug Act of June 30, 1906, as amended August 23, 1912, shall be in force under this act; it being the intent of this act that the same standard of purity and quality and rules and regulations which may now or at any time hereafter be in force under said Federal statute shall also be in force under this act. (Id. § 3.)

52. Unlawful to Offer for Sale, Sell, etc., Adulterated Vinegar.—It shall be unlawful for any person or persons, firm, partnership, association of persons, company, corporation, or any officer or officers, agent, servant or employee of any such firm, partnership, association of persons, company or corporation, either directly or indirectly to manufacture, produce, sell, offer or expose for sale, any adulterated vinegar within the meaning of this act, or to sell, expose or offer for sale, any vinegar which is misbranded within the meaning of this act. (Id. § 4.)

53. Penalty.—Any person, firm, partnership, association of persons, company, corporation or any officer, agent, servant or employee of such person, firm, partnership, association of persons, company or corporation, violating any of the provisions of this act, or any of the rules and regulations, governing the quality and labeling of vinegar as set forth and adopted in section 3 of this act, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding one thousand dollars (\$1,000) and each day any such person, firm, partnership, association of persons, company or corporation, or any officer, agent, servant, or employee thereof shall manufacture or expose or offer for sale any vinegar, the manufacture and sale of which is prevented by this act, shall constitute a separate offense within the meaning of this act. (Id. § 5.)

54. Dealers May be Prosecuted, When.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchases such vinegar to the effect that the same is not adulterated or misbranded within the meaning of this act or within the meaning of the rules and regulations governing the quality and labeling of vinegar as set forth and adopted in section 3 of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such vinegar to such dealer and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this act. (Id. § 6.)

PART III.

Special Drug Laws.

Abortifacients.

55. Penalty For Advertising Means of Producing.—Every person who knowingly advertises, prints, publishes or knowingly causes to be advertised, printed, published or circulated any pamphlet, printed paper, book, newspaper notice or reference containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom or to any place, house or shop or office where any poison, drug, mixture, preparation, medicine, or noxious thing, whether medicinal, mechanical or otherwise, or any advice, information or knowledge, may be obtained for the purpose of causing miscarriage or abortion in the case of any woman pregnant with child, shall be punished by fine not less than one thousand dollars, and by imprisonment in the county jail not less than six nor more than twelve months. (Stats. 1921, § 2599.)

Pharmacy, Poisons and Narcotics.

56. Registration; Necessity For; Penalty.—It shall be unlawful for any person not a registered pharmacist, within the meaning of this act, to conduct any drug store, pharmacy or apothecary shop, or store for the purpose of retailing, compounding or dispensing medicines in any city or incorporated town in the State of Arkansas, except as hereinafter provided, and it shall be unlawful for the proprietor of such store or pharmacy to allow any person other than a registered pharmacist to compound or dispense the prescriptions of physicians, except as an aid to and under the supervision of a registered pharmacist. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine of not less than five nor more than one hundred dollars. (Stats., 1921, § 3667.)

57. State Board of Pharmacy.—Within sixty days after the passage of this act, the Governor shall appoint five experienced pharmacists who shall have been actively engaged in the drug business for the last five years immediately preceding their appointment, who shall constitute the Arkansas State Board of Pharmacy, one of whom shall hold his office for one year, one for two years, one for three years, one for four years and one for five years, and each until his successor shall have been appointed and qualified, which terms shall be decided by lot at the time of organization. And annually thereafter the Governor shall appoint one member of said board, with qualifications as above set forth, who shall hold his office for five years and until his successor is appointed and qualified. In case of a vacancy from death or other cause, the Governor shall appoint a successor, with qualifications as above set forth. (Id. § 3668.)

58. Oath of Members.—Before entering upon the duties of said office, the members of the said board shall take the oath prescribed by the Constitution of the State for State officers, and shall file the same in the office of the Secretary of State, who shall thereupon issue to each of said examiners a certificate of appointment. (Id. § 3669.)

59. Organization.—Immediately after the appointment and qualification of the board, they shall meet and organize as a State Board of Pharmacy by electing from their own number a president and secretary. The board may adopt such by-laws, rules and regulations as they shall deem necessary to carry into execution the provisions of this act, without expense to the State. A majority of the board shall be a quorum for the transaction of any business. (Id. § 3670.)

60. Meetings of Board; Temporary Certificate; Fee.—The Board of Pharmacy shall hold not less than two stated regular meetings per annum for the examination of candidates, one of which may be held at the time and place of the annual meeting of the Arkansas Association of Pharmacists, and the other meeting shall be held at such time and place as the board may determine. Other meetings of the board may also be held whenever and wherever a quorum of the board, including the secretary, is present. In the interim of the sessions of the board, and, upon satisfactory evidence of the fitness of the applicant, any member of the board may, in his discretion, issue a temporary certificate, which shall authorize

and empower the holder to conduct a drug store or pharmacy, as set forth in section 3667. Such temporary certificate shall terminate and expire at the date of the next succeeding regular meeting of the board after the granting thereof. A fee of two dollars shall be demanded for this temporary certificate, which shall be part payment of the regular examination fee as hereinafter set forth. (Id. § 3671.)

61. Registration Without Examination.—The Board of Pharmacy shall register in a suitable book the names and places of residence of all persons to whom they issue certificates, and the dates thereof. Upon written application, accompanied by such reasonable evidence as the board may require, it shall be the duty of the said Board of Pharmacy to register, without examination, as registered pharmacists, all druggists and pharmacists who are engaged in business in any city or incorporated town in the State of Arkansas, at the passage of this act, either as owners, managers or clerks of any drug store, pharmacy or apothecary shop. Provided, no druggist's clerk shall be so registered unless he be eighteen years of age and has been engaged for the space of three years next preceding the passage of this act in some drug store or pharmacy where physicians' prescriptions were compounded. In case of the failure or neglect of any person to apply for registration within sixty days after the organization of the Board of Pharmacy, and publication thereof for six weeks in the weekly paper published in the State of Arkansas, whose circulation is the largest of all the papers so published, such person shall have forfeited the privilege of being registered as a registered pharmacist, as set forth in this section. (Id. § 3672.)

62. Conduct of Examination.—The State Board of Pharmacy shall upon application, and at such time and place and in such manner as they may determine, examine every person who shall desire to conduct the business described in section 3667, in any city or incorporated town in the State of Arkansas; and if a majority of the members present at the meeting of the board shall be satisfied that said person is competent and fully qualified to conduct the said business of compounding and dispensing drugs, medicines or chemicals for medical use, the board shall enter the name of such person as a registered pharmacist in the book provided for in section 3672. Provided, all graduates in pharmacy of schools or colleges of pharmacy that require three years' practical experience before granting diplomas shall be entitled to have their names registered as registered pharmacists by the Board of Pharmacy without examination. The Board of Pharmacy shall issue an appropriate certificate to each person registered, which certificate must be conspicuously displayed in every store described in this act. (Id. § 3673.)

63. Fees.—The Board of Pharmacy shall be entitled to demand and receive from each person whom they register as a registered pharmacist without examination the sum of three dollars, and from each and every person whom they examine the sum of six dollars, which shall be in full for the registration and the certificate. In case the examination of said person prove defective and unsatisfactory to the board, and he be declined registration, he shall have the privilege of re-examination within twelve months thereafter, without any fee being charged him. (Id. § 3674.)

64. Adulteration.—Any registered pharmacist who shall knowingly, intentionally and fraudulently adulterate or cause to be adulterated any drugs, chemicals or medical preparations, and offer such adulterations for sale, shall be deemed guilty of a misdemeanor, and, upon conviction therefor, his license shall thereby be revoked, and, in addition thereto, he shall be liable to a penalty of not less than five nor more than one hundred dollars. (Id. § 3675.)

65. Revocation of Certificate.—If any person shall procure registration as a registered pharmacist under this act, by making, or causing to be made, false representations, the registration and certificate thus fraudulently obtained may, in the discretion of the board be revoked, and the name of the person so registered stricken from the register. Provided, the person charged with the fraud be first allowed a hearing by the board. (Id. § 3676.)

66. Necessity of Registration.—Any person, not a registered pharmacist as provided in this act, who shall conduct a drug store or pharmacy, or place for compounding or dispensing drugs, medicines or chemicals for medical use, in any city or incorporated town in the State of Arkansas, or who shall take, use or exhibit the title of registered pharmacist without the same has [having] been regularly conferred on him, as set forth in sections 3672 and 3673, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be liable to a penalty of not less than five nor more than one hundred dollars. Provided, any person or persons not a registered pharmacist may own or conduct such a store, if he or they keep constantly in their store a registered pharmacist. Provided, further, this act shall not apply to physicians putting up their own prescriptions, nor to the sale of those articles commonly known

as "grocers' drugs," nor to the sale of patent or proprietary medicines, or non-secret medicines. (Id. § 3677.)

67. Revocation on Conviction of Illegal Sale of Liquor.—If any registered pharmacist shall be convicted by a court of competent jurisdiction, in this State, of the illegal sale or handling of intoxicating liquors, his certificate as registered pharmacist shall thereupon become null and void, and his license, or authority to engage in the business, as set forth in section 3667, shall be thereupon revoked. (Id. § 3678.)

68. Renewal of Certificates.—Every registered pharmacist who wishes to continue in the practice of his profession shall, every two years, on such date as the Board of Pharmacy shall determine, apply to said board for the renewal of his certificate. If he fails to so apply for sixty days after the secretary of the board shall have mailed him a second notice of the expiration of his registration, he shall thereupon cease to be a registered pharmacist within the meaning of this act; provided, such person may again become a registered pharmacist at any time upon the payment of the regular fee, without any re-examination. The fee for the renewal certificate shall be, for proprietors one dollar and for clerks fifty cents, payable every two years to the Board of Pharmacy. (Id. § 3679.)

69. Suits for Penalties.—All suits for the collection of any fine or penalty prescribed in this act may be instituted in any court having jurisdiction thereof by any citizen of the county wherein such fine or penalty is incurred. It shall be the duty of the prosecuting attorney of the county wherein such fine or penalty is incurred to prosecute all persons incurring the same when notified by any citizen of the county. Upon affidavit made before any justice of the peace by any citizen of the county, showing a violation of this act, said justice of the peace shall issue his warrant thereon as provided by law. Provided, that the State Board of Pharmacy, or any member thereof, or its duly authorized agent, may institute and prosecute proceedings in any county of the State for violations of this act, or for the collection of any fine or penalty prescribed in this act, in any court having jurisdiction. All fines and penalties collected under the provisions of this act shall inure to the public school fund of the school district in which the offense was committed. (Id. § 3680.)

69a. Construction of Act.—Nothing in this act shall be construed to repeal or in anywise interfere with the collection of the "privilege taxes" now levied, or that may be hereafter levied, for State, county or city purposes, on the business of hawking, peddling or street vending of goods, wares and merchandise. (Id. § 3681.)

69b. Exemption from Jury Duty.—All persons registered under this act shall be exempt and free from jury duty in the State of Arkansas. (Id. § 3682.)

70. Board Authorized to Prescribe Rules and Regulations for Registration.—On and after the passage of this act, there shall be in this State, registered pharmacists and registered assistant pharmacists; and the State Board of Pharmacy shall, and is hereby empowered to prescribe the experience and educational requirements for admission to the examination and final registration; and shall make rules and regulations for the proper conduct of same. (L. 1921, Act 535, § 1.)

71. Assistant Pharmacists May Perform Certain Work; Defines "Temporary Absence."—Registered assistant pharmacists may perform all the functions of a registered pharmacist, but may only be in charge of a drug store during the temporary or enforced absence of the pharmacist. Temporary absence is construed to mean one day. (Id. § 2.)

72. Registration; Reciprocity.—The Board of Pharmacy may register, without examination, any pharmacists or assistant pharmacists registered by examination in the District of Columbia, or any State, or Territory, or insular possession of the United States; provided the Board of Pharmacy in the District of Columbia, or such other State, Territory, or insular possession of the United States has an equivalent standard for registration, and if the Board of Pharmacy in the District of Columbia or in such other State, Territory, or insular possession of the United States shall grant to pharmacists and assistant pharmacists registered by examination in the State of Arkansas, the same privilege to practice in the District of Columbia or in such other State, Territory, or insular possession of the United States. Such reciprocal registration or certificates shall be subject to such rules and regulations as may from time to time be made by the State Board of Pharmacy. (Id. § 3.)

73. Bulletins; Renewal Fees; Fees for Temporary Permits.—It shall be the duty of the State Board of Pharmacy to issue bulletins from time to time, informing pharmacists of important United States public health regulations; service and regulatory announcements of the Bureau of Chemistry in the United States Department of Agriculture, and decisions of the United States Treasury Depart-

ment relating to the possession, use and sale of nonbeverage U. S. P. alcohol, and the Harrison-Wright anti-narcotic act. The said board shall be fully advised respecting the eligibility and qualifications of all persons whom they admit to the examination and to whom they grant registration, and for this purpose, shall secure the services of the National Association Boards of Pharmacy and the Arkansas Association of Pharmacists, and shall pay for such service as the board may determine but not to exceed one (\$1.00) dollar of each renewal fee annually paid. The fee for renewal certificate shall be two (\$2.00) dollars, payable annually to the Board of Pharmacy, as they may determine on or before April 1. The said Board of Pharmacy shall demand and receive a uniform fee of fifteen (\$15.00) dollars in full satisfaction for all services in issuing temporary permits (which admit to the examination at expiration) registration by reciprocity with other State boards or accredited colleges of pharmacy. (Id. § 4.)

74. Sale on Prescription.—No person shall sell or give away cocaine or any of its salts, or any preparation or mixture thereof, to any one except upon a written prescription of a physician or dentist, licensed under the laws of the State. No prescription containing cocaine shall be filled more than once, and each prescription shall have written plainly upon it the name and address of the patient, and shall be filed and preserved by the pharmacist, who shall not give a copy thereof to any one. (Stats., 1921, § 8282a.)*

75. Not Applicable to Sales in Original Packages.—This section shall not be so construed [as] to apply to sales in original packages by manufacturers or dealers, to any druggist, physician or dentist licensed under the laws of this State. Any person who shall sell or give away any of the articles mentioned in this section in violation thereof, and any person who shall prescribe any such articles to any one addicted to the habitual use of cocaine or any preparation or compound thereof, in any form, shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, and if the person so offending shall be a licensed physician, dentist or pharmacist, in addition to the penalty above set forth, such offender's license shall be revoked upon conviction. Upon complaint being made of a violation of the provisions of this section, the prosecuting attorney of the county wherein the offense is alleged to have been committed shall prosecute such complaints, and to that end shall be authorized to examine the books and files of any dealer within the State for the purpose of tracing the sales of any of the articles herein mentioned. (Id. § 8282b.)*

76. Poisons to be Labeled.—It shall be unlawful to sell at retail arsenic and its compounds, strychnine and its salts, corrosive sublimate, hydrocyanic acid, phosphorous, opium, morphine, laudanum or any preparation of opium containing over two grains to the ounce, without the same be [being] plainly labeled in English with the name of the article, the name of the seller, and the word "Poison." (Id. § 8282c.)

77. Penalty for Violation.—Any person who shall violate any of the provisions of this act shall, upon conviction thereof, be sentenced to pay a fine of not less than twenty-five nor more than one hundred dollars for each offense. (Id. § 8282d.)

78. Certain Narcotics Outlawed May be Prescribed, by Whom; Proportion of Certain Narcotics in Medicines; Records to be Kept of All Dispensation.—It shall be unlawful for any person, firm or corporation to have in his or its possession or to sell, barter, exchange or give away any opium, morphine, codeine, heroin, laudanum, cocaine, cannabis indica, or other potent narcotic drug, or any derivative, preparation, or compound thereof. Nothing in this section shall apply to: (a) The possession, prescribing, dispensing or administration of any of the aforesaid drugs to a patient by a licensed physician, dentist, or veterinary surgeon in the course of his professional practice only; and to patient upon whom such physician, dentist or veterinary surgeon shall personally attend. (b) The possession, sale, dispensing or distribution of any of the aforesaid drugs by a registered pharmacist to a customer under and in pursuance of a written prescription issued by a licensed physician, dentist or veterinary surgeon. (c) The possession, manufacture, dispensing, [or] sale, or [of] preparations and remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or more than one-half of a grain of solid extract of cannabis

*See the later narcotic act of 1923, Nos. 78-79, which repeals all laws in conflict therewith.

indica, or more than eight minus of chloroform in one fluid ounce, or in liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts; provided, that such remedies and preparations are manufactured, dispensed, sold, distributed, given away, or possessed as medicine and not for the purpose of evading the intentions and provisions of this act; provided, further, that any manufacturer, producer, wholesale druggist, compounder or pharmacist (including dispensing physicians), of the preparations and remedies containing opium, or any salt of opium, or any derivative of a salt of opium, shall keep a record of all sales, exchanges or gifts of such preparations and remedies. (L. 1923, Act 213, § 1.)

79. Penalty for Violation.—Any person, firm or corporation who shall violate the provisions of section one of this act shall be guilty of a felony and upon conviction shall be imprisoned in the State Penitentiary for a period of not less than six months nor more than five years. (Id. § 2.)

80. Possession of Narcotic Drugs by Hospitals, etc., Lawful.—It shall be lawful for eleemosynary institutions, sanatoriums, hospitals and wholesale druggists having registered pharmacists in their employ; to possess, use, compound, and sell narcotic drugs in pursuance of the Federal Narcotic Act—Public No. 223—63 Congress H. R. 6282; and the rules and regulations thereto appertaining. (L. 1923, Act 596, § 1.)

Serum, Vaccine.

81. Sale of Anthrax Vaccine.—It shall be unlawful to use or sell anthrax spore vaccine in any territory, county, or parts thereof where anthrax has been diagnosed and found to exist, unless with the advise [advice] and consent of the Veterinary Department of the Agricultural Experiment Station. (Stats., 1921, § 363 as amended L. 1925, Act 224.)

82. Hog Cholera Serum; Duty of Veterinarian to Manufacture.—The Veterinarian of the Experiment Station of the University of Arkansas, is hereby directed to manufacture hog cholera serum in sufficient quantities to supply the demands of the people of the State and shall sell same to the farmers and hog raisers. Said veterinarian shall purchase and keep in stock a supply of instruments necessary for the proper use of such serum and shall sell said instruments and said serum to the farmers and stock raisers at cost. Said veterinarian, after the preparation of said serum, shall give due notice of such fact in the papers of the State and shall without charge instruct the users how to apply same. The professor of animal husbandry of each of the agricultural schools of the State shall be assistants of the State Veterinarian in carrying out the provisions of this act, and the State Veterinarian shall furnish each of them at all times a supply of serum and instruments. All proceeds arising from the sale of serum and instruments by these assistants shall be remitted by them to the treasurer of the board provided for in this act. (Stats., 1921, § 369.)

83. Purchase of Site of Serum Plant.—The Board of Control of the Agricultural Experiment Station of the State of Arkansas shall and is hereby empowered to purchase the acre of land on which the State serum plant is now located, and the buildings which are now located on said land, and owned by the State [shall] be repaired, and an additional annex adequate to the needs of this State be added, so that this plant can supply the demand for serum. (Id. § 373.)

84. Purchase of Equipment.—The State Veterinarian shall be authorized to purchase the necessary equipment and supplies to operate said plant, and all serum that is produced shall be sold at cost to the farmers and stockmen in the State of Arkansas. (Id. § 374.)

Intoxicating Liquors.

85. Unlawful to Manufacture, Sell or Give Away.—It shall be unlawful for any person, firm or corporation to manufacture, sell or give away, or be interested, directly or indirectly, in the manufacture, sale or giving away of any alcoholic, vinous, malt, spirituous or fermented liquors or any compound or preparation thereof, commonly called tonics, bitters or medicated liquors, within the State of Arkansas. (Stats. 1921, § 6160.)

86. Penalty.—Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a felony, and upon conviction shall be imprisoned in the State penitentiary for a period of one year. No court shall suspend sentence or permit a plea of guilty to be entered and continue the cause for a second offense against the provisions of this act. (Id. § 6161.)

87. Exceptions to Statute.—Nothing in this act shall make it unlawful (1) for any priest or minister or any religious denomination or sect to order and have shipped and delivered to him, wine for strictly sacramental purposes, (2) for any registered pharmacist or physician to have shipped and delivered to him such necessary quantities of alcohol as may be required in his business or practice, (3) for any person or institution who necessarily uses alcohol for industrial or scientific purposes to have shipped and delivered necessary quantities of alcohol for legitimate use in his said business; but records shall be kept by the carrier or delivering party of all such wines and all such alcohol and statements thereof shall [be] filed by the carrier with the clerk of the county court within five days after such delivery, which statement shall show the date of the delivery, the name of the consignee, his residence, the article (whether wine or alcohol), the quantity, the name and place of the shipper, and such statements shall be entered by the county clerk in a book, which book shall be a public record.

And it shall be unlawful for any railroad company, express company, or other common carrier, or any other person, to deliver any wine or alcohol other than to consignee; provided, that in any case where the consignee is unable on account of sickness of himself or family to appear in person and sign for such liquor, the consignee may, by written order or authority, authorize some reputable person to sign and receive same for him; and in no case shall any delivery be made of the consignment or package of such wine or alcohol without first having consignee or his lawful agent as aforesaid, sign and deliver to the person in whose charge such consignment or package may be for delivery a written statement:

"I hereby state that my name is; that my post-office address is, Arkansas; that I am more than twenty-one years of age; that I am the consignee to whom the package containing was consigned at on the day of, 19.... to be used for (set out the use for which it is to be used). I will not use or dispose of it in violation of any law of this State.

"Signed and dated at....., Arkansas, this.....day of..... 19.... Consignee."

In no case shall any railroad company, express company, corporation or common carrier, or person, or agent of such railroad company, express company, corporation or other common carrier, or person be liable for damages for not delivering such liquor or package containing the same until such statement is executed and delivered as herein provided.

Any person, who shall make the statement provided in this section, knowing the same to be false, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than one hundred dollars and not more than five hundred dollars, and be imprisoned in the county jail not less than thirty days nor more than ninety days, in the discretion of the court.

In any prosecution under this act the burden shall be upon the defendant to plead and prove any defense he may claim under this section. (Id. § 6181.)

88. Penalty.—Any person, firm, or corporation violating any of the provisions of this act, except as otherwise expressly provided herein, shall upon conviction be fined not less than \$100 and not more than \$1,000 for each offense and may be confined not less than thirty days nor more than ninety days in the county jail. (Id. § 6183.)

89. Possession of Tonics, Bitters, etc., Unlawful.—It shall be unlawful for any person, firm or corporation to have in their possession any alcoholic, vinous, malt, spirituous or fermented liquor or any compound preparation thereof commonly called tonics, bitters, or medicated liquors for the purpose of sale as a beverage. (L. 1925, Act 121, § 1.)

90. Penalty.—Any person, firm or corporation violating any part of this law shall upon conviction be fined in any sum not more than one thousand dollars (\$1,000.00) and not less than fifty dollars (\$50.00). This act does not repeal any law upon the prohibition question but is intended to be cumulative to all present prohibition laws; that this act shall become a law immediately after its passage. (Id. § 2.)

PART IV.

Miscellaneous Laws.

Flag Desecration.

91. Mutilation; Exhibiting Contempt.—Whoever shall in any manner for display, place or cause to be placed upon the flag, colors, coat of arms, or other insignia of the United States, or of the State of Arkansas, any word, picture, or device of trade advertising, or who shall sell, have in possession, or display any flag, colors, coat of arms, or insignia of the United States or of the State of Arkansas, so marked or mutilated for advertising or trade purposes; or who shall in any manner place on, attach to, or associate with any article of commerce any flag, colors, coat of arms or insignia of the United States or of the State of Arkansas, or offer for sale or have in possession any such article so associated; or who shall in any manner mutilate, deface or by word or act publicly exhibit contempt for the flag, colors, coat of arms, or other insignia of the United States, or of the State of Arkansas, or any representation thereof; or shall in any manner display, place or cause to be placed, in or in connection with any advertisement of any kind, any representation of the flag, colors, coat of arms, or other insignia of the United States, or of the State of Arkansas, shall be deemed guilty of a misdemeanor and on conviction shall be punished by a fine not exceeding \$100, or imprisonment for not more than thirty days, or both. (Stats., 1921, § 2315.)

92. Flag, Colors, etc., Defined.—The words "flag," "colors," "coat of arms," or "insignia," used herein, include also any picture or representation or simulation of the same. (Id. § 2316.)

93. Use of Flag, etc., for Patriotic Purposes.—This act shall not apply to the use, wholly disconnected from trade advertising, of the flag, colors, coat of arms, or other insignia of the United States, or the State of Arkansas, on newspapers, books, certificates, commissions, decorations, banners, pictures, stationery for correspondence, or in other ways where its use is for ornamental or patriotic purposes, and not for advertising and trade purposes. (Id. § 2317.)

Tobacco—Tobacco Products.

94. Sale or Gift of Cigarettes to Minor.—It shall be a misdemeanor for any person except parents or guardians, either for himself or another, to sell or give away cigarettes in any form, or tobacco or paper for the purpose of making cigarettes, to any minor under the age of twenty-one years, or to sell or give away cigars, chewing tobacco or tobacco in any form to a minor under the age of fifteen years. (Stats., 1921, § 2686.)

95. Penalty.—Any person convicted of the above named misdemeanor for selling or giving away cigarettes or tobacco or paper, for the purpose of making such cigarettes, shall be fined for each offense in any sum not less than one hundred nor more than three hundred dollars, and every person convicted of selling or giving away chewing tobacco, cigars or tobacco in any form to any minor under the age of fifteen years shall be fined in any sum not less than ten nor more than fifty dollars. (Id. § 2687.)

96. Manufacture and Sale of Cigarettes Prohibited.—It shall be unlawful for any person, firm or corporation acting either as principal or agent to sell, give away, or offer for sale or to give away or to have in possession on or about their premises for the purpose of selling or giving away or to make or manufacture, to attempt to make or manufacture or to in any way assist in making or manufacturing for the purpose of selling or giving away any cigarette, cigarettes or cigarette wrappers or papers to any person or persons. (Id. § 2751.)

97. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than ten nor more than two hundred and fifty dollars. (Id. § 2752.)

98. Jurisdiction; Enforcement.—Justices of the peace shall have jurisdiction over offenses committed under this act and it shall be the duty of every circuit judge in the State, when empaneling and instructing a grand jury, to specifically instruct said jury of the provisions of this act. (Id. § 2753.)

99. Unlawful to Sell or Give to Minors Under 18.—It shall be unlawful for any person, other than the parent or guardian, to give, barter or sell to a minor under eighteen (18) years of age, tobacco in any form or cigarette papers. (L. 1925, Act. 256, § 11.)

100. Violations, Penalties.—Any person violating or failing or refusing to comply with any of the provisions of this act, except section 9, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than \$10.00 or by imprisonment in the county jail for not more than six months, for each offense, and each unlawful sale and each day's operation without a permit shall be counted a separate offense. The Commissioner of Insurance and Revenues shall revoke the permit of any permit holder who is twice convicted under this act and such person shall be ineligible to again secure a permit. (Id. § 12.)

Trade-Marks, Etc.

101. Procedure to Secure.—Any person or firm in this State, or any of the United States or territories thereof, and any corporation created by the authority of this State, or the United States, or any of the States or territories thereof, and any person, firm or corporation resident, or located in any foreign country, which, by treaty or convention, affords similar privileges to citizens of the United States, and who may be entitled to the exclusive use of any lawful trade-mark or device or who may intend to adopt and use any trade-mark or device for exclusive use in this State, may obtain protection for such lawful trade-mark or device by complying with the following requisites and requirements:

First. By making out and filing in the office of the Secretary of State of this State, to be there registered or recorded, a statement specifying the names of the parties and their residence and place of business who desire the protection of the trade-mark, the class of merchandise, and particular description of goods comprised in such class, by which or to which the trade-mark had been or is intended to be appropriated; a description of the trade-mark itself or device, or combination of words, letters or figures or characters used or intended to be used as such, and the mode in which it has been or is intended to be applied and used, and the length of time, if any, during which the trade-mark has been in use.

Second. By making payment to the Secretary of State, for the use of the State, of a fee of not less than twenty-five nor more than one hundred dollars to be determined by the secretary according to a schedule of fees arranged with reference to the number of words, figures, characters, etc., contained in such statement, which schedule it is made the duty of the secretary to make and keep posted up in his office. (Stats., 1921, § 10295.)

102. Declaration Under Oath.—The certificate prescribed in the preceding section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration, verified by the person or by some member of the firm or officer of the corporation by whom it is filed, to the effect that the party claiming the protection for the trade-mark has a right to the use of the same, and that no other person, firm or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive, and that the facsimiles presented for record are true copies of the trade-mark sought to be protected. (Id. § 10296.)

103. Proposed Trade-Mark Not Recorded, When.—The secretary shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm or corporation, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriated to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last mentioned trade-mark as to be likely to deceive the public. But this section shall not prevent the registry of any lawful trade-mark rightfully in use on the first day of May, 1883. (Id. § 10297.)

104. Record; Copies as Evidence.—The time of the receipt of any trade-mark at the office of the Secretary of State, for registration or record, shall be noted and recorded. Copies of the trade-mark, and of the date of receipt thereof, and of the statement filed therewith, under the seal of the Secretary of State, shall be furnished by the secretary to any person who may apply therefor, and pay the fee therefor fixed by the secretary, not exceeding the fee required for the original registration thereof, and such copies shall be evidence in any suit or proceeding in which such trade-mark shall be brought in controversy. (Id. § 10298.)

105. Period.—A trade-mark registered as above prescribed shall remain in force for twenty-five years from the date of such registration except in case where such trade-mark is claimed for, and applied to, articles not manufactured in this State, and in which it receives protection under the laws of some other State, territory or foreign country for a shorter period, in which case it shall cease to have any force in this State, by virtue of this act, at the same time it becomes of no effect elsewhere. (Id. § 10299.)

106. Penalty For Violating.—Such trade-mark, during the period it remains in force, shall entitle the person, firm or corporation registering the same to the exclusive use thereof, so far as regards the description of goods to which it is appropriated in the statement filed under oath, as aforesaid, and no other party shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, on substantially the same description of goods, or obtain, use or employ any article or thing whatever upon which such trade-mark, or substantially the same, or one so nearly resembling it as to be calculated to deceive, has been printed, painted, stamped, woven, branded, or in any manner put or placed, for the purpose of putting up, shipping, selling or otherwise disposing of substantially the same description of goods as those to which the same has been appropriated by the party rightfully entitled to the use of such trade-mark; and any person or member of any firm, or agent, or officer of any corporation, not entitled so to do, who shall knowingly use such trade-mark, or obtain, use or employ, as aforesaid, any such article or thing, or shall reproduce, counterfeit, copy or imitate any recorded trade-mark, and affix the same to, or, for the purpose of having the same used or disposed of, to affix to goods of substantially the same descriptive properties and qualities as those referred to in the registration, or who shall, with intent to defraud, deal in or sell, or keep, or offer for sale, or cause or procure the sale of, any goods of substantially the same descriptive properties as those referred to in the registration of any trade-mark registered in pursuance of this act, to which, or to the package in which the same are put up, is fraudulently affixed said trade-mark, or any colorable imitation thereof, calculated to deceive the public, knowing the same to be counterfeit, or not the genuine article, or goods referred to in said registration, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both such fine and imprisonment, and such person, and also the firm of which he is a member, or the corporation of which he is an agent or officer, and which may have countenanced or connived at his act, shall moreover be liable to an action for damages for such wrongful act, at the suit of the owner of such trade-mark, and the party aggrieved shall also have his remedy, according to the course of equity, to enjoin the wrongful use of his trade-mark, and to recover compensation therefor in any court of competent jurisdiction, and in any such action or suit such owner or aggrieved party shall be entitled to recover a reasonable amount for attorney's fees, to be paid by the party or parties held liable therein. (Id. § 10300.)

107. When Action for Infringement Does Not Lie.—No action shall be maintained under the provisions of this act by any person claiming the exclusive right to any trade-mark which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade-mark which has been fraudulently obtained, or which has been formed and used with the design of deceiving the public in the purchase or use of any article of merchandise. (Id. § 10301.)

108. Procurement by Fraud; Damages.—Any person who shall procure the registry of any trade-mark, or of himself as the owner of a trade-mark, by making false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the person injured thereby. (Id. § 10302.)

109. Construction of Act.—Nothing in this act shall prevent, lessen, impeach or avoid any remedy at law, or in equity, which any party aggrieved by any wrongful use of any trade-mark might have, if the provisions of this act had not been enacted, and nothing in this act contained shall be construed by any court as abridging, or in any manner affecting unfavorably, the claim of any person to any trade-mark after the expiration of the term for which such trade-mark was registered. (Id. § 10303.)

110. For Barrels, Bottles, Syphons, Etc.; How Obtained; Clerk's Fee.—All manufacturers or dealers in carbonated goods, mineral waters, soda waters, wine, cider or other beverages, or manufacturers of medicine or other compounds requiring the use of kegs, casks, barrels, boxes, syphons, bottles or any other vessels, or containers, upon which the names, brands, marks or trade-marks, or other designations of ownership or proprietorship, stamped, engraved, etched, blown, impressed or

otherwise produced upon such boxes, syphons, bottles or any other vessels for [or] containers, may file in the office of the county clerk of the county in which the principal place or office of business is situated, a facsimile or description of the name or names, marks or devices so used by such manufacturer or dealer in such wares herein enumerated, and such description to be published in a public newspaper published in such county for three consecutive weeks and the act of so filing and causing it to be recorded by the county clerk, and publishing, shall operate as a trade-mark, securing to the said manufacturer the full protection of the law as a trade-mark, entitling the said manufacturer to the sole and exclusive use in the State of Arkansas of said marks, name or device. The county clerk shall receive for his services for so recording one dollar to be paid by party having such record made. (Id. § 10304.)

111. Unlawful to Refill or Deface.—It is hereby declared unlawful for any persons, corporate or otherwise, other than the proprietor, or by his written consent, to fill for the purpose of traffic, or for sale, with any compound whatever, any box, syphon, bottle or other container so marked, recorded in the office of the county clerk and published as aforesaid, or to deface, erase, obliterate, cover up or otherwise remove or cancel any such mark or device. (Id. § 10305.)

112. Unlawful to Have in Possession, etc.—To have in possession otherwise than by contract with the proprietor of the goods herein enumerated, or with his duly accredited agents, of any of the vessels herein enumerated, or to use, buy, sell or dispose of any such vessels with or without contents of any kind, except by authority from the proprietor, or to willfully or maliciously break, damage, mar, injure or destroy any such vessel, is declared hereby to constitute a misdemeanor, punishable by a fine upon conviction in a court of competent jurisdiction, an employee being equally liable with the principal so offending. (Id. § 10306.)

113. Penalty.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction before a justice of the peace shall be fined for such unlawful use of each and every box five dollars; for each and every syphon, five dollars; for each and every bottle, one dollar; and for every other receptacle, except a fountain, five dollars; and for each fountain, twenty-five dollars. The fines so designated to be the minimum in each case, the maximum not to exceed double the minimum. (Id. § 10307.)

114. Search Warrant.—Prosecutions under the provisions of this act may be maintained upon the information of the owner or proprietor of any of the vessels or containers mentioned herein, or his agent, made under oath before a justice of the peace or any other officer having the same jurisdiction, setting forth that he has good reason to believe and does believe that another person than the rightful owner, without lawful authority is using or has used any of such vessels or receptacles contrary to the provisions of this act. Upon filing of such information the justice of the peace or any other officer having the same jurisdiction shall issue his search warrant and cause the same to be executed by a qualified officer upon the premises to be designated by the person making the complaint, and if the said officer, acting under the said search warrant, shall discover any of such property as herein specified, he shall at once arrest the party named in such warrant and bring him before the justice of the peace, who shall proceed at once to hear and determine such case, and if the accused be found guilty he shall be fined as provided in section 10307. (Id. § 10308.)

115. Purchaser to Return Container.—Any merchant or dealer purchasing goods contained in such registered containers, paying only for the contents thereof, shall be liable for the value of said containers, and shall, when demanded, return to the owner thereof all such containers when empty, or within a reasonable time after the goods have been delivered. If containers are demanded before empty by the owner thereof, he shall refund the price received for the contents thereof. (Id. § 10309.)

NOTE: See also Nos. 26 and 46-1.

Weights and Measures.

116. Standard of Weights and Measures.—The standards of weights and measures of this State shall be the standard of weights and measures used under the terms and provisions of this act [Warehouses and Marketing Bureau Act]. It shall also be the duty of the Board of Supervisors to establish standards of classification for cotton, corn and all other farm and ranch products of whatsoever kind and character which may be subject to classification, and originals of such standards so established shall be maintained subject to public inspection in the offices of the

Bureau of Mines, Manufactures and Agriculture at all times; and duplicates of said standards, as well as the standards of weights and measures, shall be furnished by the Board of Supervisors to all who may apply therefor upon the payment of the necessary cost thereof. It shall be the duty of each public warehouse company to keep duplicates of said standards as well as the standards of weights and measures at its warehouses, subject to inspection, and comparison of grades and classifications, by persons storing products; provided, that the standards of classification shall always be the standards established by the government of the United States or shall be the same as those in general use. (Stats. 1921, § 10450.)

117. Standard Set.—The set of weights and measures prepared by the United States under the act of Congress, approved the fourteenth day of June, A. D. 1836, and delivered to the Governor of the State of Arkansas, and now deposited in the office of the Secretary of State, shall be and the same is hereby declared to be the standard of all weights and measures used in this State, and the clerk of the county court of each county in this State shall procure, as soon as practicable, at the expense of the county, a complete set of weights and measures, which shall conform to said standard, and shall be sealed by the Secretary of State. (Id. § 10475.)

118. Secretary to Seal.—The Secretary of State shall procure a seal or stamp, with the letters "S. A." upon it, with which he shall seal all weights and measures which he shall compare with the said standard in his office and find to be correct; and such weights and measures, after being so sealed, shall be a lawful standard for the county by which they were procured; and the Secretary of State shall charge the sum of four dollars for testing and sealing such weights and measures. (Id. § 10476.)

119. County Clerks to Seal.—The several clerks of the county courts shall seal all weights and measures that may be presented to them for that purpose which correspond with the county standard. (Id. § 10477.)

120. Bushel of Apples.—A box nine inches deep, twelve inches wide and twenty inches long, shall constitute a lawful bushel measure for apples. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten nor more than twenty-five dollars for each offense. (Id. § 10479.)

121. Legal Weight of Bushel.—The legal weight per bushel of corn, shelled, shall be fifty-six pounds.

Corn in ear, husked, shall be seventy pounds.

Corn in ear, unhusked, shall be seventy-four pounds.

Wheat shall be sixty pounds.

Oats shall be thirty-two pounds.

Cottonseed shall be thirty-three and one-third pounds.

Corn meal shall be forty-eight pounds.

Barley shall be forty-eight pounds.

Rye shall be fifty-six pounds.

Potatoes shall be sixty pounds.

Potatoes, sweet, shall be fifty pounds.

Onions shall be fifty-seven pounds.

White beans shall be, per bushel, sixty pounds.

Peas shall be sixty pounds.

Flaxseed shall be fifty-six pounds.

Blue grass seed shall be fourteen pounds.

Clover seed shall be sixty pounds.

Timothy seed shall be sixty pounds.

Millet seed shall be fifty pounds.

Buckwheat shall be fifty-two pounds.

Red top shall be fourteen pounds.

Orchard grass shall be fourteen pounds.

Sorghum shall be fifty pounds.

Green apples shall be fifty pounds.

Dried apples shall be twenty-four pounds.

Dried peaches shall be thirty-three pounds.

Bran shall be twenty pounds.

Salt shall be fifty pounds.

Turnips shall be fifty-seven pounds.

Broom corn seed shall be forty-eight pounds.

Johnson grass seed shall be twenty-eight pounds. (Id. § 10480.)

122. Testing of Scales.—The county clerks of all and every county in the State are hereby directed and required to comply with the law as directed in

sections 10475 to 10477, and be prepared at all times to test and seal all scales and measures presented for test and found correct. (Id. § 10482.)

123. Penalty.—Neglect or failure from any cause to comply with section 10482 shall constitute a misdemeanor and subject the clerk so offending same to a fine of one dollar for each day he fails to be prepared with his tests and seal. The clerk shall receive the sum of ten cents for each pair of scales or measures presented to him for test, to be paid by the person, firm or corporation presenting same and five cents per mile one way for traveling to wagon scales and twenty-five cents for sealing them, to be paid by the owners. (Id. § 10483.)

124. Duty to Have Scales and Measures Tested.—Every person, firm or corporation who buy and sell any kind of goods, produce, cotton, cottonseed, hay, feed stuffs and all kinds of merchandise, usually bought and sold, shall have their scales and measures tested and sealed on or before the first day of September and each year thereafter. Failure to comply with the provisions of this section shall constitute a misdemeanor and shall subject the individual, firm or corporation to a fine of one dollar for each day so offending. (Id. § 10484.)

125. Inspection.—It shall be the duty of the constable of every township and of the marshal of every city or town where complaint be made to him by three or more citizens to inspect any scales, weights and measures used for weighing or measuring any kind of goods or produce or commercial substances, and such officers shall make an annual inspection of all such weights, measures and scales, and if at any time he finds any such scales, weights and measures do not conform to the lawful standard, he shall cause the person, firm or corporation using same to be prosecuted therefor and one-half of any fine assessed therefor shall be paid to said officer. (Id. § 10485.)

126. Goods to Weigh as Marked.—Every package, bag or bundle of goods or merchandise shall contain in weight what it is branded, marked or said to contain. And any person, firm or corporation violating the provisions of section 10487, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one dollar nor more than twenty-five dollars for each package, bag or bundle sold in violation of this law. (Id. § 10486.)

127. Weight Stamped on Packages.—It shall be unlawful for any corporation, firm, manufacturer, merchant or other dealer, their agent or employees, to sell, or offer for sale, any grain, chops, bran, fertilizer, meal, or flour in sacks, barrels or other packages, unless the true weight of such grain, chops, bran, fertilizer, meal, or flour be stamped or marked upon the sacks, barrels, or other packages. (Id. § 10487.)

128. Penalty.—Any corporation, shipper, manufacturer, merchant or other dealer, their agents or employees, who shall violate the provisions of section 10487, shall be deemed guilty of a misdemeanor, and, upon conviction before any justice of the peace or Circuit Court, shall be fined in any sum not less than twenty dollars, and every such sack, barrel, or other package of such grain, chops, bran, fertilizer, meal or flour offered for sale in violation of this act shall constitute a separate offense. (Id. § 10488.)

129. Short Weights and Measures.—Whoever knowingly buys or sells or permits any person in his employ to buy or sell any property and make or give any false or short weight or measure and any person owning or having charge of any scales fixed for the purpose of misweighing any article bought or sold and any person having any such scales for the purpose of weighing any property and who knowingly reports any false or untrue weight and any firm or corporation using (in the sale of any commodity) a computing scale or device indicating the weight and price of such commodity upon which scale or device the graduation or indication are false or inaccurately placed, either as to weight or price, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, and each sale made on any such scale or device shall constitute a separate offense. (Id. § 10489.)

130. Packing Fruit.—Any person who shall pack any fruit, or other merchantable commodity, with the fraudulent intent of thereby cheating others by a misrepresentation of the contents, either as to quality or quantity, shall, on conviction thereof, be punished by a fine, not exceeding five hundred dollars, or by imprisonment at hard labor, not exceeding one year, or both. (Id. § 10490.)

131. Fraudulent Packing.—Any person who shall sell, pledge or hypothecate any such commodity, knowing the same to be packed in the fraudulent manner aforesaid, with the intent to cheat and deceive shall, on conviction thereof, be punished as provided in section 10489. (Id. § 10491.)

NOTE: See also No. 7; the feeding stuffs law, No. 29 et seq.; the agricultural products law, No. 46a et seq.; the vinegar law, No. 49 et seq.

PART V.

CASES.

1. General Food and Drug Law.

Baking Powder: Royal Baking Powder Co. v. Emerson, 270 Fed. 429 (C. C. A.) (1920), appeal dismissed in Same, 260 U. S. 752, 43 S. Ct. 166, 67 L. Ed. 496 (1922).

Drugs—Benzine: See Phoenix Insurance Co. v. Flemming, 65 Ark. 54, 44 S. W. 464, 39 L. R. A. 789, 67 Am. St. Rep. 900 (1898).

2. Special Food Laws.

Beverages—Cider—License: *Texarkana v. Hudgins Produce Company, 112 Ark. 17, 164 S. W. 736, 51 L. R. A. (N. S.) 1035 (1914).

Beverages—Jamaica Ginger: Sluder v. State, 162 Ark. 212, 258 S. W. 123 (1924); Sanders v. State, 164 Ark. 491, 262 S. W. 327 (1924).

Beverages—Soda Fountains—License: *Kirby v. Paragould, 159 Ark. 29, 251 S. W. 374 (1923).

Beverages—Vanilla Extract: Sanders v. State, 164 Ark. 491, 262 S. W. 327 (1924); Honaker v. State, 166 Ark. 97, 265 S. W. 353 (1924).

Meat: *Helena v. Dwyer, 64 Ark. 424, 42 S. W. 1071, 39 L. R. A. 266, 62 Am. St. Rep. 206 (1897); *Stamps v. Burk, 83 Ark. 351, 104 S. W. 153 (1907); *Carpenter v. Little Rock, 101 Ark. 238, 142 S. W. 162 (1911).

Milk: *Carpenter v. Little Rock, 101 Ark. 238, 142 S. W. 162 (1911).

3. Special Drug Laws.

Narcotics: Starr v. State, 165 Ark. 511, 265 S. W. 54 (1924); Murphy v. State, 169 Ark. 275, 273 S. W. 718 (1925).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Bottles—Explosion: Colyar v. Little Rock Bottling Works, 114 Ark. 140, 169 S. W. 810 (1914).

Feeding Stuffs: National Cotton Oil Company v. Young, 74 Ark. 144, 85 S. W. 92, 109 Am. St. Rep. 71, 4 Ann. Cas. 1123 (1905).

Food: Nelson v. Armour Packing Company, 76 Ark. 352, 90 S. W. 288 (1905); Heinemann v. Barfield, 136 Ark. 456, 207 S. W. 58 (1918); Drury v. Armour & Company, 140 Ark. 371, 216 S. W. 40 (1919); Armour & Company v. Drury, 146 Ark. 310, 226 S. W. 133 (1920). See also: Earl v. Westfall Commission Company, 70 Ark. 61, 66 S. W. 148 (1902); Bunch v. Weil, 72 Ark. 343, 80 S. W. 582, 65 L. R. A. 80 (1904); Carpenter v. Crow, 77 Ark. 522, 92 S. W. 779 (1906); Hixson v. Cook, 130 Ark. 401, 197 S. W. 698 (1917); Neel v. West-Winfree Tobacco Company, 142 Ark. 505, 219 S. W. 326 (1920); Courtesy Flour Company v. Westbrook, 146 Ark. 17, 225 S. W. 3 (1920); O. L. Gregory Vinegar Company v. National Fruit Canning Company, 167 Ark. 435, 268 S. W. 598 (1925).

Vaccine: Mann-Tankersly Drug Company v. Cheairs, 75 Ark. 596, 88 S. W. 873 (1905).

5. Miscellaneous.

Distribution of Samples—License: Courtney v. Fort Smith, 167 Ark. 475, 268 S. W. 854 (1925).

Trade-Marks: Brunson v. Reinberger & Collier, 134 Ark. 211, 203 S. W. 269 (1918).

Trading Stamps: Garnet Carter Co. v. Carver & Smith, 132 Ark. 305, 200 S. W. 984 (1918); *Humes v. Little Rock, 138 Fed. 929 (1898); *Humes v. Fort Smith, 93 Fed. 857 (1899).

Weights and Measures: *McLean v. State, 81 Ark. 304, 98 S. W. 729, 126 Am. St. Rep. 1037 (1906), affirmed in Same, 211 U. S. 539, 29 S. Ct. 206, 53 L. Ed. 315 (1909); *Petty v. State, 102 Ark. 170, 143 S. W. 1067 (1912); Petty v. Lyons, 115 Ark. 372, 171 S. W. 112 (1914); *Robertson v. Mena Bonded Warehouse Company, 145 Ark. 106, 223 S. W. 378 (1920).

CALIFORNIA.*

PART I.

General Food Law.

1. Manufacture and Sale of Adulterated Food Prohibited.—The manufacture, production, preparation, compounding, packing, selling, offering for sale or keeping for sale within the State of California, or the introduction into this State from any other State, territory, or the District of Columbia, or from any foreign country, of any article of food or liquor which is adulterated, mislabeled or misbranded within the meaning of this act is hereby prohibited. Any person, firm, company, or corporation who shall import or receive from any other State or territory or the District of Columbia or from any foreign country, or who having so received shall deliver for pay or otherwise, or offer to deliver to any other person, any article of food or liquor adulterated, mislabeled or misbranded within the meaning of this act, or any person who shall manufacture or produce, prepare or compound, or pack or sell, or offer for sale, or keep for sale, in the State of California any such adulterated, mislabeled or misbranded food, or liquor, shall be guilty of a misdemeanor; provided, that no article of food shall be deemed adulterated, mislabeled or misbranded within the provisions of this act when prepared for export beyond the jurisdiction of the United States and prepared or packed according to specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if such foods shall be in fact sold, or kept or offered for sale for domestic uses and consumption, then this proviso shall not exempt said article from the operation of any provisions of this act. (G. L. 1923, Act 57, § 1.)

2. Definition of Term "Food."—The term "food" as used in this act shall include all articles used for food, drink, liquor, confectionery or condiment by man or other animals, whether simple, mixed, or compound. (Id. § 2.)

3. Standard of Purity.—The standard of purity of food and liquor shall be that published in circular number nineteen, the food inspection decisions and the service and regulatory announcements of the Bureau of Chemistry of the United States Department of Agriculture. Nothing in this section contained shall authorize or permit any adulteration of any food or liquor because the standard of purity of such food or liquor shall not be proclaimed by the Secretary of the United States Department of Agriculture. (Id. § 3.)

4. What Constitutes Adulteration of Food.—Food shall be deemed adulterated within the meaning of this act, in any of the following cases:

First: If any substance has been mixed or packed, or mixed and packed with the food so as to reduce or lower or injuriously affect its quality, purity, strength, or food value.

Second: If any substance has been substituted wholly or in part for the article of food.

Third: If any essential or any valuable constituent or ingredient of the article of food has been wholly or in part abstracted.

Fourth: If it be mixed, colored, powdered, coated or stained in any manner whereby damage or inferiority is concealed.

Fifth: If it contain any added poisonous or other added deleterious ingredient

Sixth: If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal or vegetable unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter; provided, that an article of liquor shall not be deemed adulterated, mislabeled or misbranded if it be blended or mixed with

*CITATIONS: "G. L. 1923" refers to the General Laws of California (Deering), 1923. "Pen. Code 1923," "Pol. Code 1923" and "Civ. Code 1923" refer to the Penal Code of California (Deering), Political Code of California (Deering), and Civil Code of California (Deering), respectively, 1923. "Supp. 1925" refers to the supplement (Deering) of that year to the Codes and General Laws of California of 1923.

like substances so as not to injuriously reduce or injuriously lower or injuriously affect its quality, purity or strength.

Seventh: In the case of confectionery: If it contains terra alba, barytes, talc, chrome yellow, or other mineral substance, or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spiritous liquors or compound or narcotic drug.

Eighth: In the case of vinegar: If it be artificially colored.

Ninth: If it does not conform to the standard of purity therefor as proclaimed by the Secretary of the United States Department of Agriculture. (Id. § 4.)

5. To What the Term "Misbranded" Applies.—The term "misbranded" as used herein shall apply to all articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food product which is falsely branded as to the county, city and county, city, town, State, territory, District of Columbia or foreign country in which it is manufactured, or produced. (Id. § 5.)

6. Food, Mislabeled or Misbranded, What Shall be Deemed as.—Food and liquor shall be deemed mislabeled or misbranded within the meaning of this act in any of the following cases:

First. If it be an imitation of or offered for sale under the distinctive name of another article of food.

Second. If it be labeled or branded or colored so as to deceive or mislead, or tend to deceive or mislead the purchaser; or if it be falsely labeled in any respect, or if it purport to be a foreign product tending to mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

Third. If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substance contained therein, which statement, design, or device shall be false or misleading in any particular.

Fifth. When any package bears the name of the manufacturers, jobbers or sellers, or the grade or class of the product, it must bear the name of the real manufacturers, jobbers or sellers and the true grade or class of the product, the same to be expressed in clear and distinct English words in legible type; provided, that an article of food shall not be deemed misbranded, if it be a well-known food product of a nature, quality and appearance, and so exposed to public inspection as not to deceive or mislead nor tend to deceive or mislead a purchaser, and not misbranded and not of the character included within the definitions one to four of this section.

Sixth. If, having no label, it is an imitation or adulteration, or is sold or offered for sale under a name, designation, description or representation which is false or misleading in any particular whatever; and in case of eggs and poultry: if they have been kept or packed in cold storage, or otherwise preserved, they must be so indicated by written or printed label or placard plainly designating such fact when offered or exposed for sale. (Id. § 6.)

7. Definition of the Term "Package."—The term "package" as used in this act shall be construed to include any phial, bottle, jar, demijohn, carton, bag, case, can, box or barrel or any receptacle, vessel or container of whatsoever material or nature which may be used by a manufacturer, producer, jobber, packer or dealer, for inclosing any article of food. (Id. § 7.)

8. Possession of Adulterated Food.—The possession of any adulterated, mislabeled or misbranded article of food or liquor by any manufacturer, producer, jobber, packer, or dealer in food, or broker, commission merchant, agent, employee or servant of any such manufacturer, producer, jobber, packer, or dealer, shall be prima facie evidence of the violation of this act. (Id. § 8.)

9. Laboratory for Analysis of Foods and Drugs; Duties of Director, etc.; Salaries; Assistants.—For the purpose of this act there is hereby established a State laboratory for the analysis and examination of foods and drugs, which shall be under the supervision of the State Board of Health, which laboratory shall be located at such place as the State Board of Health may select. The State Board of Health shall appoint a director of said laboratory, a consulting nutrition expert, and an assistant to such director, all of whom shall be skilled pharmaceutical chemists and analysts of foods and drugs. Said director shall perform all duties required by this act and which shall be required by the

State Board of Health. Said consulting nutrition expert shall at all times be ready for consultation with, give advice to, and perform duties in connection with the director of said laboratory, and shall at all times be under the supervision of and perform such duties under this act as are required by the State Board of Health. As a part of his duties he shall consult and advise with the State Board of Control concerning standards of purity and other matters relating to foods and drugs purchased by the State of California for any or all of its institutions. The assistant shall be under the supervision of the director and shall perform all duties required of him by the director and by the State Board of Health.

The director shall receive an annual salary of three thousand six hundred dollars, the consulting nutrition expert shall receive an annual salary of one thousand two hundred dollars and the assistant to the director shall receive an annual salary of one thousand eight hundred dollars. All such salaries shall be paid in the same manner and at the same time as the salaries of State officers.

The State Board of Health, out of the appropriation hereinafter provided, and out of the funds derived from the operation of this act, may employ and fix the compensation of other and additional clerical and professional assistants. (Id. § 9.)

10. Suspected Food to be Analyzed; Duty of Sheriffs; Powers of Inspectors.—The State Board of Health or its secretary, shall cause to be made by the said director of the State Laboratory, or under his supervision, examinations and analyses of food and liquor on sale in California, suspected of being adulterated, mislabeled or misbranded at such times and places and to such extent as said board or its secretary may determine, and may appoint such agent or agents, as it may deem necessary, and the sheriffs of the respective counties of the State are hereby appointed and constituted agents for the enforcement of this act, and any agent or sheriff shall have free access, at all reasonable hours, for the purpose of examining any place where it is suspected that any article of adulterated, mislabeled or misbranded foods exist, and such agent or sheriff upon tendering the market price of said articles, if a sale be refused, may take, from any person, firm or corporation samples of any articles suspected of being adulterated, mislabeled or misbranded, and shall deliver or forward such samples to the said director of the State Laboratory for examination and analysis. The director of the State Laboratory, [and] the agents and inspectors of the State Board of Health shall have the same powers as are possessed by peace officers in this State. (Id. § 10.)

11. Evidence to be Reported to District Attorney.—It shall be the duty of the State Board of Health whenever it has satisfactory evidence of the violation of any of the provisions of this act respecting the adulteration or misbranding of foods to report such facts to the district attorney of the county where the law is violated, after the hearing provided in section sixteen of this act. (Id. § 11.)

12. Unlawful to Conceal Food.—It shall be a misdemeanor for any person to refuse to sell to any sheriff or other agent of the State Board of Health, any sample of food or liquor upon tender of the market price therefor, or to conceal any such food from such officer, or to withhold from him information where such food is kept or stored. Any such person so refusing to sell, or concealing such food, or withholding such information from said officer shall, upon conviction, be punished as provided in section nineteen of the Penal Code of the State of California.* (Id. § 12.)

13. Report to State Board of Health.—Whenever said director shall find from his examination and analysis that adulterated, mislabeled or misbranded food has been on sale in this State, he shall forthwith report to the secretary of the State Board of Health. (Id. § 13.)

14. Certificate of Director.—Every certificate signed by the said director of the State Laboratory shall be prima facie evidence of the facts therein stated. (Id. § 14.)

15. Annual Report of Director of State Laboratory.—The said director of the State Laboratory shall make an annual report to the State Board of Health, on or before August first of each year, upon adulterated or misbranded foods and liquors, in which report shall be included the list of cases examined by

* Section 19 of the Penal Code, above referred to, reads as follows: "Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both."

him in which adulterants were found, and the list of articles found, mislabeled or misbranded, and the names of the manufacturers, producers, jobbers and sellers. Said report, or any part thereof, may, in the discretion of the State Board of Health, be included in the report which the State Board of Health is already authorized by law to make to the Governor. The State Board of Health may, in its discretion, publish any part of said report in any issue of its monthly bulletin. (Id. § 15.)

16. Hearing for Violation of Act.—When an examination or analysis of the director of the State Laboratory shows that any of the provisions of this act have been violated, notice of that fact together with a copy of the certificate of the findings, shall be furnished to the party or parties from whom the sample was obtained or who executed the guaranty as provided in this act, and a date shall be fixed by the secretary of the State Board of Health at which said parties may be heard before the State Board of Health or before any two members thereof and the secretary. The hearing shall be held at such place as the State Board of Health or its secretary may designate, and at least fifteen days' notice thereof shall be first served upon the party complained of. These hearings shall be private and confined to questions of fact. Parties interested therein may appear in person or by attorney and may propound interrogatories and submit oral or written evidence to show any fault or error in the findings made by the director of the State Laboratory. If the examination or analysis be found correct, or if the party or parties fail to appear at such hearing after notice duly given as provided herein, the secretary of the State Board of Health shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which said adulterated, mislabeled or misbranded food was found. No publication as in this act provided shall be made until after said hearing is concluded. (Id. § 16.)

17. Sheriff to Purchase Samples of Alleged Adulterated Food.—It is hereby made the duty of the sheriff of any county of this State, on presentation to him of a verified complaint of the violation of any provisions of this act, at once to obtain by purchase a sample of the adulterated, mislabeled or misbranded food complained of, and divide said article into three parts, and each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds or in volume less than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. One sample shall be delivered to the party from whom procured, or to the party guaranteeing such merchandise, one sample shall be sent to the director of the State Laboratory and the third sample shall be sent to and held under seal by the State Board of Health. (Id. § 17.)

18. Fees of Sheriff.—For his services hereunder the said sheriff shall be allowed the same fees for travel allowed by law to sheriffs on service of criminal process, together with such compensation as by the board of supervisors of his county may be deemed reasonable, and all amounts expended by him in procuring and transmitting the said samples, which fees and amount expended shall be audited and allowed by the said supervisors and paid by his said county as other bills of said sheriff. (Id. § 18.)

19. Duty of District Attorney.—It shall be the duty of the district attorney of each county to prosecute all violations of the provisions of this act occurring within his county. (Id. § 19.)

20. Penalty; Adulterated Food Seized; Adulterated Food Destroyed.—Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Whenever the director of the State Laboratory shall find after investigation and examination that any article of food found in the possession of any person, firm, company or corporation is adulterated, misbranded or mislabeled within the meaning of this act, he may seize such article of food and tag the same "quarantined," and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of pending hearing and final disposition as in this act provided.

Whenever the director of the State Laboratory or any agent or inspector of the State Board of Health shall find any article of food adulterated within the meaning of the sixth subdivision of section four of this act, he may seize such article of food and tag the same "quarantined," and said article of food shall not thereafter be sold, offered for sale, removed or otherwise disposed of until further notice in writing from said director of the State Laboratory. Food found to be

adulterated, mislabeled or misbranded within the meaning of this act may, by order of any court or judge, be seized and destroyed. (Id. § 20.)

21. Disposition of Fines.—One-half of all fines collected by any court or judge, for the violations of the provisions of this act shall be paid to the State Treasurer and the State Treasurer shall deposit such money to the credit of the fund for the maintenance of the State laboratory, to be drawn against by warrants of the State Controller upon claims which shall be approved by the State Board of Health and by the State Board of Examiners. (Id. § 21.)

22. Dealer Not to be Prosecuted When He Holds Wholesaler's Guaranty.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States from whom he purchased such article, to the effect that the same is not adulterated, mislabeled or misbranded within the meaning of this act, and can also establish by satisfactory evidence that the article sold by him was mislabeled and that at the time of making such sale he was not aware of that fact; such guaranty may be either general or special. A general guaranty shall guarantee without condition or restriction all of the products or articles produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated within the meaning of this act. A special guaranty shall guarantee in the same manner the particular articles listed in an invoice of the same, and shall be attached to or shall fully identify such invoice. Both said guaranties to afford protection must contain the name and address of the party or parties making the sales of such article to said dealer. If the guaranty be to the effect that such article is not adulterated, mislabeled or misbranded within the meaning of the National Pure Food Act, approved June 30, 1906, it shall be sufficient for the purposes of this act and have the same force and effect as though it referred to this act, except that a guaranty referring to the said National Pure Food Act alone shall not be sufficient for the purposes of this act in any case where at any time the standard for the article concerned under this act is higher than the standard for a like article under said National Pure Food Act. In case the wholesaler, jobber, manufacturer or other party making such guaranty to said dealer resides without this State and it appears from the certificate of the director of the State Laboratory that such article or articles were adulterated, mislabeled or misbranded, within the meaning of this act or the National Pure Food Act approved June 30, 1906, the district attorney must forthwith notify the Attorney-General of the United States of such violation. (Id. § 22.)

23. Appropriation.—The sum of twenty thousand dollars (\$20,000.00) is hereby appropriated out of any money in the State treasury not otherwise appropriated for the purchase of equipment, apparatus, chemicals and supplies of said laboratory and of the office expenses in connection with the same and for the compensation of additional assistants and other necessary help. The State Controller is hereby authorized to draw his warrants for the sums herein appropriated in favor of the secretary of the State Board of Health and the State Treasurer is hereby directed to pay the same. (Id. § 23.)

General Drug Law.

24. Sale of Adulterated Drugs Prohibited; Goods Intended for Export.—

The manufacture, production, preparation, compounding, packing, selling, offering for sale or keeping for sale within the State of California, or the introduction into this State from any other State, territory, or the District of Columbia, or from any foreign country, of any drug which is adulterated, mislabeled or misbranded within the meaning of this act is hereby prohibited. Any person, firm, company, or corporation who shall import or receive from any other State or territory or the District of Columbia or from any foreign country, or who having so received shall deliver for pay or otherwise, or offer to deliver to any other person, any drug adulterated, mislabeled or misbranded within the meaning of this act, or any person who shall manufacture or produce, prepare or compound, or pack or sell, or offer for sale, or keep for sale, in the State of California, any such adulterated, mislabeled, or misbranded drug, shall be guilty of a misdemeanor; provided, that no article shall be deemed misbranded, mislabeled or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped, but if said article shall be in fact sold or offered for sale for domestic

use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this act. (G. L. 1923, Act 58, § 1.)

25. Definition of Term "Drug."—The term "drug" as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. (Id. § 2.)

26. Standard of Purity.—The standard of purity of drugs shall be the United States Pharmacopœia and National Formulary, and the regulations and definitions adopted for the enforcement of the food and drugs act of June 30, 1906, shall be adopted by the State Board of Health for the enforcement of this act. (Id. § 3.)

27. What Constitutes Adulteration.—Drugs shall be deemed adulterated within the meaning of this act in any of the following cases:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of investigation; provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the package thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

Second. If the strength or purity fall below the professed standard or quality under which it is sold. (Id. § 4.)

28. Definition of Term "Misbranded."—The term "misbranded" as used herein shall apply to all drugs, the package or label of which shall bear any statement, design, or device, regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any drug which is falsely branded or labeled as to the county, city and county, city, town, State, territory, District of Columbia or foreign country in which it is manufactured or produced. (Id. § 5.)

29. Drugs Deemed Misbranded, When.—Drugs shall be deemed misbranded or misbranded under the meaning of this act in either of the following cases:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package as offered for sale at retail or wholesale, fail to bear a statement on the label of the per cent of volume of alcohol, or the quantity of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative or preparation of any such substances contained therein, except when prescribed by a licensed physician, licensed dentist, or licensed veterinary surgeon.

Third. If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article, or any of the ingredients or substances contained therein, which is false and fraudulent. (Id. § 6.)

30. Definition of Term "Package."—The term "package" as used in this act shall be construed to include any phial, bottle, jar, demijohn, carton, bag, case, can, box or barrel, or any receptacle, vessel or container of whatsoever material or nature which may be used by a manufacturer, producer, jobber, packer or dealer, for inclosing any drug. (Id. § 7.)

31. Evidence of Violation of Act.—The sale or offering for sale of any adulterated, mislabeled or misbranded drug by any manufacturer, producer, jobber, packer or dealer in drugs, or broker, commission merchant, agent, employee or servant of any such manufacturer, producer, jobber, packer or dealer, shall be prima facie evidence of the violation of this act. (Id. § 8.)

32. State Laboratory to Analyze Suspected Drugs; Right of Sheriff to Purchase or Seize.—Whenever required by the State Board of Health or its secretary, examinations and analyses of drugs on sale in California suspected of being adulterated, mislabeled or misbranded shall be made by the director of the State Laboratory for the examination and analysis of foods and drugs. Said State Board of Health or the secretary may appoint such agent or agents as it may deem necessary for the enforcement of this act, and the sheriffs of the respective counties of the State are hereby appointed and constituted such agents. Any agent or sheriff shall have the right to purchase at the place of business

of any manufacturer or dealer, any drug suspected of being adulterated, mislabeled or misbranded within the meaning of this act, tendering the market price of said articles; if a sale be refused, he may take from any person, firm or corporation samples of any articles suspected of being adulterated, mislabeled and misbranded, and shall deliver or forward such samples to the said director of the State Laboratory for examination and analysis. (Id. § 9.)

33. Report to District Attorney.—It shall be the duty of the State Board of Health whenever it has satisfactory evidence of the violation of any of the provisions of this act respecting the adulteration, mislabeling or misbranding of drugs, to report such facts to the district attorney of the county where the law is violated. (Id. § 10.)

34. Unlawful to Refuse to Sell to Sheriff.—It shall be a misdemeanor for any person to refuse to sell to any sheriff or other agent of the State Board of Health, any sample of drug upon tender of the market price therefor, or to conceal any such drug from such officer, or to withhold from him information where such drug is kept or stored. Any such person so refusing to sell, or concealing such drug, or withholding such information from said officer, shall upon conviction, be punished as provided in section nineteen of the Penal Code of the State of California.* (Id. § 11.)

35. When Analysis Shows Adulteration, Report.—Whenever said director shall find from his examination and analysis that adulterated, mislabeled or misbranded drugs have been on sale in the State, he shall forthwith report to the secretary of the State Board of Health, and shall promptly transmit a certificate of the facts so found to the district attorney of the county in which said adulterated, mislabeled or misbranded drug was found. (Id. § 12.)

36. Evidence of Facts.—Every certificate signed by the said director of the State Laboratory shall be prima facie evidence of the facts therein stated. (Id. § 13.)

37. Annual Report of Director of State Laboratory.—The said director of the State Laboratory shall make an annual report to the State Board of Health, on or before August first of each year, upon adulterated, mislabeled or misbranded drugs, in which report shall be included the list of cases examined by him in which adulterants were found, and the list of articles found mislabeled or misbranded, and the names of the manufacturers, producers, jobbers and sellers. Said report, or any part thereof, may, in the discretion of the State Board of Health, be included in the report which the State Board of Health is already authorized by law to make to the Governor. The State Board of Health may, in its discretion, publish any part of said report in any issue of its monthly bulletin. (Id. § 14.)

38. Notice of Violation Furnished Guarantor; Hearing; Certificate of Facts to District Attorney.—When the examination or analysis of the director of the State Laboratory shows that any of the provisions of this act have been violated, notice of that fact together with a copy of the certificate of the findings, shall be furnished to the party or parties from whom the sample was obtained or who executed the guaranty as provided in this act, and a date shall be fixed by the secretary of the Board of Health at which time said party or parties may be heard before the State Board of Health or any two members thereof, and the secretary. The hearing shall be held at such times and places as may be designated by the State Board of Health and at least fifteen days' notice thereof shall be first served upon the party complained of. These hearings shall be private and confined to questions of fact. The parties interested therein may appear in person or by attorneys and may propound the interrogatories and submit oral or written evidence to show any fault or error in the findings made by the director of the State Laboratory. If the examination or analysis be found correct, or if the party or parties fail to appear at such hearing, after notice duly served as provided herein, the secretary of the State Board of Health shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which said adulterated, mislabeled or misbranded drug was found. No publication thereof shall be made until after said hearing is concluded. (Id. § 15.)

39. Duty of Sheriff.—It is hereby made the duty of the sheriff of any county of this State, on presentation to him of a verified complaint of the violation of any provisions of this act, at once to obtain by purchase a sample of the adulterated, mislabeled or misbranded drug complained of and divide said article into three parts, and each part shall be sealed by the sheriff with a seal provided for that purpose. If the package be less than four pounds, or in volume less

* See footnote to No. 12.

than two quarts, three packages of approximately the same size shall be purchased and the marks and tags upon each package noted as above. One sample shall be delivered to the party from whom procured, or to the party guaranteeing said drug. One sample shall be sent to the director of the State Laboratory, and the third sample shall be sent to and held under seal by the State Board of Health. (Id. § 16.)

40. Fees of Sheriff.—For his services hereunder the said sheriff shall be allowed the same fees for travel allowed by law to sheriffs on service of criminal process, together with such compensation as by the board of supervisors of his county may be deemed reasonable, and all accounts [amounts] expended by him in procuring and transmitting the said samples, which fees and amount expended shall be audited and allowed by the said supervisors and paid by his said county as other bills of said sheriff. (Id. § 17.)

41. Duty of District Attorney.—It shall be the duty of the district attorney of each county to prosecute all violations of the provisions of this act occurring within his county. (Id. § 18.)

42. Penalty for Violation of Act.—Any person, firm, company or corporation violating any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Drugs found to be adulterated or misbranded within the meaning of this act may, by order of any court or judge, be seized and destroyed. (Id. § 19.)

43. Disposition of Fines.—One-half of all fines collected by any court or judge for the violations of the provisions of this act shall be paid to the State Treasurer and the State Treasurer shall deposit such money to the credit of the fund for the maintenance of the State laboratory, to be drawn against by warrants of the State Controller upon claims which shall be approved by the State Board of Examiners. (Id. § 20.)

44. Guaranty of Jobber Protects Dealer; Prosecution of Jobber.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this act. Such guaranty may be either general or special. A general guaranty shall guarantee without condition or restriction all of the products or articles produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated within the meaning of this act. A special guaranty shall guarantee in the same manner the particular articles listed in an invoice of the same, and shall be attached to or shall fully identify such invoice. Both said guaranties to afford protection must contain the name and address of the party or parties making the sales of such article to said dealer. If the guaranty be to the effect that such article is not adulterated or misbranded within the meaning of the national pure food act, approved June 30, 1906, it shall be sufficient for all the purposes of this act and have the same force and effect as though it referred to this act, except that a guaranty referring to the said national pure food act alone shall not be sufficient for the purpose of this act in any case where at any time the standard for the article concerned under this act is higher than the standard for a like article under said national pure food act. In case the wholesaler, jobber, manufacturer or other party making such guaranty to said dealer resides without this State and it appears from the certificate of the director of the State Laboratory that such article or articles were adulterated or misbranded, within the meaning of this act or the national pure food act approved June 30, 1906, the district attorney must forthwith notify the Attorney-General of the United States of such violation. (Id. § 21.)

Miscellaneous General Provisions.

45. Adulterating Food, Drugs, Liquors, etc.—Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with the fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted; and every person who fraudulently sells, or keeps or offers for sale the same, as unadulterated or undiluted, or who, in response to an inquiry for any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, sells or offers for sale, a different article, or an article of a different character

or manufacture, without first informing such purchaser of such difference, is guilty of a misdemeanor; provided, that no retail dealer shall be convicted under the provisions of this section if he shall prove a written guaranty of purity obtained from the person from whom he purchased such adulterated or diluted goods. (Pen. Code, 1923, § 382.)

46. Sale of Adulterated or Tainted Food, or Drink or Drug; "Drug" Defined; "Food" Defined; Drugs deemed to be Adulterated; Food Deemed to be Adulterated.—Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of any article of food, drink, drug, or medicine, knowing that the same is adulterated or has become tainted, decayed, spoiled, or otherwise unwholesome or unfit to be eaten or drunk, with intent to permit the same to be eaten or drunk, is guilty of a misdemeanor, and must be fined not less than twenty-five nor more than one hundred dollars, or imprisoned in the county jail not exceeding one hundred days, or both, and may, in the discretion of the court, be adjudged to pay, in addition, all the necessary expenses, not exceeding fifty dollars, incurred in inspecting and analyzing such articles. The term "drug," as used herein, includes all medicines for internal or external use, antiseptics, disinfectants, and cosmetics. The term "food," as used herein, includes all articles used for food or drink by man, whether simple, mixed, or compound. Any article is deemed to be adulterated within the meaning of this section:

(a) In case of drugs: (1) If, when sold under or by a name recognized in the United States Pharmacopœia, it differs materially from the standard of strength, quality, or purity laid down therein; (2) If, when sold under or by a name not recognized in the United States Pharmacopœia, but which is found in some other pharmacopœia or other standard work on materia medica, it differs materially from the standard of strength, quality, or purity laid down in such work; (3) If its strength, quality, or purity falls below the professed standard under which it is sold.

(b) In the case of food: (1) If any substance or substances have been mixed with it, so as to lower or depreciate, or injuriously affect its quality, strength, or purity; (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it; (3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it; (4) If it is an imitation of, or is sold under the name of, another article; (5) If it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted, or rotten animal or vegetable substance or article, whether manufactured or not; or in the case of milk, if it is the produce [product] of a diseased animal; (6) If it is colored, coated, polished, or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) If it contains any added substance or ingredient which is poisonous or injurious to health. (Id. § 383.)

47. Foodstuffs Not to be Destroyed in Restraint of Trade.—It shall be unlawful for any person, firm or corporation to destroy, in restraint of trade, any fish, fowl, animal, vegetable, or other stuffs, products or articles which are customary food, or which are proper for food, for human beings, and are in fit sanitary condition to be used as such. (G. L. 1923, Act 2663, § 1.)

48. Punishment for Violation of Act.—Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed five hundred dollars, or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment. (Id. § 2.)

48a. Warrant of Provisions for Domestic Use.—One who makes a business of selling provisions for domestic use warrants by a sale thereof, to one who buys for actual consumption, that they are sound and wholesome. (Civ. Code 1923, § 1775.)

NOTE: See also Nos. 488, 520 and 586 et seq.

PART II.

Special Food Laws.

Apples.

49. Title of Act.—This act shall be known and for any and all purposes may be designated and referred to as "The California standard apple act." (G. L. 1923, Act 2800, § 1.)

50. Standard Grades.—The following standard grades and standard box are hereby established for apples, packed, shipped, delivered for shipment, offered for sale or sold, in the State of California.

(a) The "extra fancy" grade shall consist of well-grown, properly matured apples of one variety; hand picked, well colored and normally shaped for the locality where produced, uniform in size, well packed, in clean standard boxes, and shall be free from insect pests, diseases, visible rot, visible dry rot, visible Baldwin spot, insect bites, bruises, skin punctures, skin broken at stem and other defects, except such bruises as are necessarily caused in the operation of packing, and virtually free from dirt; provided, however, that russetting confined within the basin of the stem shall be permitted and that a variation from the said standard as to insect pests, diseases, dry rot, Baldwin spot, insect bites, bruises and other defects shall be allowed not to exceed ten per cent total thereof, in any one package, and not to exceed five per cent of any one thereof, in any one package; provided, further, that a variation in the size of the apples contained in one box shall be allowed as follows: in boxes containing one hundred twenty-five apples, or less, a variation of one-half inch when measured through the widest portion of the cross section thereof; in boxes containing one hundred thirty-eight apples, or more, a variation of three-eighths of one inch when so measured.

(b) The "fancy" grade shall consist of well-grown, properly matured apples of one variety, hand picked, normally shaped for the locality where produced, well packed in containers which shall be virtually clean, uniform in size, and shall be free from insect pests, diseases, visible rot, visible dry rot, visible Baldwin spots, insect bites, skin punctures, skin broken at stem, bruises and other defects, (except such bruises as are necessarily caused in the operation of packing), and virtually free from dirt; provided, that smooth caterpillar bites, which on any one apple and in the aggregate shall not exceed one-half of one inch in diameter, slight limb rubs, and not to exceed two healed-over case-bearer or aphid stings on each apple, slight sunspots and slight flyspeck fungus, and scab spots which on any one apple and in the aggregate shall not exceed one-fourth of one inch in diameter, russetting which is not excessively rough, and which does not appear on more than twenty-five per cent of the surface of any one apple in the aggregate shall be permitted in this grade; provided, further, that when the apples contained in any box are packed in tiers and the size thereof is indicated upon the box by the use of tier markings, a variation in the size of the apples in such package shall be allowed not to exceed one-half of one inch when measured through the widest portion of the cross-section thereof, but when such tier markings are not used but in lieu thereof the number of apples contained in the box is given, a variation in the size of the apples in such package shall be allowed as follows: In boxes containing one hundred twenty-five apples, or less, a variation of one-half inch when measured through the widest portion of the cross-section thereof; in boxes containing one hundred thirty-eight apples, or more, a variation of three-eighths of one inch when so measured; and provided, further, that a variation from said standard as to the pests, diseases and defects above mentioned as forbidden, shall be permitted, not to exceed ten per cent total thereof, nor to exceed five per cent of any one thereof, in any one package; and provided, further, that apples slightly soiled and/or slightly dirty shall be permitted in this grade.

(c) The "C" grade shall consist of properly matured apples of one variety, hand picked, well packed, uniform in size, free from insect pests, visible rot, visible dry rot, visible Baldwin spots, and other diseases, and from broken skin, sun scald, and frost bite, more than skin deep; provided, that scab spots on any one apple not larger than one-half of one inch in diameter in the aggregate, and apples showing blossom end cracks, shall be permitted in this grade; provided, further, that a variation from said standard as to such insect pests, dry rot, Baldwin spots, diseases and defects, shall be allowed not to exceed ten per cent total thereof in any one package, nor to exceed five per cent of any

one thereof; and provided, further, that a variation in the size of the apples in each package shall be allowed not to exceed one-half of one inch when measured through the widest portion of the cross-section thereof.

(d) The standard container shall be a box of the following dimensions, inside measurements, when measured without distention of parts: Depth of end ten and one-half inches; width of end eleven and one-half inches; length of box eighteen inches, and having a cubical content of as nearly as possible two thousand one hundred seventy-three and one-half cubic inches.

(e) All packed apples, when shipped, offered for sale or sold, shall be placed in the standard box herein described; provided, however, that other size containers may be used (except where the words "extra fancy" are used as the grade designation) if conspicuously marked in letters not less than one-half inch high "irregular container." (Supp. 1925, G. L., Act 2800, § 2.)

51. Statement on Container.—Every packed container of apples shipped, delivered for shipment, offered for sale or sold, in the State of California, shall bear upon the outside thereof, and on the end, in plain words or figures and in the English language, the following: The grade of the apples therein contained, as herein defined; the designation of grade, when the stamps hereinafter provided for are not used, being stated in letters not smaller than thirty-six point type, that is, not less than one-half inch in height; the number of apples contained in the package, or the minimum net weight of the apples contained therein, or the cubical contents of the package; the variety of the apples contained in the package, unless the variety be unknown to the packer, in which case the variety shall be stated as unknown; the name and business address of the person, firm, company, organization or corporation, who first packed or caused the same to be packed, and if repacked, the name and business address of the person, firm, company, organization or corporation who repacked the same or caused same to be repacked; the date when such apples were first packed, or if repacked, the date of repacking, and on each container of apples which have been held in cold storage for more than thirty days after being packed a statement showing the fact that the contents have been held in cold storage; provided, however, that a variation of five apples, more or less, than the number stated, shall be allowed.

(a) The term "packed," whenever used in this act, shall be construed to mean the regular, compact arrangement of all or a part of the fruit in any container; the term "well packed," whenever used in this act, shall be construed to mean the regular, compact arrangement of all of the fruit in any container, the fruit being compacted with sufficient solidity so that it will not move in the container when lidded, the top and the bottom of the box, when lidded, having a bulge of not less than one-half inch and not more than one and one-half inches, and, where wrappers are used, all of the apples in the box being wrapped, with the exception of the bottom layer, which may be "flagged." The term "flagged" shall be construed to mean the incomplete covering of the apples by the use of wrappers which are not closed.

(b) The term "three and one-half tier," "four tier," "four and one-half tier" and "five tier," whenever used as the designation of the size of apples sold or offered for sale, shall have the following meanings, respectively, to wit:

The term "three and one-half tier" shall mean an apple in size three inches or larger when measured through the widest cross-section thereof; the term "four tier" shall mean an apple larger in size than two and five-eighths inches and not larger than three and one-eighth inches, when so measured; the term "four and one-half tier" shall mean an apple not smaller in size than two and one-fourth inches nor larger than two and three-fourths inches, when so measured; the term "five tier" shall mean an apple not smaller in size than one and seven-eighths inches nor larger than two and one-fourth inches, when so measured.

(c) The term "cross-section," whenever used in this act, shall mean the section of an apple taken at a right angle to a straight line drawn from the stem end to the blossom end thereof.

(d) When the size of the apples in any container shall be designated by the terms "three and one-half tier," "four tier," "four and one-half tier," or "five tier," at least ninety-five per cent of the apples in each such container shall conform to the definition of the tier marking used, as herein defined, and no apples in the container shall be smaller than the size next smaller, as herein defined.

(e) The term "properly matured," as used in this act, shall be deemed to mean that the apples to which it refers, at the time they were taken or fell from the tree, had reached that stage of development necessary to insure the proper completion of the ripening process; provided, however, that unclassified apples of any variety shall not be required to be properly matured. (Id. § 3.)

52. Apples to Conform to Standard.—No person, firm, company, organization or corporation shall sell or offer for sale, within the State of California, any apples labeled, designated, invoiced or represented to be, of "Extra fancy," "Fancy" or "C" grade, whether contained in closed packages or otherwise, unless the same shall conform to the standard for such grade herein established. (G. L. 1923, Act 2800, § 4.)

53. Sale or Use of Infected Apples.—Except as in this act expressly permitted, no person, firm, company, organization or corporation shall import into this State, or sell, barter, offer for sale or have in his possession for sale, any apples infected with any insect pest, or the pupæ or larvæ thereof, and any apple which has been infected with San Jose scale or codlin[g] moth and bears the evidence of such infection, shall be deemed to be so infected, or any disease, and whenever apples are sold or kept or offered for sale loose in the container, or are not so arranged as to comply with the definition of the term "well packed," as herein defined, then the container must be marked on the outside thereof in the English language and in letters not less than one-half inch in height with the words "unclassified apples;" provided, however, that this section shall not be construed to prevent a grower of fruits in the State of California from selling the same unpacked and unmarked, and so infected, as a part of his crop in bulk, to a packer, or to prevent a grower or packer from manufacturing the same into any apple by-product or from selling the same unpacked and unmarked to any person, firm, company, organization or corporation actually engaged in the operation of an apple by-product factory, and for the express purpose of being used in the manufacture of an apple by-product. (Supp. 1925, G. L., Act 2800, § 5.)

54. Misleading Statements.—No statement, figure, design or device appearing upon any container in which apples are sold, bartered, or offered for sale, or in which apples are packed for sale or shipment, or upon the brand or lining of any such container, or upon the wrapper of any apple therein contained, or upon any sign or placard used in connection therewith and having reference to the apples contained, shall be false or misleading, in any particular. The words "Extra fancy" shall not be used with reference to any apples the grade of which does not conform to the standard for "Extra fancy" grade as in this act defined; and the word "Fancy" shall not be used with reference to any apples the grade of which does not conform to the standard for "Fancy" grade as in this act defined; nor shall the letter "C," as an indication of grade, or quality, be used with reference to any apples the grade of which does not conform to the standard for "C" grade as in this act defined. (G. L. 1923, Act 2800, § 6.)

55. Powers of Director of Agriculture in Enforcing Act.—The director of agriculture of the State of California shall be charged with the enforcement of the provisions of this act, and for that purpose shall have the power:

(a) To enter and to inspect every place within the State of California where apples are produced, packed, stored, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all apples and apple containers and equipment found in any such place.

(b) To provide a uniform method of stamping, or otherwise marking or identifying packages of apples which have been inspected by him or his deputies or inspectors; such method when once provided shall not be changed during that fiscal year, but with this exception, may be varied from time to time as he may determine.

(c) In accordance with the provisions of the civil service law of this State, to appoint, superintend, control and discharge such chief inspectors and subordinate inspectors as in his discretion may be deemed to be necessary, for the special purpose of enforcing the terms of this act, to prescribe their duties, and in conjunction with the Board of Control, to fix their compensation; provided, however, that each horticultural commissioner appointed under the provisions of the law of the State of California, and each deputy and inspector duly appointed and acting under him, shall be deemed to be inspectors of apples under this act, their authority, in each instance, to be limited to the county or counties for which such horticultural commissioner may have been appointed, and they, in each instance, insofar as they may act as inspectors of apples, to be subject to the supervision and control of and to act under the director of agriculture.

(d) Personally, or through any deputy or any such inspector, to seize and retain possession of, any apples or apple containers packed, shipped, delivered for shipment, offered for sale, or sold, in violation of any of the provisions of this act.

(e) In the name of the people of the State of California to cause to be instituted and to prosecute, in the Superior Court of any county or city and county, of the State of California in which apples packed, shipped, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act, may be

found, an action or actions for the condemnation of apples as provided in section thirteen [14] of this act.

(f) The Director of Agriculture, at the request of any person interested, personally, or by his duly appointed deputies or inspectors, may inspect any package or lot of apples and at the request of any person interested may issue a certificate stating the fact and the quality and condition of the package or lot of apples so inspected. Such certificate shall be received in evidence in all of the courts of the State of California as prima facie proof of the truth of the statements therein contained. For such inspection certificate, when the apples have theretofore been inspected by him, or by any of his deputies, or inspectors, the Director of Agriculture may charge and collect such fee as he may determine to be reasonable; provided, that such fees shall be uniform for each fiscal year and shall not exceed three-fourths of one cent for each box of packed apples.

(g) From time to time to establish, promulgate and enforce such reasonable and uniform rules and regulations, not in conflict with any of the provisions of this act, as he may deem to be proper for the conduct of inspectors, the inspection of fruit, the use of stamps, marks or other designation, the form of, and the collection of fees for, certificates and the charges to be made hereunder for the use of such stamps, marks or other designation.

(h) No certificate shall be issued, by any party other than the grower or shipper, in substance or effect stating that any apples have been inspected and have been found to, or not to, correspond with the requirements or grades of this act, or any thereof, nor shall any stamp, label, symbol, sign, or statement, indicating or intended to indicate that the apples in any container have been inspected and do or do not correspond with such requirements or any thereof, be stamped or affixed to or upon any container of apples, unless such certificate shall have been issued or the use of such stamp shall have been authorized, by the Director of Agriculture or some inspector appointed as in this act provided, and then only as in this act provided. (Supp. 1925, G. L., Act 2800, § 7.)

56. Fee for Affixing Stamp; Disposition of Fees.—For the privilege of affixing to or using upon any container of apples the stamp, mark or other designation provided by the Director of Agriculture to identify apples which have been inspected as provided by section seven of this act, there shall be paid to said director such sum as he may determine hereunder, not to exceed three-fourths of one cent for each container bearing such stamp, mark or other designation. No such stamp, mark or other designation, so provided by the Director of Agriculture, shall be affixed to or used upon any container of apples, the contents of which have not been inspected, or which is not one of a unit of like containers so inspected. All moneys received by the Director of Agriculture for certificate fees, or for such privileges, shall be paid over to the treasurer of the State of California, who shall deposit the same to the credit of the standard apple fund, which fund is hereby created to be used exclusively for the payment of the expenses of enforcing the provisions of this act, and to be paid out only upon claims approved by the director of agriculture and by the board of control. Subject to the approval of the board of control, one thousand dollars of the standard apple fund may be used as a revolving fund for the purposes of carrying out the provisions of this act. (G. L. 1923, Act 2800, § 8.)

57. Qualifications of Inspectors.—The inspectors appointed by the Director of Agriculture of California, as in section seven hereof provided, shall be citizens of the United States, and of the State of California, not less than twenty-one years of age, shall be skilled in the inspection of apples, and have a thorough knowledge of insect pests and diseases commonly preying upon and other defects found in or upon such fruit; they shall have power to enter and to inspect every place within the State of California where apples are produced, packed, stored, shipped, delivered for shipment, offered for sale or sold, and to inspect all such place and apples and apple containers and the equipment found in any such place; and shall perform such other duties as may be prescribed by the Director of Agriculture of California, or by law. The said Director of Agriculture shall assign such inspectors to such territory, within the State, as he may see fit; provided, that when for any year the moneys paid in for certificates and for the privilege of using the said stamps, marks, or other designations, by packers in any town, city or district, shall yield a sum of money sufficient to pay the expense thereof, such director of agriculture shall assign one inspector or more for special duty in such town, city or district, during the packing season of that year, or for a longer period, if deemed to be necessary. (Id. § 9.)

58. Duties of Inspectors.—It shall be the duty of each of such inspectors to enforce the provisions of this act and to cause the prosecution of any person, company, firm, corporation or organization, whom he knows or has reason to believe to be guilty of the violation of any of its provisions. Every inspector, in the performance of his duties, shall have the same powers possessed by peace officers under the laws of the State of California. (Id. § 10.)

59. Repacking.—No container to or on which is attached or affixed any such stamp or mark or on which shall appear the designation of grade as "Extra fancy," "Fancy" or "C" grade, shall be used as the container of any apples other than those originally packed therein, until such stamp or grade designation has been removed; provided, that when apples are repacked, without the addition of new stock other than stock of the same grade and from the same lot of which the package or packages repacked is or are a part, the same containers may be used without removing the stamps, marks or grade designations. (Id. § 11.)

60. Right of Inspection.—No person, firm, company, organization, or corporation, shall refuse to permit the Director of Agriculture of California, or any of his duly appointed deputies, or any inspector duly appointed by said Director of Agriculture under the provisions of this act, to enter or to inspect any place within the State of California where apples are produced, packed, stored, shipped delivered for shipment, offered for sale or sold, or to inspect such places, or any apples or apple containers or any equipment found therein. (Id. § 12.)

61. Penalties.—Any person, firm, company, organization or corporation, who shall violate any of the provisions of this act shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Id. § 13.)

62. Seizure of Apples Illegally Packed.—Any apples packed, shipped, stored, delivered for shipment, offered for sale or sold, in violation of any of the provisions of this act, and the containers in which they may be, shall be deemed to be a public nuisance, may be seized by said Director of Agriculture, his deputies or any inspector appointed as herein provided, and by order of the Superior Court of the county, or city and county, within which the same may be found, shall be condemned and destroyed, or released upon such conditions as the court, in its discretion may impose, to insure that they will not be packed, shipped, delivered for shipment, offered for sale or sold in violation of any of the provisions of this act. (Id. § 14.)

63. Common Carrier May Refuse to Accept Shipments.—It shall be lawful for any person, firm, company, corporation or organization and for any common carrier to refuse to accept for shipment or transportation, and to refuse to ship or to transport, any apples which upon inspection are found to be or to be packed in violation of any of the provisions of this act, and any such person, firm, company, corporation, organization or common carrier, may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment or transportation and to return to such consignor, or to hold at the expense and risk of the latter, all apples which upon inspection are found to be or to be packed in violation of any of the provisions of this act. (Id. § 15.)

64. Guaranty; Form.—No person, firm, company, organization or corporation, shall be convicted of a violation of any provisions of this act, if he shall establish a guaranty, signed by the person, firm, company, organization or corporation residing or lawfully engaged in business in the State of California, by or for whom the apples in question were originally packed, or repacked, to the effect that the apples, container, brand and label in question comply in all respects with the provisions of this act, and in addition, shall establish that the same are in substantially the same condition, in every respect, as they were when they were delivered out of the possession of such packer, and that the accused was not aware that such apples, container, brand or label, were or was in any respect in violation of any provisions of this act. The signature to such guaranty may be printed, when done by the authority of the signer. To afford protection, such guaranty, in form and substance, must be substantially as follows:

"The undersigned guarantees that (this box or other package of apples or the boxes or other packages of apples mentioned in this, or the attached invoice, or all boxes or other packages of apples packed or repacked by the undersigned), comply in all respects with the California standard apple act. (Signature of packer, with statement as to whether packer is firm, company, organization or corporation and business address.)"

Where the guaranty is used on each separate box, it may consist of the legend, "guaranteed by the packer, under the California standard apple act," printed, stamped or written on the labeled or branded end of the package. (Id. § 16.)

65. Duty of District Attorney.—It shall be the duty of the district attorney of the county, or city and county, in which any violation of this act may occur, to prosecute every person, firm, company, organization and/or corporation accused of such violation, and also, at the request of the Director of Agriculture, or any one of his deputies, to institute and prosecute such actions for condemnation as may be authorized under the provisions of this act. (Id. § 17.)

66. Effect on Foods and Drugs Act.—No act which is made unlawful by any provision of an act of the Legislature of the State of California, entitled, "An act for preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a State Laboratory for foods, liquors, and drugs and making an appropriation therefor," approved March 11, 1907, or any amendment thereto,* shall be deemed lawful by reason of any provision of this act; nor shall this act be construed in any respect to limit the powers of the State Board of Health. (Id. § 18.)

Bakeries and Bakery Products.

67. Sanitary Conditions of Bakeries.—Any building, or portion of any building, occupied or used as a bakery, wherein is carried on the business of the production, preparation, storage or display of bread, cakes, pies and other baking [bakery] products intended for sale for human consumption, shall be clean, properly lighted, drained and ventilated. Every such bakery shall be provided with adequate plumbing and drainage facilities including suitable wash sinks, toilets and water closets. All toilets and water closets shall be separate and apart from the rooms in which the bakery products are produced or handled. All wash sinks, toilets and water-closets shall be kept in a clean and sanitary condition and shall be in well lighted and ventilated rooms. The floors, walls and ceilings of the rooms in which the dough is mixed and handled or the pastry prepared for baking or stored, shall be kept and maintained in a clean, wholesome and sanitary condition. All openings into such rooms, including windows and doors, shall be properly screened or otherwise protected to exclude flies. No working rooms shall be used for purposes other than those directly connected with the preparing, baking, storage and handling of food, and shall not be used as washing, sleeping or living rooms. Rooms shall be provided for the changing and hanging of wearing apparel apart and separate from such work rooms, and such rooms, as so provided for the changing and hanging of wearing apparel, shall be kept clean at all times. (G. L. 1923, Act 610, § 1.)

68. Enforcement by State Board of Health.—The California State Board of Health shall make all necessary rules for carrying into effect the foregoing section and for the enforcement of the provisions thereof. If after inspection, such board shall find that any bakery is being operated in violation of the provisions hereof, notice in writing shall be given to the proprietor wherein shall be stated the particulars in which such bakery is not being properly conducted, and fixing a reasonable time, not less than thirty days, in which such conditions shall be remedied. If the requirements of such notice shall not be complied with, said board shall order such bakery closed and it is hereby empowered to take all necessary steps to enforce such order; provided, that if any person, firm or corporation shall feel aggrieved by any order of said board, it shall have the right to appeal to the Superior Court of the county in which is located said bakery; provided, further, that on the taking of said appeal the owner or operator of said bakery shall furnish bond to the approval of the board; and provided, further, that said appeal shall be taken within a period of thirty (30) days from the order of said board. (Id. § 2.)

69. Cleanliness of Employees.—No employee or other person shall sit or lie upon any of the tables, benches, troughs, shelves, et cetera, which are intended for the dough or bakery products. No animals or fowls shall be kept or allowed in any bakery or other place where bread or other bakery products are produced or stored. Before beginning the work of preparing, mixing and handling the ingredients used in baking, every person engaged in the preparation or handling of bakery products shall wash the hands and arms thoroughly and rinse in clean water; and for this purpose sufficient wash basins and soap and clean towels shall be provided. Every person engaged in such work shall wash the hands and arms after using toilet rooms or water-closets. Employees or other persons affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis or consumption, bubonic plague, asiatic cholera, leprosy, typhoid fever,

*G. L. 1923, Act 57. See Nos. 1-23.

epidemic dysentery, measles, mumps, whooping cough, chickenpox, or any other cutaneous or infectious disease, shall not work or be permitted to work in any such bakeries or be permitted to handle any of the products therein or delivered therefrom. Any person engaged in any of the work above mentioned, who knowingly is infected with any of the diseases specified in this section, or any employer, who knowingly employs such person shall be deemed guilty of violating the provisions of this act and shall be subject to the penalties provided for violation thereof. The State Board of Health shall make all necessary rules for carrying into effect the foregoing section. (Id. § 3.)

70. Water Supply.—All water for mixing the dough or used in the mixing of any other bakery products shall be pure and wholesome. In case the water supply is taken from a well, the baker shall have a certificate of the purity of said water supply from the State Board of Health, or from any city or county health board within the State of California. Bakers shall not use the water from wells, the water of which is not so certified to be pure and wholesome. (Id. § 4.)

71. Wagons, Baskets, etc.—The wagons, boxes, baskets and other receptacles in which bread, cake, pies or other bakery products are transported, shall be kept in a clean and wholesome condition at all times and free from dust, flies and other contamination. All show cases, shelves, or other places where bakery products are sold, shall be kept well covered, properly ventilated, well protected from dust and flies, and shall be kept in a sweet, clean and wholesome condition at all times. Boxes or other receptacles for the storing or receiving of bread and other bakery products, before and after the retail stores and selling places are open, shall be so constructed and placed as to be free from the contamination of streets, alleys and sidewalks, and shall be raised at least four inches from the sidewalk or street and shall be kept clean and sanitary, and no bread shall be placed in any such box along with any other articles of food other than bakery products. (Id. § 5.)

72. Purity of Ingredients; Labels.—All materials used in the production or preparation of bakery products shall be stored, handled and kept in a way to protect them from spoiling and contamination, and no material shall be used which is spoiled or contaminated, or which may render the bread or other bakery products unwholesome or unfit for food. The ingredients used in the production of bread and other bakery products and the sale or offering for sale of bread and bakery products shall comply with the provisions of the California laws against adulteration and misbranding. No ingredients shall be used which may render the bread or other bakery products injurious to health. No ingredients shall be used which may deceive the consumer or which lessens the nutritive value of the bakery product without being plainly labeled, branded or tagged or having a sign making such facts plain to the purchaser or consumer under rules to be prescribed by the State Board of Health; provided, however, that in case of bread to be sold by the loaf such labeling shall be, in the case of unwrapped bread, placed upon the same sticker as hereinafter provided to show the name of the manufacturer. (Id. § 6.)

73. Handling and Sale; Return of Products.—All handling or sale of bread or other bakery products and all practices connected therewith shall be conducted at all times so as to prevent the distribution of contamination or disease among consumers, so as to prevent the distribution of the infection in bread commonly known as "rope" or other bakery infections, and so as to protect the food supply against waste. No bread or other bakery products except as hereinafter provided shall be returned from any consumer or other purchaser to the dealer or baker nor from any dealer to the baker, and no baker or dealer shall directly or indirectly accept any returns or make any exchange of bread or other bakery products from any dealer, restaurant or hotelkeeper, consumer or any other person and all bread and all other bakery products shall be kept moving to the consumer in as direct a line as may be practicable and without unreasonable delay and without any exchange, return or practice whatsoever which may disseminate contamination, disease or fraud among consumers or infection among bakeshops, or which may cause waste in food supply. The State Board of Health shall make such reasonable rules as may be necessary for carrying into effect the foregoing provisions of this section; provided, that this section shall not be construed to apply to crackers or to such other bakery products as are packed at the place of production in cartons, cans, boxes or similar permanent containers and where the product is so packed or sealed at the place of production as to fully protect the freshness and wholesomeness of the product and to protect it from contamination, adulteration, deterioration and fraud in the channels of trade and which remains in the original unbroken package in which such bakery product has been packed, except in so far as may be necessary to prevent waste in the

food supply; provided, further, that the State Board of Health may by rules establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bread or other bakery products, but any such exemptions or sales shall not be in violation of the expressed purposes of this section; provided, further, that the phrase "permanent containers" shall not be construed to include the paper or parchment wrappers as used in wrapping loaves of bread. (Id. § 7.)

74. Label Indicating Manufacturer.—Every loaf of bread made or procured for the purpose of sale, sold or offered for sale except when sold directly from the manufacturer to the consumer, shall have affixed thereon in a conspicuous place a label indicating the manufacturer, or bearing the registered trademark or trade label of such manufacturer. In case of wrapped bread, such information shall be stated in a plain position upon the wrapper of each loaf, and in the case of unwrapped bread shall be stated upon a label no larger than one by one and one-half inches in size and not smaller than one inch by three-quarters of an inch, and such label affixed to an unwrapped loaf shall not be affixed in any manner or with any gums or pastes which are unsanitary or unwholesome. (Id. § 8.)

75. Penalties.—Any person, firm or corporation who shall violate any of the provisions of this act shall be subject to a fine of not less than ten dollars, nor more than one hundred dollars, and each day's continuance of any practice, act or condition prohibited herein shall constitute a separate offense within the meaning of this act. (Id. § 9.)

76. Power of Local Authorities Limited.—Except as in this act provided, no city or town or any board or officer thereof shall have power to enact or make any ordinance, law, resolution, rule or order, affecting the matters covered by this act. (Id. § 10.)

77. Standard Weights for Bread; Twin Loaves.—All loaves of bread made or procured for the purpose of sale, sold, offered or exposed for sale in the State of California shall weigh, six hours after baking, not less than sixteen ounces avoirdupois, except as hereinafter provided, and such weight shall be the standard weight of a small loaf in the State of California. Bread may also be made or procured for sale, sold or offered or exposed for sale in twenty-four ounce loaves, which shall be known as a standard large loaf; also, in multiples of the standards fixed for the small and large loaves and no other. Commercial tolerances in excess are hereby fixed for small loaves of one ounce and for large loaves of two ounces, and there shall be no tolerance below or in deficiency of the fixed standard weight. Bread commonly known as "twin loaves" or multiple loaves may be made or procured for the purpose of sale, sold, offered or exposed for sale, providing each unit of such "twin" or multiple loaf conforms to the standard weights as herein fixed. The commercial tolerance fixed for small loaf shall apply to each unit of the "twin" or multiple loaf. (G. L. 1923, Act 611, § 1.)

78. Penalties.—Any person, firm or corporation who shall make or procure for the purpose of sale, sell, offer or expose for sale within the State of California any bread in loaves otherwise than herein provided for or in conflict with the standard weights of bread when baked as herein fixed, shall be guilty of a misdemeanor. All inspection of the weight of bread shall be made on the premises of the maker or manufacturer by averaging the weight of not less than twenty loaves of bread of any one unit and such average weight per loaf shall not be less than the minimum or more than the maximum weight herein fixed for such units. (Id. § 2.)

79. Exceptions.—The provisions of this act shall not apply to crackers, pretzels, biscuits, buns, scones, rolls or loaves of fancy bread weighing less than one-fourth of a pound avoirdupois or to what is commonly known as "stale bread," sold as such, provided the seller shall, at the time of sale, expressly state to the buyer that the bread so sold is stale bread. (Id. § 3.)

80. Enforcement.—The enforcement of the provisions of this act shall be under the supervision of the State Superintendent of Weights and Measures. (Id. § 4.)

NOTE.—The powers and duties of the State Superintendent of Weights and Measures, above referred to, have been transferred to the Department of Agriculture. See Pol. Code, 1923, § 361b.

See also the sanitation law, No. 448 et seq.

Beverages.

See Nos. 443-447 and 552-556.

Canned Goods.

81. Short Title.—This act shall be known and for any and all purposes may be designated and referred to as the "California Canned Fruit Standardization Act." (Supp. 1925, G. L., Act 2809, § 1.)

82. Purpose of Act.—To promote the development of the California fruit industry and to prevent deception in the packing, shipping and sale of canned fruit, there are hereby created and established certain standards of quality and size and requirements for marking of the varieties of canned fruits hereinafter referred to. (Id. § 2.)

83. Standard Sizes of Cans.—For the purpose of this act the following are hereby declared and established as the standard sizes of cans for canned fruits of the varieties mentioned in this act, packed, shipped, delivered for shipment, offered for sale or sold in the State of California, to wit:

(a) Picnic, which is hereby defined as a cylindrical can two and eleven-sixteenths inches in diameter and four inches in altitude;

(b) No. 1 flat, which is hereby defined as a cylindrical can four inches in diameter and two and three eighths inches in altitude;

(c) No. 1 tall, which is hereby defined as a cylindrical can three inches in diameter and four [and] twenty-one thirty-second inches in altitude;

(d) No. 2 tall, which is hereby defined as a cylindrical can three and three-eighths inches in diameter and four and fifteen thirty-seconds inches in altitude;

(e) No. 2½ tall, which is hereby defined as a cylindrical can four inches in diameter and four and eleven-sixteenths inches in altitude;

(f) No. 10 tall, which is hereby defined as a cylindrical can six and one-eighth inches in diameter and six and fifteen-sixteenths inches in altitude; [.] (Id. § 3.)

84. Fruit Designated as Seconds; Apricots; Pears; Peaches; Black and White Cherries; Royal Anne Cherries; Scales; Other Sizes of Cans; Sliced Fruit.—In any of the cases and under any of the conditions in this section provided with respect to the several varieties of canned fruits hereinbelow specified, packed, shipped, delivered for shipment, offered for sale or sold in the State of California, the same shall be and are hereby defined, declared and designated as "Seconds," to wit:

(A) Canned apricots, halved:

(1) If more than eighteen pieces thereof are packed in a picnic can; if more than twenty-three pieces thereof are packed in a No. 1 flat can; if more than twenty-six pieces thereof are packed in a No. 1 tall can; if more than thirty-one pieces thereof are packed in a No. 2 tall can; if more than forty-two [pieces] thereof are packed in a No. 2½ tall can; if more than one hundred fifty-one pieces thereof are packed in a No. 10 tall can;

(2) If the packed pieces of the fruit are not substantially uniform in size;

(3) If any lot or parcel thereof varies more than four pieces thereof per picnic can; five pieces thereof per No. 1 flat can; six pieces thereof per No. 1 tall can; seven pieces thereof per No. 2 tall can; eight pieces thereof per No. 2½ tall can; twenty-nine pieces thereof per No. 10 tall can;

(4) If the fruit is not of reasonably good color, or not reasonably free from blemishes serious for the grade, or not reasonably uniform in color, degree of ripeness and symmetry;

(5) If at the time of packing, the liquid surrounding the fruit shall contain less than twenty-five per cent added sugar.

(B) Canned pears, halved:

(1) If more than nine pieces thereof are packed in a picnic can; if more than eleven pieces thereof are packed in a No. 1 flat can; if more than thirteen pieces thereof are packed in a No. 1 tall can; if more than fifteen pieces thereof are packed in a No. 2 tall can; if more than twenty-one pieces thereof are packed in a No. 2½ tall can; if more than seventy-six pieces thereof are packed in a No. 10 tall can;

(2) If the packed pieces of the fruit are not substantially uniform in size;

(3) If any lot or parcel thereof varies more than three pieces thereof per picnic can; four pieces thereof per No. 1 flat can; four pieces thereof per No. 1 tall can; five pieces thereof per No. 2 tall can; six pieces thereof per No. 2½ tall can; twenty-two pieces thereof per No. 10 tall can;

(4) If the fruit is not of reasonably good color, or is unripe, or is mushy, or is not reasonably free from blemishes serious for the grade, or not reasonably symmetrical;

(5) If at the time of packing, the liquid surrounding the fruit shall contain less than twenty per cent added sugar.

(C) Canned cling peaches and free peaches, halved:

(1) If more than nine pieces thereof are packed in a picnic can; if more than eleven pieces thereof are packed in a No. 1 flat can; if more than thirteen pieces thereof are packed in a No. 1 tall can; if more than fifteen pieces thereof are packed in a No. 2 tall can; if more than twenty-one pieces thereof are packed in a No. 2½ tall can; if more than seventy-six pieces thereof are packed in a No. 10 tall can;

(2) If the packed pieces of the fruit are not substantially uniform in size;

(3) If any lot or parcel thereof varies more than three pieces thereof per picnic can; four pieces thereof per No. 1 flat can; four pieces thereof per No. 1 tall can; five pieces thereof per No. 2 tall can; six pieces thereof per No. 2½ tall can; twenty-two pieces thereof per No. 10 tall can;

(4) If the fruit is not of reasonably good color, or not reasonably free from blemishes serious for the grade, or not reasonably uniform in color, degree of ripeness and symmetry;

(5) If at the time of packing, the liquid surrounding the fruit shall contain less than twenty-five per cent added sugar.

(D) Canned black cherries and white cherries, whole:

(1) If more than seventy-five cherries thereof are packed in a picnic can; if more than ninety-five cherries thereof are packed in a No. 1 flat can; if more than one hundred seven cherries thereof are packed in a No. 1 tall can; if more than one hundred twenty-nine cherries thereof are packed in a No. 2 tall can; if more than one hundred seventy-five cherries thereof are packed in a No. 2½ tall can; if more than six hundred thirty cherries thereof are packed in a No. 10 tall can;

(2) If the packed cherries are not substantially uniform in size;

(3) If any lot or parcel thereof varies more than twenty-five cherries thereof per picnic can; thirty cherries thereof per No. 1 flat can; thirty-five cherries thereof per No. 1 tall can; forty cherries thereof per No. 2 tall can; fifty cherries thereof per No. 2½ tall can; one hundred eighty cherries thereof per No. 10 tall can;

(4) If the fruit is not of reasonably good color, or not reasonably free from blemishes serious for the grade, or not reasonably uniform in degree of ripeness;

(5) If at the time of packing, the liquid surrounding the fruit shall contain less than twenty per cent added sugar.

(E) Canned Royal Anne cherries, whole:

(1) If more than sixty-two cherries thereof are packed in a picnic can; if more than seventy-nine cherries thereof are packed in a No. 1 flat can; if more than eighty-nine cherries thereof are packed in a No. 1 tall can; if more than one hundred six cherries thereof are packed in a No. 2 tall can; if more than one hundred forty-five cherries thereof are packed in a No. 2½ tall can; if more than five hundred twenty-two cherries thereof are packed in a No. 10 tall can;

(2) If the packed cherries are not substantially uniform in size;

(3) If any lot or parcel thereof varies more than twenty cherries thereof per picnic can; twenty-five cherries thereof per No. 1 flat can; thirty cherries thereof per No. 1 tall can; thirty-five cherries thereof per No. 2 tall can; forty cherries thereof per No. 2½ tall can; one hundred forty-four cherries thereof per No. 10 tall can;

(4) If the fruit is not of reasonably good color, or not reasonably free from blemishes serious for the grade, or not reasonably uniform in degree of ripeness;

(5) If at the time of packing, the liquid surrounding the fruit shall contain less than twenty per cent added sugar.

Either the Brix or Balling scale shall be used on hydrometers or saccharometers to indicate the percentage by weight of sugar going into the syrup, the terms "percentage" and "degree" being synonymous when used with these instruments.

The above specifications as to quality of grade and uniformity of size shall apply to fruit packed in cans of all sizes, whether specifically designated in this act or not. The size of the fruit packed in cans of any size not designated herein shall be no smaller than is required in the next largest size of can specified herein.

The above specifications covering the number of pieces packed in cans of said respective designated sizes and also the above specifications covering the variation in the number of pieces packed in cans of said respective designated sizes, shall not apply to sliced apricots, peaches or pears as distinguished from apricots, peaches or pears which have only been cut in half. All other of said specifications shall apply to sliced fruit as well as to fruit which has been cut in half. (Id. § 4.)

85. Better Grades.—In defining and establishing the classifications or grades of "seconds" for canned fruits of the varieties above specified, this act recognizes that there are now packed and sold in this State, California fruits of said varieties of better grade, and known to the trade in the rising order of grade and quality as "Standard," "Choice" and "Fancy." (Id. § 5.)

86. Marking of Cans Containing Seconds.—All canned fruit of the above-named varieties packed, shipped, delivered for shipment, offered for sale or sold in the State of California, which is of a grade herein above defined and designated as "Seconds" and to which no sugar is added to the liquid surrounding the fruit shall be clearly, indelibly and permanently marked "Seconds without added sugar," such marking to be in letters not less than one-fourth inch high embossed or lithographed in the tin of the top or cover of the can. Where some sugar, but less than ten per cent is added to the liquid surrounding the fruit, the cans shall be marked "Seconds" followed by a statement of the actual amount of added sugar, such marking to be in letters not less than one-fourth inch high, embossed or lithographed in the tin of the top or cover of the can.

All canned cherries and pears packed, shipped, delivered for shipment, offered for sale or sold in the State of California, which are of a grade hereinabove defined and designated as "Seconds" and to which not less than ten per cent sugar and up to twenty per cent is added to the liquid surrounding of the fruit, shall be clearly, indelibly and permanently marked "Seconds," such marking to be in letters not less than one-fourth inch high, embossed or lithographed in the tin of the top or cover of the can.

All canned peaches and apricots packed, shipped, delivered for shipment, offered for sale or sold in the State of California, which are of a grade herein above defined and designated as "Seconds" and to which not less than ten per cent sugar and up to twenty-five per cent is added to the liquid surrounding the fruit, shall be clearly, indelibly and permanently marked "Seconds," such marking to be in letters not less than one-fourth inch high, embossed or lithographed in the tin of the top or cover of the can.

No other marking or sticker or wrapping shall be placed on or about said top or cover in a manner which will wholly or partially obscure or divert attention from the above designated marking, and if printed or lithographed labels are placed on the walls of the cans, they shall be so placed that the top of the label corresponds with the top of the can, but with a tolerance of ten per cent to cover errors in so placing the label.

Nothing contained herein shall be construed to prohibit the proper printing of factory can marks in ink or embossing on the top or cover of the can.

Fruit packed of a quality materially better than seconds as herein, above defined and to which no sugar has been added, may be marketed without being designated as seconds; provided, the label on canned fruit of the above mentioned varieties so packed, is clearly and indelibly marked "Packed without added sugar," in type at least one-half inch high. (Id. § 6.)

87. Powers and Duties of Director of Agriculture.—The Director of Agriculture of the State of California, shall be charged with the enforcement of the provisions of this act, and for that purpose shall have the power:

(a) To enter and inspect every place within the State of California where fruits of the above named varieties are canned, stored, shipped, delivered for shipment, offered for sale, or sold, and to inspect all fruits and containers found in any such place.

(b) In accordance with the provisions of the Civil Service law of this State, to appoint, superintend, control and discharge such chief inspector and subordinate inspectors as in his discretion may be deemed necessary for the specific purpose of enforcing the terms of this act, prescribe their duties and, in conjunction with the board of control, to fix their compensation.

(c) Personally, or through any such deputy, or any such inspector to seize and retain possession of any canned fruit packed, shipped, delivered for shipment, offered for sale, or sold, in violation of any of the provisions of this act, and to hold same pending decision by the board of appeal hereinafter provided for, or the order of the court.

(d) In the name of the people of the State of California, to cause to be instituted and to be prosecuted in the Superior Court of any county or city and county, of the State of California, in which may be found canned fruit which is packed, shipped, delivered for shipment, offered for sale, or sold, in violation of any of the provisions of this act, an action or actions for the condemnation of canned fruits as provided in section eight of this act.

(e) To appoint, subject to the approval of the Governor of the State of California, a board of appeal composed of citizens of the State of California, who are recognized as men of experience in the judging of the grade and quality of California canned fruits, and, from time to time, subject to such approval, to fill vacancies in said board. The number of members so appointed, to such board shall be seven; they shall hold office for a period of one year from the date of appointment, and shall be subject to removal by the director of agriculture with the approval of the governor of the State of California. No less than three of the members of such board shall be empowered to conduct any of the hearings hereinafter provided for, and at least one of said three shall be a canner, but the Director of Agriculture need secure the attendance of no more than three for any one hearing. The decision of the majority of those in session shall be controlling. The board of appeal, with the co-operation of the Director of Agriculture, may adopt such rules and regulations as they may deem necessary, not inconsistent with the provisions of this act, in connection with their official duties hereunder. (Id. § 7.)

88. Seizures and Appeals Therefrom; Prosecution of Willful Violators; Orders.—In the event of seizure of any product of a cannery under the provisions of this act the Director of Agriculture shall immediately give written notice thereof to the party from whom such seizure was made, or to the party who originally packed and sold such product. Within five full business days thereafter the party so notified, or any other party interested therein, may file with the Director of Agriculture a written notice of appeal from such seizure. The party so filing such notice of appeal shall accompany the same with the payment of a fee of thirty dollars. Upon receiving such notice of appeal and said fee for filing the same, the Director of Agriculture shall set a time and place for the hearing of such appeal, which time shall not be more than ten days from the filing of such notice of appeal. The Director of Agriculture shall summon any three members of the board of appeal to conduct such hearing and shall also give written notice of the time and place of such hearing to all parties concerned.

After such hearing if the board of appeal shall determine that the product under seizure has been packed in conformity with the requirements of this act they shall make an order to that effect and that such product be immediately released.

If the board of appeal shall decide that such product does not conform to the requirements of this act, but that there has been no willful violation of the provisions hereof, the board shall order the containers of the product to be, within a reasonable time after actual notice of such decision, remarked or relabeled, as nearly as can then practically be done in conformity with the provisions of this act, and that such product be released only upon such conditions to be prescribed by the board as will prevent as far as possible the marketing of such product in violation of the terms and provisions of this act. The term "willful violation" as used herein is hereby defined to mean a violation committed with actual intent so to do or with actual knowledge at the time that the same is being done, in the case of an individual or a partnership, on the part of such individual or one or more of the partners, and, in the case of a corporation, on the part of one or more of the directors, officers, managers or superintendents; provided, that any failure to conform to such order of the board within the time designated thereby after such notice shall be deemed to be a willful violation of this act, if the court, in any proceeding commenced as hereinafter provided, shall determine that such product does not conform to the provisions of this act.

If the board shall determine that there has been a willful violation of this act, or in case of a failure to conform to any order of the board as to any product found to be below standard grade, the director of agriculture shall certify the same, together with the facts leading up to the making of such order, to the district attorney of the proper county, and it shall be the duty of such district attorney to institute and prosecute appropriate court proceedings for the punishment of the violation of this act and for the condemnation of any product found to be below standard grade as above provided.

If no appeal from such seizure be filed within the time allowed as above provided, or, in case of an appeal, if no appearance on behalf of the appellant is made at the time and place set for the hearing thereof, the Director of Agriculture shall certify the fact of such seizure, together with the facts upon which the same has been based, to the district attorney whose duty shall be as provided in the preceding paragraph.

All orders of the board of appeal shall be made in writing and filed in the office of the Director of Agriculture. Such orders shall be made and filed within ten days after the close of the hearing. (Id. § 8.)

89. Disposition of Condemned Products.—In case the court shall condemn any of such product, the same may be destroyed, or, under appropriate directions from the court, may be released upon such conditions as the court in its discretion may impose to insure that such product will not be shipped, delivered for shipment, offered for sale or sold in violation of any of the provisions of this act. (Id. § 9.)

90. Acceptance for Shipment.—It shall be lawful for any person, firm, company, corporation or organization and for any common carrier to refuse to accept for shipment or transportation and to refuse to ship or transport, any canned fruit which upon inspection is found to be or to be packed in violation of any of the provisions of this act, and any such person, firm, company, corporation, organization or common carrier, may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment or transportation and to return to such consignor, or to hold at the expense and risk of the latter, all canned fruit which upon inspection is found to be or to be packed in violation of any of the provisions of this act. (Id. § 10.)

91. Guaranty of Product.—No person, firm, company, organization or corporation shall be convicted of a violation of any provisions of this act if he shall establish a guaranty, signed by the person, firm, company, organization or corporation, residing or lawfully engaged in business in the State of California, by or for whom the canned fruit in question was originally packed, to the effect that the product in question complies in all respects with the provisions of this act. Such guaranty, to afford protection, shall contain the name and address of the party making such guaranty, and such guarantor shall be amenable to all of the prosecutions, fines and penalties provided for by this act. (Id. § 11.)

92. Penalty.—Any person, firm, company, organization or corporation, who shall violate any of the provisions of this act shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Id. § 12.)

93. Prosecution of Violation.—It shall be the duty of the district attorney of the county, or city and county, in which any violation of this act may occur, to prosecute every person, firm, company, organization and/or corporation accused of such violation, and also, at the request of the Director of Agriculture, or any one of his deputies, to institute and prosecute such actions for condemnation as may be authorized under the provisions of this act. (Id. § 13.)

94. Compensation of Members of Boards of Appeal.—The members of the Board of Appeal in attendance at any session of the board at which a hearing is held shall each receive as compensation for such attendance the sum of ten dollars for each half day or part thereof. Such compensation shall be paid out of the fees collected by the director of agriculture as herein provided. (Id. § 14.)

95.—Effect on Other Laws.—No act which is made unlawful by any provision of an act of the Legislature of the State of California entitled "An act for preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a State laboratory for foods, liquors and drugs, and making an appropriation therefor," approved March 11, 1907,* or any amendment thereto, shall be deemed lawful by reason of any provision of this act; nor shall this act be construed in any respect to limit the powers of the State Board of Health. (Id. § 15.)

96. Pressure Cooker Licenses Required.—It shall be unlawful for any person, firm, company, organization, association or corporation in the State of California to engage in the commercial canning of any agricultural food products, the sterilization of which in the opinion of the California State Board of Health requires the use of a pressure cooker, without first obtaining a license from the said State Board of Health. (Supp. 1925, G. L., Act 1248, § 1.)

97. Fees to be Collected and Disposition Thereof.—The said State Board of Health shall issue to any person, firm, company, organization, association or corporation in the State of California an annual license on the receipt of ten (\$10) dollars per annum per plant, and such evidence as the board may require to show that the said person, firm, company, organization, association or corporation is properly equipped to carry out such rules and regulations as the State Board of Health may adopt for the sterilization of such agricultural food products. All moneys received by the State Board of Health for fees

*G. L. 1923, Act 57. See Nos. 1-23.

shall be deposited at least once each month in the State treasury to the credit of the cannery inspection fund, which fund is hereby created to be used exclusively for the payment of the expenses of enforcing the provisions of this act, and to be paid out only upon claims approved by the said State Board of Health and the State Board of Control in the manner provided for by law. One thousand dollars of the cannery inspection fund may be used as a revolving fund for the purposes of carrying out the provisions of this act. (Id. § 2.)

98. Inspectors and Other Employees.—For the purpose of enforcing the rules and regulations of the State Board of Health and the provisions of the pure food act relating to the canning of such agricultural food products, the State Board of Health shall appoint a chief cannery inspector, and such additional inspectors and clerical assistance as it may deem necessary for the enforcement of its rules and regulations. (Id. § 3.)

99. Maintenance by Interested Parties.—Said board of health shall have power to receive and accept at any time by gift, donation, contribution or bequest money to be used for the purpose of making or causing to be made the examinations and inspections herein provided for, and all money so received shall be deposited by the said State Board of Health in the State Treasury to the credit of the cannery inspection fund hereinbefore created to be used for carrying out the purposes and provisions of this act. (Id. § 4.)

100. Statements on Containers.—It shall be unlawful for any person, firm, company, organization or association or corporation to place upon the label of any bottle, can, jar, carton, case, box or barrel, or any receptacle, vessel or container of whatever material or nature which may be used by a packer, manufacturer, producer, jobber or dealer for enclosing any such canned agricultural food products, any statement relative to the product having been inspected, unless such statement has been approved, officially in writing, by the State Board of Health. Said approval shall be revocable at any time at the discretion of the State Board of Health upon official written notice. (Id. § 5.)

101. Penalty.—Any person, firm, company, organization, association or corporation which does not obtain a license for the conduct of its plant or plants under the provisions of this act or which violates section five of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five (25) dollars, or more than five hundred (500) dollars, or shall be imprisoned in the county jail for a term not exceeding six months. (Id. § 6.)

102. Prosecutions.—It shall be the duty of the district attorney of the county, or city and county, in which any violation of this act may occur, to prosecute every person, firm, company, organization or corporation accused of such violation. (Id. § 7.)

103. Effect of Act.—No act which is made unlawful by any provision of an act of the Legislature of the State of California entitled "An act for preventing the manufacture, sale or transportation of adulterated, mislabeled or misbranded foods and liquors and regulating the traffic therein, providing penalties, establishing a State laboratory for foods, liquors and drugs and making an appropriation therefor," approved March 11, 1907, or any amendment thereto,* shall be deemed lawful by reason of any provision of this act. (Id. § 8.)

NOTE.—See also the sanitation law, No. 448 et seq.

Cold Storage.

104. "Cold Storage" Defined.—The term "cold storage," as used in this act shall be construed to mean a place artificially cooled to a temperature of forty degrees Fahrenheit or below but shall not include such a place in a private home, hotel, restaurant, or exclusively retail establishment not storing articles of food for other persons. The term "cold stored" as used in this act shall be construed to mean the keeping of "articles of food," in "cold storage" for a period exceeding thirty days. The term "articles of food" as used in this act shall be construed to mean and include fresh meat and fresh meat products (except in process of manufacture), fresh and dried fruit and vegetables, fish, shellfish, game, poultry, eggs, butter and cheese. The term "storer" as used in this act shall be construed to mean the person or persons who offer articles of food for cold storage. (G. L. 1923, Act 1451, § 1.)

105. Application to Operate Cold Storage Plant; License Fee; Restaurants, Hotels, etc., Excepted.—Any person, firm or corporation desiring to operate a

*G. L. 1923, Act 57. See Nos. 1-23.

cold storage or refrigerating warehouse wherein shall be stored "articles of food" for a period exceeding thirty days, shall make application in writing to the State Board of Health for that purpose, stating the location of its plant or plants. On receipt of the application the State Board of Health shall cause an examination to be made into the sanitary condition of said plant or plants and if found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, the State Board of Health shall cause a license to be issued authorizing the applicant to operate a cold storage or refrigerating warehouse for and during a period of one year.

The license shall be issued upon payment by the applicant of a license fee to the State Board of Health for each and every warehouse or plant operated by applicant under the provisions of this act for all cold storage or refrigerating warehouses or plants having a capacity of ten thousand cubic feet, or less, a fee of fifteen dollars. For all cold storage or refrigerating warehouses or plants having a capacity of more than ten thousand cubic feet and less than fifty thousand cubic feet, a fee of thirty dollars. For all cold storage or refrigerating warehouses or plants having a capacity of more than fifty thousand cubic feet and less than one hundred thousand cubic feet, a fee of forty dollars. For all cold storage or refrigerating warehouses or plants having a capacity of one hundred thousand cubic feet or more, a fee of fifty dollars.

The secretary of the State Board of health shall keep a full and correct account of all fees received under the provisions of this act, and shall, at least once each month, deposit all such fees collected with the State Treasurer and make a detailed report covering same to the State Controller, and such moneys shall be credited to the appropriation for the support of the pure food and drug laboratory; provided, however, that nothing in this act contained shall apply to cold storage or cold storage or refrigerating plants or warehouses as herein defined which are maintained or operated by restaurants, hotels, or exclusively retail establishments not storing articles of food for other persons. (Id. § 2.)

106. Use of Unsanitary Places for Cold Storage Prohibited.—In the event that any place or places, or any part thereof, covered by a license, under the provision of this act shall at any time be deemed by the State Board of Health to be in an unsanitary condition, it shall be the duty of the State Board of Health to notify licensee of such condition and upon the failure of the licensee to put said specified place or places, or the specified part thereof, in a sanitary condition within a designated time it shall be the duty of the State Board of Health to prohibit the use under its license [of] such specified place or places, or part thereof, as it deems in an unsanitary condition until such time as it may be put in a sanitary condition. (Id. § 3.)

107. Record of Receipts and Withdrawals; Quarterly Reports.—It shall be the duty of any person, firm or corporation, licensed to operate a cold storage or refrigeration [refrigerating] warehouse to keep an accurate record of the receipts and the withdrawals of the articles of food, and the State Board of Health shall have free access to these records at any time.

Every such person, firm or corporation, shall, furthermore, submit a quarterly report to the State Board of Health, setting forth in itemized particulars quantity of food products held in cold storage. Such quarterly reports shall be filed on or before the 25th day of January, April, July and October of each year, and the reports so rendered shall show the conditions existing on the first day of the month in which the report is filed. The State Board of Health shall have the authority to require such reports to be made at more frequent intervals than the times herein specified, if in the judgment of the State Board of Health more frequent reports shall be needed in the interest of a proper enforcement of this act, or for other reasons affecting the public welfare. (Id. § 4.)

108. Diseased Articles Not to be Stored; Articles for Other Than Human Consumption to be Marked.—No storer shall place in cold storage any article of food intended for human consumption, if diseased, tainted or deteriorated so as to injure its keeping qualities, or if not slaughtered, handled and prepared for storage in accordance with the pure food and sanitary food laws and such rules and regulations as may be prescribed by the State Board of Health for the sanitary preparation of food products for cold storage, under the authority hereinafter conferred. Any article of food if intended for use other than human consumption before being cold stored shall be marked by the owner in accordance with forms prescribed by the State Board of Health, under authority hereinafter conferred, in such a way as to plainly indicate the fact that such articles are not to be sold for human food. (Id. § 5.)

109. Board of Health to Supervise and Inspect Cold Storage Plants.—It shall be the duty of the State Board of Health to inspect and supervise all cold storage or refrigerating warehouses in this State, and to make such inspection of the entry of articles of food therein as the State Board of Health may deem necessary to secure proper enforcement of this act. The members of the State Board of Health or its duly authorized agents, inspectors or employees, shall be permitted access to such establishments, and all parts thereof at all reasonable times for purposes of inspection and enforcement of the provisions of this act. The State Board of Health may also appoint and designate, at such salary or salaries as it may designate, such person or persons as it deems qualified to make the inspections herein required. (Id. § 6.)

110. Dates of Receipt and Withdrawal Marked on Articles.—All articles of food when deposited in cold storage shall be marked plainly on the containers in which they are packed or on the individual article with the date of receipt, in accordance with such rules and forms as may be prescribed by the State Board of Health, under the authority hereinafter conferred; and when removed from cold storage shall be marked in like manner with the date of withdrawal. (Id. § 7.)

111. Maximum Period Twelve Months; Extension of Period.—No person, firm or corporation as owners or having control shall keep in cold storage any article of food for a longer period than twelve calendar months, except with the consent of the State Board of Health, as hereinafter provided. The State Board of Health, shall, upon application, grant permission to extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found, upon examination, to be in proper condition for further storage at the end of twelve months. The length of time for which further storage is allowed shall be specified in the order granting the permission. A report on each case in which such extension of storage may be permitted, including information relating to the reason for the action of the State Board of Health, the kind and the amount of goods for which the storage period was extended, and the length of time for which the continuance was granted, shall be included in the annual report of the State Board of Health. (Id. § 8.)

112. Sale of Uncooked Cold-storage Food.—It shall be unlawful to sell, or to offer or expose for sale, uncooked articles of food which have been cold stored without notifying persons purchasing, or intending to purchase, the same that they have been kept in cold storage by the display, in a conspicuous place and upon the articles of food, of a sign marked, "These are cold stored goods," in type at least two inches high; and it shall be unlawful to represent or advertise as fresh goods articles of food which have been placed in cold storage.

The State Board of Health may, in lieu of the provisions of the first paragraph of this section, for the purpose of securing proper enforcement of this act, establish quality grades or standards to govern the sale of articles of food which have been cold stored, in which event it shall be unlawful to sell, or to offer or expose for sale, any such uncooked articles of food which have been cold stored, without notifying by suitable sign or label, persons purchasing or intending to purchase the same of the exact grade or quality of such articles of food, according to said standards prescribed by the State Board of Health. (Supp. 1925, G. L., Act 1451, § 9.)

113. Unlawful to Return Cold Stored Articles to Cold Storage.—It shall be unlawful to return to cold storage any article of food that has once been released from such storage and placed on the market for sale to consumers, but nothing in this section shall be construed to prevent the transfer of goods from one cold storage or refrigerating warehouse to another; provided, that such transfer is not made for the purpose of evading any provision of this act. (G. L. 1923, Act 1451, § 10.)

114. Rules and Regulations.—The State Board of Health may make rules and regulations to secure a proper enforcement of the provisions of this act, including rules and regulations with respect to the sanitary preparation of articles of food for cold storage, the use of marks, tags, or labels, and the display of signs, and the violation of such rules shall be punished on conviction, as provided in section twelve of this act. (Id. § 11.)

115. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall upon conviction be punished for the first offense by a fine not exceeding five hundred dollars, and for the second offense by a fine not exceeding one thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment. (Id. § 12.)

116. Definitions.—For the purpose of this act the words "person, firm, company or corporation" shall include wholesalers, retailers, jobbers, and every place

where eggs or butter that have been in cold storage for a longer period than three months are sold or offered for sale. (G. L. 1923, Act 1452, § 1.)

117. Marking Cold-storage Packages.—Every person, firm, company or corporation who sells or offers for sale any eggs or butter that have been in cold storage for a longer period than three months shall, before so doing, cause to be stamped, marked or branded upon all sides of each receptacle holding and containing the same in black-faced letters two inches in length the period of time during which the same have been in cold storage. (Id. § 2.)

118. Sign.—Every person, firm, company, corporation selling or offering for sale any cold storage eggs or butter shall display in a conspicuous place in his or their salesroom a sign bearing the words "Cold-storage eggs or butter sold here" in black-faced letters not less than six inches in length upon a white ground. (Id. § 3.)

119. Penalty.—Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act is guilty of a misdemeanor and punishable by imprisonment in the county jail for a term not exceeding six months, or a fine of two hundred and fifty dollars, or both fine and imprisonment. (Id. § 4.)

120. Rules.—The State Board of Health is hereby authorized and directed to make rules and regulations necessary to carry this act into effect. (Id. § 5.)

121. Selling Storage Eggs and Butter as Fresh.—Every person, firm, company or corporation who sells or offers for sale any cold storage eggs or butter, as and for fresh eggs or butter, or who by any means whatever represents the same to be fresh eggs or butter is guilty of a misdemeanor. (G. L. 1923, Act 1453, § 1.)

122. Inspection of Foreign Cold Storage Meat.—It shall be unlawful for any person, firm, or corporation, to sell, offer for sale, or have in possession for sale, any cold storage meat that has been imported into the State of California from without the United States, without having first obtained a license from the Director of Agriculture as hereinafter provided, and without having submitted all such meat for inspection and examination at port of entry. The Director of Agriculture shall cause all such meat to be inspected upon arrival, and shall establish such bacteriological or chemical standards as he shall deem proper to determine the wholesomeness and fitness of such meat for human consumption; any meats found unfit for human consumption shall be marked conspicuously with the words "unfit for human consumption" and the sale thereof for human food is hereby prohibited. All meats inspected and passed for food as provided in this act shall be marked with a tag of such size and design as shall be promulgated by the rules and regulations established by the Director of Agriculture for the enforcement of this act, and shall bear the words "foreign cold storage meat inspected and passed by the State Department of Agriculture." Such tag shall not be removed until the meat is cut for retail, and meats so tagged shall at all times be subject to reinspection. (G. L. 1923, Act 1454, § 1.)

123. Statement of Sale.—Wholesalers, dealers or importers selling, handling or furnishing cold storage meat imported from without the United States are hereby required to forward by registered mail to the Director of Agriculture a certified statement on the first day of July, October, January and April of all sales of such meat made by these respective persons, firms, or corporations during the last preceding three months and in each case shall state the name and address of the purchaser and the amount of each and every sale. (Id. § 2.)

124. License.—The Director of Agriculture, upon application of any person, firm, or corporation selling, dealing or furnishing foreign cold storage meat shall issue a license to such applicant providing the application is accompanied by a fee of ten dollars for retailers, and five dollars for hotels, restaurants, lunchrooms, dining cars, or boarding houses, selling, handling, furnishing, or serving such cold storage meat. All such licenses shall expire on June 30th of each year, and may be issued in periods of one year or less than one year, on payment of a proportionate part of the license fee herein mentioned, provided that no license shall be issued for a period of less than three months. (Id. § 3.)

125. Rules and Regulations.—For the purpose of enforcing the provisions of this act the Director of Agriculture is hereby authorized to make such rules and regulations as he shall deem necessary and prescribe such inspection fees as may be required to defray the actual cost of such inspection and he is hereby given authority to enter upon any premises for the purpose of making such inspections and investigations or the examining of books, papers or documents of any person, firm or corporation as shall be deemed necessary to execute the provisions of this act. (Id. § 4.)

126. Penalties.—It shall be unlawful for any person, firm or corporation to violate any provisions of this act or any of the rules and regulations authorized

herein, and upon conviction of the violation thereof,* shall be guilty of a misdemeanor. (Id. § 5.)

NOTE.—See also No. 6; the egg law, No. 255 et seq.

Confectionery.

127. Adulteration of Candies.—Every person who adulterates candy by using in its manufacture terra-alba or other deleterious substances, or who sells or keeps for sale any candy or candies adulterated with terra-alba, or any other deleterious substance, knowing the same to be adulterated, is guilty of a misdemeanor. (Pen. Code, 1923, § 402a.)

NOTE.—See also No. 4; the sanitation law, No. 448 et seq.

Dairy Products—Substitutes for Dairy Products.†

128. Sale of Renovated Butter Prohibited Unless Packages Stamped.—No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, offer for sale or expose for sale or have in his or their possession for sale any renovated butter unless the same shall have printed upon each and every package, roll, print, square, or any container of such renovated butter the words "renovated butter" in letters not less than one-half inch in height, or who shall not have secured from the State Dairy Bureau, now existing under the laws of this State, a license as provided hereinafter. (Stats. 1905, p. 468; G. L. 1923, Act 1075, § 1.)‡

129.—Renovated Butter Defined.—The term renovated butter as used in this act is hereby defined to mean and include butter that has been reduced to a liquid state by melting and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product thereof. (Id. § 2.)

130. License to Manufacture or Deal in Renovated Butter.—Any person or persons, firms or corporations desiring to manufacture or deal in renovated butter shall make application to the State Dairy Bureau for a license and upon payment of a license fee of the amount mentioned herein, to the State Dairy Bureau, said bureau shall issue to the applicant a license. All such licenses shall expire December 31st of each year and may be issued in periods of one year or six months, upon payment of a proportionate part of the license fee. Manufacturers of renovated butter within this State shall pay an annual license fee of one thousand dollars; wholesale dealers shall pay an annual license fee of four hundred dollars; retail dealers shall pay an annual license fee of fifty dollars; hotels, restaurants, boarding-houses and all other places where meals are served and payment is received therefor, either immediately or by the day, week or month, and which use or furnish renovated butter in connection with said meals, shall pay an annual license fee of ten dollars. The term wholesale dealers as used herein includes all persons, firms or corporations, who shall sell renovated butter, in quantities of ten pounds or more. The term retail dealers includes all persons who sell in quantities of less than ten pounds. All licenses while in force shall be conspicuously displayed in the place of business of the party or parties to whom they have been issued. The State Dairy Bureau shall require all persons holding a manufacturer's or wholesaler's license, as provided in this act, to keep a record in a form separate from all other business in which every sale of renovated butter shall be recorded, giving the quantity sold, the name and location of the buyer and the place to which it was shipped. Such record shall be accessible at all times to duly authorized representatives of the State Dairy Bureau. (Id. § 3.)

131. Disposition of License Fees.—All license fees paid to the State Dairy Bureau under this act shall be paid by said bureau into the State treasury, the same to be added to the appropriation made for the same fiscal year for the bureau and its expenditure shall be at the disposal of said bureau for its use. (Id. § 4.)

*So in the act.

† Because of the large number of dairy acts and in order more clearly to distinguish between them we cite the statutory reference in each instance.

‡ The powers and duties of the State Dairy Bureau have been transferred to the Department of Agriculture. See Pol. Code 1923, § 361b. The acts hereunder are to be corrected accordingly.

132. Violations of This Act; Punishment.—Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court. (Id. § 5.)

133. Duty of District Attorney; Disposition of Fines.—It shall be the duty of the district attorney of each and every county in this State, upon application, to attend to the prosecution in the name of the people of any action brought for the violation of any of the provisions of this act within his district. One-half of all the fines imposed for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed. The other one-half shall be paid to the State Dairy Bureau, and by said bureau to the State Treasurer, and the same shall become a part of the appropriation made by law for the use of said State Dairy Bureau. (Id. § 6.)

134. Sale of Process or Renovated Butter.—Any person, firm or corporation who sells or offers for sale, or has in his or its possession for sale, any butter manufactured by boiling, melting, deodorizing, or renovating, which is the product of stale, rancid, or decomposed butter, or by any other process whereby stale, rancid or decomposed butter is manufactured to resemble or appear like creamery or dairy butter, unless the same is plainly stenciled or branded upon each and every package, barrel, firkin, tub, pail, square, or roll, in letters not less than one-half inch in length, "process butter," or "renovated butter," in such a manner as to advise the purchaser of the real character of such "process" or "renovated" butter, is guilty of a misdemeanor. (Stats. 1905, p. 770; Pen. Code 1923, § 383a.)

135. Short-weight Butter.—Any person or persons, firm or corporation, who offers for sale roll-butter not of full weight to each roll, shall be guilty of a misdemeanor. (Stats. 1893, p. 151; G. L. 1923, Act 1081, § 1.)

136. Certified Butter, Sale or Exchange of.—No person shall sell or exchange, or offer or expose for sale or exchange, as and for certified butter any butter which does not conform to the regulations prescribed by and bear the certification of, a milk commission appointed by a county medical society organized under and chartered by the Medical Society of the State of California and which has not been pronounced by such authority to be free from antiseptics, added preservatives and pathogenic bacteria. All butter sold as certified butter shall be conspicuously marked with the name of the commission certifying it; provided, that such milk commission shall make all requirements for the production and handling of certified butter uniform and fair, and shall not refuse to certify butter for any applicant for certification who shall comply with the provisions of this act, and the requirements of the milk commission whose certificate is sought. (Stats. 1911, p. 382; G. L. 1923, Act 1082, § 1.)

137. Penalty for Violation.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days. (Id. § 2.)

138. Definitions.—For the purpose of this act the words "person, firm, company, or corporation," shall include wholesalers, retailers, jobbers, and every place where butter that has been shipped or imported into the State of California from any point or place outside of the United States is sold or offered for sale. (Stats. 1915, p. 689; G. L. 1923, Act 1083, § 1.)

139. Butter From Outside United States to be Marked.—Every person, firm, company, or corporation who sells, offers for sale, or has in his, or their, possession for sale, or consigns, ships or presents to any dealer, commission merchant, consumer, or other person any butter that has been shipped or imported into the State of California from any point or place outside of the United States shall, before doing so, cause to be stamped, marked or printed upon the wrapper, or other container thereof in black-face letters not less than one-eighth of an inch in height the word "imported." (Id. § 2.)

140. Sign Indicating Importation.—Every person, firm, company or corporation selling or offering for sale any butter that has been shipped or imported into the State of California from any point or place outside of the United States, shall display in a conspicuous place in his or their public salesroom a sign, which shall be not less than one foot in height and two feet in length, bearing the words

"imported butter sold here" in black-face letters not less than three inches in height and one-half inch in width upon a white ground. (Id. § 3.)

141. Penalty for Noncompliance.—Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months; or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment in the discretion of the court. (Id. § 4.)

142. Branding Grades of Cheese.—Every person or persons, firm or corporation, who shall at any creamery, cheese factory, or private dairy, manufacture cheese in the State of California, shall, at the place of manufacture, brand distinctly and durably on the bandage of each and every cheese manufactured, and upon the package or box when shipped, the grade of cheese manufactured, as follows: "California full-cream cheese," "California half-skim cheese," and "California skim cheese." (Stats. 1897, p. 69; G. L. 1923, Act 1343, § 1.)

143. Brands to be Procured from State Dairy Bureau.—All brands for branding the different grades of cheese shall be procured from the State Dairy Bureau, and said bureau is hereby directed and authorized to issue to all persons, firms or corporations, upon application therefor, uniform brands, consecutively numbered, of the different grades specified in section 1 of this act. The State Dairy Bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the State of California, other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change. (Id. § 2.)

144. Defining Grades of Cheese.—The different grades of cheese are hereby defined as follows: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or other process, and having not less than thirty per cent of butter fat, shall be branded as "California full-cream cheese"; and such cheese only as shall be made from pure milk, and having not less than fifteen per cent of butter fat, shall be branded "California half-skim cheese"; and such cheese only as shall be made from pure skim-milk shall be branded "California skim cheese"; provided, that nothing in this section shall be construed to apply to "Edam," "Brickstein," "Pineapple," "Limburger," "Swiss," or hand-made cheese, not made by the ordinary Cheddar process. (Id. § 3.)

145. No Sales Without Official Brand.—No person or persons, firms or corporation shall sell or offer for sale any cheese, manufactured in the State of California, not branded by an official brand of the grade defined in section 3 of this act. (Id. § 4.)

146. Penalties.—Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty five dollars (\$25) nor more than fifty dollars (\$50), or by imprisonment in the county jail for not exceeding twenty-five days; and for each subsequent offense a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment in the county jail not less than fifty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court. (Id. § 5.)

147. Sale of Adulterated Milk Prohibited.—It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell or offer for sale, or have on hand for sale, any milk, or product of milk, that is adulterated within the meaning of this act. The word "person" as used in this act shall be construed to import both the singular and plural, as the case demands, and shall include individuals, corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any employee, officer, agent or other person acting for or employed by any individual, corporation, company, society or association, within the scope of his employment or office, shall in every case also be deemed to be the act, omission or failure of such individual, corporation, company, society or association, as well as that of the person. The provisions of this act shall be construed to apply to hotel-keepers, restaurant-keepers and boarding-house keepers or any person who shall serve meals and accept money therefor. The words "product of milk" as used in this act, shall not apply to any product into which milk, or a product of milk, may enter as an ingredient or component of a food product that does not consist of milk or milk products alone, such as pastry, confectionery and ice cream, and excepting in case of condensed milk or evaporated milk or cream in which case the provisions of this act shall apply, provided, that this section shall not be con-

strued to prevent the use of common salt (chloride of sodium) in dairy products. Any label, printed matter, or advertising or descriptive matter appearing upon, or in connection with any package, parcel or quantity of milk or milk products when being sold, offered for sale, or having on hand for sale, and having reference to the article being sold, offered for sale, or on hand for sale, shall conform with the provisions of this act, and if it fails to conform with the provisions of this act, such article shall be deemed adulterated under this act. It shall be unlawful for any person under this act, when selling or offering for sale, or having on hand for sale, milk or any product of milk to use the words "milk," "condensed milk," "sweetened condensed milk," "condensed skimmed milk," evaporated "cream" or "butter," either verbally or printed or written on any label or printed matter used in connection with the sale, or offering for sale, or having on hand for sale, of milk or any product of milk, or upon any bill of fare used in any hotel, restaurant or other places where meals are served when the articles shall not conform with the provisions of section two of this act. (Stats. 1907, p. 265, as amended, G. L. 1923, Act 1933, § 1.)

148. Definitions and Standards.—Milk and the products of milk enumerated in this section shall be deemed adulterated within the meaning of this act if it or they shall not conform with the following definitions and standards: 1. Milk is the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen (15) days before and five (5) days after calving, and contains not less than three (3.0) per cent of milk fat, and not less than eight and five-tenths (8.5) per cent of solids, not fat, and from which no cream or fat or other solid component has been removed. 2. Skim milk is milk from which a part or all of the cream has been removed and contains not less than nine and twenty-five-hundredths (9.25) per cent of milk solids. 3. Condensed milk or evaporated milk is whole milk from which a considerable portion of water has been evaporated and contains not less than twenty-four and five-tenths (24.5) per cent of milk solids, including not less than seven and seven-tenths (7.7) per cent milk fat. 4. Sweetened condensed milk is whole milk from which a considerable portion of water has been evaporated and to which sugar (sucrose) has been added, and contains not less than twenty-four and five-tenths (24.5) per cent of milk solids, including not less than seven and seven-tenths (7.7) per cent milk fat. 5. Condensed skim milk is skim milk from which a considerable portion of water has been evaporated. 6. Cream is that portion of milk rich in milk fat which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean, and contains not less than eighteen (18) per cent of milk fat. 7. Evaporated cream, clotted cream, is cream from which a considerable portion of water has been evaporated. 8. Milk fat, butter fat, is the fat of milk and has a Reichert-Meissel number not less than .905 (40 degrees C.). 9. Butter is the clean, nonrancid product made by gathering in any manner the fat or [of] fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt, and contains not less than 80 per cent of milk fat. (Id. § 2.)

149. Duty of State Dairy Bureau.—It shall be the duty of the State Dairy Bureau, now existing under the laws of this State,* to enforce the provisions of this act; provided, that nothing in this act shall be construed to prevent any city or county board of health or other city or county officials from enforcing the provisions of this act. (Id. § 3.)

150. Penalty for Violation of Act; Fines.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five (\$25) dollars, nor more than two hundred (\$200) dollars, or by imprisonment in the county jail for not less than ten nor more than sixty days. Provided that no conviction shall be had where a conviction is sought upon any alleged sample of milk, or product of milk, unless such sample has been taken in duplicate, sealed and marked for identification, and one of such samples left with the person accused. All fines collected under this act shall be paid to the State Dairy Bureau when the complaint is made through the State Dairy Bureau and the State Dairy Bureau shall pay the same to the State Treasurer and the amount paid by the State Dairy Bureau to the State Treasurer is hereby appropriated to the use of the State Bureau in enforcing this act for the fiscal year in which the amount is paid to the State Treasurer. (Id. § 4.)

151. Interference With Inspectors.—It shall be unlawful for any person to prevent or interfere with the duly authorized inspectors or agents of the State Dairy Bureau, or any city or county board of health, from entering any place

*See footnote to No. 128.

or premises where milk or products of milk are produced or manufactured or prepared or to prevent or interfere with such inspectors or agents in the event they deem it advisable to secure samples of milk or milk products from any person producing or selling milk or products of milk for the purpose of analyzing the same to ascertain whether this act is being violated. (Id. § 5.)

152. Duty of District Attorney.—It shall be the duty of the district attorney, upon application of the State Dairy Bureau or any city or county board of health to attend to the prosecution, in the name of the people, of any complaint entered for violation of any of the provisions of this act within his district. (Id. § 6.)

153. Imitation Milk Defined.—For the purposes of this act certain manufactured substances, certain mixtures and compounds shall be known and designated as "imitation milk," namely: (a) Any mixture or compound composed of skim milk or condensed, evaporated or powdered skim milk and any edible oil or fat other than natural milk fat, whether with or without any other ingredient or ingredients; (b) any mixture or compound made in imitation or semblance, or having the appearance or semblance, of milk or condensed or evaporated milk, or when so made or having such appearance or semblance calculated or intended, whether by intent of the compounder or other person, or by reason of the appearance or other characteristic of the mixture or compound, for use or disposition as or for milk, or as or for condensed or evaporated milk, or to induce its purchase, or use as or for milk or condensed or evaporated milk. (Stats. 1919, p. 89; G. L. 1923, Act 1934, § 1.)

154. Manufacture and Sale of Imitation Milk.—No person by himself, his agents or servants shall render, manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell or to use, or to serve to patrons, customers, boarders or inmates of any hotel, dwelling-house, restaurant, public conveyance or boarding-house, any article, product or compound made wholly or in part, out of any imitation milk; provided, that nothing in this section shall be construed to prohibit the manufacture or sale, under regulations hereinafter provided, of imitation milk, [or] of substances or compounds that may be used as imitation milk, of a separate and distinct character not resembling milk or condensed or evaporated milk, and in such a manner as will advise the purchaser and consumer of its real character, colored or containing ingredients that cause it to look unlike pure whole cow's milk or the condensed or evaporated product made therefrom; and provided, further, it is not adulterated within the meaning of this act; and provided, further, that nothing in this act shall be construed to prevent or prohibit the manufacture, sale, or use, for cooking purposes, of imitation milk as defined by section one of this act. (Id. § 2.)

155. Imitation Milk to be Labeled.—Each person, who by himself, or another, lawfully manufactures any imitation milk, or any substitute that may be used as and substituted for milk or condensed or evaporated milk, shall mark the same by printing, stamping or stenciling upon the top, if the top be of sufficient size and upon the sides of each case, box, carton, or other package, in which that article or substance shall be kept, and in which it shall be removed from the place where it is produced or put up in a clear manner, in the English language, the words, "imitation milk," in printed letters in plain Roman type, each of which shall not be less than one inch in height and one-half inch in width, and in addition to the above shall prepare a statement, printed in plain Roman type, of a size not smaller than pica, stating in the English language its name, and the name and address of the manufacturer, the name of the place where manufactured or put up, and also the name and actual percentages of the various ingredients used in the manufacture of such imitation milk; and shall place a copy of said statement within and upon the contents of each case, box, carton, or other package, and next to that portion of each case, box, carton, or other package as is commonly and most conveniently opened, and in addition thereto shall label each bottle, can, container, or other package containing imitation milk with the words "imitation milk" printed in black-face plain Roman capital letters of a size not less than twelve point, and said words shall appear upon the main or principal label of said bottles, cans, containers, or other packages containing any imitation milk, and in addition thereto said main or principal label shall contain or bear the words: "Not suitable for infant food," in plain legible type. (Id. § 3.)

156. Adulteration.—Imitation milk not condensed or evaporated, shall be deemed adulterated within the meaning of this act if it contains less than three per cent of edible fats, or oils, and imitation milk, if evaporated or condensed, shall be deemed adulterated within the meaning of this act if it contains less than seven and eight-tenths per cent of edible fats or oils. (Id. § 4.)

157. Display of Sign by Restaurants, etc.—No keeper or proprietor of any bakery, hotel, boarding-house, restaurant, saloon, lunch counter, or any place of public entertainment, and no person having charge thereof, or employee thereat, and no employer when such board is furnished as compensation, or part of the compensation of any employee, shall place before any patron or employee for use as food, any imitation milk, unless there shall be displayed in a prominent place in said bakery, hotel, boarding-house, restaurant, saloon, lunch counter, or other place of public entertainment in each room where meals are served, a sign bearing the words "Imitation milk used and served here," in black-faced letters and not less than four inches in length upon a white ground. (Id. § 5.)

158. License for Manufacture and Sale of Imitation Milk.—No person, firm, or corporation shall engage in the business or occupation of manufacturing, selling, dealing in or furnishing imitation milk without first having applied for and obtained a license so to do as hereinafter provided. Any person, firm or corporation dealing in or engaged in the business or occupation of manufacturing, selling, dealing in or furnishing to his, its or their patrons imitation milk, as in this act defined, shall first make application each year to the State Dairy Bureau for a license, and upon payment of license fee of the amount mentioned herein to the State Dairy Bureau, said bureau shall issue to the applicant a license. All such licenses shall contain the following proviso: provided, that this license does not authorize the holder thereof to manufacture, sell, deal in or furnish any imitation milk or similar substances that may be used as a substitute for milk or condensed or evaporated milk which resembles in appearance pure whole cow's milk, or the condensed or evaporated product made therefrom. All such licenses shall expire on June thirtieth of each year, and may be issued in periods of one year or less than one year, on payment of a proportionate part of the license fee, provided that no license shall be issued for a period of less than three months. The fee for issuing said license to said manufacturers, of any of the said substances within this State shall be one hundred dollars; for issuing to wholesale dealers in, or importers or agents for importers, of any of said substances the fee shall be fifty dollars; for issuing to retail dealers in any of said substances the fee shall be five dollars; and for issuing to the keeper of any hotel, restaurant, boarding-house, and any other place where meals are served and payment is received therefor, either immediately or by the day, week or month, the fee shall be two dollars.

The term "wholesale dealer" as used in this section includes all persons, firms or corporations who sell any of said substances in quantities of one full case or more at a time or in the same transaction. The term "retail dealer" includes all persons who sell only in quantities of less than one case. All licenses while in force shall be kept conspicuously displayed in the places of business of the party or parties to whom they have been issued.

It shall be unlawful for any person, firm or corporation to manufacture, buy, sell, deal in or furnish to his, its or their patrons, or to have in their possession, for any purpose whatsoever other than for consumption in his own family, or for transportation in case of a boat or railroad company, or for the purpose of storage in case of a warehouse or cold storage company, any imitation milk or similar substance designed to be used as a substitute for milk or for condensed or evaporated milk without having first applied for and obtained from the State Dairy Bureau of the State of California a license herein required. (Id. § 6.)

159. Penalty.—Any person, firm or corporation found guilty of violating any of the provisions of this act shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 7.)

160. Enforcement.—It shall be the duty of the State Dairy Bureau, now existing under the laws of this State to enforce the provisions of this act; provided, that nothing in this act shall be construed to prevent any city or county or State Board of Health or other city or county officials from enforcing the provisions of this act. (Id. § 8.)

161. Pasteurization of Skim Milk, etc.—Every person, firm, copartnership or corporation owning, operating or managing a cheese factory, creamery, skimming station or other place where milk is received and by-products distributed shall, before returning to or delivering to any person or persons any skim milk, whey, buttermilk or other milk by-products to be used for feeding purposes for farm animals, cause such skim milk, whey, buttermilk or other milk by-products to be thoroughly pasteurized by heating the same to one hundred forty-five degrees Fahrenheit, and holding at that temperature for not less than thirty minutes or to one hundred and eighty-five degrees without holding. (Stats. 1921, p. 1186; G. L. 1923, Act 1935, § 1.)

162. Sanitary Containers.—It shall be unlawful for any person, firm, copartnership or corporation referred to in section one of this act to maintain vats, tanks or other containers used for storing or holding milk or similar by-products in an unclean or unsanitary condition. (Id. § 2.)

163. Penalties.—Any person, firm, copartnership or corporation violating any of the provisions of this act is guilty of a misdemeanor, and shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment. (Id. § 3.)

164. Milk Must be Pasteurized; Cream for Butter; Butter Used in Manufacture of Foodstuffs; Marking of Butter; Ice Cream a Milk Product.—It shall be unlawful for any person, firm or corporation, except in bulk to the wholesale trade, to sell or exchange or offer or expose for sale or exchange for human consumption any milk from cows that have not passed the tuberculin test until it has been pasteurized by the holding process at a temperature not less than one hundred forty degrees Fahrenheit for twenty-five minutes; provided, that milk for drinking purposes shall not be heated for more than one hour nor above one hundred forty-five degrees Fahrenheit; provided, further, that cream that is to be manufactured into butter may be pasteurized by heating it to a higher degree than milk and, when the same is uniformly heated to and held at a higher degree of temperature than one hundred fifty-one degrees Fahrenheit, the time for holding may be decreased from twenty-five minutes by one minute for each degree of temperature over one hundred fifty-one degrees Fahrenheit. It shall further be unlawful for any person, firm or corporation to sell or exchange or offer or expose for sale or exchange for human consumption any butter, ice cream or other milk products except cheese and butter as hereinafter provided into the composition of which any milk enters other than that permitted in this section of this act to be sold at retail for human consumption; provided, that nothing in this act shall be construed to prohibit the use or sale of butter that is not pasteurized or butter that is not the product of nonreacting tuberculin-tested cows; provided, that said butter be used by manufacturers of foodstuffs only and in the manufacture of such foodstuffs said butter shall be subjected to a minimum temperature of two hundred twenty-five degrees Fahrenheit; and provided, further, that it shall be unlawful to use any such butter except in the manufacture of food subjected to said temperature. Butter offered for sale for human consumption shall be marked: "From nonreacting tuberculin-tested cows," or "Pasteurized," as the case may be. Butter which by the provisions of this act is permitted to be used for cooking and baking purposes only shall be marked "for cooking and baking only." Ice cream is hereby declared to be a milk product. For the purpose of this act milk shall be construed to include cream. (Stats. 1917, p. 803, as amended; G. L. 1923, Act 1937, § 1.)

165. Sale of Milk Where Milk Inspection Service Established.—It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange, in any city, county, or city and county, in which a milk inspection service, approved by the State Dairy Bureau, has been established, any milk otherwise than as hereinafter provided in this act, and for the purpose of this act, the term "inspecting department" shall be construed to mean the health department of a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the State Dairy Bureau, and such inspecting department shall include at least one regularly licensed physician. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange any milk as and for, or under the designation, label or other representation of "guaranteed," "grade A," or "grade B" milk, except within a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the State Dairy Bureau; provided, that a person, firm or corporation, which is authorized to sell milk within the jurisdiction of an inspecting department may sell milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any inspecting department, if local ordinances are not thereby violated, and also in territory within the jurisdiction of any other inspecting department; provided, the consent of said other inspecting department has been previously obtained. (Id. § 2.)

166. Milk Not to be Sold for Human Consumption.—All milk sold or exchanged or offered or exposed for sale or exchange except in bulk to the wholesale trade in any county or group of counties, city or group of cities, or city and county, in which a milk inspection service, approved by the State Dairy Bureau has been established, except certified milk, guaranteed milk, grade A milk and grade B milk, is hereby declared to be impure and unwholesome and must not be sold for human consumption. (Id. § 3.)

167. Grades of Milk.—Where an inspection service is maintained as provided in section two of this act, milk shall be graded as follows: Certified milk, guaranteed milk, grade A milk, grade B milk and milk not suitable for human consumption; provided, that milk sold or exchanged or offered or exposed for sale or exchange as and for, or under the designation, label or other representation of "guaranteed," "grade A" or "grade B," milk shall have the grade and whether raw or pasteurized marked on the container or cap of the container in capital letters not less than one-eighth inch long and one-sixteenth inch wide; and provided, further, that milk not suitable for human consumption shall be plainly so marked. (Id. § 4.)

168. Approval of Inspecting Department.—No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as or for guaranteed milk, any milk, raw or pasteurized the quality of which is guaranteed by the dealer, without approval in writing of the inspecting department, which milk must be of a higher standard than that required for grade A raw milk. (Id. § 5.)

169. Requirements for Grade A Milk; Dairies Having Not More Than Two Cows; Sterile Containers; Bacteria Content.—No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade A milk, any milk that does not conform to the rules and regulations and the methods and standards for production and distribution of grade A milk adopted by the inspecting department.

Grade A milk shall conform to the following requirements as a minimum: If raw, it shall consist of the clean raw milk from healthy cows as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department, and by the tuberculin test by a qualified veterinarian under the supervision of the State Veterinarian,* and from dairies that score not less than seventy per cent on the score card hereinafter set forth; provided, however, that dairies having not more than two milking cows, and, which are found by any such inspecting department to comply fully with the remaining provisions of this act are hereby exempted from such scoring requirements and from the use of the labels prescribed in section four hereof. The tuberculin test must be repeated annually if no reacting animals are found in the herd. If reacting animals are found they must be removed from the herd, and the tuberculin test repeated in six months. All cows are to be fed, watered, housed and milked under conditions approved by the inspecting department. All persons who come in contact with the milk must exercise scrupulous cleanliness and must not harbor the germs of typhoid fever, tuberculosis, diphtheria or other infectious diseases liable to be conveyed by milk. Absence of such infections shall be determined by cultures and physical examinations, to the satisfaction of the inspecting department.

This milk is to be delivered in sterile containers and is to be kept at a temperature established by the inspecting department until it reaches the ultimate consumer, when it must contain less than one hundred thousand bacteria per cubic centimeter. If pasteurized it shall come from cows free from disease as determined by physical examination at least once in six months, by a qualified veterinarian under the supervision of the inspecting department. It shall contain less than two hundred thousand bacteria per cubic centimeter before pasteurization and less than fifteen thousand bacteria per cubic centimeter at the time of delivery to the ultimate consumer. Dairies from which this milk is derived must score at least sixty on the score card hereinafter set forth. (Id. § 6.)

170. Requirements for Grade B Milk; Pasteurization; Records.—No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for grade B milk, any milk that does not conform to the following requirements as a minimum: It must be obtained from cows in no way unfit for the production of milk for use by man, as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the inspecting department. Before pasteurization such milk shall contain less than one million bacteria per cubic centimeter. After pasteurization it shall contain less than fifty thousand bacteria per cubic centimeter.

Milk for pasteurization must be kept at a temperature established by the inspecting department up to the time of delivery to the pasteurization plant and rapidly cooled after pasteurization to a temperature of fifty degrees Fahrenheit or below and so maintained to the time of delivery of the same. Pasteurization

*The powers and duties of the State Veterinarian have been transferred to the Department of Agriculture. See Pol. Code 1923, § 361b. The acts hereunder are to be corrected accordingly.

shall be by the holding method at a temperature not less than one hundred forty degrees Fahrenheit; provided, that milk for drinking purposes shall not be heated above one hundred forty-five degrees Fahrenheit.

Such pasteurization plant shall be equipped with a self-registering device for record of the time and temperature of pasteurization. Such records shall be kept for two months and be available for inspection by any health department, the State Veterinarian or any of his agents, or the State Dairy Bureau. Pasteurized milk shall be marked with the day of the week of pasteurization and must be delivered to the consumer within forty-eight hours thereafter. If milk is repasteurized, it must not be sold except as not suitable for human consumption; provided, however, if graded, cream of any grade shall conform to all the standards set for milk of the same grade, except that the maximum bacterial count for cream shall be not more than three times as great as that of the corresponding grade of milk. (Id. § 7.)

171. Milk Not Suitable for Human Consumption.—Milk not suitable for human consumption may be sold for industrial purposes, provided it be heated to a higher temperature than necessary for pasteurization, and delivered in a distinctive container, plainly marked with the words "Not suitable for human consumption," in letters not less than one-quarter inch in length and one-twelfth inch stroke. (Id. § 8.)

172. Counties, etc., May Maintain Inspection Service.—Counties, or groups of counties, cities or groups of cities, or cities and counties, are hereby authorized to maintain a milk inspection service and laboratory conformable to requirements as set forth by the State Dairy Bureau, and to establish pasteurizing plants. (Id. § 9.)

173. Penalties for Violation.—Any person who violates any provisions of this act or the rules made in accordance with section eleven of this act or who directs or knowingly permits an employee to violate any of said provisions or said rules, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and imprisonment.

Any firm, corporation, society or association which violates any of said provisions or of said rules shall be guilty of a misdemeanor and upon conviction shall be fined as above provided.

In the event an officer, director, manager or managing agent of any firm, corporation, society or association violates any of the provisions of this act or the rules made in accordance with section eleven of this act or directs or knowingly permits any employee to violate any of said provisions or said rules, such officer, director, manager or managing agent shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine or imprisonment or both, as above provided; and, in such case, the firm, corporation, society or association shall also be guilty and upon conviction shall be fined as above provided. One-half of all such fines shall be paid into the State Treasury and placed to the credit of the general fund. (Id. § 10.)

174. Duty of State Dairy Bureau.*—It shall be the duty of the State Dairy Bureau, with the assistance of the pure food and drugs laboratory, to enforce all the provisions of this act except the tuberculin testing of cows and the marking of reactors; and said bureau, with the approval and assistance of the pure food and drugs laboratory, is hereby empowered to make such rules and regulations as may be necessary and advisable for such enforcement. (Id. § 11.)

175. Duty of State Veterinarian.—It shall be the duty of the State Veterinarian, as soon as practicable, either directly or through local inspecting departments, to enforce the provisions of this act as to the tuberculin testing of cows and the exclusion of reacting animals from the herds, and to mark indelibly by tattooing the ear with the capital letter "T" one inch long, any cattle which have been tested with tuberculin under the provisions of this act and found to react to the test. For such purpose he may appoint such veterinarians as may be necessary. (Id. § 12.)

176. Dairyman Not Operating Under Inspecting Department.—If any dairyman not operating under an inspecting department desires to sell milk, he may file with the State Veterinarian a written request that his cows be tuberculin tested. After the filing of such request, said dairyman shall not be liable under the provisions of this act until such time as the State Veterinarian shall be able to make the required test. The provision of this section shall apply also to any dairyman, operating under an inspecting department, if such inspecting department approves. (Id. § 13.)

*See footnote to No. 128.

177. **Score Card.**—The following score card shall be used in scoring dairies under the provisions of this act:

Dairy Farm Score Card of the United States Bureau of Animal Industry.

[As approved by the bureau for use under California conditions.]

DAIRY FARM SCORE CARD.

EQUIPMENT		Perfect	Allowed	METHODS		Score	Perfect	Allowed
COWS.				COWS.				
Health	6	...		Clean	8	...		
Apparently in good health	1			(Free from visible dirt, 6.)				
If tested with tuberculin within a year and no tuberculosis is found, or if tested within six months and all reacting animals removed	5							
If tested within a year and reacting animals are found and removed	3							
Food (clean and wholesome)	1	...						
Water (clean and fresh)	1	...						
STABLES.								
Location of stable	2	...		Cleanliness of stables	6	...		
Well drained	1			Floor	2			
Free from contaminating surroundings	1			Walls	1			
Construction of stable	4	...		Ceilings and ledges	1			
Tight, sound floor and proper gutter	2			Mangers and partitions	1			
Smooth, tight walls and ceiling ..	1			Windows	1			
Proper stall, tie, and manger	1			Stable air at milking time	5	...		
Provisions for light: Four square feet of glass per cow	4	...		Freedom from dust	3			
(Three square feet of glass or four square feet of opening, 3; two square feet of glass or three square feet of opening, 2; one square foot of glass, 1. Deduct for uneven distribution.)				Freedom from odors	2			
Bedding, or clean pasture for bed...	1	...		Cleanliness of bedding	1	...		
Ventilation	7	...		Barnyard	2	...		
Ventilators in roof	2			Clean	1			
Windows hinged at bottom	2			Well drained	1			
(Sliding windows, 1.5; other openings, 1.)				Removal of manure daily to 50 feet from stable	2	...		
Cubic feet of space per cow, 500 feet	3							
(Less than 500 feet, 2; less than 400 feet, 1; less than 300 feet, 0.)								
UTENSILS.								
Construction and condition of utensils	1	...		MILK ROOM OR MILK HOUSE.				
Water for cleaning	1	...		Cleanliness of milk room	3	...		
(Clean, convenient and abundant.)								
Small-top milking pail	5	...		UTENSILS AND MILKING.				
Milk cooler	1	...		Care and cleanliness of utensils	8	...		
Clean milking suits	1	...		Thoroughly washed	2			
				Sterilized in steam for 15 minutes, 3				
				(Placed over steam jet, or scalded with boiling water, 2.)				
				Protected from contamination	3			
				Cleanliness of milking	9	...		
				Clean, dry hands	3			
				Udders washed and wiped	6			
				(Udders cleaned with moist cloth, 4; cleaned with dry cloth or brush at least 15 minutes before milking, 1.)				
UTENSILS.								
Construction and condition of utensils	1	...		HANDLING THE MILK.				
Water for cleaning	1	...		Cleanliness of attendants in milk room	2	...		
(Clean, convenient and abundant.)				Milk removed immediately from stable without pouring from pail	2	...		
Small-top milking pail	5	...		Cooled immediately after milking each cow	2	...		
Milk cooler	1	...		Cooled below 50° F.	5	...		
Clean milking suits	1	...		(51° to 55°, 4; 56° to 60°, 2.)				
				Stored below 50° F.	3	...		
				(51° to 55°, 2; 56° to 60°, 1.)				
				Transportation below 50° F.	2	...		
				(51° to 55°, 1.5; 56° to 60°, 1.)				
				(If delivered twice a day, allow perfect score for storage and transportation.)				
Total	40	...		Total	69	...		

Equipment+Methods=Final Score.

NOTE 1.—If any exceptionally filthy condition is found, particularly dirty utensils, the total score may be further limited.

NOTE 2.—If the water is exposed to dangerous contamination, or there is evidence of the presence of a dangerous disease in animals or attendants, the score shall be O.

(Id. § 14.)

178. Milk, Use of Substances to Prevent Fermentation Prohibited.—It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell, or to offer for sale, or have on hand for sale any milk or product of milk to which has been added, or that may contain, any compound of boron, salicylic acid, formaldehyde or other chemical or substance for the purpose of preventing or delaying fermentation. It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell, or to offer for sale, or have on hand for sale, any milk, cream or condensed milk to which any coloring matter has been added by any person or to which any gelatine or other substance has been added by any person to increase the consistency of such milk, cream or condensed milk, so as [to] make such milk, cream or condensed milk appear richer or to [sic] better quality; provided, that this section shall not be construed to prohibit the use of harmless coloring matter and common salt (chloride of sodium) in butter and cheese. The word "person" as used in this act shall be construed to import both the singular and plural, as the case demands, and shall include individuals, corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any employee, officer, agent or other person, acting for or employed by any individual, corporation, company, society or association, within the scope of his employment or office, shall in every case also be deemed to be the act, omission or failure of such individual, corporation, company, society or association, as well as that of the person. The provisions of this act shall be construed to apply to hotel keepers, restaurant keepers and boarding house keepers, or to any other person who shall serve meals and accept money therefor. (Stats. 1907, p. 971; G. L. 1923, Act 1938, § 1.)

179. Duty of State Dairy Bureau.—It shall be the duty of the State Dairy Bureau, now existing under the laws of this State,* to enforce the provisions of this act, provided, that nothing in this act shall be construed to prevent any city or county board of health or other city or county official from enforcing the provisions of this act. (Id. § 2.)

180. Penalty for Violation; Samples of Milk; Disposition of Fines.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) or by imprisonment in the county jail for not less than ten days nor more than sixty days; provided, that no conviction shall be had when a conviction is sought upon any alleged sample of milk or product of milk, unless such sample has been taken in duplicate, sealed and marked for identification, and one of such samples left with the person accused. All fines collected under this act shall be paid to the State Dairy Bureau when the complaint is made through the State Dairy Bureau and the State Dairy Bureau shall pay the same to the State Treasurer and the amount paid by the State Dairy Bureau to the State Treasurer is hereby appropriated to the use of the State Dairy Bureau for the fiscal year in which the amount is paid to the State Treasurer. (Id. § 3.)

181. Interference With Inspectors.—It shall be unlawful for any person to prevent or interfere with the duly authorized inspectors or agents of the State Dairy Bureau, or any city or county board of health, from entering any place or premises where milk or products of milk are produced or manufactured, or prepared, or to prevent or interfere with such inspectors or agents, in the event they deem it advisable to secure samples of milk or milk products from any person producing or selling milk or products of milk for the purpose of analyzing the same to ascertain whether this act is being violated. (Id. § 4.)

182. Duty of District Attorney.—It shall be the duty of the district attorney, upon application by the State Dairy Bureau or by any city or county board of health to attend to the prosecution, in the name of the people, of any complaint entered for the violation of any of the provisions of this act within his district. (Id. § 5.)

183. Certified Milk Regulations.—No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange, as and for certified milk, any milk which does not conform to the rules and regulations and to the methods and standards for the production and distribution of "certified milk" adopted by the American Association of Medical Milk Commissions on May 1, 1912, and which does not bear the certification of a milk commission appointed by a county medical society organized under and chartered by the Medical Society of the State of California, and which has not been pronounced by such authority to be free from antiseptics, added preservatives, and pathogenic bacteria, or bacteria in excessive numbers. All milk sold as certified milk shall be conspicuously

*See footnote to No. 128.

marked with the name of the commission certifying it. Such milk commission shall make all requirements for the production and handling of certified milk uniform and fair, and shall not refuse to certify milk for any applicant for certification who shall comply with the provisions of this act. (Stats. 1913, p. 83; G. L. 1923, Act 1940, § 1.)*

184. Certified Cream, Butter, Milk, etc.—No person, firm or corporation shall sell or exchange or offer or expose for sale or exchange, any cream, skimmed milk, buttermilk, ice cream, butter or cheese as and for certified cream, certified skimmed milk, certified buttermilk, certified ice cream, certified butter or certified cheese, as the case may be, or use the word "certified" in connection with the sale, designation, advertising, labeling or billing of any cream, skimmed milk, buttermilk, ice cream, butter or cheese unless the same and all products of milk contained therein or used in the manufacture thereof are obtained exclusively from milk which conforms to the requirements of this act for certified milk and which bears the certification of a milk commission in accordance with the provisions of section 1 of this act, and unless in addition thereto the methods and conditions under which such cream, skimmed milk, buttermilk, ice cream, butter and cheese, as the case may be, have been prepared or manufactured, as regards cleanliness and sanitation, shall conform to the requirements of the milk commission whose certification is sought. All cream, skimmed milk, buttermilk, ice cream, butter and cheese sold, designated, advertised or offered for sale, as certified cream, certified skimmed milk, certified buttermilk, certified ice cream, certified butter or certified cheese, shall be conspicuously marked with the name of the commission certifying it and certifying the milk from which such cream, ice cream, butter and cheese is obtained. (Id. § 2.)

185. Penalty.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five (\$25) dollars nor more than two hundred (\$200) dollars, or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days. (Id. § 3.)

186. Title.—This act shall be known as the "pure milk law" of California. (Stats. 1923, p. 839; G. L. 1923, Act 1942, § 1.)

187. Milk Defined.—Unless specifically stated otherwise, the term milk as used in this act shall be construed to mean cow's milk as distinguished from the milk of goats, sheep or other animals. (Id. § 2.)

188. Certain Milk to be Pasteurized.—It shall be unlawful for any person, firm or corporation, except in bulk to the wholesale trade, to sell or exchange or offer or expose for sale or exchange for human consumption, any milk from cows that have not passed the tuberculin test, until it has been pasteurized by the holding process at a temperature not less than one hundred forty degrees Fahrenheit for thirty minutes; provided, that market milk shall not be heated for more than one hour nor above one hundred forty-five degrees Fahrenheit. It shall further be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange, for human consumption any butter, ice cream or other products of milk (except cheese and except butter as provided in the general dairy law of California) into the composition of which any milk enters other than that permitted in this section of this act to be sold at retail for human consumption. (Id. § 3.)

189. Market Milk; Classes.—For the purposes of this act market milk shall be construed to include market cream and shall be divided into three general classes, as follows: Market milk or cream, manufacturing milk or cream and milk or cream unfit for human consumption. (Id. § 4.)

190. Market Milk Includes, What; Sale of Raw Milk; Graded Milk; Ungraded Milk.—Market milk or cream shall include all milk or cream supplied to the consumer in the natural fluid state or prepared for human consumption without being converted into any other form or product.

It shall be unlawful for any person, firm or corporation, by themselves or their agents or employees, to sell as or for raw market milk any milk unless, either directly or through a local inspecting department, a written request has been filed with the Department of Agriculture of the State of California that the cows by which this milk is produced be tuberculin tested and until all the requirements of this act for tuberculin testing have been complied with.

Market milk or cream produced and sold under the supervision and within the jurisdiction of a milk inspecting department, as provided in section nine of this act, or market milk produced under such supervision but sold outside the juris-

*Now enforced by the Department of Agriculture. See Pol. Code 1923, § 361c.

diction of a milk inspecting department, as also provided in section nine of this act, shall be known as graded milk.

All other market milk or cream shall be known as ungraded milk. (Id. § 5.)

191. Manufacturing Milk; Use for Other Purposes.—Manufacturing milk or cream is milk or cream that is to be made into butter, cheese, condensed milk, powdered milk and by-products, such as casein, milk sugar and albumen.

Manufacturing milk may also be used, wholly or in part, in the manufacture of other foodstuffs to be sold at retail; provided, that during the process of manufacture or immediately prior thereto, said milk shall have been subjected to a temperature of at least one hundred forty degrees Fahrenheit for thirty consecutive minutes; and provided further, that for every degree above one hundred forty-five degrees Fahrenheit the time during which such temperature must be maintained may be decreased by one minute. The time for maintaining such temperature however, shall not be less than five minutes, except for milk that is repasteurized for manufacturing purposes as provided in section nineteen of this act. (Id. § 6.)

192. Sale of Impure and Unwholesome Milk.—Milk or cream which does not conform to the requirements as defined in the general dairy law of California or with the requirements of either market milk or manufacturing milk as set forth in this act or which has been produced in an insanitary dairy or factory of dairy products or other insanitary place, or which has been handled in an insanitary manner is hereby declared to be impure and unwholesome and must not be sold for human consumption. Such milk must be kept in a distinctive container plainly marked with the words "unfit for human consumption." (Id. § 7.)

193. Milk Served in Public Eating Places; Goat's Milk.—When served by any hotel, boarding house, restaurant, saloon, lunch counter or other place of public entertainment market milk shall be served in the original bottle, the cap of which shall not be removed, except in the presence of the consumer or patron; provided, however, that this provision shall not apply to cream so served.

It shall be unlawful for any person, firm or corporation to sell, exchange, offer or expose for sale or exchange, or have on hand for sale or exchange or serve in any hotel, boarding house, restaurant, saloon, lunch counter or other place of public entertainment any milk or cream to which any gelatine or other substance, except as provided in the general dairy law of California, has been added to increase the consistency of such milk or cream so as to make it appear richer or of better quality; provided, however, that nothing in this act shall be construed to prohibit the standardization of milk and cream as provided in the general dairy law of California.

All the provisions of section eight shall also apply to goat's milk.

It shall be unlawful for any person, firm or corporation, to sell or exchange or offer or expose for sale or exchange for human consumption, as and for cow's milk, any cow's milk to which goat's milk has been added or, as and for goat's milk, any goat's milk to which cow's milk has been added. (Id. § 8.)

194. Sale of Milk Where Milk Inspection Service Established.—It shall be unlawful for any person, firm or corporation to sell, or exchange, or offer or expose for sale or exchange, in any city, county or city and county, in which a milk inspection service, approved by the Department of Agriculture of the State of California has been established, any milk other than as hereinafter provided in this act. For the purpose of this act the term "milk inspecting department" shall be construed to mean the health department of a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved in writing by the Department of Agriculture of the State of California, and such milk inspecting department shall include at least one regularly licensed physician. It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange any milk as and for or under the designation, label or other representation of "guaranteed," "grade A" or "grade B" milk, except within a county or group of counties, city or group of cities, or city and county maintaining a milk inspection service approved by the Department of Agriculture of the State of California; provided, that a person, firm or corporation which is authorized to sell milk within the jurisdiction of a milk inspecting department may sell milk from the same supply, of the same quality, in similar containers, and under the same label in territory outside the jurisdiction of any milk inspecting department, if local ordinances are not thereby violated, and also in territory within the jurisdiction of any other milk inspecting department; if the consent of said other milk inspecting department has been previously obtained. (Id. § 9.)

195. Milk Not to be Sold for Human Consumption.—Except as provided in section sixteen of this act, all milk sold or exchanged or offered or exposed for sale or exchange, except in bulk to the wholesale trade, in any county or group of counties, city or group of cities, or city and county, in which a milk inspection service, approved by the Department of Agriculture of the State of California has been established, except certified milk, guaranteed milk, grade A milk, grade B milk and manufacturing milk as provided in section sixteen of this act is hereby declared to be impure and unwholesome and must not be sold for human consumption. (Id. § 10.)

196. Grades of Milk.—Where an approved milk inspection service is maintained as provided in section nine of this act, milk shall be graded as follows: certified milk, guaranteed milk, grade A milk, grade B milk, manufacturing milk and milk unfit for human consumption. (Id. § 11.)

197. Certified Milk.—Certified milk is market milk which conforms to the rules and regulations, methods and standards for the production and distribution of certified milk adopted by the American Association of Medical Milk Commission, and must bear the certification of a milk commission appointed by a county medical association, organized under and approved by the Medical Society of the State of California, and must otherwise conform to the requirements of the so-called certified milk act, approved April 25, 1913 (Stats. 1913, p. 83).* (Id. § 12.)

198. Guaranteed Milk.—Guaranteed milk is milk either raw or pasteurized, the quality of which is guaranteed by the dealer in a written statement filed with an approved milk inspecting department and approved in writing by said department.

Before it approves any guaranteed milk, each milk inspecting department shall set a minimum standard for such milk produced under its supervision, which standard whether for raw or pasteurized shall be higher than that required for grade A raw. (Id. § 13.)

199. Requirements for Grade A Milk.—No person, firm or corporation shall sell, or exchange, or offer or expose for sale or exchange, as and for grade A milk, any milk that does not conform to the rules and regulations and the methods and standards for production and distribution of grade A milk adopted by the milk inspecting department. Grade A milk shall conform to the following requirements as a minimum:

If raw, it shall consist of clean, raw milk from healthy cows as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of a milk inspecting department, and by the tuberculin test by a qualified veterinarian under the supervision of the Department of Agriculture of the State of California, and from dairies that score not less than seventy per cent on the score card adopted by the Department of Agriculture of the State of California; provided, however, that dairies where no two cows freshen within any four consecutive months and which are found by any milk inspecting department to comply fully with the remaining provisions of this act are hereby exempted from such scoring requirements and from the use of labels prescribed in section twenty hereof. The tuberculin test must be repeated annually, if no reacting animals are found in the herd. If reacting animals are found, they must be removed from the herd, and the tuberculin test repeated in six months. All cows are to be fed, watered, housed and milked under conditions approved by the milk inspecting department. All persons who come in contact with the milk must exercise scrupulous cleanliness and must not harbor the germs of typhoid fever, tuberculosis, diphtheria or other communicable diseases liable to be conveyed by milk. Absence of such germs shall be determined by cultures and physical examination to the satisfaction of the milk inspecting department. This milk is to be delivered in sterile containers and is to be kept at a temperature established by the milk inspecting department until it reaches the ultimate consumer, when it must contain less than one hundred thousand bacteria per milliliter.

If pasteurized, it must come from cows free from disease as determined by physical examination at least once in six months, by a qualified veterinarian under the supervision of the milk inspecting department. It shall contain less than two hundred thousand bacteria per milliliter before pasteurization and less than fifteen thousand bacteria per milliliter at the time of delivery to the ultimate consumer. Dairies from which this milk is derived must score at least sixty on the score card approved by the Department of Agriculture of the State of California. (Id. § 14.)

200. Requirements for Grade B Milk.—No person, firm or corporation shall sell or exchange, or offer or expose for sale or exchange as and for grade B milk, any milk that has not been pasteurized or does not conform to the following re-

*See No. 183 et seq.

quirements as a minimum: It must be obtained from cows in no way unfit for the production of milk for use by man, as determined by physical examination at least once in six months by a qualified veterinarian under the supervision of the milk inspecting department. Before pasteurization it shall contain less than one million bacteria per milliliter and after pasteurization shall contain less than fifty thousand bacteria per milliliter. (Id. § 15.)

201. Manufacturing Milk, Use and Treatment of.—Milk which contains more than one million bacteria per milliliter but otherwise conforms to all the requirements of grade B milk shall be known as manufacturing milk and must not be sold for human consumption as market milk. It may, however, be used, wholly or in part in the manufacture of foodstuffs to be sold at retail; provided, that during the process of manufacturing or immediately prior thereto said milk shall have been subjected to a temperature of at least one hundred forty degrees Fahrenheit for thirty consecutive minutes; and provided, further, that for every degree above one hundred forty-five degrees Fahrenheit the time during which such temperature must be maintained may be decreased by one minute. The time for maintaining such temperature however shall not be less than five minutes, except for milk that is repasteurized for manufacturing purposes as provided in section nineteen of this act.

This section shall not be construed to prohibit, within the jurisdiction of milk inspecting departments, the use in the manufacture of butter, cheese, condensed milk, powdered milk or by-products, as provided in section six of this act, of any milk permitted to be used for such purpose outside the jurisdiction of any milk inspecting department; provided, however, such milk shall not be used except in a regularly licensed milk product factory, which has complied with all the provisions of the general dairy law of California and which has obtained, in writing, permission to operate within the jurisdiction of a milk inspecting department from the Department of Agriculture of the State of California. (Id. § 16.)

202. Milk Unfit for Human Consumption.—Milk not suitable for human consumption as provided in sections seven, ten and eleven of this act may be sold for industrial purposes, provided it be heated to a higher temperature than necessary for pasteurization, and delivered in a distinctive container, plainly marked with the words "Unfit for human consumption" in letters not less than one-quarter inch in length and one-twelfth inch stroke. (Id. § 17.)

203. Market Cream.—If graded, market cream of any grade shall conform to all the standards set for market milk of the same grade, except that the maximum bacterial count for cream shall be not more than three times as great as that of the corresponding grade of milk. (Id. § 18.)

204. Pasteurization.—Milk for pasteurization must be kept at a temperature established by the milk inspecting department up to the time of delivery to the pasteurization plant and rapidly cooled after pasteurization to a temperature of fifty degrees Fahrenheit or below and so maintained to the time of delivery to the ultimate consumer.

Except as otherwise provided in sections six and sixteen of this act, pasteurization shall be by the holding method at a temperature not less than one hundred and forty degrees Fahrenheit for thirty minutes; provided, that market milk shall not be heated above one hundred forty-five degrees Fahrenheit.

Every pasteurization plant shall be equipped with a sufficient number of self-registering devices to accurately record the temperature to which and the length of time for which the pasteurized product has been heated. Such records shall be kept for two months and be available for inspection by any authorized inspector, agent or other employee of any health department or any milk inspection department or the Department of Agriculture of the State of California.

Milk may be repasteurized not to exceed once for manufacturing purposes. Repasteurized milk shall not be sold for market milk. (Id. § 19.)

205. Labels; Grade Designated; Distinguishing Marks; Unlawful Possession or Use of Caps or Labels.—(a) The class or grade of all milk or cream sold, except in bulk to the wholesale trade, and the name and address of the producer or distributor (who shall be responsible for the quality of the contents and correct labeling as required by this act) shall at all times appear plainly and in a conspicuous place on, or be securely attached to every bottle, cap, can or container.

(b) Milk sold or exchanged or offered or exposed for sale or exchange as and for graded milk under the designation, label or other representation of "guaranteed," "grade A," or "grade B" milk shall have the name of the grade and whether raw or pasteurized marked on the container or cap of the container in capital letters not less than one-eighth inch long and one-sixteenth inch wide; provided, that milk not suitable for human consumption shall be plainly marked

"unfit for human consumption" as provided in sections seven, ten, eleven and seventeen of this act.

(c) No distinguishing names, marks or words other than those specified in this act shall appear on any bottle, cap, can or container to signify or describe the quality which distinguishes the milk or cream contained therein from similar products of the same class or grade; provided, that nothing herein contained shall prohibit the use of the names of breeds of dairy cattle, breed trade-marks or other designations adopted by a national or State breed association approved by the Department of Agriculture of the State of California, when such breed names, trade-marks or designations are placed only on an inner cap or embossed or engraved in the glass of the bottle, or the use of expression "from nonreacting tuberculin tested cows"; and provided, further, that nothing herein contained shall be construed to prohibit the dating of milk bottle caps under the rules of an approved milk inspecting department, or under local ordinances.

(d) It shall be unlawful for any person, firm or corporation selling or handling market milk to have in his or its possession or under his or its control any milk bottle cap or label, except the individual producer or distributor of milk who is responsible for the quality of the contents of any milk container and for the correct labeling thereof as required by this act. It shall be unlawful for any person, firm or corporation selling or handling market milk to substitute any required cap or label for another cap or label, or to remove any cap or label from any milk container and attach said cap or label to another milk container. It shall be unlawful to sell or offer for sale or have on hand for sale any milk bottle caps which are not in unopened, dustproof packages in which they have been packed by the manufacturer. (Supp. 1925, G. L., Act 1942, § 20.)

206. Counties, etc., May Maintain Inspection Service.—Counties, or groups of counties, cities or groups of cities, or cities and counties, are hereby authorized to maintain a milk inspection service and laboratory conformable to requirements as set forth by the Department of Agriculture of the State of California. (G. L. 1923, Act 1942, § 21.)

207. Duty of Department of Agriculture.—It shall be the duty of the Department of Agriculture of the State of California either directly or indirectly through authorized inspectors, agents or other employees or through local inspecting departments to inspect dairies and milk plants, to examine and test cows, to exclude reacting animals from the herds, to mark indelibly by tattooing the ear with the capital letter "T" one inch long, any cattle which under the provisions of this act have been tested with tuberculin and found to react to the test, to supervise or conduct and supervise milk scoring or other contests when deemed advisable, and to enforce all the other provisions of this act.

The Department of Agriculture of the State of California is hereby authorized to approve milk inspection service and to make such rules and regulations as may be necessary from time to time to enforce any provision of this act. (Id. § 22.)

208. Duty of District Attorneys.—It shall be the duty of the district attorney of each and every county of this State, upon application of the said Department of Agriculture, or of any milk inspecting department in said county, or their authorized representatives, to attend to the prosecution, in the name of the people of any action brought for the violation of any of the provisions of this act within his county. (Id. § 23.)

209. Offenses and Penalties.—It shall be unlawful for any person, firm or corporation to fail, neglect or refuse, or to direct or knowingly permit any employee to fail, neglect or refuse to do any of the things required to be done by the provisions of this act or by the rules and regulations authorized in section twenty-two of this act; and it shall be unlawful for any person, firm or corporation to do, or to direct or knowingly permit any employee to do, any of the things prohibited by the provisions of this act or by said rules and regulations; and in every case the failure, neglect or refusal to do anything required by this act or by said rules and regulations; and the doing of anything prohibited by this act or by said rules and regulations, is hereby declared to be a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars.

Any person who violates any provision of this act or who directs or knowingly permits an employee to violate any of said provisions, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and such imprisonment.

Any firm, corporation, society or association which violates any of said provisions shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred dollars.

In the event an officer, director, manager or managing agent of any firm, corporation, society, or association violates any of the provisions of this act, or directs or knowingly permits any employee to violate any of said provisions, such officer, director, manager or managing agent shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days, nor more than sixty days, or by both such fine and such imprisonment, and in such a case, the firm, corporation, society or association shall also be guilty and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred dollars. (Id. § 24.)

210. Title of Act.—This act shall be known and may be cited or referred to as the "prepared milk act." (Stats. 1923, p. 509; G. L. 1923, Act 1943, § 1.)

211. Definitions; Standard of Composition.—For the purpose of this act, condensed, evaporated and/or concentrated milk is defined as milk from which a considerable portion of water has been evaporated. The standard of composition of condensed, evaporated or concentrated milk shall be that proclaimed and established, from time to time, by the Secretary of the United States Department of Agriculture. Condensed, evaporated or concentrated skim milk is skim milk from which a considerable portion of water has been evaporated, and which contains not less than eighteen per cent of milk solids. Skim milk, as herein used, is defined as milk from which a part or all of the cream has been removed and contains not less than eight and eight-tenths per cent of milk solids. (Id. § 2.)

212. Unlawful to Sell, etc., Certain Milk Products.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell, exchange or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products, articles or the derivatives thereof, or under any fictitious or trade name whatsoever; provided, however, that the fat naturally contained in chocolate and not separated therefrom, is hereby declared not to be a fat or oil within the meaning of this act. (Id. § 3.)

213. Unlawful Sale, etc., of Condensed or Evaporated Skim Milk.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to sell or exchange or expose for sale or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated skim milk in containers containing less than ten pounds avoirdupois. All hermetically sealed containers containing condensed or evaporated skim milk must bear the name and address of the manufacturer, distinctly branded, indented, labeled or printed thereon, together with the words "condensed skim milk" in Roman letters of a size at least as large as any other words or letters appearing on said brand, indentation or label. (Id. § 4.)

214. Penalty.—Any person, firm, corporation or association violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 5.)

215. Enforcement of Act.—The Department of Agriculture of the State of California is hereby charged with the enforcement of the provisions of this act. (Id. § 6.)

216. Dairy Products; Sale of; Sanitary Condition of Creamery, Store or Depot; Cows Affected by Disease.—No person or persons, firms or corporations, by themselves or their agents or employees, shall sell, expose for sale or offer for sale, or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, or any other buyer or consumer, any unclean, unwholesome, stale, impure milk, cream, butter, condensed or evaporated milk or other article produced from such milk or cream. Neither shall any person or persons, firms or corporations, by themselves, or their agents or employees, sell, expose for sale, or offer for sale, or exchange, present or deliver to any consumer, creamery, cheese factory, milk condensing factory, or any other buyer or consumer, any milk, cream, butter, cheese, condensed milk or other products manufactured therefrom, which has been produced in or by a dairy, or factory of dairy products, or that is, or has been, handled in any store or depot that is in an unsanitary condition, or that is produced from cows affected by any disease or from cows within five days after or fifteen days preceding parturition. (Stats. 1905, p. 462; G. L. 1923, Act 1944 § 1.)

217. Dairy Deemed Unsanitary When.—*A dairy shall be deemed unsanitary under the meaning of this act when, among other causes that render milk, or products made therefrom, unclean, unwholesome, impure and unhealthy.

(b) If the drinking water is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter.

(c) If the yards or inclosures are filthy or unsanitary, or if any part of such yards or inclosures, other than pastures, are made the depositories of manure in heaps or otherwise where it is allowed to ferment and decay.

If the walls become soiled with manure, urine or other filth.

(g) If to the interior of cattle stables, barns or milking sheds an application of lime whitewash is not made at least once in two years, or if the mangers, or other receptacles from which cows are fed, decaying food or other material is allowed to accumulate.

(i) If the pails, cans, bottles or other containers of milk, or its products, strainers, coolers or other utensils coming in contact with milk or its products are not sterilized by boiling water or superheated steam each and every time the same are used.

(j) If the person or wearing apparel of the dairyman, his employees, or other persons who come in contact with milk and its products are soiled or not washed from time to time. (Id. § 2.)

218. Creamery Deemed Unsanitary When.—A creamery or any factory of dairy products or any store, depot or other place where milk is handled or kept for sale shall be deemed unsanitary under the meaning of this act when, among other causes that render milk or products made therefrom unclean, unwholesome, impure, stale or of low grade or inferior quality.

(a) If milk or cream is received that has reached an advanced stage of fermentation or that shows a state of putrefactive fermentation or if it is received in cans or other containers that have not been sterilized by means of boiling water or superheated steam after each delivery.

(b) If the utensils and apparatus that come in contact with milk or its products in process of manufacture are not thoroughly washed and sterilized by means of boiling water or superheated steam.

(c) If the floor is so constructed that it permits the flowing or soaking of water, milk or other liquids underneath or among the interstices of such floor where fermentation and decay may take place, or if such floor may not be readily kept free from dirt.

(d) If drains are not provided that will convey refuse milk, water and sewage at least fifty yards from such creamery or factory of dairy products, or if any cesspool, privy vault, hog-yard, slaughter-house, manure or any decaying vegetables or animal matter shall be within a distance that will permit foul odors reaching any creamery or other factory of dairy products or store or depot where milk or its products is sold or handled.

(e) If such creamery or factory of dairy products does not permit access of light and air sufficient to secure good ventilation.

(f) If any building or buildings used in connection with any creamery or factory of dairy products, any insects or other species of animal life are permitted or if upon the floor, the sides and walls any milk or its products, or if any other filth is allowed to accumulate and ferment and decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any creamery, or factory of any dairy products, shall be unclean and not washed from time to time. (Id. § 3.)

219. Preparations, What May and What May Not be Used; Harmless Coloring.—No person or persons, firms or corporations, by themselves or their agents or employees shall sell, expose for sale or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, ice cream producer or any other buyer or consumer, any milk or any product manufactured or prepared therefrom, to which any compound containing salicylic acid, formaldehyde, coloring matter or any other chemical or preparation other than common salt or sodium chloride shall have been added with intent to prevent fermentation, or to change the color (in case of milk and cream); provided, that such person or persons firms or corporations or their agents or employees may use preparations of boron to prevent fermentation in milk or its products, but whenever any preparation of boron is used for such purpose each and every package or container of milk or its products shall have plainly marked thereon the fact that it contains such preparation of boron.

* This and the following section are quoted exactly as printed in the General Laws of California, 1923.

Neither shall any gelatine or other substance be added to milk or cream with intent to increase its viscosity or otherwise cause it to appear better in quality than it is, except each and every package and container of such milk or cream shall have marked thereon in a manner or be accompanied by a statement to be prescribed by the State Dairy Bureau showing the nature of the substance added; provided, that this section shall not be construed to prevent the use of harmless coloring matter in butter, ice cream or confectionery into which milk or its products enter. (Id. § 4.)

220. Packages of Butter Marked With the Word Pasteurize.—No person or persons, firms or corporations, by themselves or their agents or employees, shall manufacture for sale, offer for sale, expose for sale, or have in his or their possession for sale, any package of butter upon which or upon the wrapper or container of which there shall be printed or otherwise marked the word "pasteurize" or any of its derivatives, unless in the process of the manufacture of the butter contained therein either the milk or cream from which the same was made shall have been exposed to a temperature exceeding one hundred and fifty degrees Fahrenheit. (Id. § 5.)

221. Designs of Producer of Butter to Appear on Wrapper.—In case any butter is sold or offered for sale in a package or wrapper purporting to designate the producer of such butter, such producer must be correctly designated; and if under a label purporting or calculated to designate the place of production, specifying county and State, must be correctly designated. No person, firm or corporation shall put up in package or wrapper or otherwise prepare for shipment or sale any butter under label purporting to designate the producer or place of production, except in accordance with the provisions herein; nor shall any person sell or offer for sale any butter in a package or wrapper purporting to designate the name of the producer or the place of production except in accordance with the provisions herein. (Id. § 6.)

222. Dairy Bureau, Duty of; Officers, Qualifications, Duties, Compensation; Unsanitary Conditions, Duties and Powers.—It shall be the duty of the State Dairy Bureau, now existing under the laws of this State,* to carry out and enforce the provisions of this act, and it is authorized and directed under this act out of the money appropriated as provided herein, to employ such assistant agents as inspectors as it may deem necessary and to fix their compensation not to exceed four dollars per day, exclusive of their necessary and actual expenses, such expenses to be itemized and rendered under oath, or one hundred dollars per month exclusive of their necessary and actual expenses. Such agents shall have had experience in the manufacture of dairy products and the handling of dairy cattle. In carrying out the provisions of this act the secretary and agent of the State Dairy Bureau shall receive, in addition to the salary now received under the provisions of the act creating said State Dairy Bureau, such additional compensation as the dairy bureau may see fit, but not to exceed \$100 per month to be drawn from the amount appropriated herein. The State Dairy Bureau through its agent and secretary and assistant agents shall inspect the dairies, dairy cattle, creameries and other factories of dairy products, markets and other places where dairy products are prepared or handled and keep a careful record of such inspection and report the same to the State Dairy Bureau, and upon evidence obtained that any of the provisions of this act are being violated, the State Dairy Bureau, through its agent and secretary, or its assistant agents, shall duly enter complaint against the party or parties responsible for such violations and cause the same to be prosecuted, except in cases where any dairy, creamery or other factory of milk products or store or depot where milk and its products are handled and sold is found to be in an unsanitary condition, in which case the agent and secretary, or the assistant agent for the district in which the violation occurred, shall serve upon the owner or owners or person in charge of the dairy, creamery or other factory of milk products so found to be in an unsanitary condition, a written notice specifying in detail such changes that are to be made that will place such dairy, creamery or other factory of milk products or store or depot in a sanitary condition as defined in this act. Should such changes not have been made at the expiration of thirty days after the date when the notice was served, the State Dairy Bureau, through its agent and secretary, or its assistant agents, shall enter complaint against the person or persons responsible for such unsanitary conditions and cause them to be prosecuted for violating this act. (Id. § 7.)

223. Dairy Bureau to Compile Statistics.—The State Dairy Bureau is authorized under this act to gather and compile statistics relative to the dairy industry

*See footnote to No. 128.

and to disseminate the same and other information useful to, and to the general good and development of the dairy industry of the State. (Id. § 8.)

224. Agent or Inspector to Report Cases of Infectious Diseases to State Veterinarian.—Whenever any agent or inspector of the State Dairy Bureau shall discover the existence of any contagious or infectious disease among dairy cattle, or have good reason to believe that such disease may exist the same shall be immediately reported to the State Veterinarian. (Id. § 9.)

225. Violation of This Act, Penalty; Interference With Agent or Inspector, Punishment; Disposition of Fines.—Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars or by imprisonment in the county jail for a period of not less than ten days nor more than one hundred days, or by both such fine and imprisonment. Any person or persons who shall hinder or prevent an agent or inspector of the State Dairy Bureau, in the performance of his duty under this act, shall likewise be deemed guilty of a misdemeanor, and upon conviction, shall be fined as already provided in this act. One-half of all fines imposed for the violation of this act shall be paid to the State Dairy Bureau which shall pay the same to the State Treasurer and the same shall become a part of the appropriation under this act. The remaining one-half of such fines shall be paid to the county in which the fine is imposed. (Id. § 10.)

226. Duty of District Attorney.—It shall be the duty of the District attorney upon application of the State Dairy Bureau, through its agent and secretary, or assistant agents to attend to the prosecution, in the name of the people, of any suit brought for the violation of any of the provisions of this act within his district. (Id. § 11.)

227. Title.—This act shall be known as the general dairy law of California. (Stats. 1923, p. 849; G. L. 1923, Act 1945, § 1.)

228. Sale of Unclean Milk, etc., Prohibited; Sale of Milk From Unsanitary Dairies, etc.—(a) It shall be unlawful for any person, firm or corporation, by themselves or their agents or employees, to sell, offer or expose for sale or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, milk pasteurizing plant, or other buyer, consumer or user of milk or products of milk, or to knowingly purchase or receive any impure, polluted, tainted, unclean, unwholesome, stale or adulterated milk or cream, or any product manufactured wholly or in part therefrom. It shall be unlawful for any person, firm or corporation by themselves or their agents or employees, to sell, offer or expose for sale or exchange, present or deliver to any creamery, cheese factory, milk condensing factory, milk pasteurizing plant, or other buyer, consumer or user of milk or products of milk, or to knowingly purchase or receive any milk that does not conform to the definition and standards established by this act, or any products of milk as and for any of the products defined by the provisions of this act, unless they shall conform to such definitions and standards as are established by this act.

(b) It shall be unlawful for any person, firm or corporation by themselves, or their agents or employees, to sell, expose for sale, or offer for sale or exchange, present or deliver to any creamery, cheese factory, milk condensing plant, milk pasteurizing plant, or other buyer, consumer or user of milk or products of milk, or to knowingly purchase or receive any milk or product of milk which has been produced in or by a dairy or factory of dairy products in an insanitary condition, or that is handled by any carrier or in any store or depot that is in an insanitary condition; or that is produced from cows affected by any disease, except as herein-after provided. (Id. § 2.)

229. Milk; Goat's Milk; Sheep's Milk; Milk Unfit for Human Consumption.—(a) Milk is the unadulterated, fresh, clean, lactereal secretion, all parts of which shall have been obtained from the udder by the complete milking of one or more healthy cows, properly fed and kept, (excluding that obtained within five days after or fifteen days prior to parturition) free from foreign substances detrimental to its quality or the quality of products prepared therefrom, and containing not less than three per cent of milk fat and not less than eight and five-tenths per cent solids not fat; provided, that nothing herein shall be construed to prohibit the standardization of milk at a uniform fat content not less than three per cent of milk fat. Milk shall have been produced from nonreacting tuberculin tested cows as determined by a test applied by a qualified veterinarian under the supervision of the Department of Agriculture of the State of California or shall be pasteurized and shall otherwise conform to the rules and regulations adopted by the said Department of Agriculture as provided for in section twenty-

one of this act. Milk for manufacturing purposes may be repasteurized not exceeding once.

(b) Goat's milk is the unadulterated fresh, clean, lacteal secretion, free from colostrum, obtained by the complete milking of one or more healthy goats, properly fed and kept.

(c) Sheep's milk or ewe's milk is the unadulterated, fresh clean lacteal secretion, free from colostrum, obtained by the complete milking of one or more healthy ewes, properly fed and kept.

(d) Milk unfit for human consumption is the product of the mammary glands of animals which does not conform to the requirements for milk or goat's milk or ewe's milk as defined in this act, or which has been produced in an insanitary dairy or factory of dairy products, or other insanitary place, or handled in an insanitary manner. (Id. § 3.)

230. Cream.—Cream is that portion of milk rich in milk fat which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean, and contains not less than eighteen per cent of milk fat and not more than eight per cent of milk solids not fat in cream containing eighteen per cent of milk fat and correspondingly less solids for greater percentages of milk fat. Cream shall have been produced from nonreacting tuberculin tested cows as determined by a test applied by an authorized veterinarian under the supervision of the Department of Agriculture of the State of California, or shall be pasteurized and shall otherwise conform to the rules and regulations adopted by the said Department of Agriculture as provided for in section twenty-one of this act. Cream for manufacturing purposes may be repasteurized not exceeding once. (Id. § 4.)

231. Evaporated or Condensed Milk, etc.—(a) Evaporated or condensed milk is milk from which a considerable portion of moisture has been evaporated. The standard of composition for evaporated or condensed milk, whether sweetened or unsweetened, shall be that proclaimed and established by the Secretary of the United States Department of Agriculture.

(b) Evaporated cream or clotted cream is cream from which a considerable portion of moisture has been evaporated.

(c) Evaporated or condensed skim milk is skim milk from which a considerable portion of moisture has been evaporated and contains not less than eighteen per cent milk solids.

(d) Evaporated or condensed goat's milk is goat's milk from which a considerable portion of moisture has been evaporated and shall otherwise conform to the requirements adopted by the Department of Agriculture of the State of California. (Id. § 5.)

232. Butter; "Pasteurized"; Labels; Trade-marks.—(a) Butter is the clean, nonrancid product made by gathering the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of other milk constituents, with or without salt, and a harmless coloring matter, and contains not less than eighty per cent of milk fat and not more than sixteen per cent of moisture.

(b) Butter made from cream produced from cows which have passed an official tuberculin test shall be marked with the words, "From nonreacting tuberculin tested cows"; that made from pasteurized cream shall be marked with the word, "Pasteurized." Butter may be made from cream which does not conform to the requirements of section four of this act, to be sold only in bulk to the manufacturers of foodstuffs; provided, that said butter shall be used by manufacturers of foodstuffs only and in the manufacture of such foodstuffs said butter shall be subjected to a minimum temperature of two hundred twenty-five degrees Fahrenheit; and provided, further, that it shall be unlawful to use any such butter except in the manufacture of food subjected to said temperature. Butter, which by the provisions of this section is permitted to be used in the manufacture of foodstuffs, shall be marked with the words, "for cooking and baking only."

(c) Butter sold or offered for sale shall be labeled with the name and address of the manufacturer, the wholesale distributor, or the retailer. The words, "manufactured by," shall appear above the name, when the name of the manufacturer is given; the words, "distributed by," shall appear above the name when the name of the wholesale distributor is given; and the words, "put up for" or "put up by," as the case may be, shall appear above the name when the name of the retailer is given. The name of any city, county or other geographical designation or any word which may be pronounced the same as any city, county, or other geographical designation, other than the address of the manufacturer, wholesale distributor or retailer, whose name is printed on any package or wrapper, shall not appear thereon; provided, that nothing in this section shall be construed to prohibit the use of a

trade-mark or brand having a geographical name, copyrighted or registered in the office of the Secretary of State of the State of California prior to the first day of January, 1923, A. D. (Id. § 6.)

233. Cheese; Labels; Standards.—Cheese is the sound, solid or semi-solid product made from milk, skim milk, or cream by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments and seasoning and with or without salt and with or without harmless coloring matter. Milk to be made into cheese shall conform to the following requirements as a minimum: It shall be unadulterated, fresh, clean, free from foreign substances detrimental to its quality or the quality of the products prepared therefrom, and shall have been obtained from the udder by the complete milking of one or more healthy cows properly fed and kept, excluding that obtained within five days after or fifteen days prior to parturition. All cheese sold or offered for sale must be labeled to indicate the variety and, if made in California, it must be labeled at the factory with the manufacturer's factory number, assigned annually by the Department of Agriculture of the State of California under the rules and regulations provided for in section twenty-one of this act. If made outside of the State of California, it must be labeled with the name of the manufacturer or distributor. Cheddar, granular (California type) and Monterey (jack) cheese shall be labeled to indicate the grade; whether full-cream, half skim or milk. Full cream cheese must contain not less than fifty per cent of pure milk fat in its water-free substance. Half skim cheese must contain not less than twenty-five per cent of pure milk fat in its water-free substance. Skim cheese is cheese which contains less than twenty-five per cent of pure milk fat in its water-free substance. Cheddar cheese must contain not more than thirty-eight per cent of moisture. Granular (California type) cheese must contain not more than forty per cent of moisture. Monterey (jack) cheese must contain not more than forty-two per cent of moisture. Cottage cheese shall be made from pure milk or skim milk which has been pasteurized as provided in section fifteen of this act. The standards of composition and requirements for labeling for other varieties of cheese shall be those promulgated by the Director of Agriculture of the State of California. (Id. § 7.)

234. Ice Cream; Fruit Ice Cream; Nut Ice Cream; Ice Milk.—(a) Ice cream is a frozen product made with pure sweet milk, cream, skim milk, condensed milk, condensed skim milk, dried milk, dried skim milk, wholesome sweet butter, pure milk fat or any combination of any such products, with or without sweetening and with or without the use of harmless flavoring and coloring and containing not less than ten per cent of milk fat or more than six-tenths of one per cent of pure, harmless, edible vegetable gum or gelatine. All manufacturers of ice cream who manufacture ice cream from butter shall first secure from the Department of Agriculture of the State of California a permit to do so. Said permit shall be issued subject to the rules and regulations made and promulgated by said Department of Agriculture and may be revoked for violation thereof after due hearing by the Director of Agriculture.

(b) Fruit ice cream is ice cream which contains not less than eight per cent of milk fat and not less than three per cent by weight of clean, mature, sound fruit or the juice thereof, with or without the use of harmless flavoring and coloring and containing not more than six-tenths of one per cent of pure, harmless, edible, vegetable gum or gelatine.

(c) Nut ice cream is ice cream which contains not less than eight per cent of milk fat and not less than one per cent by weight of sound, nonrancid nut meats, with or without the use of harmless flavoring and coloring, and containing not more than six-tenths of one per cent of pure, harmless, edible, vegetable gum or gelatine.

(d) Ice milk is a frozen product containing less milk fat than ice cream and made from pure sweet milk and sugar, with or without harmless flavoring and containing not less than two and four-tenths per cent of milk fat and not more than six-tenths of one per cent of pure, harmless, edible, vegetable gum or gelatine. All containers of ice milk shall be conspicuously labeled and vehicles conveying ice milk and places where ice milk is sold shall display a conspicuous sign containing the words "Ice milk sold here," in letters not less than six inches high, and no person shall use the name "ice cream" in connection therewith either orally or written. (Id. § 8.)

235. Standards; Milk Fat or Butter Fat; Skim Milk; Buttermilk; Use of Milk in Soft Drinks; Treated Milk.—The following products of milk enumerated in this section shall be deemed adulterated, if they shall not conform to the following definitions and standards:

(a) Milk fat or butter fat is the fat of milk and has a Reichert-Meissel number not less than twenty-four and a specific gravity not less than nine hundred fiftieths (0.905) (milk fat at forty degrees centigrade compared with water at forty degrees centigrade). By Reichert-Meissel number is meant the number of milliliters of decinormal alkali required to neutralize the acidity of the distillate from five grams of fat treated in the manner described in the book entitled "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," published by that association in the month of September, in the year nineteen hundred twenty. (September, 1920, A. D.)

(b) Skim milk is milk from which a part or all of the milk fat has been removed, which contains less than three per cent of milk fat and not less than eight and eight-tenths per cent of milk solids.

(c) Buttermilk is that portion of cream which remains after the separation and removal therefrom of milk fat in the process of churning, without the addition of water.

(d) Milk or skim milk, properly pasteurized and combined with fruit or fruit juices, chocolate, chocolate syrups or other harmless syrups, with or without the addition of harmless coloring, may be used in the manufacture and sale of soft drinks under a trade name; provided, said trade name does not contain the words "milk" or "cream" or any words resembling milk or cream; and provided further, that said product shall be so colored or contain ingredients that cause it to look unlike milk or cream or any product thereof.

(e) Pasteurized skim milk or whole milk, or combination thereof, may be treated with lactic acid micro-organisms and sold under a trade name which shall not contain the words "milk," "cream" or "buttermilk." (Id. § 9.)

236. Unlawful to Use Formaldehyde, etc., to Delay Souring; Adding Coloring, etc.—No person, firm or corporation shall produce, manufacture or prepare for sale, or sell, offer for sale or have on hand for sale, any milk, cream, or other product of milk to which has been added, or that may contain, any compound of boron, salicylic acid, formaldehyde, or other chemical or substance for the purpose of preventing or delaying fermentation or souring. It shall be unlawful for any person to produce, manufacture or prepare for sale, or to sell, or to offer for sale, or to have on hand for sale, any milk or product of milk, to which any coloring matter, except as otherwise provided in this act, has been added by any person or to which any gelatine or other substance, except as otherwise provided in this act, has been added by any person to increase the consistency of such milk, or product of milk, so as to make it appear richer or of better quality. This section shall not be construed to prohibit the use of harmless coloring matter and common salt (chloride of sodium) in butter and cheese, the use of gelatine or other substances named in section eight of this act in the manufacture of ice cream, or the use of alkalies approved by the Department of Agriculture of the State of California in the manufacture of butter. (Id. § 10.)

237. Labeling of Milk Products.—All products defined in this act, when sold or offered for sale to the retail trade, shall be labeled with the correct name of the product as herein defined, and shall conform to all other requirements for special labeling of the products as otherwise provided in this act, or the rules and regulations for its enforcement. No person shall use the name of any product defined in this act in connection with its sale, either verbally, printed or written, unless the product conforms to the definitions and standards herein required. (Id. § 11.)

238. Imitation Milk; Oleomargarine; Renovated Butter, etc.—(a) Imitation milk is: (1) Any mixture combined with or composed of milk, or any product of milk, and any edible oil or fat, other than natural milk fat whether with or without any other ingredients, except that chocolate when used in combination with either whole or skim milk and sweetening shall not be deemed to be imitation milk. (2) Any mixture or compound made in imitation or semblance or having the appearance or semblance of milk or condensed milk or evaporated milk, or any mixture or compound which is made in imitation or semblance or having the appearance or semblance of milk, condensed milk, or evaporated milk, which imitation or semblance or other characteristic or appearance of said mixture or compound will tend to induce the sale or use of such compound or mixture as and for milk, condensed milk, or evaporated milk, or which mixture or compound is made with the intention of selling or offering to sell such mixture or compound as milk, condensed milk, or evaporated milk. Imitation milk shall contain not less than three per cent of edible oils or fats and, if evaporated or condensed, shall contain not less than seven and eight-tenths per cent of edible oils or fats. The manufacture and sale of imitation milk as herein defined shall, otherwise, be in accordance with chapter fifty-nine of the statutes of 1919.*

*See No. 153 et seq.

(b) Oleomargarine is the product, article or compound obtained by mixing any fat, oil or oleaginous substance other than milk fat, with milk, skim milk, cream or butter with or without the addition of other substances, which product, article or compound shall be in imitation or semblance of butter in physical consistency, appearance or flavor.

(c) It shall be unlawful to manufacture, sell or offer for sale in this State any oleomargarine colored in imitation or semblance of butter, by whatever means the coloring is accomplished.

(d) All oleomargarine purchased by retail dealers, or sold or offered for sale by retail dealers, shall be delivered to the customer in cartons or packages in which packed by the manufacturer.

(e) Each and every package or container of oleomargarine packed, sold, or offered for sale, shall be plainly labeled with the word "oleomargarine" in plain block letters of the English language at least one inch in height when appearing on a box, tub, or other bulk container, and at least one-half inch in height when appearing on a carton, wrapper or other container in which it is supplied to the retail trade. In addition thereto, a label, printed with type not smaller than pica, shall be placed in or on each and every carton, wrapper, tub, box or other container of oleomargarine, giving the names of the ingredients in the finished product, specifying each of the oils or fats used, designated according to their source, giving the percentage of each oil, the collective percentage of other solids, and the percentage of moisture. No person shall deliberately efface, erase or remove any label herein required.

(f) Each license issued in accordance with the provisions of paragraph (i) of this section shall bear a number. The license number and the fiscal year for which the license is issued shall appear upon all labels required by this section. It shall be unlawful for any person, firm or corporation to permit to appear upon any wall sign required by this section any words or language except such as are specifically required by this section.

(g) No person by himself or another engaged in the manufacture, handling or sale of oleomargarine shall use in any way in connection with the labeling, advertising or sale of said oleomargarine any word naming a dairy product or relating to the processes by which dairy products are manufactured or prepared for market, or any other word or designation which is commonly used by the dairy industry relating to dairy products, or any coined or compound word in which any of the words herein prohibited becomes a part, or any word which might be pronounced the same as any of the words or terms herein prohibited though spelled differently, or any picture, symbol, design or other representation which would tend to associate or confuse oleomargarine with any dairy product or deceive or tend to deceive the public or misrepresent oleomargarine as a product of a dairy or of a factory of dairy products. No person shall color any illustration on any label or advertising material used in connection with oleomargarine so that it shall resemble a print or "square" of butter or portion thereof and no such label shall be used in connection with oleomargarine. Whenever the brand name or a trade-mark used to identify any oleomargarine shall appear on a billboard, poster or other form of advertising, publicity or display material, the word "oleomargarine" shall also appear immediately adjacent thereto, in letters at least one-half the size of the largest letters composing said brand name or included in such trade-mark.

(h) The owner, manager, superintendent or other person in charge of any hospital, hotel dining room, restaurant, boarding house, dining car and every other place where food is served to the public and where oleomargarine is sold, offered for sale or served to the public shall cause to be printed in the English language and maintained upon all menus and bills of fare in type not smaller than other type used on such menus or bills of fare statements that oleomargarine is sold and served in that place. Upon at least two of the walls of all such eating places where oleomargarine is sold, offered for sale or served there shall be posted and maintained notices in plain English letters not less than two inches in height the words "Oleomargarine Sold Here." All signs posted upon walls as herein required shall be so placed that they shall be at all times in full view of the public.

(i) It shall be unlawful for any person, firm or corporation to engage in the occupation or business of manufacturing, distributing, selling, dealing in or furnishing oleomargarine to his, its or their patrons, or to use oleomargarine in the manufacture of foodstuffs unless such person, firm or corporation shall have obtained an annual license to do so for each of its separate plants or places of business from the Department of Agriculture of the State of California and paid the appropriate license fee as fixed herein. Each application for such license shall be accompanied by a statement showing the name of the applicant, the classification

of his or its business, the location of his or its separate places of business and the amount of the license fee for each separate place of business within the following classifications: One hundred dollars for manufacturers; fifty dollars for wholesale dealers, receivers, distributors, or the agents thereof; five dollars for retail dealers; two dollars for hotels, restaurants, boarding-houses and other places where food is sold and served, and for bakeries. The term "wholesale dealer" as used in this section shall include those who in the usual course of business sell oleomargarine in quantities of ten pounds or more at a time or in the same transaction. The term "retail dealer" as used in this section shall include those who in the usual course of business sell oleomargarine in quantities of less than ten pounds at a time, or in the same transaction.

Upon receipt of an application for any of the licenses herein required, when accompanied by the necessary fee, the Department of Agriculture shall issue a license appropriate for the intended purpose, except that upon application for a manufacturer's license, the department shall first determine that the place of manufacture and materials to be used are clean, sanitary and wholesome. All of the above licenses are subject to revocation by the Department of Agriculture, after a hearing, for violation of any of the provisions of this act. Said licenses shall regularly expire on the 30th day of June, each year, whereupon they may be renewed upon payment to said department of the fees hereinabove mentioned in each instance, provided that renewal may be denied by said department upon a finding duly made by it, after investigation and hearing, that during the twelve months next preceding the fiscal year for which the application for renewal is made, or any part of said period, the applicant had not conducted his or its business in accordance with the provisions of this act. All licenses while in force shall be kept conspicuously displayed in the principal place of business of the licensee. In addition to the license fee hereinabove required, a fee of two cents for each pound of oleomargarine sold each quarter shall be paid quarterly to the Department of Agriculture by each manufacturer, wholesale dealer or receiver or their agents in any case; provided, that said fee of two cents per pound when paid by any manufacturer, wholesale dealer or receiver for any given lot of oleomargarine need not be paid by any subsequent dealer for the same lot or any part thereof; and provided, further, that no such fee shall be required for oleomargarine delivered for sale outside of the State of California. Each manufacturer and wholesale dealer shall submit monthly to the Department of Agriculture an alphabetical list of the names and addresses of all persons, firms and corporations to which sales or deliveries of oleomargarine have been made during the preceding month, showing the total amount of oleomargarine which was included in the aggregate transactions in each case for the preceding month or part thereof. Each of said statements shall be verified by an affidavit made by the person submitting it certifying the correctness of said report. For the purpose of checking such statements, and for the further purpose of carrying out the provisions of this act, the Department of Agriculture shall have power to examine the books and accounts of persons, firms and corporations required to submit such verified lists and statements.

An aggregate statement of such sales, sworn to by each manufacturer or wholesaler, shall be rendered quarterly to the Department of Agriculture of the State of California and shall be accompanied by the corresponding amount of such fee of two cents per pound as above specified; provided, that the first quarter shall be for the three months ending December 31, 1925, and future quarters shall cover the three months of each year ending March 31, June 30, September 30 and December 31.

(j) Renovated butter is the product made from impure or rancid butter reduced, for the purpose of cleansing and renovating, to a liquid state by melting and draining off the liquid milk fat and afterwards churning or otherwise manipulating it in connection with milk or any product thereof. Butter made from assembled cream made from pure milk fat (made from nonrancid butter) combined with other wholesome milk products, under special permit from the Department of Agriculture of the State of California, which otherwise conforms to the standards for butter required by this act, shall not be construed to be renovated butter.

(k) No imitation milk or oleomargarine shall be used in any of the charitable or penal institutions that receive assistance from the State.

(l) It shall be unlawful for any person, firm or corporation to have in his or its possession, or under his or its control, except for actual consumption by an individual or member of his family, or to ship, consign, transport or deliver by common carrier, or to take orders for future delivery or sale, or to receive any oleomargarine which does not comply in all respects with all the requirements of this act. (Supp. 1925, G. L., Act 1945, § 12.)

239. Insanitary Dairies.—(a) A dairy shall be deemed insanitary within the meaning of this act in the following cases:

(1) If the pails, cans, bottles or other containers for milk or its products, or the strainers, coolers or other utensils, appliances, apparatus or equipment coming in contact with the milk or its products are not thoroughly washed and afterward sterilized by exposing them to water or water vapor at a temperature above one hundred seventy degrees Fahrenheit for a period of at least fifteen minutes or by boiling water or by superheated steam each and every time the same are used; or if the said containers, utensils, appliances or equipment after sterilization are not adequately dried and protected from flies and dust and all other contaminations; or if any of said containers, utensils, appliances or equipment shall be used for any purpose other than that of handling milk or the products of milk.

(2) If the udder, flanks, hind legs and tail of cows are not reasonably clean during milking.

(3) If the milk or cream is not protected from contamination by dust and flies.

(4) If the person or wearing apparel of the dairyman, his employees or other persons who handle the milk or its products are soiled or not washed with reasonable frequency, or if the hands of milkers are not clean during the entire period of milking.

(5) If the milk or cream is not cooled to as low a temperature as practicable within one hour after it is drawn from the cows, and kept as cool as conditions will permit until delivery to the plant or consumer.

(6) If a suitable milk house or room, properly screened to exclude flies and insects is not provided and maintained for the purpose of separating, cooling, mixing, canning and keeping, or otherwise caring for the milk or cream. Said milk house or room shall not be located in or be a part of any residence or dwelling house, or any barn or poultry house, and shall not be used for any other purpose whatsoever; and if any milk or cream shall be separated, cooled, mixed, canned or kept in any room or place which is occupied by any person or persons as a sleeping or living apartment, or occupied by horses, fowls, cows, hogs or other animals.

(7) If any urinal, privy vault, open cesspool, pig pen, stagnant water, accumulation of manure or other filth is permitted within one hundred feet of the milk house or room, or within fifty feet of any cow stables or stanchions or other place where milking is done.

(8) If to the interior of cattle stables, barns, milking sheds, milk house or room, an application of lime whitewash or paint is not made if in the judgment of an authorized inspector, it is needed.

(9) If the walls become soiled with manure, urine or other filth.

(10) If the yards or enclosures are filthy or insanitary, or if any part of such yards or enclosures, other than pastures, are made the depositories of manure in heaps or otherwise, where it is allowed to ferment and decay.

(11) If the water supply for use around the dairy or for drinking by live stock is stagnant, polluted with manure, urine, drainage, decaying vegetable or animal matter or pathogenic bacteria from any source.

(12) If the feed is spoiled, or otherwise unfit for feeding cows for the production of milk.

(b) The dairy farm score cards used for the official scoring of dairies in the State of California, shall be that established by the regulations adopted by the Department of Agriculture of the State of California as provided for in section twenty-one of this act. (Id. § 13.)

240. Unsanitary Creameries.—(a) A creamery or any factory of dairy products or any store, depot or other place where milk is handled or kept for sale, shall be deemed insanitary within the meaning of this act in the following cases:

(1) If milk or cream is received that has reached an advanced stage of fermentation, or that shows a state of putrefactive fermentation, or contains foreign substances detrimental to the quality of the manufactured product.

(2) If the utensils and apparatus that come in contact with milk or its products in the process of manufacture are not thoroughly washed and sterilized by means of boiling water or superheated steam, after each using, and if the cans or containers in which the milk or cream is received, transported or delivered are not thoroughly washed, sterilized and dried after emptying and before being sent out to be used again.

(3) If the floor is so constructed as to permit the flowing of water, milk or other liquids underneath or among the interstices of such floor, where fer-

mentation and decay can take place, or if such floor can not be readily kept free from dirt.

(4) If drains are not provided that will convey refuse milk, water and sewage away to a point at least fifty yards distant from such creamery or factory of dairy products, or if any cesspool, privy vault, hog yard, slaughterhouse, manure or any decaying vegetable or animal matter shall be so located as to permit foul odors to reach any such creamery or other factory of dairy products or store room or depot where milk or its products are sold or handled; and if the water supply of the plant is subject to pollution with sewage or contamination with pathogenic bacteria unless said water be subjected to efficient chlorination or otherwise treated to make it safe for use in connection with the manufacture of food products.

(5) If such creamery or factory of dairy products does not permit access of light and air sufficient to secure good ventilation.

(6) If in any building or buildings used in connection with any creamery, or factory of dairy products, any insects or other species of animal life are permitted, or if upon the floor or walls any milk or its products or any other filth is allowed to accumulate or ferment, or decay, or if the bodies or wearing apparel of persons employed, or coming in contact with any milk or its products in any creamery, or factory of any dairy products, are unclean and not washed from time to time with reasonable frequency, and if suitable toilet and lavatory facilities and clean towels are not provided for employees.

(b) The score cards used for the official scoring of factories of dairy products shall be those established by the regulations adopted by the Department of Agriculture of the State of California as provided for in section twenty-one of this act. (Id. § 14.)

241. Pasteurization; Apparatus; Unlawful Sales.—(a) The process of pasteurization, as applied to milk, skim milk, cream and other milk products, is hereby defined to be a process for the elimination therefrom of organisms harmful to human beings, which process shall consist of uniformly heating such milk, skim milk or cream, as the case may be, to a temperature of not less than one hundred forty degrees Fahrenheit and of holding the same at a temperature between one hundred forty and one hundred forty-five degrees Fahrenheit, for a period of not less than thirty minutes, nor more than one hour, and immediately thereafter cooling the same to a temperature of not above fifty degrees Fahrenheit; provided, that when cream is pasteurized to be used and is used in the manufacture of butter; or when milk is pasteurized to be used and is used in the manufacture of cheese, and where the process of ripening or starting in each case is to be commenced immediately, then it shall not be required that such cream or milk be cooled to a lower degree than is necessary for such ripening or starting. Market milk shall not be heated for more than one hour nor above one hundred forty-five degrees Fahrenheit. Milk or cream that is to be manufactured into butter or cheese may be pasteurized by heating above one hundred forty-five degrees Fahrenheit, and when the same is uniformly heated to and held at a temperature above one hundred fifty-one degrees Fahrenheit, the time for holding may be decreased from thirty minutes by one minute for each degree of temperature above one hundred forty-five degrees Fahrenheit. If milk is repasteurized, it must not be sold for market milk.

(b) All apparatus used for the pasteurization of milk, skim milk or cream shall be kept in strictly clean and sanitary condition and every pasteurizing plant shall be equipped with sufficient recording thermometer devices to accurately record the temperature to which, and the length of time for which the pasteurized product has been heated. All recording thermometer devices used in the pasteurization of any milk, skim milk or cream must be approved by and at all times subject to the approval of the Department of Agriculture of the State of California. All persons, firms or corporations using pasteurizing apparatus within the State of California shall date, preserve and keep on file for a period of not less than two months after the same are made, all records made by such thermometer, or in lieu of such preservation may deliver such records to any public officer authorized by law or ordinance to receive the same, and said records shall, at all times, be open to the inspection of the said Department of Agriculture, State Board of Health, and of all other State, county and municipal officers charged with the enforcement of laws and ordinances respecting dairy products or the public health.

(c) No person, firm or corporation shall sell, exchange or offer or expose for sale or exchange, or have in its possession for sale or exchange, any milk, cream, skim milk, ice cream, butter, buttermilk cheese or other products of milk as and for pasteurized milk, cream, skim milk, ice cream, butter, buttermilk,

cheese or other products of milk, as the case may be, nor use the word "pasteurized," or any of its derivatives in connection with the sale, designation, advertising, labeling or billing of any milk, cream, skim milk, ice cream, butter, buttermilk, cheese or other milk products, unless the same and all products of milk contained therein or used in the manufacture thereof consist exclusively of milk, skim milk or cream which has been treated by the process of pasteurization as defined and regulated in this section. (G. L. 1923, Act 1945, § 15.)

242. Factory Licenses.—(a) Every person, firm or corporation, before regularly engaging in the business of dealing in, receiving, manufacturing or processing milk or any product of milk, shall obtain a license to do so for each separate plan or place of business from the Department of Agriculture of the State of California; provided that nothing in this section shall apply to retailers dealing in finished products received from a distributor or producer in final form. Upon receipt of an application for such license, the said Department of Agriculture shall investigate the equipment and the sanitary condition of the plant where milk or the products of milk are to be received, processed or manufactured, and provide the applicant with a copy of the dairy laws of the State. If the condition of the plant is found to be satisfactory, a "factory license" shall be issued by said Department of Agriculture to such applicant upon receipt of a license fee of ten dollars (\$10). All factory licenses herein required shall expire at the end of each calendar year; provided, that such license shall remain in full force and effect during the month of January of the next succeeding year or such part thereof as may be necessary for the renewal of said license by the Department of Agriculture. All licenses may be renewed each successive year provided that the plant for which previous license was issued or the business thereof shall have been conducted in accordance with the requirements of this act during the year next preceding that for which renewal is contemplated. The fee for the renewal of such license shall be one dollar for each one hundred thousand pounds of milk fat or part thereof, or each four hundred thousand gallons of milk or part thereof, purchased or received during the preceding year, ending the thirty-first day of December; provided, that in no case shall the renewal fee exceed ten dollars. The correct amount of the fee for the renewal of said license shall be forwarded with said application for its renewal. Any factory license may be suspended or revoked by the said Department of Agriculture for violation of this act, or amendments thereto, or for violation of the rules and regulations for its enforcement as provided in section twenty-one of this act.

(b) All persons who shall test milk or cream purchased or received on the basis of the milk fat contained therein must first obtain and hold a license to do so from the Department of Agriculture of the State of California, said license to be known as a "tester's license." Any method or process which gives accurate results may be used; provided, that all glassware and other apparatus must be examined for accuracy and the procedure be approved by the Department of Agriculture of the State of California; and provided, further, that a tester's license must be obtained for each method or process used. The said Department of Agriculture, upon receipt of an application for such license, shall examine into the qualifications of the applicant and every applicant shall satisfy said Department of Agriculture of his qualifications, and shall have a thorough knowledge of the provisions of the law with which he must comply and pay a fee of five dollars before any such license shall be issued. Said application shall state the method of testing to be used by the applicant, which method must be approved by said Department of Agriculture before a license may be issued. All such licenses shall expire the thirty-first day of December of each year and may be renewed on the first of each successive year; provided, that all requirements of the law have been met by licensee during the next preceding year, and upon the payment of a renewal fee of one dollar. Applications for renewal of said license shall be made within thirty days prior to the expiration of the year. Any tester's license may be suspended or revoked by the said Department of Agriculture for violation by the holder thereof of this act or amendments thereto or the rules and regulations for its enforcement, as provided in section twenty-one of this act.

(c) All persons other than licensed testers who shall take samples of milk or cream purchased or received on the basis of the milk fat contained therein, on which samples tests are to be made as a basis of payment, and all persons who shall make weighings of milk or cream, the weights thus obtained to be used as a basis of payment, must first obtain and hold a license to do so from the Department of Agriculture of the State of California, said license to be known as a "sampler's and weigher's license"; provided, that when the same person does both the sampling and weighing, only one license shall be required; and provided, further, that in case of emergency a person may weigh or sample for a period not exceeding one week

before making application for a license. The said Department of Agriculture, upon receipt of an application for such license, shall examine into the qualifications of the applicant, and every applicant shall satisfy said Department of Agriculture of his qualifications and shall have a thorough knowledge of the provisions of the law with which he must comply and pay a fee of one dollar before any such license shall be issued. All such licenses shall expire on the thirty-first day of December of each year and may be renewed on the first of each successive year; provided, all requirements of the law have been met by the licensee during the next preceding year and upon the payment of a renewal fee of one-half dollar. Applications for renewal of said license shall be made within thirty days prior to the expiration of the year. Any sampler's and weigher's license may be suspended or revoked by the said Department of Agriculture for violation by the holder thereof of this act or amendments thereto or of the rules and regulations for its enforcement, as provided in section twenty-one of this act.

Any person who shall take samples of milk or cream for testing shall be responsible for the safekeeping of all samples taken by him until delivery in an unchanged condition to a licensed tester. (Supp. 1925, G. L., Act 1945, § 16.)

243. Weighing and Sampling Milk; Records.—(a) No person, firm or corporation shall fraudulently manipulate the measure of weight or under-read or over-read or otherwise manipulate the test used for determining the per cent of milk fat in milk or cream, nor shall any person, firm or corporation take an unfair sample thereof on which a test is made, nor fraudulently manipulate such samples nor the records of any measurement, weight or test, or combination thereof. A permanent record in duplicate of all tests of milk or cream purchased or received on the basis of the amount of milk fat contained therein must be made by a tester licensed by the Department of Agriculture of the State of California, on standard forms supplied by or in accordance with the specifications for such records adopted by the said Department of Agriculture. Each test shall be legibly recorded with indelible pencil or ink and shall be accompanied by the patron's name or number in such a manner as to correctly identify the test obtained upon the milk or cream of each patron. Each sheet or page shall be authenticated by the signature of the tester licensed by the said Department of Agriculture, and a duplicate record shall be deposited by said licensed tester immediately after completing the test on the day's samples in a box provided by the purchaser or receiver of milk or cream, said box to be constructed, sealed and maintained in accordance with the rules and regulations adopted by the said Department of Agriculture as provided in section twenty-one of this act. The original record shall be immediately delivered to the purchaser or receiver of said milk or cream who shall retain said original record for a period of at least three months. The said licensed tester shall retain an unmodified sample of all milk or cream tested by him for a period of not less than forty-eight hours after tests of said milk or cream have been made and said purchaser or receiver of milk or cream shall provide a suitable place where such samples so retained may be kept and such place shall be acceptable to the said Department of Agriculture. When payment for milk or cream is made on the basis of the milk fat contained therein, samples shall be taken from each lot of said milk or cream upon delivery, and payment shall be made in accordance with the percentage of milk fat actually found in said samples; provided, that nothing in this section shall be construed to prohibit weighing and sampling on the route; and provided, further, that nothing in this section shall be construed to prohibit the use of composite samples.

(b) All glassware, weights and scales used by licensed testers shall be accurate. Nothing in this section shall be construed as prohibiting the use of any method of testing approved as accurate by the Department of Agriculture of the State of California.

All glassware shall be examined by said Department of Agriculture and if found to be accurate, each piece shall have a legible and indelible distinguishing mark placed upon it by the said Department of Agriculture.

(c) In conducting the Babcock test, the milk fat column in tests on milk in milk test bottles shall be read from the extreme bottom of the fat column to the top of the top meniscus. In tests on cream in cream test bottles the meniscus at the top of the milk fat column shall be destroyed by the use of an overlying foreign oil approved by the Department of Agriculture of the State of California, and the milk fat column, shall be read from the extreme bottom of the fat column to the plane of separation between the fat column and the overlying foreign oil. The reading of the test shall be made when the temperature of the milk fat is between 130 and 140 degrees Fahrenheit. All Babcock glassware and scales shall comply with the following specifications:

(1) Milk test bottle. The total per cent graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters and the graduation shall represent whole per cent, five-tenths per cent and tenths per cent. The error in the total graduation or in any part thereof shall not exceed one-tenth of one per cent. The neck shall be cylindrical for at least five millimeters below the lowest and above the highest graduation mark.

(2) Fifty per cent nine gram long-neck cream test bottle. The total per cent graduation shall be fifty. The graduated portion of the neck shall have a length of not less than one hundred twenty millimeters. The graduation shall represent five per cent, one per cent and five-tenths per cent. The cylindrical part of the neck shall extend at least five millimeters below the lowest and above the highest graduation mark. Each bottle shall bear at the top of the neck above the graduations, in plain legible characters, a mark defining the weight of the charge to be used—nine grams. The error in the total graduation or in any part thereof, shall not exceed twenty-five hundredths of one per cent.

(3) Fifty per cent eighteen gram long-neck cream-test bottle. The total per cent graduation shall be fifty. The graduated portion of the neck shall have a length of not less than one hundred twenty millimeters. The graduation shall represent five per cent, one per cent and five-tenths per cent. The cylindrical part of the neck shall extend at least five millimeters below the lowest and above the highest graduation mark. Each bottle shall bear at the top of the neck above the graduations, in plain legible characters a mark defining the weight of the charge to be used—eighteen grams. The error in the total graduation or in any part thereof shall not exceed twenty-five hundredths of one per cent.

(4) Seventeen and six-tenths millimeter pipette. The delivery tube shall have a length of one hundred to one hundred twenty millimeters and an outside diameter between four and five-tenths and five and five-tenths millimeters, and a straight nozzle. The pipette shall contain seventeen and six-tenths millimeters of water at twenty degrees Centigrade when the bottom of the meniscus coincides with the mark on the suction tube. The error in the graduation shall not exceed five one-hundredths of a millimeter.

(5) Scales or balance. The scales or balance used in weighing cream samples into the test bottles shall have a sensibility of not more than thirty milligrams.

(d) A fee of one dollar shall be paid by the owner of said glassware to the Department of Agriculture of the State of California for every dozen pieces of Babcock glassware examined in accordance with the provisions of paragraph

(b) of this section. The said department shall charge fees for examining glassware and apparatus used in methods of testing other than the Babcock test, which fees shall be sufficient to cover the actual cost of such examination. (Id. § 17.)

244. Containers to be Kept Sanitary and in Good Condition.—Every person, firm or corporation, not a common carrier, who receives from a private or common carrier in cans, bottles, vessels or other containers, any milk, cream, ice cream, or other product of milk intended for human consumption, which has been transported over any railroad, or boat or freight line, or by other common or private carrier, which said cans, bottles, vessels or other containers, are to be returned to the manufacturer, distributor, consignor or shipper, shall cause the said empty cans, bottles, vessels or other containers to be thoroughly cleansed and sterilized by boiling water or superheated steam before returning shipment of the same, and every private or common carrier before accepting such cans or containers to be returned to the manufacturer or distributor shall require that each container be plainly marked with the name and address of the person returning same. All milk bottles, cans or containers of any kind in which dairy products are kept, stored, transported or delivered shall be sound, smooth, free from rust, or open seams and at all times kept in a condition which will permit thorough cleansing of all surfaces with which the milk or its products comes in contact. Bottles, cans, tubs, cabinets, containers or other receptacles commonly used for the reception, storage or delivery of milk, cream, ice cream or other products of milk shall not be used as a receptacle for or storage place of any vegetables, fish, fowls, meats or other foodstuffs or refuse matter, bottles or filthy or offensive substances or for any other purpose than that for which it was originally intended. All empty cans, bottles, vessels or other containers delivered to the producer by the manufacturer, retailer, or distributor for the reception of dairy products, shall be kept by said producer in a clean, sanitary sterile condition and shall be used for no other purpose whatsoever. All empty cans, bottles, vessels or other containers delivered to the consumer by retailer or distributor shall be thoroughly

cleansed before returning the same to the retailer or distributor. (G. L., 1923, Act 1945, § 18.)

245. Wagons to be Labeled and Kept Sanitary; Protection From Sun, Dust, etc.; Restrictions on Transportation.—(a) All wagons, vehicles or carts from which market milk, cream, butter, ice cream, buttermilk or ice milk are regularly sold, marketed, delivered or peddled, shall have the name and address of the owner plainly lettered thereon in letters at least three inches high, and one and a half inches wide, on both sides of such vehicle. All carriers of milk, cream or other products of milk, whether producer, gratuitous private carrier other than the producer, private carrier for hire, or common carrier, in transporting milk and cream shall maintain all cars, motor trucks, other vehicles or boats in a clean and sanitary condition.

(b) All vehicles, boats or conveyances, while transporting milk or cream or clean empty containers, intended for milk or cream, shall either be enclosed or provided with canvas covering or otherwise afford necessary protection from the direct rays of the sun and from the outside warm air and from dust, mud, rain, and other sources of contamination, when in the judgment of an authorized representative of the Department of Agriculture of the State of California, it is necessary. No milk or cream or other product of milk shall be transported in connection with or close to any other commodity from which it may absorb foreign flavors or which may contaminate it, and no milk or cream or empty containers used for milk or cream shall be hauled in any vehicle used for hauling manure, or garbage or in any other unclean vehicle, car or boat. All milk or cream cans or other shipping containers for products of milk shall be handled carefully and while containing milk, cream, or other products of milk, shall be kept right end up; provided, nothing herein shall be construed to derogate from any powers or authority of the Railroad Commission of the State of California.

(c) No carrier of milk, cream or other product of milk, whether gratuitous private carrier, private carrier for hire, or common carrier, shall receive or transport any milk or cream or product of milk after notification by an authorized representative of the Department of Agriculture of the State of California, that such product is unclean, polluted, tainted, unwholesome, stale, impure, or adulterated, or has been produced in violation of the provisions of this act. (Id. § 19.)

246. Collection and Publication of Statistics, etc.—The Department of Agriculture of the State of California is authorized under this act to gather, compile and publish statistics relative to the dairy industry, and to disseminate the same and other information useful to the general good and development of the dairy industry of the State, and said department is authorized to make a suitable charge or charges for publications issued or which may be issued under the authority of this act. The said Department of Agriculture shall provide blanks for reporting dairy statistics, and shall annually, on or before the last day of December of each year, cause to be mailed to each person, firm or corporation engaged in operating any creamery, cheese factory, ice cream or ice milk plant, milk condensory and market milk distributor when necessary, one or more of such blanks and each such person, firm or corporation shall, on or before the first day of February following make out and transmit to said Department of Agriculture a full and accurate report of the amount of milk, cream, condensed or evaporated milk, butter, cheese, ice cream or other dairy products produced, purchased or manufactured or distributed during the year ending December thirty-first just preceding, and all milk or milk products plants purchasing milk and cream direct from farmers shall report a complete list of all persons from whom their product is obtained, giving the name and address, whenever possible, in each case. (Supp. 1925, G. L., Act 1945, § 20.)

247. Duties of Department of Agriculture.—(a) It shall be the duty of the Department of Agriculture of the State of California to enforce the provisions of this act and the Director of Agriculture shall promulgate such rules and regulations as are incidental to the enforcement of the provisions and accomplishment of the purposes of this act.

(b) The Director of Agriculture, through his agents or employees, is hereby authorized to enter upon and inspect any dairy premises, creamery, cheese factory, ice cream factory or other place where milk, cream or the products of milk of any kind are being produced, sold, handled, kept, transported, delivered or used, or where they suspect that oleomargarine or substances designed to be used as a substitute for butter or imitation butter or imitation cheese or imitation milk are being manufactured, sold, kept, delivered, transported or stored in violation of any of the provisions of this act, and to take samples of dairy products, imitation milk or oleomargarine from such premises. The Director of Agriculture shall cause posters to be placed in a conspicuous manner on dairies throughout the State

indicating in a brief and simple manner the most fundamental requirements for the production of dairy products.

(c) No tolerance in weights, measures, percentages of milk fat, moisture or any other measure or standard shall be permitted under or according to the provisions of this act, except where specific provisions are made in this act.

(d) The Director of Agriculture, through his agents or employees, is authorized to condemn any milk, cream, butter, cheese or other product of milk which is found to be impure, unclean, unwholesome, stale or that is produced or manufactured by or kept in an unsanitary place, or that is adulterated, and shall have power to destroy or mark for identification with a nontoxic substance all condemned milk, cream or products of milk; provided, that no manufactured product of milk or cream may be destroyed without due notice to the owner thereof and a hearing before the Director of Agriculture of the State of California or other officer especially designated by him.

(e) Containers found to be used in violation of the requirements of section eighteen of this act shall be condemned and marked with the word "condemned" in an appropriate manner and shall not be used again in connection with the handling of milk or the products of milk for human consumption until they have been cleaned or repaired in a manner acceptable to an authorized representative of the Department of Agriculture of the State of California.

(f) It shall be unlawful for any person, firm or corporation to prevent or interfere with or attempt to nullify in any way the work of duly authorized representatives of the Department of Agriculture of the State of California or approved milk inspecting departments or to interfere with or prevent any of said representatives from examining any records or books in the conduct of his official duty or to prevent or interfere with any of said authorized representatives in the event they deem it advisable to secure samples of milk or products of milk, imitation milk, imitation butter or oleomargarine or any substance designed to be used as a substitute for milk or products of milk.

(g) The licenses issued in accordance with the provisions of section sixteen of this act, upon a hearing before the Director of Agriculture, of which the licensee shall have a written notice of the time and place of said hearing and the charges made against him, may be suspended or revoked by said Director of Agriculture if, after written notice, the licensee fails, after thirty days, to comply with the laws, rules and regulations under which the license was granted; provided, that no such thirty days' notice shall be required in cases of manipulation of the measures, weights, samples or tests for milk fat content of milk or cream upon which payment is based or the records thereof.

(h) No prosecution based on a sample or samples of milk or products of milk shall be had unless a duplicate of said sample or samples is left with the accused; provided, it shall not be required that samples taken in connection with the establishment of proof of fraudulent manipulation of the test for milk fat in milk or cream be given to the accused.

(i) It shall be the duty of the district attorney of each and every county in this State, upon application of the Department of Agriculture of the State of California or its authorized representatives, to attend to the prosecution, in the name of the people, of any action brought for the violation of any of the provisions of this act within his county. (Id. § 21.)

248. Disposition of Fees and Tax.—All fees collected under the provisions of this act shall be credited to an "oleomargarine enforcement and dairy control fund," which fund is hereby created, and shall be used by the department of agriculture of the State of California to carry out the purposes of this act. (Id. § 21½.)

249. Offenses and Penalties; Construction of Act.—(a) It shall be unlawful for any person, firm or corporation to violate any of the provisions of this act or amendments thereto or the rules and regulations for its enforcement or to operate a creamery or other factory of dairy products without a license as required in section sixteen of this act. Any person, firm or corporation who shall violate any of the provisions of this act, or the rules and regulations for its enforcement, shall be guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by confinement in the county jail not less than ten days nor more than ninety days, or by both such fine and imprisonment; provided, that persons who shall offer physical resistance or bodily attack on authorized representatives of the Department of Agriculture of the State of California or of an approved milk inspecting department engaged in the proper conduct of his official duties shall be guilty of a misdemeanor, punishable by confinement in the county jail for not less than ten days without the alternative of a fine in any case; and provided, further, that any person, firm or corporation who shall operate a creamery or other factory of dairy products where milk or

products of milk are processed or manufactured without a license to do so, or after his or their license has been suspended or revoked by the said Department of Agriculture, shall be guilty of a misdemeanor and shall also be liable to pay to the State of California the sum of one hundred dollars for each and every day said person, firm or corporation shall operate such creamery or other factory of dairy products without such license. Said moneys to be recovered by an action at law brought by the Attorney-General in the name of the State of California.

(b) The word "person" as used in this act shall be construed to import both the singular and plural, as the case demands, and shall include individuals, partnerships, corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any employee, officer, agent or other person acting for or employed by any individual, partnership, corporation, company, society or association within the scope of his employment or office, shall in every case also be deemed to be the act, omission or failure of such individual, partnership, corporation, company, society or association, as well as that of the person. The provisions of this act shall be construed to apply to hotel keepers, restaurant keepers and boarding house keepers or any person who shall serve meals and accept money therefor. (G. L. 1923, Act 1945, § 22.)

250. Standard of Condensed Milk.—The standard of purity of condensed milk and evaporated milk shall be that proclaimed and established by the secretary of the United States Department of Agriculture. (Stats. 1911, p. 1101; G. L. 1923, Act 1946, § 1.)

251. Penalty for Rendering Inaccurate, Incorrect or False Tests as to Dairy Products.—Any person, or persons, whether as principals, agents, managers, or otherwise who buy or sell dairy products or deal in milk, cream or butter and who buy or sell the same upon the basis of their richness or weight or the percentage of cream or butter fat contained therein who use any apparatus, test bottle or other appliance or who use the "Babcock test" or machine of like character for testing such dairy products, cream or butter which is not accurate and correct or which gives wrong or false percentages or which is calculated in any way to defraud or injure the person with whom he deals, is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail not more than six (6) months. (Stats. 1901, p. 324; Pen. Code, 1923, § 381a.)

252. State Dairy Bureau; Duty of, Relating to the Enforcement of the Law on False Tests of Dairy Products.—It shall be the duty of the State Dairy Bureau now existing under the laws of this State* to enforce the provisions of section three hundred and eighty-one-a of the Penal Code and cause the prosecution of persons whom it knows, or has reason to believe, are guilty of violating the provisions of said section of the Penal Code.

It shall be the duty of the district attorney of each and every county in the State to attend to the prosecution of all persons within his district against whom the State Dairy Bureau shall enter complaint for violating the provisions of said section of the Penal Code.

Said State Dairy Bureau shall from time to time inspect and examine as to their accuracy or their adaptability to give accurate results, all glassware, measures, scales, weights and other apparatus used in creameries and factories of dairy products where milk and cream are purchased, to determine the amount or percentage of fat in milk or cream.

Said State Dairy Bureau shall supply at cost and not oftener than once in a year to every creamery or other factory of dairy products where milk and cream or either are purchased, upon application, not more than two tubes or bottles and one pipette of the forms used with the Babcock test, which it shall first examine as to accuracy, and if accurate or adapted to give accurate results under the usual method of operating the Babcock test, said State Dairy Bureau shall certify to this by marking durably and permanently upon each and every piece of apparatus supplied the letters "D. B." Said State Dairy Bureau shall also upon payment at the rate of one dollar for each dozen, test or examine into the accuracy of all test bottles or tubes and pipettes sent to it direct from any creamery or other factory of dairy products where milk or cream are purchased, and if found accurate or adapted to give accurate results the letters "D. B." shall be marked upon each piece of apparatus examined. The State Dairy Bureau shall pay all money received for making such tests for examinations into the State Treasury and the same shall become a part of the appropriation for the use of the State Dairy Bureau and its disposition shall be at the disposal of the State Dairy Bureau in enforcing the provisions of this act. (Stats. 1905, p. 168; Id. § 381b.)

*See footnote to No. 128.

253. Rules in Cases of Quarantine.—The following rules and requirements shall be strictly observed in all cases of quarantine subject, however, to such changes and modifications as the State Board of Health or its secretary may otherwise require and direct.

Rule 1. Diseases Quarantinable. Every county, city and county, city or town board of health, or chief executive health officer thereof, upon receiving information of the existence of such diseases within its or his jurisdiction, must immediately quarantine each and every case of Asiatic cholera, yellow fever, typhus fever, plague, smallpox, scarlet fever, diphtheria, (and such other contagious or infectious diseases), as may from time to time be declared quarantinable, and in addition to their local rules and regulations shall follow all general and special rules, regulations, and orders of the State Board of Health, or its secretary.

Report on Quarantined Cases. Said health boards or officers must, within twenty-four hours after quarantine, report fully, in writing, to the secretary of the State Board of Health, all of such cases quarantined; provided, however, that said health officers shall immediately report by telegraph to said secretary of the State Board of Health every case discovered or known of plague, Asiatic cholera, yellow fever or typhus fever, and after investigation and within twenty-four hours shall report the cause, source and extent of contagion and infection, and all acts done and measures adopted in each case, and shall make such further reports as the secretary of the State Board of Health may require.

Rule 2. Other Diseases to be Reported May be Quarantined. In addition to the list of quarantinable diseases given in rule 1 of this section the following is a partial list of contagious, infectious and communicable diseases, all of which, though not required to be quarantined, must be properly reported in writing to the State Board of Health, or its secretary, by the said local health boards or chief executive health officers, viz: chicken-pox, erysipelas, pneumonia, uncinariasis or hookworm, epidemic cerebrospinal meningitis, trachoma, whooping-cough, mumps, dengue, dysentery, tuberculosis, typhoid fever, tetanus malaria, leprosy, measles, German measles, glanders and anthrax affecting human beings, rabies, pellagra, beri-beri, syphilis, gonococcus infection, and poliomyelitis, and any disease which appears to have become epidemic. The diseases last above enumerated, and such others as from time to time may be added thereto by the State Board of Health or its secretary, shall be quarantined whenever in the opinion of the State Board of Health or its secretary such action is necessary to protect the public health, and shall be isolated whenever in the opinion of the State Board of Health, its secretary, or the local board of health officer, isolation is necessary to protect the public health. This list can be changed at any time by the State Board of Health or its secretary.

Rule 3. Quarantine Placard or Flag. When any building, house, structure, or part thereof, or tent or other place, is quarantined because of a contagious, infectious or communicable disease, said local health boards or chief executive health officer shall cause to be firmly fastened, in the most conspicuous place upon such house, building, tent, or other place, a placard or flag, upon which is printed the name of the disease, in plain and legible letters of at least two and one-half inches in length. This placard or flag must not be removed by any person except the health officer or his deputy, and in no case until the premises have been thoroughly disinfected.

Rule 4. Disinfection of Quarantined House, etc. When persons quarantined in a house, building, structure, tent, or other place have recovered from the disease for which the quarantine is established, or when the quarantine is for exposure to a contagious, infectious or communicable disease, and the period of incubation designated has elapsed, the quarantine shall not be raised by order of the local board of health officer until every exposed room, together with all bedding, clothing, and all other personal property contained therein, has been thoroughly disinfected, or if necessary, such personal property may be destroyed; by or under the direction of the health officer or his deputy; and until all persons quarantined shall have taken a thorough antiseptic bath and put on clothing free from contagion.

Rule 5. All Persons to Obey. Whenever quarantine is established by any local board of health or health officer to prevent the spread of any contagious, infectious, or communicable disease, it shall be the duty of all persons to obey the rules, orders and regulations of such health board or health officer.

Rule 6. Milk bottles Not to be Removed. No milkman shall take away milk bottles or other receptacles for milk from any building, house, structure, tent or other place in which a contagious, infectious or communicable disease exists or has existed nor from any place within any quarantined district nor at any time after such quarantine has been removed, unless with the written permission of the local health officer, and after such milk bottles or receptacles have been disinfected and cleaned to the satisfaction of such officer.

Rule 7. When Unlawful for Milkman to Sell Milk. Whenever there exists in the house of any milkman, milk dealer or milk distributor any case of cholera, typhus fever, plague, scarlet fever, diphtheria, membranous croup, leprosy, anthrax, glanders, cerebro-spinal meningitis, whooping cough, typhoid fever, dysentery, trachoma or tetanus, then it shall be unlawful for such milkman, milk dealer or milk distributor to continue the sale or distribution of milk until the local board of health or chief executive health officer has appointed at the expense of the county where such milkman, dealer or distributor lives a person to superintend his cows, dairy or other place where such milk is sold or from which it is delivered or distributed and all cows, bottles, vessels and milk utensils. Such person so appointed by the local board of health or chief executive officer shall strictly require that all persons attending to the cows, dairy, sheds, milk cans, bottles, vessels and milk utensils shall not have access to the infected house nor any communication with the persons who reside in such infected house, except with the permission and under the inspection of the local health officer.

Rule 8. Persons in Quarantined House May Not Go Beyond Lot. Every person subject to quarantine, residing or being in a quarantined building, house, structure or tent, shall not go beyond the lot upon which such building, house, structure or tent is situated, nor put himself in immediate communication with any person not subject to quarantine, other than the health officer and physician. The local board of health or local chief executive health officer maintaining a quarantine shall appoint, or cause to be appointed, a suitable person to perform necessary outside service for the necessary wants of the persons quarantined. Such person so appointed shall never enter the building, house, structure, or tent nor come in personal contact with any of the persons quarantined, but shall leave at the entrance of the building, house, structure or tent, or at such other place as may be designated by the health officer or deputy, all articles which he may have brought, and he shall strictly observe the orders of the local health officer. (Stats. 1907, p. 893, as amended; G. L. 1923, Act 6238, § 13.)

254. Penalty for Violation of Act.—Any person violating any of the provisions of this act, whether acting for himself or as the agent or servant of another person or of a firm, company or corporation or as an officer, agent, employee or representative of any municipal corporation or of the State, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five nor more than five hundred dollars or by imprisonment for a term of not more than ninety days or by both such fine and imprisonment. Each day that in violation of any provision of this act shall continue and each day that anything forbidden by the terms hereof to be erected, constructed, maintained, operated or permitted shall continue to exist or be maintained, operated or permitted shall constitute a separate offense. (Id. § 21.)

NOTE.—See also No. 46; the cold storage law, No. 104 et seq.

Eggs.

255. Sale of Bad Eggs.—No person shall sell, or offer to sell, or expose for sale any eggs unfit for human food unless the same are broken in shell and then denatured so that they can not be used for human food. For the purposes of this act an egg shall be deemed unfit for human food if it be addled or moldy; if it contains black spot, black rot, white rot or blood ring; if it has an adherent yolk or a bloody or green white (albumen); or if it consists in whole or in part of a filthy, decomposed or putrid substance. (Supp. 1925, G. L., Act 2220 § 1.)

256. Words and Phrases Defined.—Unless the context otherwise requires, the words and phrases employed in this act shall have the meanings hereinafter defined:

- (a) "Addled" or "white rot" means an egg which is putrid or rotten.
- (b) "Moldy" means an egg in which mold has developed inside the shell.
- (c) "Black spot" means an egg in which molds or bacteria have developed in isolated areas inside the shell.
- (d) "Black rot" means an egg which has deteriorated to such an extent that the whole interior presents a blackened appearance before the candle.
- (e) "Blood ring" means an egg which contains blood.
- (f) "Adherent yolk" means an egg in which the yolk has settled to one side and become fastened to the shell.
- (g) "Retailer" means any person, firm or corporation or association which sells eggs to a consumer.
- (h) "Consumer" means any person purchasing eggs for his or her own family use or consumption, or a restaurant, hotel, boarding house, bakery or

other institution purchasing eggs for serving to guests or patrons or for its or their use in cooking or baking.

(i) "Person" means any individual, firm, corporation or association.

(j) "Eggs" mean: (1) eggs in the shell; (2) liquid, frozen or dried whole egg meats, whites of eggs or egg yolks. (Id. § 2.)

257. Enforcement of Act.—The State Board of Health is hereby empowered through its authorized agents, deputies and inspectors to enforce this act and shall have supervision and control over all enforcement officers of this act in the State of California and all sheriffs shall be ex officio officers of the State Board of Health for the purpose of enforcing this act. (Id. § 3.)

258. Grading Standards and Regulations.—It shall be the duty of the State Board of Health to establish forthwith, and from time to time, specific grades or standards of quality and size or weight to govern the sale of eggs for human consumption, as permitted by this act, and to make rules and regulations for carrying out all its provisions, provided, however, that such grades or standards or [of] quality shall not permit the sale of any eggs of poorer quality than permitted by the grading standards established from time to time by the United States Department of Agriculture, Bureau of Agricultural Economics. All rules, regulations and standards of quality and weight and supplementary changes therein as provided by this section shall be filed in the office of the State Board of Health and shall be in effect sixty days after such filing. (Id. § 4.)

259. Notice of Grade and Size.—It shall be unlawful for any person to sell, or offer to sell or expose for sale to a consumer, any eggs other than those of his own production intended for human consumption without notifying by suitable sign or label the person or persons purchasing or intending to purchase the same of the exact grade or quality and the size or weight of such eggs, according to the standards prescribed by the State Board of Health. (Id. § 5.)

260. Seller's Invoice.—Every person, in selling eggs to a retailer, shall furnish to said retailer an invoice showing the exact grade or quality and the size or weight of such eggs according to the standards prescribed by the State Board of Health. A copy of such invoice shall be kept on file by the person selling and by the retailer at their respective places of business for a period of thirty days, and shall be available for inspection at all reasonable times by accredited inspectors or representatives of the State Board of Health. (Id. § 6.)

261. Effect of Guaranty.—No retailer shall be prosecuted under the provisions of this act when he can establish a guaranty from the person from whom any eggs are purchased, to the effect that said eggs at the time of such purchase conformed to the grade or quality and the size or weight as stated in the invoice; provided, said eggs had been labeled by the retailer for resale in accordance with the purchase invoice; and provided, further, that said guaranty shall not exempt from prosecution any retailer who may have kept the eggs, covered by said guaranty for such time after their purchase or under such conditions as to cause said eggs to deteriorate into a lower grade or standard. (Id. § 7.)

262. Penalties.—Every person who violates any of the provisions of this act shall be guilty of a misdemeanor and upon conviction for the first offense shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100); for the second offense a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200); for the third and subsequent offense by a fine of not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) or by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days. All fines collected for violation of this act shall be paid to the county treasurer of the proper county, who shall remit the same to the State Treasurer of the State of California and said moneys shall be placed to the credit of the general fund for enforcement of this act, the same to become immediately available, and to be paid out upon the presentment of vouchers issued by the secretary of the State Board of Health. (Id. § 8.)

263. Effect of Act.—This act and each section and subsection thereof shall take precedence over all acts and parts of acts at variance or conflicting herewith in the manner of quality standards, grading, classification and labeling of eggs intended for human food. (Id. § 9.)

264. "Person," "Firm," "Company," etc., Mean Wholesalers, Retailers, Jobbers, etc.—For the purposes of this act the words "person, firm, company or corporation" shall include wholesalers, retailers, jobbers, and every place where eggs that have been shipped or imported into the State of California, from any point or place outside of the United States, are sold or offered for sale. (G. L. 1923, Act 2215, § 1.)

265. Imported Eggs to be Branded.—Every person, firm, company or corporation who sells, offers for sale, or has in his, or their, possession for sale, or consigns, ships or presents to any dealer, commission merchant, consumer, or other person, any egg or eggs that have been shipped or imported into the State of California, from any point or place outside of the United States, shall before so doing, cause to be stamped, marked or branded upon one end thereof, in black-faced letters not less than one-eighth of an inch in height, the word "imported." (Id. § 2.)

266. Sign Displayed in Salesroom.—Every person, firm, company or corporation, selling or offering for sale any eggs that have been shipped or imported into the State of California, from any point or place outside of the United States, shall display in a conspicuous place in his or their public salesroom, a sign, which shall be not less than one foot in height and six feet in length, bearing the words "imported eggs sold here" in black-faced letters not less than six inches in height and one inch in width upon a white ground. (Id. § 3.)

267. Report to State Board of Health.—Every person, firm, company or corporation who receives eggs that have been produced in any foreign country and shipped or imported into this State shall immediately thereafter make a report to the State Board of Health, giving the number of eggs received, the date when received and the place where such eggs were produced. (Id. § 4.)

268. Penalty for Violation of Act.—Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months; or by a fine of not more than two hundred dollars, or by both such fine and imprisonment, in the discretion of the court. It shall be the duty of the State Board of Health to enforce the provisions of this act. (Id. § 5.)

269. Inspection of Foreign Eggs.—All eggs, powdered eggs and egg products, imported into the State of California from foreign countries shall be sold subject to inspection as hereinafter provided. (G. L. 1923, Act 2216, § 1.)

270. Permit Authorizing Sale.—No person, firm or corporation, shall sell or offer for sale for human consumption in the State of California any eggs, powdered eggs or egg products imported into the State of California from foreign countries until after the same shall have been first inspected by the State Board of Health, found to be fit for human consumption and a permit authorizing such sale by the State Board of Health issued. The State Board of Health shall cause an inspection of all such eggs, powdered eggs or egg products to be made and if the same are found, upon such inspection, to be in fit condition for human consumption, the board shall issue to the importer or consignee a permit authorizing the sale thereof for such purpose, together with certificates of inspection equal in number to the number of the containers in which said eggs powdered eggs or egg products are packed or otherwise contained. Such certificates of inspection shall be in such form as the board may deem appropriate and shall have printed upon a white background in plain black letters, not less than one inch high, "foreign eggs," or, as the case may be, "foreign powdered eggs," or "foreign egg products," "inspected" (inserting the date) "by California State Board of Health." Such certificates shall be printed upon gummed, adhesive labels, and it shall be the duty of the importer or consignee to affix or cause to be affixed one such certificate to each of such containers in such manner that the inspection certificate shall be plainly visible to the buyer. All such foreign eggs, foreign powdered eggs, and foreign egg products shall be sold only from the original containers. No certificate of inspection shall be removed from the container or defaced, and no container upon which such inspection certificate has been affixed shall be used as a receptacle for any foreign eggs, foreign powdered eggs or foreign egg products which have not been so inspected and pronounced fit for human consumption by the State Board of Health. (Id. § 2.)

271. Rules and Regulations.—The State Board of Health may make rules and regulations to secure a proper enforcement of the provisions of this act, including rules and regulations with respect to the inspection of the eggs, powdered eggs and egg products mentioned herein and the labeling thereof, and violation of such rules shall be punished on conviction as provided in section four of this act. (Id. § 3.)

272. Penalties.—Any person, firm or corporation violating any of the provisions of this act or any rules and regulations made pursuant to the provisions of this act by the State Board of Health shall, upon conviction, be punished for the first offense by a fine not exceeding five hundred dollars (\$500), and for the second offense by a fine not exceeding one thousand dollars (\$1,000),

or by an imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. (Id. § 4.)

273. Words Defined.—For the purpose of this act the words "person, firm, company or corporation" shall include wholesalers, retailers, jobbers and every person, firm, company or corporation owning, operating or conducting any place of business where eggs are sold or offered for sale. (G. L. 1923, Act 2217, § 1.)

274. Eggs in Transit More Than Thirty-one Days to be Marked "Storage."—Every person, firm, company or corporation who sells, offers for sale or has in his or their possession for sale or consigns, ships or presents to any dealer, commission merchant, consumer or other person any egg or eggs which said egg or eggs is or were produced at any place requiring thirty-one days or more to transport the eggs to the selling point shall, before so doing, cause to be stamped, marked or branded upon the container thereof in black-faced letters not less than one-half of an inch in height the word "storage." (Id. § 2.)

275. Display of Sign in Salesroom.—Every person, firm, company or corporation selling or offering for sale any eggs which were produced at any place requiring thirty-one days or more to transport the eggs to the selling point prior to the date of sale or offering for sale shall display in a conspicuous place in his or their public salesroom a sign which shall not be less than one foot in height and six feet in length, bearing the words "storage eggs sold here" in black-faced letters not less than six inches in height and one inch in width upon a white ground. (Id. § 3.)

276. Report to State Board of Health.—Every person, firm, company or corporation who receives eggs that have been produced at any place requiring thirty-one days or more to transport the eggs to the selling point prior to their sale or offering for sale shall immediately thereafter report to the State Board of Health the number of eggs received, the date when received and the place where such eggs were produced and the name of the person, firm, company or corporation to whom sold. (Id. § 4.)

277. Enforcement.—It shall be the duty of the State Board of Health to enforce the provisions of this act and to that end the said board may make necessary rules and regulations. (Id. § 5.)

278. Penalty.—Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months; or by a fine of not more than two hundred dollars, or by both such fine and imprisonment in the discretion of the court. (Id. § 6.)

279. "Person," etc., Includes Bakeries, etc.—For the purposes of this act the words "person, firm, company or corporation" shall include biscuit companies, cracker companies, bakeries, manufacturers of food products and every person manufacturing and selling food products in packages. (G. L. 1923, Act 2219, § 1.)

280. Package Food Product Containing Imported Eggs to Carry Card.—Every person, firm, company or corporation who sells or offers for sale any manufactured food product, the ingredients of which are in part composed of eggs shipped or imported into the State of California from any point or place outside of the United States, shall, before so doing, cause to be placed in each package or wrapper inclosing such manufactured food product, a white card one and one-half inches in height and three inches in length, on one side of which shall be printed or stamped in legible black-faced letters the words "imported eggs used in the manufacture of this article" and no other words, letters or figures shall be printed or stamped on the same side of the card. (Id. § 2.)

281. Penalty for Violation of Statute.—Every person, firm, company or corporation who shall fail to comply with any of the provisions of this act is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months or a fine of not more than two hundred and fifty dollars or by both such fine and imprisonment, in the discretion of the court. It shall be the duty of the State Board of Health to enforce the provisions of this act. (Id. § 3.)

NOTE.—See also No. 6; the cold storage law, No. 104 et seq.

Feeding Stuffs.

282. "Commercial Feeding Stuffs" Defined; Exceptions.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except the following: (a) Whole seeds or grains; (b) the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir, milo and light rice; provided, that light rice shall

be labeled "light rice" when ground; (c) whole hays, straws, cottonseed hulls and corn stover, when unmixed with other materials; (d) all other materials containing sixty per centum or more of water. (G. L. 1923, Act 2665, § 1.)

283. Standards.—The standards for commercial feeding stuffs shall be the latest revision of the definitions of feeding stuffs adopted by the Association of Feed Control officials of the United States. (Id. § 2.)

284. Label for Parcels; Contents of Label.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale, or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying: (a) The net weight of the contents of the package, lot or parcel; (b) the name, brand or trade-mark; (c) the name and principal address of the manufacturer or person responsible for placing the commodity on the market; (d) the minimum per centum of crude protein; (e) the minimum per centum of crude fat; (f) the maximum per centum of crude fiber; (g) the maximum per centum of ash; (h) the specific name of each ingredient used in its manufacture; (i) the per centum of such ingredients as corn cobs, corn bran, oat hulls, barley hulls, rice hulls, ground light rice, alfalfa meal or similar materials, when such constitute a portion of the package, lot or parcel; (j) in the case of poultry feeds the per centum of grit or mineral matter they contain. The crude protein, crude fat, crude fiber and ash shall be determined by the methods in force at the time by the Association of Official Agricultural Chemists of North America. (Id. § 3.)

285. Inspection by State Board of Health.—The State Board of Health and its agents and inspectors shall have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs, and shall have the power and authority to open any parcel containing, or supposed to contain, any commercial feeding stuffs, and upon tender and full payment of the selling price of said sample, to take therefrom samples for analysis. The methods of analysis shall be those in force at the time by the Association of Official Agricultural Chemists of North America. (Id. § 4.)

286. Adulterated.—Commercial feeding stuffs shall be deemed adulterated if they do not conform to the analysis declared on the label or tag. (Id. § 5.)

287. Misabeled.—Commercial feeding stuffs shall be deemed mislabeled if they are not labeled or tagged in accordance with the provisions of section three of this act. (Id. § 6.)

288. Prosecution for Violation of Act.—If it appears that any of the provisions of this act has [have] been violated, the State Board of Health shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the result of the analysis or other examination of such feeding stuffs, duly authenticated by the analyst or other officer making the determination, under the oath of such officer; provided, that [if] it shall appear from any such examination that any of the provisions of this act has [have] been violated the State Board of Health shall cause notice to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the State Board of Health before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this act, certificates of the analyst or other officer making the examination or analysis, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified. (Id. § 7.)

289. Penalties; One-half of Fines to be Paid to State Treasurer; Guaranty of Wholesaler; State Standard Higher Than National.—Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this State, any commercial feeding stuffs without having attached thereto or furnished therewith such labels or tags as required by the provisions of this act, or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said State Board of Health or its authorized agent in the performance of its duty in connection with the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section one, without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs which contain a smaller per centum of crude protein or crude fat, or a larger per centum of crude fiber or ash than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture or who shall fail to

properly state the per centum of such ingredients as corn cobs, corn bran, oat hulls, barley hulls, rice hulls, ground light rice, alfalfa meal or similar materials, when such constitute a portion of the package, lot or parcel, or the per centum of grit or mineral matter in poultry feeds shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than one hundred dollars for the first violation and not less than one hundred dollars for each subsequent violation. Any manufacturer, jobber, importer, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of live stock or poultry shall be deemed guilty of a violation of the provisions of this act, and in addition to the penalty provided in this section, the lot of feeding stuffs shall be subject to seizure, condemnation and sale as the court may direct. The court may in its discretion release the feeding stuffs so seized when the requirements of the provisions of this act have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure. One-half of all fines, and the proceeds from condemned foodstuffs, collected by any court or judge for the violation of the provisions of this act shall be paid to the State Treasurer, and the State Treasurer shall deposit such money to the credit of the fund for the maintenance of the State laboratory, to be drawn against by warrants of the State Controller upon claims which shall be approved by the State Board of Health and the State Board of Control. No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party, residing in the United States, from whom he purchased such commercial feeding stuffs to the effect that the same are not adulterated, mislabeled or misbranded within the meaning of this act, and can also establish by satisfactory evidence that the commercial feeding stuffs sold, offered or exposed for sale or distributed in this State were mislabeled or did not conform to the analysis declared on the label or tag affixed thereto, and that at the time of selling, offering or exposing for sale or distributing in this State such commercial feeding stuffs the dealer was not aware of that fact; such guaranty may be either general or special. A general guaranty shall guarantee without condition or restriction all of the commercial feeding stuffs purchased, prepared, compounded, packed, distributed, or sold by the guarantor as not mislabeled or adulterated within the meaning of this act. A special guaranty shall guarantee in the same manner the particular commercial feeding stuffs listed in an invoice of the same and shall be attached to or shall fully identify such invoice. Both said guarantees to afford protection must contain the name and address of the party or parties making the sales of such commercial feeding stuffs to said dealer. If the guaranty be to the effect that such commercial feeding stuffs are not adulterated, mislabeled or misbranded within the meaning of the national pure food act, approved June 30, 1906, it shall be sufficient for the purposes of this act and have the same force and effect as though it referred to this act, except that a guaranty referring to the said national pure food act alone shall not be sufficient for the purposes of this act in any case where at any time the standard for the commercial feeding stuffs concerned under this act is higher than the standard for like commercial feeding stuffs under said national pure food act. In case the wholesaler, jobber, manufacturer or other party making such guaranty to said dealer resides without this State and it appears from the certificate of the Director of the State Laboratory that such commercial feeding stuffs were adulterated, mislabeled or misbranded within the meaning of this act or the national pure food act approved June 30, 1906, the District Attorney must forthwith notify the Attorney-General of the United States of such violation. (Id. § 8.)

290. Enforcement.—The State Board of Health is hereby empowered to enforce the provisions of this act and to prescribe the form of tags, or labels to be used, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this act. (Id. § 9.)

Fish—Fish Products.

291. Unlawful to Can, Etc., Fish Without License.—Any person in this State, who engages in the business of canning, curing, preserving or packing fish, which are taken in the waters of this State or are brought into this State in a fresh condition; or of manufacturing fish scrap, fish meal, fish oil, chicken feed or fertilizer from fish or fish offal; or of dealing in mollusks or crustaceans by wholesale, without first procuring a license for each plant or place of business, is guilty of a misdemeanor. (G. L. 1923, Act 2888, § 1.)

292. Licenses Prepared by Controller.—The Controller of State shall prepare suitable licenses, of the classes designated by the Fish and Game Commissioners, which shall license the holder of such license to can, cure, preserve or pack fish, to manufacture fish meal, fish oil and other products from fish, and to deal in mollusks and crustaceans by wholesale in this State (subject to the restrictions provided by law), as provided in section 1 of this act, for the term of one year from the first day of July of one year to the thirtieth day of June of the year following. All licenses shall be numbered consecutively, beginning with number one and contain blanks for the insertion [insertion] of the name of the holder, his residence, and place of business, which information shall be furnished by the applicant to the Board of Fish and Game Commissioners. The Controller shall sign all licenses and deliver the same to the Fish and Game Commissioners, on demand, who shall be charged for the same by the Controller. Each license, before delivery to the applicant for a license, must be countersigned by the president of the Board of Fish and Game Commissioners and the president of the Board of Fish and Game Commissioners shall execute a bond to the people of the State of California in the sum of two thousand dollars for the faithful performance of the duties imposed upon him by this act. (Id. § 2.)

293. Issued to Whom.—Licenses shall be issued and delivered upon application to the State Board of Fish and Game Commissioners or their deputies. The licenses herein provided for shall be issued as follows: To any citizen of the United States and to any person who has duly made his declaration of intention to become a citizen of the United States as provided by law, upon the payment of five dollars; to any person not a citizen of the United States, upon the payment of twenty dollars. In case a license is lost or destroyed, a duplicate may be issued to any licensee by the Fish and Game Commission, upon an affidavit by him that the one issued has been lost or destroyed. Every person having a license as provided herein, who refuses to exhibit such license upon demand of any officer authorized to enforce the fish and game laws of this State, or any peace officer of this State, or who transfers or disposes of the same to another person to be used as a license, shall forfeit this license. (Id. § 3.)

294. Payment of Fees.—The said license fees must be paid to the Fish and Game Commissioners or to some one designated by them for that purpose. (Id. § 4.)

295. Record of Fish Purchased; Monthly Statement to Fish and Game Commission.—Every person operating under a license as provided in section 1 of this act, and every person dealing in fresh fish shall keep a book or books in which shall be entered a full and correct record, in the English language, of all fresh fish purchased or received by them from fishermen or taken by themselves, giving the names of the different species, and the number of pounds so received or caught of each different species, and the name and address of the person or persons from whom such fish were received. Said book or books are to be open at all times for the inspection of members of the Fish and Game Commission or persons duly authorized by them. They shall also render to the Fish and Game Commission, on or before the tenth day of each month on blanks to be furnished by the said Fish and Game Commission, a true and correct statement showing the amount of each species of fresh fish, stated separately, so purchased, received or caught during the previous month, together with the name and address of the person or persons from whom such fish were received or purchased. Said monthly statements are to be accompanied by an affidavit to the effect that the said report is a true and correct statement of all the fish received from fishermen or caught by themselves during the time covered by the report. (Id. § 5.)

296. Receipts to Fishermen.—Every person operating under a license as provided in section 1 of this act, and every person dealing in fish who receives fish from fishermen shall issue receipts to the fishermen from whom fish are received and shall give in such receipt the date of issuance, the name of the fisherman or fishermen to whom issued, the weight in pounds of each variety of fish received, the price per pound paid to the fishermen, and the signature of the dealer who issued the receipt. A duplicate manifold copy of this receipt shall be kept on file by the dealer issuing the same, for a period of six months and the said duplicate copy shall be available for inspection at any time within six months, upon demand of the Fish and Game Commissioner, or any duly authorized assistant thereof. (Id. § 6.)

297. Privilege Tax; Quarterly Report of Fresh Fish Purchased; Affidavit; Forfeiture of License.—Every person operating under a license, as provided in section 1 of this act, shall, in addition to the license fee, pay a privilege tax of two and one-half cents for each one hundred pounds, or fraction thereof, of fish purchased or received by them, or fish caught or taken by themselves, with their own equipment; provided, that any fish, excepting mollusks and crustaceans, so taken or

received which are [is] utilized for human consumption in its fresh state, shall not be subject to such tax; and provided, further, that herring and buck shad shall also be exempt from the tax provided herein; and such person shall, in addition to making a monthly report as provided in section 5 of this act, make a quarterly report to the Fish and Game Commission, showing the total amount of fresh fish, in pounds, purchased, caught or received by them (for purposes other than human consumption in its fresh state), and of mollusks and crustaceans purchased or received by them from fishermen, or caught by themselves, whether they be used fresh or otherwise, during the three months next preceding March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Blanks for this report shall be furnished by the Fish and Game Commission, and such report shall be rendered to the Fish and Game Commission, not later than the fifteenth day of the month following the months of March, June, September and December of each year. Said reports shall be accompanied by an affidavit by the person or firm purchasing, taking, catching or receiving such fish, to the effect that said report is a true and correct record of all fish caught or received by them (for purposes other than human consumption in its fresh state); and of all mollusks and crustaceans purchased or received from fishermen, or caught by themselves, during the quarterly period covered by the report. Upon the failure of any person operating under a license, as provided in section 1 of this act, to pay the privilege tax provided herein, said person shall forfeit his license for a period of one year. Said privilege tax shall be paid to the Fish and Game Commission, or some one authorized by them, within thirty days after the close of each quarterly period. (Id. § 7.)

298. Moneys Used for Conservation Work.—All moneys collected from the sale of licenses and from the privilege tax on fish, as herein provided, shall be paid to the fish and game commissioners, or some one designated by them for that purpose and all money so collected shall be paid by the fish and game commissioners into the State treasury, to the credit of the fish and game preservation fund, and shall be expended on conservation work for the benefit of the commercial fishing industries within the districts from which the revenues are derived. (Id. § 8.)

299. Penalty for Violation.—The violation of any of the provisions of this act is hereby declared a misdemeanor, and every person violating any of its provisions, shall, upon conviction thereof, be fined in a sum not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for a term of not less than twenty-five nor more than one hundred fifty days, or by both such fine and imprisonment; and all fines collected for any violation of any of the provisions of this section shall be paid into the State treasury, to the credit of the fish and game preservation fund. (Id. § 9.)

300. Jurisdiction Over Fish Industries.—The fish and game commission is hereby vested with jurisdiction to regulate and control fishing boats, barges, lighters or tenders, receptacles or vehicles containing fish, commercial fishermen, fish canners, packers or preservers, fish reduction plants, plants where any fishery products are manufactured, dealers in fish, mollusks or crustaceans or other fishery products, in so far as it may be necessary to insure the taking, catching and delivery of the fish or other fishery products in a wholesome and sanitary condition to canning, packing, preserving, or reduction plants, or any plant where fishery products are manufactured, or to any fresh fish dealer, and to prevent deterioration and waste of any products or of any fishery products. Any fish and game commissioner or assistant or employee of the fish and game commission shall have the authority to enter any canning, packing, preserving or reduction plant, or place of business where fish or other fishery products are packed, preserved, manufactured, bought or sold, or to board any fishing boat, barge, lighter, tender, or vehicle or receptacle containing fish, for the purpose of carrying out the provisions of this act, and any person denying such right of entry shall be guilty of a misdemeanor. (Supp. 1925, G. L., Act 2895, § 1.)

301. Establishment of Grades.—The fish and game commission may establish grades for different varieties of fish or other fishery products, which said grades must be reached and conformed to by the commercial fishermen who deliver fish or other fishery products to canners, packers or preservers of fish or to fresh fish dealers, or to a reduction plant, and every canner, packer, or preserver of fish or fish dealer or owner of reduction plant, or manufacturer of fish products, must conform to such grade. (Id. § 2.)

302. Regulations.—The fish and game commission is hereby vested with full power, authority and jurisdiction to make and enforce such regulations as may be necessary or convenient for carrying out any power, authority or jurisdiction conferred under this act. (Id. § 3.)

303. "Reduction Plant"; "Packer"; "Wet Weight"; Hearings; Witness Fees.

—(a) Reduction plant, where used in this act, applies to any plant engaged in the reduction of fish into products which are not intended to be used, and are not, in fact, used for human consumption. Any plant where fish are put through a reduction or extraction process shall be deemed to be a reduction plant, and shall be subject to all provisions and limitations of this act, unless a permit shall have been obtained as in this act provided.

(b) Packer, where used in this act, means any person, firm, association or corporation using fish by canning, or preserving by the common method of drying, salting or smoking.

(c) Wet weight, where used in this act, means the weight of the round, whole fish, uncleaned.

(d) Wherever, in this act, hearings are required to be held by the fish and game commission, the following notice and method shall be used: Notice of time and place shall be served on the party interested at least five days before the date of hearing. At such time and place designated in said notice testimony under oath shall be taken by any member of the board of fish and game commissioners or by any assistant or employee, designated by them, who shall have the power to administer oaths, take affidavits and issue subpoenas for the attendance of witnesses. The testimony shall be taken down in shorthand and transcribed and shall contain all ruling and offers of evidence whether or not the same are permitted.

Each witness at the hearing shall be allowed for his appearance the same fees and mileage allowed by law to a witness in a civil case and the amount shall be paid, together with the cost of advertising by the party making application for a permit. (Id. § 4.)

304. Disposal of Waste; Use of Sardines in Reduction Plant.

—No person, firm or corporation shall suffer or cause any preventable deterioration or waste of any fish caught or taken in the waters of this State, or brought into this State, and no person shall use any fish except fish offal in a reduction plant, except of the species in the manner and to the amount allowed by the provisions of this act.

(a) It shall be lawful for a packer of sardines, actually engaged in packing sardines, to take and use in a reduction plant in each calendar month, sardines to the amount of twenty-five per cent of the monthly capacity of the packing plant; such capacity shall be determined by the fish and game commission after a hearing is held, as in this act provided. In determining such capacity, the fish and game commission must take into consideration and base its findings upon the following facts, namely:

The number of can closing machines for one pound oval cans of sardines actually installed in said plant and ready for and intended to be used therein during the season immediately following the making of the application hereinafter mentioned; provided, that the other equipment of said plant necessary for canning to the capacity of said closing machines is likewise installed and ready for operation. For each closing machine so installed the fish and game commission shall make a monthly allowance of sardines to be used in the reduction plant of one hundred and fifty tons for each calendar month.

Prior to each seasonal run of sardines, packers shall make written applications to the fish and game commission to hold a hearing and determine such capacity.

In order to regulate plants other than packing plants and reduction plants, where by a reduction or extraction process, the fish or the oil therefrom is manufactured into products which are fit for human consumption, the fish and game commission shall have the powers hereby granted to make a determination as to whether the products of such plants are intended to be used for human consumption. It shall be unlawful for any person, firm, association or corporation, except packers as above specified, by a reduction or extraction process to use sardines without obtaining a permit from the fish and game commission.

In order to obtain such permit, written application must be filed with said fish and game commission, setting forth the quantity of fish to be used, the location of the plant, processes used and the nature of products to be manufactured out of the sardines to be received.

Thereupon the fish and game commission shall hold a hearing and the applicant shall furnish proof that the product to be manufactured out of such fish is fit for human consumption, is intended so to be used, and will, in fact, be used for human consumption and that either fifty per cent of the wet weight of such fish or all of the oil extracted from such fish will be used in the manufacture of such product within the State of California. If the commission is satisfied that the product so to be manufactured is fit for human consumption, and will, in fact, be used entirely for human consumption and that either fifty per cent of the wet weight

of the fish will be used in the manufacture of such product or that all of the oil to be extracted from such fish will be so used, and within the State of California, then the commission shall issue a permit authorizing applicant to use in its said plant the quantity of fish requested in said application for the purposes therein specified. If at any time it shall appear to the commission that neither fifty per cent of the wet weight of the fish received at said plant under such permit nor all of the oil extracted from such fish is being used to manufacture within the State of California a product fit for human consumption or that all of the product manufactured at said plant from such fish under said permit is not being used entirely for human consumption then the commission shall issue an order requiring the permittee to show cause before the commission at a time and place to be fixed by said commission why said permit should not be revoked. The time of the hearing shall be not less than five days after the service of said order to show cause. At such hearing, the commission shall take the testimony and if the commission finds that any of the terms of the permit have been violated, it may revoke said permit or suspend the same for such period of time as to it may seem proper.

Within thirty days after the rendition of an order by the fish and game commission refusing or revoking a permit, any party affected may apply to the Supreme Court of this State or to the District Court of Appeal of the appellate district in which such person resides for a writ of certiorari or review, hereinafter referred to as a writ of review, for the purpose of having the lawfulness of the order inquired into and determined.

Such writ shall be made returnable not later than thirty days after the date of the issuance thereof and shall direct the commission to certify its record in the case to the court. On the return day, the cause shall be heard in the court unless for good cause the same may be continued. No new or additional evidence may be introduced in such court, but the cause shall be heard on the record of the commission as certified to by it.

The review shall not be extended further than to determine whether:

1. The commission acted without or in excess of its powers.
2. The order was procured by fraud.
3. The order was unreasonable.

4. Whether the findings of fact support the order under review. The findings and actions of the commission on questions of fact shall be conclusive and final and shall not be subject to review. The commission and each party to the action of proceeding before the commission shall have the right to appear in the review proceeding. Upon the hearing, the court shall enter judgment, either affirming or setting aside the order, or may remand the case for further proceedings before the commission.

The provisions of the Code of Civil Procedure in this State relating to writs of review shall, so far as applicable and not in conflict with this act, apply to the proceedings of the courts under this section. No court of this State, except the Supreme Court and District Court of Appeal, to the extent herein specified, shall have jurisdiction to review, reverse, correct or annul any order or decision of the commission or to suspend or delay the operation or execution thereof, or to restrain, enjoin, or interfere with the commission in the performance of its duties; provided, that a writ of mandamus shall lie from the Supreme Court or the District Court of Appeal in all proper cases.

The filing of the application for, or the pendency of the writ of review shall not of itself stay or suspend the operation of the order of the commission subject to review, but the court before which application is filed, may, in its discretion, stay or suspend, in whole or in part, the operation of the order of the commission subject to review upon such terms and conditions as it may by order direct. (Id. § 5.)

305. Nuisance and its Abatement.—The use of any fish or any part thereof contrary to the provisions of this act is hereby declared to be a nuisance. Whenever the existence of such nuisance is shown to the satisfaction of the court or judge thereof by the complaint filed in the name of the people of the State of California, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of such nuisance. If the existence of a nuisance be established in an action as provided herein an order of abatement shall be entered as part of the judgment in the case, which order shall direct the closing of the building or place where such nuisance was maintained for a period of three months, and during such time, said building or place shall be and remain in the custody of the court. (Id. § 6.)

306. Chutes, Tanks, etc., to be Open to Inspection.—All chutes or conveyors used for the purpose of conveying fish or fish offal to any tank, bin or receptacle, and all such tanks, bins or receptacles containing fish or fish offal to be

used for reduction purposes must be so constructed and maintained that at all times the fish or fish offal thereon or therein is open to view and inspection. Any violation of this section is hereby declared to be a misdemeanor. (Id. § 7.)

307. Title.—This act shall be known as the "State fish exchange act." (G. L. 1923, Act 8034, § 1.)

308. Purpose.—It is hereby declared that it is the purpose of this act to bring about an increased consumption of fresh fish by the people of California, to enable them to obtain the same at reasonable prices, and to empower the State Market Director* to regulate and control the business of buying and selling fresh fish, to regulate the destruction of food fish, to create a State Fish Exchange, to license those engaged in marketing fresh fish, to create a State Fish Exchange fund, to provide penalties for violations of this act, to investigate and report on the fish industry, and to promote the sale of fish. (Id. § 2.)

309. Terms Construed.—The following terms used in this act shall, unless a different meaning is plainly required by the context, be construed as follows: The "State Market Director" shall be understood to be himself personally or his duly appointed and authorized representative.

A "person" shall be deemed to include individuals, partnerships, associations and corporations or their agents or employees. A "retail dealer," "peddler," or "huckster," is one engaged in the business of selling fresh food fish direct to the consumer. A "wholesale dealer" is one who sells fresh food fish to hotels, restaurants, railroads, steamships, hospitals, institutions and all others than the consumer, and especially to retail dealers for resale. A "fish buyer" or "fish broker" is one engaged in the business of buying or selling fresh food fish for the owner or consignee, or who, without an established place of business, buys from the fishermen for the purpose of reselling to others than the consumer. "Market fishermen" are individuals engaged in the business of catching fish under licenses issued by the State Fish and Game Commission authorizing them to do so. When the singular is used, the plural is also included; whenever the masculine is used, the feminine and neuter are included. (Id. § 3.)

310. Title to Fish in State.—It is hereby declared that the ownership and title to all fish found in the waters under the jurisdiction of the State are in the State of California; no such fish shall be caught, taken or killed in any manner or at any time except that the person so catching, taking or killing or having the same in his possession, irrespective of the manner in which they were obtained, shall by such act or possession thereby consent that the title to such fish shall be and remain in the State of California for the purpose of regulating and controlling the use and disposition of same after such catching, taking or killing except that the title to such fish legally taken shall vest in the person so taking or possessing them, subject to the restrictions and provisions of law. All fish found in the possession of a person within the State of California shall be presumed to have been taken under the jurisdiction of the State. (Id. § 4.)

311. Fish Business Regulated by State Market Director; State Markets; Additional Powers of State Market Director.—(a) The State Market Director is hereby vested with jurisdiction to regulate and control the business of buying and selling and otherwise disposing of fresh food fish caught in the waters under the jurisdiction of the State, and the business of buying, selling and disposing of such fresh food fish may not be carried on except in accordance with the provisions of this act.

(b) The State Market Director is hereby vested with jurisdiction to open and conduct where, when, and for so long as he deems it advisable, State markets for the buying and selling of fresh food fish, and to rent, lease or purchase plants and equipment necessary for the same, and to use so much of the funds placed at the disposal of the State Market Director by the act creating the State Commission Market, approved June 10, 1915, or in the event of the repeal of said act, by the State Market Commission act, as may be required in establishing and conducting said markets.

(c) The State Market Director is hereby vested with full power, authority and jurisdiction to do and perform any and all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred under this act. (Id. § 5.)

312. Maximum Prices; Changes in Prices; Unlawful to Charge More Than Lawful Price; Advice on Maximum Prices.—(a) The State Market Director

*The powers and duties of the State Market Director have been transferred to the Department of Agriculture. See § 361b, Political Code, 1923. This act is to be corrected accordingly.

shall, when and where and for so long as he deems it advisable, establish maximum prices to be paid or charged in any particular locality, for food fish of any or all varieties intended for human consumption in its fresh condition, caught in the waters under the jurisdiction of the State:

First—To be paid to those engaged in catching such fish for sale.

Second—To be paid to those engaged in the wholesale fish business.

Third—To be charged to the consumer by retail fish dealers, peddlers or hucksters; and said prices shall be such as will allow, in the judgment of the State Market Director, a reasonable compensation or profit to those engaged in the catching or selling of such fish.

(b) The State Market Director may, at his discretion, from time to time make such changes or withdrawals in the prices authorized in section (a) hereof as he may deem necessary.

(c) It shall be unlawful for any person engaged in the business of selling fresh food fish in a particular locality to charge more than the maximum prices authorized for such locality, as provided in section 6(a) hereof. Any violation of the provisions of this paragraph, after receipt of notice of maximum prices established in accordance with the provisions of section 6(a) of this act, shall be good and sufficient ground for the suspension or revocation by the State Market Director, in his discretion, of any license issued under the authority of this act.

(d) In the exercise of powers under this act, the State Market Director may confer with parties interested with a view of securing their advice and counsel as to maximum prices to be paid and charged. (Id. § 6.)

313. Consent to Destruction or Diversion of Fish; Fish Excepted.—It shall be unlawful for anyone to destroy or cause or permit to be destroy[ed] any food fish in excess of fifty pounds within one day of twenty-four hours or to divert or cause or permit to be diverted any food fish to any use other than human consumption without having first obtained the written consent of the State Market Director to such destruction or diversion. Consent to such destruction or diversion shall be given only where the applicant establishes to the satisfaction of the State Market Director that such destruction or diversion is not for the purpose of influencing prices and that reasonable efforts have been made to induce its consumption by the public. Nothing in this section shall be construed to apply: First, to the use of food fish by fishermen as bait in the customary manner; and, second, to any individual market fisherman who is unable to sell for human consumption fish he has caught and who within forty-eight hours after the destruction or diversion of said fish shall report to the State Market Director the number of pounds and varieties of fish and how disposed of. The deposit in the United States mail of a written statement of said facts, properly addressed to the State Market Director and stamped, shall be accepted as a sufficient report; third, to food fish in the possession of canners, curers or packers and which are not suitable for their use and which in consequence are destroyed or diverted to use other than human consumption; provided, that within forty-eight hours after the destruction or diversion of any such fish the person responsible therefor shall report to the State Market Director the number of pounds and varieties of fish, reason for destruction or diversion and how disposed of. The deposit in the United States mail of a written statement of said facts, properly addressed to the State Market Director, shall be accepted as a sufficient report. (Id. § 7.)

314. When Excessive Supply of Fish Reaches Market.—In the event of a supply of fresh food fish reaching any market, which supply, in the judgment of the State Market Director, is excessive or abnormal: (a) It shall be the duty of the State Market Director, in his discretion, to use every means at his command to induce its consumption by the public, including reduction in prices thereon and increased publicity, as hereinafter provided for; (b) It shall be obligatory on the part of market fishermen and wholesale fish dealers, who find themselves possessed of an excessive supply, to notify the State Market Director of the fact, and failure to give such notice shall be sufficient ground for the suspension for a period not exceeding one month, in the discretion of the State Market Director, of any license issued under the authority of this act; (c) The State Market Director may, at his option, use the moneys of the State Fish Exchange Fund hereinafter provided for in purchasing any part or all of an excess of food fish over the amount that can be sold through ordinary channels, and to place same in cold storage and to resell same to any or all buyers and any loss or profit in such transaction shall be charged or credited to the State Fish Exchange Fund. (Id. § 8.)

315. License Fees; Wholesale Fish Dealers; Payable in Advance; if Sales Greater or Less Than Amount on Which Fee Based.—Every person, individual, partnership, association or corporation, other than market fisherman, engaged in

the business of buying and selling fish for consumption in its fresh condition, shall pay to the State a semiannual license fee, as follows:

First—All retail dealers, dealing exclusively in fish, crustaceans and mollusks, ten dollars.

Second—All retail dealers, handling fish in connection with a retail business, owned by them, in other products than crustaceans and mollusks, and all peddlers and hucksters, five dollars.

Third—All fish brokers and all fish buyers, fifty dollars.

Fourth—All fishermen's organizations selling the catch of their members or agents selling the catch of such fishermen's organization, fifty dollars.

Fifth—All salesmen or agents representing wholesale fish dealers located outside the State, fifty dollars.

Sixth—All wholesale fish dealers, on the basis of their gross receipts from the sale of fresh food fish, including their sales at branch houses, as follows:

When gross receipts for six months are:

Not in excess of twenty-five thousand dollars, fifty dollars.

Between twenty-five thousand dollars and fifty thousand dollars, seventy-five dollars.

Between fifty thousand dollars and one hundred thousand dollars, one hundred dollars.

Between one hundred thousand dollars and two hundred thousand dollars, one hundred fifty dollars.

Between two hundred thousand dollars and three hundred thousand dollars, two hundred dollars.

More than three hundred thousand dollars, two hundred fifty dollars.

Seventh—All branch houses of wholesale dealers—that is, wholesale dealers operating more than one wholesale establishment—for each branch house, five dollars.

Fees payable by wholesale dealers under paragraph six of this section as above, shall be due and payable in advance, and shall be based on the applicant's sworn statement as to his gross receipts from the sale of food fish sold for human consumption in its fresh condition, using the corresponding period of the preceding year as a basis. If the applicant did no wholesale business during said corresponding period, a license shall be issued upon payment of a fee of fifty dollars and the execution of a good and satisfactory bond by the applicant to the State Market Director, guaranteeing the payment of such additional amount as will make the total payable on his actual business during such period equal to the license fee fixed in said paragraph six of this section.

If the amount of actual sales of any such dealer for any semi-annual period for which he has paid license fees in advance shall be greater or less than the amount on which such license fee was based, he shall at the end of such period be charged with and shall pay to the State such additional amount as would be due on the basis of actual sales as set forth in paragraph six hereof, if the amount of actual sales be greater than the amount on which license fee was paid; or, if the actual sales be less than such amount for any such semi-annual period, he shall, at the end thereof, be credited with the difference between the license fee paid in advance and the fee that would have been due on the basis of actual sales as set forth in paragraph six hereof; but such credit shall be made only on further license fees that may be payable by any such dealer. (Id. § 9.)

316. When Payable; for Portion of Period; License for Each Place of Business.—All licenses provided for in this act shall be paid in advance and shall terminate with December thirty-first and June thirtieth, whichever date may first follow the date of issue. A proportionate charge shall be made, according to the number of months covered, for licenses issued for a portion of the semi-annual period, but in no case shall the fee be less than one-half of the semi-annual fee, excepting those issued to wholesale dealers as hereinabove provided in section 9 of this act. A separate license shall be required for each place of business from persons owning or operating more than one establishment, except that the sale of fish from a vehicle by the holder of an exclusive retail fish dealer's license shall not require a peddler's license. Persons doing both a wholesale and retail business shall be required to take out both wholesale and retail licenses unless the total receipts of any such person amount to less than ten thousand dollars per annum, and any such person having total receipts of less than ten thousand dollars per annum shall be considered a retail dealer for licenses hereunder. (Id. § 10.)

317. Application.—All licenses provided for in this act shall be issued by the State Fish Exchange hereinafter provided for, upon written application accompanied by the proper fee, together with a certificate from the local health authorities,

or other satisfactory assurance to the effect that the State and local rules and regulations as to equipment and sanitary conditions have been complied with. (Id. § 11.)

318. Licenses Prepared by State Controller.—The State Controller shall prepare suitable license blanks of the form and class designated by the State Market Director, which shall purport to license the holder to deal in fish. They shall be numbered consecutively, commencing with one, and shall provide spaces in which to insert the name of the person to whom issued, his business address, and the period covered. The controller shall deliver all licenses to the State Market Director, who shall thereupon sign and issue them in accordance with the terms of this act. (Id. § 12.)

319. License Transferred or Assigned.—Any license may be transferred or assigned by the holder thereof upon payment of a transfer fee of five dollars; provided, notice shall be given in writing to the State Fish Exchange, hereinafter provided for, within ten days of such transfer or assignment. In such cases the original license shall be returned to the State Fish Exchange and canceled and a new license issued in lieu thereof for the unexpired portion of the original license, on payment of the fee named. If notice of transfer or assignment be not given, the license shall be invalid for any other person than the original licensee. (Id. § 13.)

320. Duplicate License.—In the event of a license issued under the authority of this act being lost or accidentally destroyed, a duplicate license may be issued by the State Fish Exchange, hereinafter provided for, upon payment of a fee of five dollars. (Id. § 14.)

321. Display of License.—Every license shall be conspicuously displayed in the place of business for which it is issued, or upon request must be shown by any licensee having no established place of business. (Id. § 15.)

322. "State Fish Exchange" Created.—To carry out the provisions of this act, there is hereby created a "State Fish Exchange" as a department of the State Commission Market, created by chapter seven hundred thirteen of the statutes of nineteen hundred fifteen, approved June 10, 1915, and of the State Market Commission created by the "State Market Commission Act."* The State Fish Exchange shall have a secretary who shall execute a bond to the people of the State of California in the sum of ten thousand dollars for faithful performance of his duties. The State Market Director shall have authority, subject to the State Civil Service act, to appoint all employees of the State Fish Exchange necessary to carry out the provisions of this act and shall fix their compensation. (Id. § 16.)

323. Rules and Regulations.—The State Market Director shall establish and enforce rules and regulations necessary for the proper carrying out of the provisions of this act, and shall print and distribute the same to all persons applying therefor without charge. (Id. § 17.)

324. "State Fish Exchange Fund."—There is hereby created a fund to be known as the "State Fish Exchange Fund." On or before the tenth day of each month, the State Fish Exchange shall remit to the State treasury all moneys collected by said exchange under this act, during the preceding month. All such remittances shall be placed to the credit of the State Fish Exchange fund and said fund shall be kept separate and apart from other State moneys. All expenses of whatsoever nature incurred by said exchange pursuant to the provisions of this act, including the actual and necessary traveling and other expenses of its employees incurred while on business of the exchange and including the premium and charge for bonds given by surety companies for employees of the exchange when required by the State Market Director or by the provisions hereof, shall be paid from the said fund, after approval by the State Market Director, upon claims to be audited by the State Board of Control, except as provided in section nineteen of this act. (Id. § 18.)

325. Revolving Fund.—A revolving fund of five hundred dollars shall be established by the State Board of Control out of the State Fish Exchange fund for expenses of the State Fish Exchange, other than salaries, rent and other regular expenses, and the State Market Director may expend such revolving fund without first procuring the authority of the board of control, but shall file vouchers therefor monthly with the Board of Control. (Id. § 19.)

326. Payments to State Market Commission Fund.—A sum equaling five per cent of the gross receipts of the State Fish Exchange shall be paid out of the State Fish Exchange fund, monthly to the credit of the State Commission Market

*The powers and duties of the State Market Commission have been transferred to the Department of Agriculture. See § 361b, Political Code, 1923. This act is to be corrected accordingly.

fund or in the event of the repeal of the act creating the State Market Commission fund, approved June 10, 1915, to the State Market Commission fund as a commission on the business of the State Fish Exchange, for services rendered it by the State Market Director. (Id. § 20.)

327. Educational and Publicity Campaigns.—Any surplus over and above the expenditures of the State Fish Exchange in the State Fish Exchange fund shall be expended by said exchange, under the direction of the State Market Director, in educational and publicity campaigns for the purposes of increasing the consumption of fresh food fish, and of enabling the public to obtain fish at reasonable prices. (Id. § 21.)

328. Fish Exempted.—Nothing in this act shall be construed as applying to fish bought or sold for canning, curing or packing; or as requiring the payment of license fees by canners, curers, or packers of fish; or to fish caught by other than market fishermen; or to fish sold direct by fishermen to private consumers; or to fish caught in waters within the State privately owned, or to crustaceans or mollusks except that provisions of section 7 as to destruction or diversion of food fish shall be of general application. (Id. § 22.)

329. License Suspended or Revoked.—Any license issued under the authority of this act may be suspended or revoked by the State Market Director in his discretion, as herein provided, or upon evidence that the holder thereof has been or is a violator of the provisions of section 6 of this act, authorizing the fixing of maximum prices on fish, or of the fish and game laws of the State, as evidenced by conviction in any court of competent jurisdiction; or any such license may be suspended in the discretion of the State Market Director for a period not to exceed thirty days for any violation of the rules and regulations provided for in section 17. Such suspension or revocation shall be made only after due notice of such intention has been given the offender and an opportunity given him to rebut the charge at a formal hearing by the State Market Director, at which hearing the accused shall be entitled to be represented by attorney. (Id. § 23.)

330. Statement of Fish Caught.—The State Market Director may require from any person engaged in marketing fish a written statement as to the amount and varieties of fish caught, or on hand, or sold by said person. Failure to furnish such statement on demand shall be good and sufficient grounds for the suspension of license issued under the provisions of this act, at the discretion of the State Market Director, for a period not exceeding thirty days. (Id. § 24.)

331. Seal.—The State Fish Exchange shall have a seal bearing the inscription "State Fish Exchange, State of California, seal," which seal shall be affixed to all instruments, including licenses, issued under the provisions of this act. (Id. § 25.)

332. Investigations; Subpoenas.—(a) The State Market Director may make investigations concerning all matters relating to the provisions of this act. In connection therewith he shall have the right to inspect the books and records of any person engaged in marketing fish, and the State Market Director is hereby empowered to hear complaints, administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the State.

(b) Subpoenas. The Superior Court in and for the county, or city and county, in which any inquiry, investigation or proceeding may be held by the State Market Director, shall have the power to compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts and documents, as required by any subpoenas issued by the State Market Director. The court upon petition of the State Market Director shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he had not attended and testified or produced said papers before the State Market Director. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the State Market Director, the court shall thereupon enter an order that said witness appear before the State Market Director at a time and place to be fixed in such order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. (Id. § 26.)

333. Penalty.—Any violation of the provisions of section 7 of this act as to destruction or diversion of food fish, of section 9 as to licenses required, or of section 10 as to license regulations, or of section 15 requiring licenses to be displayed or shown, shall be a misdemeanor punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment. (Id. § 27.)

NOTE.—See also Nos. 47-48; the cold storage law, No. 104 et seq.; and No. 244.

Fruits, Vegetables, Etc.

334. Standard Fruit Pack.—There is hereby created and established a standard for the packing of fresh fruits, for interstate and foreign shipment, of the kinds specified in this act. (G. L. 1923, Act 2803, § 1.)

335. Fresh Fruit, How Packed.—Any box, basket, package or container of fresh fruit of the kinds specified in this act, which shall be packed and offered for sale or for transportation for sale, shall be packed in accordance with the specifications herein made. (Id. § 2.)

336. Free From Insects.—All deciduous fruits of the kinds specified in this act when packed shall be practically free from insects and fungous diseases. (Id. § 3.)

337. In Bulk.—All fresh fruit of the kind specified in this act which shall be sold in bulk or loose in the box without packing, shall be exempt from the provisions of this act. (Id. § 4.)

338. Cherries.—All cherries packed in boxes or packages shall contain fruit of practically uniform quality and maturity and one variety only, excepting that such boxes or packages may contain more than one variety if such fact be plainly stamped on the outside of the box or package with the words "mixed varieties" with letters one-half inch high. Each box or package shall be stamped on the outside with the minimum weight of contents, and name of variety or varieties. (Id. § 5.)

339. Peaches, Apricots, Pears, Plums and Prunes.—Peaches, apricots, pears, plums and prunes, shall be of practically uniform size, quality and maturity. When packed in crates, packages or containers made up of two or more subcontainers having sloping sides, for the purpose of ventilation of the fruit therein, the fruit shall not vary in size more than 10 per cent. and no layer below the top layer shall contain a greater numerical count than the top layer. Each box, crate, package, container or subcontainer shall be stamped upon the outside with the minimum weight of its contents. Each box, crate, package or container, except subcontainers, shall bear in plain letters the name of the variety contained therein. When packed in a box, package or container having perpendicular sides and ends, each box shall contain approximately the same numerical count in each layer; provided, that when peaches are packed in boxes, packages or containers, having perpendicular sides the box, package or container shall also be marked upon the outside of the end thereof in plain figures with the approximate number of peaches in the box, which shall be within four peaches of the true count. (Id. § 6.)

340. Grapes.—Grapes packed for table use shall be of uniform quality and maturity and shall be well matured and show a sugar content of not less than 17 per cent. Balling's scale, except Emperor, which shall show not less than 16 per cent. Balling's scale. Each crate or other package and containers therein shall bear in plain figures the minimum weight of contents. Each crate or package except subcontainers shall be stamped in plain letters with the name of the variety. (Id. § 7.)

341. Berries.—Berries shall be packed in uniform packages of dry quart containing an interior capacity of sixty-seven and two-tenths cubic inches, or dry pint containing an interior capacity of thirty-three and six-tenths cubic inches and shall be reasonably uniform in size, quality and maturity throughout the package or container. (Id. § 8.)

342. Cantaloupes.—Cantaloupes shall be placed in standard crates twelve by twelve by twenty-three and one-half inches, containing forty-five cantaloupes of uniform size and maturity. Pony crates eleven by eleven by twenty-three and one-half inches containing forty-five cantaloupes of uniform size and maturity. Jumbo crates four and one-half by thirteen and one-half by twenty-three and one-half inches containing twelve cantaloupes of uniform size and maturity or containing fifteen cantaloupes of uniform size and maturity. (Id. § 9.)

343. Name of Orchard.—All boxes, crates, packages or containers of deciduous fruits of the kinds specified in this act, except subcontainers, when packed and offered for sale, or for transportation for sale, shall bear upon them in plain sight and plain letters on the outside the name of the orchard, if any, and the name and postoffice address of the person, firm, company, corporation or organization, who shall have first packed or authorized the packing of the same, also the name of the locality where the fruit is grown. (Id. § 10.)

344. Duty of County Horticultural Commissioners.—In counties having a county horticultural commissioner it shall be his duty (and the duty of his deputies acting as inspectors), which office is hereby created, to enforce the provisions of this act. Additional inspectors shall be appointed by the county horticultural commissioner, upon petition of like nature and at the same pay as provided in section 12 of this act; provided, that any county having and enforcing a standard higher than

the standard in this act shall be exempt from the provisions of this act upon declaration to such effect by the State Horticultural Commissioner. (Id. § 11.)*

345. Appointment of Inspectors.—In a city and county or in counties having no county horticultural commissioner, or deputy, it shall be the duty of the county board of supervisors, upon petition filed with them to appoint inspectors. Said petition shall be signed by at least twenty-five bona fide fruit growers residing in that county, or city and county. The inspectors shall receive for their services the sum of three and one-half dollars per day to be paid monthly upon warrants drawn upon the county treasurer. Upon the petition of twenty-five resident freeholders who are fruit-growers or shippers of fruit, the county horticultural commissioner, or board of supervisors, where there is no county horticultural commission, shall immediately remove said inspector for neglect of duty, malfeasance in office, or general unfitness for office. In case of such removal the office shall immediately be filled. (Id. § 12.)

346. Penalty.—Any person, firm, company, corporation or organization, who shall knowingly pack, or cause to be packed, fruit of the kinds specified herein, in boxes, crates, packages, containers or subcontainers, to be offered for sale or for transportation for sale, in willful violation of this act, shall be guilty of a misdemeanor. (Id. § 13.)

347. Standard for Packing Fresh Fruits.—To promote the development of the California fresh fruit industry and to prevent deception in packing for State or interstate shipment, there is hereby created and established a "standard" for the packing of fresh fruits of the kinds specified in this act. (G. L. 1923, Act 2804, § 1.)

348. Application.—Unless specifically excepted in this act, all of its provisions shall be applicable to all fresh fruits specified herein when packed, shipped, delivered for shipment, offered for sale or sold in any container or subcontainer. (Id. § 2.)

349. Free From Diseases.—All fresh fruits of the kinds specified in this act when packed shall be practically free from insects and fungous diseases. (Id. § 3.)

350. Fruits Exempt.—All fresh fruits of the kind specified in this act, except citrus fruits, which shall be sold in bulk or loose in the box or in any other manner, excepting in standardized packs as provided in this act (excepting grapes, which must conform to the sugar standards provided in section 8a hereof), shall be exempt from the provisions of this act. (Id. § 4.)

351. Words Defined.—When used in this act the words herein mentioned shall be defined as follows: "Pack, packing or packed," shall mean the regular compact arrangement of all or part of the fruit in any container or subcontainer used for the purpose of sale or transportation for sale. The words "in bulk or loose in the box without packing" shall mean the indiscriminate placing without any thought of regular arrangement of any of the kinds of fresh fruit mentioned in this act into a box, wagon or other receptacle used for the purpose of sale or transportation for sale. The words "fresh fruit" shall mean the fresh product of **any tree, vine or plant mentioned in this act.** The word "maturity" shall mean a degree of ripeness fit for shipment. The word "county" includes a consolidated "city and county." The word "container" shall mean any box, crate or other package used to hold or contain packed fresh fruit. The word "subcontainer" shall mean any basket or other receptacle used within a container of packed fresh fruit. (Id. § 5.)

352. Cherries.—All cherries packed in containers or subcontainers shall contain cherries well colored, of practically uniform size, quality and maturity and one variety only, excepting that such containers may contain more than one variety if such fact be plainly stamped on the outside thereof with the words "mixed varieties" with letters not less than one-half inch high. Each container or subcontainer shall be stamped on the outside with the minimum weight of contents and the container shall have the name of variety or varieties stamped thereon. (Id. § 6.)

353. Peaches, Apricots, Pears, etc.—Peaches, apricots, pears, quinces, tomatoes, plums and prunes when packed shall be of practically uniform size, quality and maturity. When packed in containers made up of two or more subcontainers having sloping sides, for the purpose of ventilation of the fresh fruit therein, the contents shall not vary in size more than 10 per cent. in each layer, and not more than 20

*The powers and duties of the State Commissioner of Horticulture, State Board of Horticultural Examiners, Board of Citrus Fruit Shipments, and of the several officers, deputies and employees of such bodies and offices, have been transferred to the Department of Agriculture. See Pol. Code 1923, § 361b. The acts hereunder are to be corrected accordingly.

per cent. in the whole subcontainer, and no layer below the top shall contain a greater numerical count than the top layer. Each container or subcontainer shall be stamped upon the outside with the minimum weight of its contents. Each container shall bear in plain letters the name of the variety contained therein. When packed in a container having perpendicular sides and ends, each shall contain approximately the same numerical count in each layer; provided, that when peaches are packed in containers having perpendicular sides the container shall also be marked upon the outside of the end thereof in plain figures with the approximate number of peaches in the box, which shall be within four peaches of the true count.

When the fresh fruits mentioned in this section are packed in containers known to the trade as "lug" boxes, the provisions of this section appertaining to variety, numerical count and marking shall not apply. (Id. § 7.)

(NOTE.—According to the General Laws of California, 1923, there is no section number 8.)

354. Table Grapes.—Table grapes, when packed, shall be of practically uniform quality and shall be well matured and show a sugar content of not less than seventeen per cent Balling scale, except Emperor, Gros Coleman and Cornichon, which shall show not less than sixteen per cent Balling scale. Each crate or package except subcontainers shall be stamped in plain letters with the name of the variety of grapes therein. Each container or subcontainer shall be stamped in plain figures and letters upon one end with a minimum net weight and no container or subcontainer shall contain less than the minimum stamped thereon. Irregular containers, in addition thereto, shall be plainly marked "irregular" and have the actual gross weight stamped thereon. (Id. § 8a.)

355. Standard Containers for Table Grapes; "Irregular Containers."—The standard containers for table grapes when packed shall be: 1. Standard crate which, after packing, when measured at the end, shall not exceed five inches between the top and bottom and when measured in the center shall not exceed five and three-fourths inches between the top and bottom and containing a minimum net weight of not less than twenty-four pounds; 2. Double crates containing a minimum net weight of not less than forty-eight pounds; 3. One-half crates containing a minimum net weight of not less than twelve pounds; 4. Thirty pound lugs containing a minimum net weight of not less than twenty pounds; 5. Forty pound lugs containing a minimum net weight of not less than thirty-two pounds; 6. Fifty pound lugs containing a minimum net weight of not less than forty-two pounds; 7. Williams lugs containing a minimum net weight of not less than twenty-four pounds; 8. Kegs or drums packed with sawdust or other preserving material containing a minimum net weight of not less than twenty-nine pounds and a maximum net weight of not more than thirty-five pounds; 9. All other containers of table grapes shall be "irregular" containers. (Id. § 8b.)

356. Standard Container for Berries.—The standard container for berries shall be: Dry quart containing an interior capacity of sixty-seven and two-tenths cubic inches, or dry pint containing an interior capacity of thirty-three and six-tenths cubic inches, or dry one-half pint containing an interior capacity of sixteen and eight-tenths cubic inches, or baskets four and one-half by four and one-half by two and one-fourth in depth, or baskets four and one-half by four and one-half by two in depth, or baskets four and one-half by four and one-half by one and three-eighths in depth; all measurements are in inches or fractions thereof. All other sizes shall be marked "irregular." When packed, the berries in any container or subcontainer shall be practically uniform throughout the container or subcontainer in quality, color and maturity. Irregular containers shall be marked "irregular." (Id. § 9.)

357. Cantaloupes.—Cantaloupes packed in containers as follows shall be known as standard packed: Standard crates twelve by twelve by twenty-two and one-half inches containing forty-five or thirty-six cantaloupes; Pony crates eleven by eleven by twenty-two and one-half inches containing forty-five or fifty-four cantaloupes; Jumbo crates thirteen by thirteen by twenty-two and one-half inches containing thirty-six or forty-five cantaloupes; Standard flats four by twelve by twenty-two and one-half inches containing twelve or fifteen cantaloupes; Jumbo flats four and one-half by thirteen and one-half by twenty-two and one-half inches containing twelve or fifteen cantaloupes. All measurements herein to be inside measurements without distention. All other sizes of containers when packed shall be marked "irregular." All standard packs shall be marked "standard." All containers when packed shall have the number of cantaloupes contained therein stamped in plain figures on the label end of the crates with figures not less than one-half inch high. All cantaloupes when packed shall be fully netted of uniform size, firm and mature, free

from bruises and practically free from aphid honey dew and other defects. (Id. § 10.)

(NOTE.—According to the General Laws of California, 1923, there is no section number 11.)

358. Sale of Immature or Frozen Citrus Fruits.—It shall be unlawful for anyone to sell, offer for sale, ship or deliver for shipment any citrus fruits which are immature or frozen to the extent of injuring the reputation of the citrus industry of the State of California if shipped, and for anyone to receive any such citrus fruits under a contract of sale, or for the purpose of sale, or for shipment, or for delivery for shipment; provided, however, that nothing in this section contained shall be construed to prevent the sale or shipment for sale of frozen or otherwise defective fruit to a by-products factory or the manufacture thereof into citrus by-products; nor shall this section apply to the sale or contract for sale of citrus fruits on the trees nor shall it apply to common carriers or their agents who are not interested in such fruits and are merely receiving the same for transportation. (Id. § 11a.)

359. Matured Oranges.—An orange shall be deemed properly matured for sale or to be offered for sale, for shipment or to be offered for shipment, under the provisions of this act, either when the juice contains soluble solids equal to, or in excess of, eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization, or when the orange is substantially colored on the tree. The foregoing provisions shall not apply to shipments of oranges to foreign countries other than the Dominion of Canada, during any season, provided such shipments are made after the first day of November. (Id. § 11b.)

360. Name Marked on Containers.—All containers of fruit of a kind specified in this act, except subcontainers, when packed and offered for sale, shall bear upon them in plain sight and in plain letters on the outside thereof, the name of the orchard where the same was produced, with the postoffice address thereof, or the name and postoffice address of the person, firm, company or corporation, or organization who shall have first packed or authorized the packing of the same, or the name under which such packer shall be engaged in business, together with the postoffice address of such packer. (Id. § 12.)

361. Office of "Inspector of Fresh Fruits" Created; "Inspectors in Chief of Fresh Fruits."—The office of "inspector of fresh fruits" is hereby created for each and every county in the State. The horticultural commissioner of each county, and all deputy horticultural commissioners shall be ex-officio inspectors of fresh fruit thereof, and the district inspectors under each county horticultural commissioner are ex-officio "deputy inspectors of fresh fruits" in their respective districts. The board of supervisors shall appoint as many deputy "inspectors of fresh fruits" as are necessary to carry out the provisions of this act. Their term of office shall be for such time as is deemed necessary by said board of supervisors. For the purpose of creating and securing unity in inspection, the offices of "inspectors in chief of fresh fruits" are hereby created, and the State Commissioner of Horticulture and his chief deputy, for the purpose of this act, are hereby made ex-officio such inspectors in chief, and shall, where there is a dispute or difference between the inspectors of fresh fruits of two or more counties, or where the interpretation of inspection standards between two or more counties differs materially, have the power and authority to settle the dispute between the inspectors of fresh fruit of such counties and to fix reasonable standards between such counties where they materially differ. (Id. § 13.)

362. Appointment When no Commissioner of Horticulture.—If in any county or city and county of this State, there is no commissioner of horticulture, it shall be the duty of the board of supervisors thereof to appoint an inspector of fresh fruits and such deputy inspectors of fresh fruits as the said board of supervisors shall deem necessary. Such inspectors and deputy inspectors of fresh fruits shall be appointed to serve for such times during each year as fresh fruits are being packed or shipped in said county or city and county. The salary of an inspector of fresh fruits shall be five dollars per day and necessary traveling expenses. The salary of a deputy inspector of fresh fruits shall be three dollars and fifty cents per day and necessary traveling expenses. (Id. § 14.)

363. Deputy State Commissioner of Horticulture Assigned, When.—In case the board of supervisors of any county, or city and county, shall fail or neglect, for thirty days after receipt of a written request from the State Commissioner of Horticulture, to appoint an inspector of fresh fruits, or necessary deputy inspectors of fresh fruits for such county, or city and county, then the said State Commissioner of Horticulture shall forthwith assign to said county, or city and county, one or more Deputy State Commissioners of Horticulture, as he

shall deem necessary, and such deputy or deputies shall perform all of the duties, within the said county or city and county to which assigned, as is provided in this act to be performed by an inspector of fresh fruits. The actual cost of services rendered by an inspector or deputy inspector, as the case may be, of fresh fruits, assigned to any county in pursuance hereof, together with his necessary traveling expenses shall be a county charge and shall be paid in the same manner in which other claims against the county are paid. (Id. § 15.)

364. Removal; Vacancy.—The board of supervisors shall remove any inspector of fresh fruits and the inspector of fresh fruits shall remove any deputy upon proper showing of neglect of duty, malfeasance in office, or general unfitness for office. Whenever a vacancy in the office of inspector of fresh fruits or deputy inspector of fresh fruits occurs, the vacancy shall immediately be filled by the appointing power. (Id. § 16.)

(NOTE.—According to the General Laws of California, 1923, there is no section number 17.)

365. Power of Inspector.—Every inspector of fresh fruits and every deputy inspector of fresh fruits shall have power to enter and to inspect every place within the county for which he has been appointed where any fruit mentioned in this act is produced, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all such fruits and the containers thereof and the equipment found in any such places. (Id. § 17a.)

366. Duty of Inspector.—It shall be the duty of the inspectors or deputy inspectors of fresh fruit in their respective districts to enforce the provisions of this act and to cause the prosecution of any person, firm, corporation or organization, whom they know or have reason to believe is guilty of the violation of its provisions. (Id. § 17b.)

367. Inspectors Have Powers of Peace Officers.—An inspector or deputy inspector of fresh fruits in the performance of their duties shall have the same powers as are possessed by peace officers of the city, county or State and shall have the right while exercising such police powers to seize and hold as evidence such amount of any pack, load, consignment or shipment of fresh fruit packed in violation of this act, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating this act. (Id. § 17c.)

368. Duty of District Attorney.—It shall be the duty of the district attorney of each and every county in the State to prosecute all persons charged with any violation of this act. (Id. § 17d.)

369. Lawful to Refuse Shipments in Violation of Act.—It shall be lawful for any fresh fruit forwarding person, firm, corporation or organization and for any common carrier to decline to accept for shipment or transportation and to decline to ship or transport any fresh fruits which upon inspection are found to be packed in violation of the provisions of this act, and any such fruit forwarder or common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor, thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter, all fresh fruits which upon inspection are found to be packed in violation of the provisions of this act. (Id. § 18.)

370. Penalty for Violation.—No person, firm, corporation, company or organization shall pack or cause to be packed for sale, or shipment, or shall ship or sell or offer for sale fruit which, or the container or subcontainer in which the same shall be contained, shall in any respect fail to comply with the requirements of this act. Any person, firm, corporation, company or organization who shall violate the provisions of this act shall be deemed to be guilty of a misdemeanor. (Id. § 19.)

371. Conflicting Laws.—All laws in conflict with this act or any part thereof are hereby repealed only in so far as they may conflict with any of the provisions of this act. (Id. § 20.)

372. Title of Act.—This act shall be known, and for any and all purposes may be designated and referred to as "The California fruit and vegetable standardization act of 1925." (Supp. 1925, G. L., Act 2805a, § 1.)

373. Standards for Fruits, Nuts and Vegetables Established.—To promote the development of the California fresh fruit, nut and vegetable industry and to prevent deception in the packing, shipping or sale of fruits, nuts and vegetables for State or interstate shipment, there are hereby created and established certain standards and standard packages for walnuts, avocados, apricots, berries, cantaloupes, cherries, grapes, melons, oranges, peaches, pears, plums, quinces, head lettuce, onions, potatoes, sweet potatoes and tomatoes. (Id. § 2.)

374. Conditions of Pack; Layers.—All fresh fruits, nuts and vegetables of the kind specified in section 2 of this act, except such fruits and vegetables for which

special grades shall be established under section 4 of this act, when being packed, or after packing, or when shipped, delivered for shipment, offered for sale or sold, in any container or subcontainer shall be mature but not overripe, virtually uniform in quality, virtually free from serious defects caused by insects, nematode and fungous pests, rots, bruises, frost injury, sunburn or other means, and except in the case of unpacked fruit or vegetables, shall be virtually uniform in size. When packed in layers there shall be approximately the same numerical count in each layer throughout a container or subcontainer having straight sides. In the case of tomatoes packed in standard California lug boxes the center and bottom layers shall have the same count, which, in case wide cleats are used, may be not to exceed one row more in length than the top layer, and, if packed on edge, one row more in width than the top layer, but which shall not be less than the count in the top layer. In the case of lettuce in standard packs, with three to five dozen heads in a standard lettuce crate, there shall be the same numerical count of regularly arranged heads in each layer, and no heads shall be placed outside of the regular arrangement of three uniform flat layers. In the case of any fruits or vegetables, packed in sloping side containers, no layer below the top layer shall contain a greater numerical count than the top layer. In addition to the provisions of this section, grapes, oranges, head lettuce, cantaloupes and avocados shall conform to the special provisions of section 10. (Id. § 3.)

375. Enforcement of Act; Additional Grades and Rules; Additional Standard Packages; Change of Rules, etc.—The Director of Agriculture is hereby empowered, through his duly authorized agents, and the county horticultural commissioners of each county of the State, their deputies and inspectors, to enforce all the provisions of this act. The Director of Agriculture shall have supervision and control over all enforcing officers of this act in the State of California. The refusal of any officer to carry out the orders and directions of the Director of Agriculture in the enforcement of this act shall be deemed neglect of duty. The Director of Agriculture is also empowered to establish and enforce such additional grades and grading rules as may be deemed necessary on fruits, nuts and vegetables, which shall not conflict with any provided for in this act, after a thorough investigation has been made of the needs of the particular fruit or vegetable for which grades are contemplated. Such grades or grading rules must, before they become effective, be approved in one or more public meetings attended by representative growers and shippers of the locality interested in the industry affected. Such meetings shall be advertised at least once in a newspaper published in that locality one week or more prior to the meetings; said meetings shall be presided over by the Director of Agriculture, or any of his duly authorized agents, and shall, in so far as possible and practicable, be conducted at such place or places that can be conveniently reached by representatives of the affected industry. In like manner the Director of Agriculture may provide for standard packages other than those provided for in section 7 of this act. Grades and grading rules established in accordance with the provisions of this section shall not be modified during the current shipping season of the fruits or vegetables for which such grades were established excepting as hereinafter provided, nor shall standard packages be changed without two years' notice to the industry involved. On receipt of a written appeal signed by at least twenty-five representative growers and shippers of the commodity for which grades, grading rules or standard packages have been established under the provisions of this section, protesting against the grades, grading rules or standard packages so established, the Director of Agriculture shall call a hearing within ten days after the receipt of such an appeal. Due notice shall be given by the Director of Agriculture to all interested parties of the date and place of such hearing and the grades, grading rules or standard packages established shall be sustained, modified, or revoked in the discretion of the Director of Agriculture on the basis of the evidence presented. If such grades, grading rules or standard packages are not changed or modified by the Director of Agriculture in accordance with the provisions of this section they shall continue to be in full force and effect. Grades, grading rules and standard packages established under the provisions of this section shall be promulgated by the Director of Agriculture, published in one or more newspapers and farm journals of general circulation in the State of California. The Legislature hereby declares that the establishment by the Director of Agriculture of such additional standards and grading rules, as provided by this section, constitutes merely the necessary expert and technical definition of details and is not considered by the Legislature as a legislative act on the part of the Director of Agriculture. (Id. § 4.)

376. Fruits, etc., for Processing, Preserving, etc.—All fresh fruits, nuts, or vegetables of the kind specified in this act which are not wrapped or regularly packed, and which are intended for use in processing, preserving, or in the manufacture of

by-products, shall be exempt from the provisions of this act; provided, however, that the packages in which they are contained shall bear no false or misleading statements or designations; provided, further, that such fruits or vegetables shall not be deceptively packed. Any inspector of fresh fruits and vegetables may require from the owner or shipper of such fruits and vegetables such proof as he may deem necessary that they will be used in processing, preserving, or in the manufacture of by-products, and shall hold same until satisfactory proof is given; provided, however, that grapes must conform to the sugar standards in section 10 hereof. (Id. § 5.)

377. Definitions.—When used in this act the words herein mentioned shall be defined as follows: "Packages" shall mean any box, crate, lug, basket, barrel, drum, sack, or other container used for packing, shipping or selling fruits, nuts or vegetables. "Pack, packing or packed," shall mean the regular compact arrangement of all or part of the fruit or vegetables in any container or subcontainer used for the purpose of sale or transportation for sale. "Deceptive pack" shall mean any package of fruits, nuts or vegetables, which has in the outer layer or the exposed surface fruits, nuts or vegetables which are so superior in quality, size or condition to those in the interior of the package, or the unexposed portion, as to materially misrepresent the entire contents. "Fresh fruit, nuts, or fresh vegetables" shall mean the fresh product of any tree, vine or plant which produces edible fruits, nuts, or vegetables suitable for human consumption. "Mature," excepting where specific maturity standards are established, shall mean having reached the stage of maturity which will indicate the proper completion of the ripening process. "Virtually uniform in size" shall mean in the case of packed fruits a difference in size of the various fruits as follows: Pears, peaches and quinces, a variation of not more than one-half of an inch when measured through widest portion of cross-section; apricots, plums and prunes, a variation of not more than one-fourth of an inch when measured through widest portion of cross-section. "Virtually free" from serious defects shall mean that the total of such defects shall not exceed 10 per cent. in any one package of fruits or vegetables, or 20 per cent. of serious internal defects in any package of walnuts, and excepting grapes and walnuts that there shall not be more than 5 per cent. of any one defect. "Serious defects" shall mean any condition which renders the fruit, nut or vegetable unfit for human consumption, or appreciably deceptive as to quality; or any damage which will cause an increased waste of 20 per cent. by weight, in ordinary preparation for use, over that which would occur if the specimen were perfect; or any decay in the edible portion, or any injury which provides ready entrance for fungus or decay; or the presence of any insect which is capable of causing internal injury, or internal damage caused by such insect. "By-products" shall mean any product processed or manufactured from nuts or from fresh fruits, fresh vegetables, or their juices. "County" shall include in its meaning a consolidated city and county. "Container" shall mean any box, crate, or other package utilized in handling nuts or fresh fruit or vegetables. "Subcontainer" shall mean any basket or other receptacle used within a container. "Uniformly well colored" means that each bunch of grapes shall have not less than 85 per cent. of well colored berries, except that, in order to allow for variation incident to proper grading and handling, not more than 10 per cent. by weight of the bunches in any package may have not less than 60 per cent. of well colored berries; provided, further, that Emperor grape berries shall be considered well colored when at least 60 per cent. of the surface shows good characteristic color. (Id. § 6.)

378. Standard Packages; Apricot, Plum and Grape Basket; Berry Basket; Other Standard Containers; Lettuce Crates; Cantaloupe Crates.—Standard packages are hereby established as follows:

(1) Standard apricot, plum and grape basket, approximately eight inches square on top, six and one-half inches on bottom, and four inches deep, inside measurements

(2) Standard berry baskets, dry pint containing an interior capacity of approximately thirty-three and six-tenths cubic inches and dry one-half pint containing interior capacity of approximately sixteen and eight-tenths cubic inches; provided, that the standard basket for strawberries shall be the dry pint.

	Depth inside in inches	Width inside in inches	Length outside in inches
(3) Standard cherry box, ...	2 $\frac{1}{4}$	9	19 $\frac{3}{4}$
(4) Special cherry lug, ...	3	9 $\frac{3}{4}$	19 $\frac{3}{4}$
(5) Standard cherry lug, ...	4 $\frac{1}{2}$	9	19 $\frac{3}{4}$
12-basket cherry crate, ...	2 $\frac{7}{8}$	13 $\frac{1}{2}$	19 $\frac{1}{2}$

	Depth inside in inches	Width inside in inches	Length outside in inches
(6) Special cherry lug, ...	3	11½	19¾
Peach size cherry lug, ...	4	11½	19¾
Standard peach box, ...	4¼	11½	19¾
Standard peach box or half pear box, ...	4½	11½	19¾
Standard peach box, ...	4¾	11½	19¾
Standard pear box, ...	8½	11½	19¾
(7) Special fruit lug, ...	4	13¾	17½
(8) Special fruit lug (No. 3), ...	4¼	13¾	17½
With heavy cleat 11/16 of an inch by 11/16 of an inch.			
(9) Special fruit lug (No. 2), ...	4¾	13¾	17½
With heavy cleat 11/16 of an inch by 11/16 of an inch.			
(10) California lug box (No. 1), ...	5¾	13¾	17½
Special sawdust pack grape lug, ...	...	13¾	17½
Depth inside in inches not less than 7½ nor more than 7¾.			
(11) Standard crates, ...	4¼	16	17½
Standard crates, ...	4½	16	17½
Standard crates, ...	4¾	16	17½
(12) Standard grape drum, ...	14	15½	...
Containing 2642 cubic inches.			
(13) Standard grape keg, ...	...	...	...
Containing 2642 cubic inches minimum.			

(14) Standard lettuce crates, depth, inside in inches, thirteen; width, inside in inches, eighteen; length, inside in inches, not less than twenty-one and three-fourths; length outside in inches not more than twenty-four and one-half.

Inside length of lettuce crates shall be considered between end slats, excepting that if flat end posts wider than one and one-half inches are used, the inside length shall be considered between the posts.

(15) Standard cantaloupe crates, twelve inches by twelve inches by twenty-two and one-half inches, to be packed with thirty-six or forty-five cantaloupes; four inches by twelve inches by twenty-two and one-half inches, to be packed with nine, twelve or fifteen cantaloupes; eleven inches by eleven inches by twenty-two and one-half inches, to be packed with forty-five or fifty-four cantaloupes; thirteen inches by thirteen inches by twenty-two and one-half inches, to be packed with thirty-six or forty-five cantaloupes; four and one-half by thirteen and one-half by twenty-two and one-half inches, containing nine, twelve or fifteen cantaloupes. All cantaloupe packs other than those provided in this section shall be conspicuously marked in letters not less than one-half inches in height "irregular pack." (Id. § 7.)

379. Labels on Containers; Walnut Sacks; Vegetable Containers; Subcontainers; Net Weight; "Face and Fill."—All containers of fruit of a kind specified in this act, except subcontainers, when packed, and of walnuts when sacked for shipment or sale, shall bear upon them in plain sight and in plain letters on the outside thereof the following: Name of the orchard or place where the same was produced, with the postoffice address thereof or the name and postoffice address of the person, firm, company or corporation or organization who shall have first packed or authorized the packing of same or the name under which such packer shall be engaged in the business, together with the postoffice address of such packer, name of variety, if known, and when not known the words "unknown variety," net weight, excepting oranges, and the approximate number of fruits in the container or subcontainer, which number shall be within four of the true count; provided, that in lieu of the approximate number of fruits, the numerical description of pack may be used, excepting that no designation relative to number or count shall be required in the case of walnuts, grapes, cherries or berries; and provided, further, that no container or subcontainer shall have less than the minimum stamped thereon. When two or more varieties are packed or placed in a container, they shall be labeled "mixed varieties." In addition to the other marks required, all packages of walnuts when sacked for shipments or sale, shall be plainly and conspicuously marked in letters not less than one and one-half inches in height, in the English language, with the name of the State or of the foreign country where the nuts were produced.

All containers of packed vegetables of a kind specified in this act, when packed or offered for sale, shall bear upon them in plain sight and in plain letters on

the outside thereof the following: name of place where the same was produced, with the postoffice address thereof or the name and postoffice address of the person, firm, company or corporation or organization who shall have first packed or authorized the packing of same, or the name under which such packer shall be engaged in business, together with the postoffice address of such packer; and in the case of tomatoes the net weight. All crates of lettuce, in addition to the marking required above, shall be conspicuously stamped or stenciled on the outside thereof in figures not less than one-half inch in height, with the exact number of heads contained therein, provided that, in the case of crates marked "irregular pack," the contents may vary not more than three heads from the count as marked.

Standard or other containers when used as subcontainers are exempt from the provisions regarding marking when the container in which they are placed is marked in compliance with the terms of this section. No containers or subcontainers of fruits, nuts or vegetables shall bear grade or other designations that are in any way false or misleading. Nothing in this act shall be construed to conflict with any California or Federal regulations regarding net weight markings on containers or subcontainers.

Containers in which the fruit in the top layer only is placed in regular compact arrangement, excepting cherries, berries and grapes, shall be labeled "face and fill" in lieu of the approximate number of fruits. (Id. § 8.)

380. Fresh Fruits and Vegetables to be Sold in Standard Containers.—

All fresh fruits and vegetables of the kinds specified in this act, except such as shall be used in the manufacture of by-products, when prepared or offered for sale or sold, shall be packed or placed in standard containers, which are hereby established and shall conform to all provisions of this act; provided, that with the exception of berries, other sized containers may be used if conspicuously marked in letters not less than one-half inch high "irregular container"; provided, further, that in the case of avocados, oranges, onions, potatoes and sweet potatoes for which standard packages are not established in this act, the packages used shall not be required to be marked "irregular container." (Id. § 9.)

381. Sugar Content of Grapes; Standard for Emperor Grapes; Label; Standard for Oranges; Frosted Citrus Fruit; Standard for Head Lettuce; Cantaloupes; Avocados.—Grapes shall show a sugar content of not less than seventeen per cent Balling scale, except Burger, Emperor, Gros, Coleman, Pierce Isabella, Olivette Blanche, Ladyfinger, Khalili, Persian 23 and Cornichon, which shall show not less than sixteen per cent Balling scale; provided, however, that in cases where lower sugar content is required for processing, preserving or manufacturing grapes than is established in this section, the Director of Agriculture is authorized to issue a permit for delivery of same, such permit to be a matter of public record in the Department of Agriculture. Containers of grapes moved under special permit shall be conspicuously marked in letters not less than one-half inch in height "low sugar content." Permits so issued shall be revocable at any time upon proper showing being made to the Director of Agriculture.

The following standard is hereby established for Emperor grapes packed in sawdust or similar packing material. "Fancy," sawdust pack, shall consist of bunches of well developed Emperor grapes which are uniformly well colored, mature, firmly attached to capstems, not shattered, split, crushed, wet, soft, wilted or scarred, which are free from shot berries, raisining or raisined berries, sunburned or dried berries, waterberry, mildew, mold, decay and from damage caused by other disease, insects or other means. Stems shall be mature and shall not be weak, dry or brittle. Bunches shall not be excessively straggly and shall be not less than six inches in length, measured from shoulder to tip. Berries shall have a minimum diameter of five-eighths ($\frac{5}{8}$) of an inch, measured through the widest portion of the cross-section. In order to allow for variations incident to the proper grading and handling, not more than 10 per cent by weight of the bunches may be between five and six inches in length and, in addition, not more than 5 per cent by weight of the berries may be below the prescribed size. Not more than 5 per cent tolerance by weight may be allowed for grapes which fail to meet the remaining requirements of this grade, but no part of this tolerance shall be allowed for berries which are affected by mold or decay.

Any package of grapes which meet[s] the requirements of this grade may be marked as "Fancy" or as "U. S. Fancy Sawdust Pack," but no package of Emperor grapes packed in sawdust or similar packing material shall bear any other designation of quality or grade, excepting that the term "Unclassified" may be marked on any package.

Oranges shall not be deemed mature for packing, shipment, delivery for shipment or sale under the provisions of this act unless the juice contains soluble solids

equal to or in excess of eight parts to every part of acid contained in the juice, the acidity of the juice to be calculated as citric acid without water of crystallization; provided, that the oranges have attained at least twenty-five per cent yellow or orange color before picking; provided, however, that oranges which are substantially or at least seventy per cent colored at the time of picking shall be deemed properly matured for shipment or sale, irrespective of analysis of the juice. The foregoing provisions shall not apply to shipments of oranges to foreign countries other than the Dominion of Canada, during any season, provided such shipments are not made before the first day of November.

It is unlawful for any person, firm or corporation to pack, ship, offer for shipment, sell or offer for sale, citrus fruit in boxes or other containers or in bulk, if the contents of any package or if the fruit in bulk contains fifteen per cent or more citrus fruits by count showing marked evidence of frost injury.

Marked evidence of frost injury in citrus fruits is hereby defined as a water-soaked appearance or evidence of previous water-soaking or the presence of crystals or crystalline deposit on the two surface membranes of each of two or more segments, as shown on the separation of the segments, one from another, of a section not less than one inch or more than one and one-half inches in thickness of the central portion of the fruit obtained by cutting off a portion of each end—the evidence of frost injury to show for the entire length but not necessarily the entire area of the surface membranes—or a drying or desiccation in twenty per cent or more of the exposed pulp as shown on a transverse cut through the center.

Head lettuce when packed, or after packing, or when shipped, delivered for shipment, offered for sale or sold as a standard pack, shall contain either three dozen, three and a half dozen, four dozen or five dozen heads of lettuce per crate. All head lettuce shall be tightly packed with a slight bulge of crates when lidded and crates shall contain not more than thirty pounds of ice. Crates in which lettuce does not conform to the above standards shall be conspicuously marked "irregular pack" in letters not less than one-half inch in height.

Cantaloupes shall not be considered mature unless the juice of the edible portion of the cantaloupe contains not less than nine per cent soluble solids as determined by the Brix hydrometer. Cantaloupes shall be considered unfit for shipment when soft or overripe.

Avocados shall not be considered mature when the edible portion shows an oil content of less than eight per cent by weight by chemical analysis. (Id. § 10.)

382. Inspectors.—The horticultural commissioner of each county, his deputy and inspectors, shall be, by virtue of their office, inspectors of fruits, nuts and vegetables under this act in their respective counties. (Id. § 11.)

383. Powers and Duties of Enforcing Officers.—All enforcing officers under the provisions of this act shall have power to enter and to inspect every place within the county for which they have been appointed where any fruits, nuts or vegetables are produced, stored, packed, shipped, delivered for shipment, offered for sale or sold, and to inspect such places and all such fruits, nuts and vegetables and the containers thereof and equipment found in any such places, or when being transported. It shall be the duty of all enforcing officers mentioned in this act to carry out the provisions of this act in their respective districts, and to cause the prosecution of any person, firm, corporation or organization, whom they know or have reason to believe to be guilty of the violation of any of its provisions. Any enforcing officer in the performance of his duties shall have the same powers possessed by peace officers of the city, county or State, and shall have the right while exercising such police powers to seize and hold as evidence part or all of any pack, load, consignment or shipment of fresh fruits, nuts or vegetables packed, shipped, delivered for shipment, offered for sale or sold in violation of this act, as may in his judgment be necessary to secure the conviction of the party he knows or believes has violated or is violating any of the provisions of this act. He may start proceedings in any court of the county, or city and county, within his jurisdiction, to secure the conviction of the party or parties who have violated any of the provisions of this act. It shall be the duty of the district attorney of said county, or city and county, in which any violation of this act may occur, to prosecute the person, firm, company, organization or corporation accused of such violation and also, at the request of the Director of Agriculture or his duly authorized agents, to institute and prosecute such action as may be authorized under the provisions of this act. (Id. § 12.)

384. Rejection of Shipments Delivered in Violation of Act.—It shall be lawful for any forwarding company, person, firm, corporation or organization and for any common carrier to decline to ship or transport any nuts or fresh fruits or vegetables which upon inspection are found to be delivered for shipment in violation of any of the provisions of this act, and any such forwarding company, person,

firm, corporation, organization or a common carrier may reserve the right in any receipt, bill of lading or other writing given to the consignor thereof, to reject for shipment and to return to such consignor or hold at the expense and risk of the latter, all nuts and fresh fruits and vegetables which upon inspection are found to be delivered for shipment in violation of the provisions of this act. (Id. § 13.)

385. Acts Declared Unlawful; Penalty.—It shall be unlawful for any person, firm, company, organization or corporation to pack or cause to be packed for sale or shipment, import, sell, offer for sale, or deliver for shipment any of the fresh fruits, nuts or vegetables specified in this act that do not conform to the standards herein provided. It shall also be unlawful to prepare, sell or offer for sale, a deceptive pack of fresh fruits, fresh vegetables, nuts, dried fruits or dried vegetables, or to mislabel any package of such fruits, nuts or vegetables. Any person, firm, company, corporation or organization who shall violate any of the provisions of this act shall be deemed to be guilty of a misdemeanor. (Id. § 14.)

386. Rules and Regulations.—The Director of Agriculture is empowered to define, promulgate and enforce such rules and regulations as may be deemed necessary to carry out the provisions of this act, and to prescribe the limits of tolerance within which deviations from the standard dimensions set forth in section seven shall be permitted. (Id. § 15.)

387. Issuance of Certificates Showing Quality of Products; "Standardization Fund"; Annual Statement.—The Director of Agriculture and his duly authorized agents or employees may investigate and certify to shippers or other interested parties the quality and condition of fruit, vegetables, and other farm products which meet the requirements of this act, under such rules and regulations as he may prescribe, including the payment of such fees as will be reasonable; provided, that certificates issued by authorized agents of the Department of Agriculture shall be received in all courts of the State of California as prima facie evidence of the truth of the statements therein contained. Such investigations shall not be made or such certificates issued by any person not specially authorized by the Director of Agriculture. Provided, further, that no certificate shall be issued by the State or any person, firm, corporation or organization for fruits, nuts or vegetables of a kind specified in this act unless such fruits, nuts or vegetables have been inspected and found to meet the requirements of this act. Any certificate issued by the State or any person, firm, corporation or organization under the provisions of this act shall truly state the grade, quality and condition of the fruits, nuts or vegetables certified, and a true copy of such certificate shall be furnished to the Director of Agriculture or the county horticultural commissioner on demand. All moneys collected under the provisions of this section shall be paid into the "standardization fund," which fund is hereby created, and of which one thousand dollars (\$1,000) may be used as a revolving fund, subject to the approval of the State Board of Control. The "standardization fund" shall be held subject to the uses of the Director of Agriculture for the purpose of carrying out the provisions of this section. Within ninety days after the end of each fiscal year the director of Agriculture shall prepare a statement showing the receipt and expenditure of funds provided for in this section during the fiscal year, and shall, upon written request, forward a copy of this report to any party financially interested in the inspection work conducted under the authority of this section. (Id. § 16.)

388. Unlawful to Ship Citrus Fruit Showing Certain Per Cent of Drying.—It is unlawful for any person, firm or corporation to ship, offer for shipment, sell or offer for sale citrus fruits in boxes or in bulk, if the contents of any package, or if the fruit in bulk contains 15 per cent, or more of citrus fruits which on a transverse section through the center shows a marked drying in 20 per cent or more of the exposed pulp. (G. L. 1923, Act 3415, § 1.)

389. Commissioner of Horticulture to Enforce Law.—It shall be the duty of the Commissioner of Horticulture and his deputies to enforce the provisions of this act and bring to the notice of the proper authorities any violation thereof. The commissioner and his deputies shall have full power to enter any place where oranges, lemons or grapefruit are grown, picked, packed, shipped or offered for shipment, sold or offered for sale, to inspect such place or any part thereof. (Id. § 2.)

390. Violation of Act a Misdemeanor.—Any person, firm or corporation violating any provision of this act is guilty of a misdemeanor. (Id. § 3.)

391. Marking or Branding of Packages of Citrus Fruits.—All citrus fruit contained in boxes or barrels, which shall hereafter be shipped or offered for shipment in this State by any person, firm, or corporation, shall have stamped, stenciled, or printed in a conspicuous place on the outside of every such box or barrel, in clearly legible letters, a statement truly and correctly designating the county and immediate locality in which such fruit was grown. Such statement shall be placed thereon by the shipper of said fruit. (G. L. 1923, Act 4634, § 1.)

392. Penalty for Violation.—Any person, firm, or corporation violating any of the provisions or requirements of section 1 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than two hundred dollars nor more than five hundred dollars. (Id. § 2.)

393. Inspector to be Appointed; Duty to Report Violation of Statute.—The Governor of the State of California, upon the passing of this act, shall appoint one inspector of citrus fruit shipments, to serve without compensation, whose duty it shall be to examine boxes and barrels used in the shipment of citrus fruits; and upon the discovery by said inspector of any violation of the requirements of this act he shall forthwith give notice thereof to the district attorney of the county in which the offense was committed, and upon receiving such notice it shall be the duty of such district attorney to prosecute the offender under the provisions of this act. (Id. § 3.)

NOTE.—See also Nos. 4, 46-48; the apple law No. 49 et seq.; the canned goods law, No. 81 et seq.; the cold storage law, No. 104 et seq.; No. 244; the sulphur law, No. 546 et seq.; the weights and measures law, No. 648 et seq.

Grain.

394. Title of Act.—This act shall be known and when cited or amended may be designated as the "California Grain Standardization Act." (G. L. 1923, Act 3095, § 1.)

395. Enforcement by Director of Agriculture.—The Director of Agriculture of the State of California is hereby charged with the duty of carrying out all of the provisions of this act, and he shall on or before sixty days from the time the act becomes effective put into effect the provisions of this act relative to the grading and inspection of grains for which Federal standards have been established under authority of the United States grain standards act. He shall appoint, fix the compensation and determine the duties of such inspectors and other employees as shall be necessary to carry out the provisions of this act. (Id. § 2.)

396. Powers of Director.—He shall have the power: (a) To establish uniform grades for grain, which are hereby defined as including corn (maize), wheat, rye, oats, barley, grain sorghum and beans. Any standard for grains now or hereafter made mandatory under authority of the Congress of the United States, shall forthwith be established and promulgated by the Director of Agriculture as the official standards of this State. In establishing grades for grain that is sold on a dockage basis, dockage shall be considered and such dockage that is of value and retained shall be paid for. Dockage as used therein shall be understood to mean dockage as defined in the official grain standards of the United States. (b) To make, amend, or repeal rules and regulations for the grading and inspecting of grain, for the purpose of carrying out the provisions of this act, provided that all such rules shall be published by him in such manner as to give proper publicity thereto. (c) To fix and determine all charges for sampling, grading and inspecting grain. (Id. § 3.)

397. Stations for Inspection of Grain.—The Director of Agriculture may establish official stations for the inspection of grain at any town or place where grain is bought, sold, marketed, stored or manufactured. The Director of Agriculture shall inspect and grade upon request all grain sold, offered for sale, or consigned for sale. He shall issue a uniform grade certificate stating the kind and grade of grain, test weight per bushel, and the reason for all grade below number one, and such other facts as he may require; provided, however, that none of the facts certified in such certificate shall be presumed to continue or exist beyond sixty days after the date of such certificate; provided, further, that certificates issued by authorized agents of the Department of Agriculture shall be received in all courts of the State of California as prima facie evidence of the truth of the statements therein contained at the time of the issuance of said certificate and for sixty days thereafter. Such certificates shall be delivered to the owner of such grain or his agent. (Id. § 4.)

398. Inspectors.—The Director of Agriculture may appoint any person as an inspector under the provisions of this act eligible for a license under the United States grain standards act. No officer or employee of the Department of Agriculture engaged in the inspecting or grading of grain under the provisions of this act shall be interested financially or otherwise, directly or indirectly, in any grain elevator, warehouse or in the merchandising of grain, or be employed by any person, firm or corporation owning or operating any grain warehouse or elevator. (Id. § 5.)

399. Inspector's Certificate.—The Director of Agriculture shall issue to each employee authorized to grade and inspect grains under this act a certificate showing

such authority, which shall be posted in a permanent and conspicuous place at the official station of such employee. (Id. § 6.)

400. Certificates of Grade.—Whenever standards and grades shall have been fixed and established under the provisions of this act for any grain, it shall be unlawful thereafter for any person, firm, or corporation to buy or sell grain designed for intrastate shipment on the basis of any standard or grade that may be established under the authority of this act without first having procured certificates of grade from the Director of Agriculture. (Id. § 7.)

401. Determination of Grade.—The grade of grain shall be determined at such points as inspectors of the department may be located, by actual sampling, grading and inspection. Such grain delivered at points where an agent or inspector of the department may not be located shall be graded on the basis of fair samples guaranteed to be such in writing by the buyer and seller. Such samples shall be taken in the manner prescribed by the Director of Agriculture under the rules and regulations of this act; provided, that certificates issued on the basis of fair samples guaranteed to be such by the buyer and seller shall state only the grade of such samples. (Id. § 8.)

402. Appeal to Federal Grain Supervisor; Federal Appeal Grade Certificate; Fee For Appeal.—Any person aggrieved by the grading by any employee of the Director of Agriculture of any grain for which Federal standards have been fixed, may with the approval of the Secretary of the United States Department of Agriculture appeal to the Federal grain supervisor of the supervision district in which the State of California may be located. The Federal grain supervisor is hereby appointed as an employee of the Department of Agriculture of the State of California to serve without pay for the sole purpose of hearing and deciding appeals from the original grading of grain by an employee of the State Department of Agriculture. Such Federal grain supervisor may confer with the Director of Agriculture, his duly authorized agents, and employees and any other interested parties and shall make such tests as may be deemed necessary to determine the correct grade of the grain in question. After making such tests the Federal grain supervisor shall issue, or cause to be issued, a Federal appeal grade certificate to all interested parties, which shall state the grade of the grain as determined by such tests, the number of the inspector's certificate which is superseded by the Federal appeal grade certificate, and the following statement: "This certificate is issued pursuant to the United States grain standards act and the California grain standards act." Such Federal appeal grade certificate shall be prima facie evidence of the correct grade of the grain in any court of the State of California; provided, that any person aggrieved by the grading by any employee of the Director of Agriculture of any grain for which Federal standards have not been fixed but for which State grades have been established under the provisions of this act may appeal the question to the Director of Agriculture. The Director of Agriculture shall make such tests as shall be deemed necessary to determine the correct grade of the grain in question and after making such tests shall issue or cause to be issued an appeal grade certificate to all interested parties. Said certificate shall take such form as is prescribed by the director in the rules and regulations under this act. Such certificate shall be prima facie evidence of the correct grade of the grain in any court of the State of California. The Director of Agriculture shall charge, assess, and cause to be collected for each such appeal as is filed with the State Department of Agriculture or the United States Department of Agriculture a fee of five dollars which shall be paid to the Director of Agriculture, and same shall be refunded if the appeal is sustained; provided, further, that any appeal from inspection and grading made under the provisions of this act shall be taken before the grain leaves the place where the inspection appealed from was made and before the identity of the grain has been lost, under such rules and regulations as the Director of Agriculture shall prescribe; provided, also, that any buyer of grain buying under the standards and grades of this act shall be entitled to appeal from any inspection or grading made under the provisions of this act at any time within five days of the transfer or delivery to said buyer by any seller of any certificate issued under the provisions of this act and regardless of any movement of said grain. (Id. § 9.)

403. Publication of Grades.—The Director of Agriculture shall cause all grades established hereunder to be published in one or more newspapers or farm journals of general circulation throughout the State, with the dates when such grades so established shall become effective, which shall not be less than thirty days from the date of such publication. Official grades shall be kept on file in every official grading station for public inspection. (Id. § 10.)

404. Tools for Testing.—The Director of Agriculture shall provide proper sieves, cleaning devices and other apparatus necessary for separating dockage from

grain, grain testers, stokers, and such other tools as shall not be disapproved by the Bureau of Markets of the United States Department of Agriculture. (Id. § 11.)

405. Penalty.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 12.)

406. Power to Make Inspection.—The Director of Agriculture and his duly authorized employees may enter and inspect any place where grain is stored, shipped, sold, or offered for sale for the purpose of carrying out the provisions of this act. The Director of Agriculture and his duly authorized employees may, for purposes of inspection and examination of grain, break the seals of cars and after such inspection has been made the said officials shall securely close and reseal such doors as have been opened by them, using the special seal provided by the Department of Agriculture for the purpose. A record of all original seals broken by said officials, and the date when broken, and also a record of all State seals substituted therefor, and the date and number of said seals, shall be made by such officials. Any person who forcibly assaults, resists, impedes, or interferes with said Director of Agriculture or his employees in the execution of any duty authorized to be performed by him under this act shall be guilty of a misdemeanor. (Id. § 13.)

407. Grain Standardization Fund.—All moneys received under the provisions of this act shall be paid into the State treasury and placed to the credit of the grain standardization fund, which fund is hereby created. All of the moneys that may be in said fund from time to time are hereby appropriated to carry out the provisions of this act. (Id. § 14.)

NOTE.—See also the weights and measures law, No. 651 et seq.

Honey.

408. Manufacture of Adulterated Honey Prohibited.—No person shall, within this State, manufacture for sale, offer for sale, or sell any extracted honey which is adulterated by the admixture therewith of either refined or commercial glucose, or any other substance or substances, article or articles which may in any manner affect the purity of the honey. (G. L. 1923, Act 63, § 1.)

409. Sample for Analysis.—Every person manufacturing, exposing, or offering for sale, or delivering to a purchaser any extracted honey, shall furnish to any person interested, or demanding the same, who shall apply to him for the purpose, and tender him the value of the same, a sample sufficient for the analysis of any such extracted honey which is in his possession. (Id. § 2.)

410. Extracted Honey.—For the purposes of this act, "extracted honey" is the transformed nectar of flowers, which nectar is gathered by the bee from natural sources, and is extracted from the comb after it has been stored by the bee. (Id. § 3.)

411. Penalties.—Whoever violates any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five nor more than four hundred dollars, or imprisoned in the county jail not less than twenty-five days nor more than six months, or both such fine and imprisonment. And any person found guilty of manufacturing, offering for sale, or selling any adulterated honey under the provisions of this act may, in the discretion of the court, be adjudged to pay in addition to the penalties hereinbefore provided for, all necessary costs and expenses, not to exceed fifty dollars, incurred in analyzing such adulterated honey of which such person may have been found guilty of manufacturing, selling, or offering for sale. (Id. § 4.)

Ice.

412. Ice Must be Stored in Clean Places.—Ice offered or intended for public use or consumption shall be kept or stored in clean places free from all filth, offal, refuse, and polluted waters, and separate and removed from contact with animal or vegetable matter, and not in proximity to any cesspool, privy-vault, or sewer, nor in places where such ice may be subject to contamination from, or the action of, acids, oils, noxious, offensive, or injurious gases, smoke or vapors, and all ice kept or stored in violation of this section shall be deemed polluted ice and not fit for human consumption; and it shall be unlawful to sell, offer for sale, or store for sale such polluted ice. (G. L. 1923, Act 6238, § 6.)

413. Ice, Certain Not to be Sold.—It shall be unlawful to sell, offer, or keep for sale for public use or consumption, ice which shall have been used for the

cooling of malt, vinous or spirituous liquors, or for the refrigeration of butter, milk, meat or any animal or vegetable matter or substances, or which shall have been taken from any asylum, hospital, sanitarium, sick-room, slaughterhouse, or any place where human or animal remains have been kept or deposited. (Id. § 7.)

414. Transportation of Ice.—In the transportation or carriage of ice intended for public use or consumption, care shall be taken to prevent contact with filth, offal, and other refuse, and contamination from animal and vegetable matter, and from offensive and noxious oils, acids and other substances injurious, dangerous or offensive to health. (Id. § 8.)

415. Ice From Impure Waters.—No person, firm, company or corporation shall make or permit to be made, or offer or permit to be offered for sale for public use or consumption, any ice manufactured from impure or polluted water, or natural ice cut or taken from any corrupt or impure waters or water source; nor taken or manufactured from any waters or source of water supply after notice from the State Board of Health, or its secretary, that such waters are impure or polluted. (Id. § 9.)

416. Inspection of Places Where Ice is Stored.—In the interest of the public health, every health officer or health inspector, upon proper demand and notice of his authority, shall be permitted, during the office hours, to enter and inspect the works, premises, sources of supply, and places of storage of any person, firm, company, or corporation, maintaining, selling or offering for sale, water or ice for human use or consumption, and it shall be unlawful for any person, firm, company, or corporation to refuse to permit a reasonable inspection or investigation of such works and premises or the ice and water kept or stored therein, or to impede or obstruct such officer during such investigation. (Id. § 10.)*

417. State Board of Health, Violation of Rules of, Relating to Pollution of Ice.—Any person who shall violate, or refuse, or neglect, to conform to any sanitary rule, order or regulation prescribed by the State Board of Health for the prevention of the pollution of ice or the sale or disposition of polluted ice offered, kept or intended for public use or consumption, shall be guilty of a misdemeanor. (Pen. Code, 1923, § 377c.)

Meat—Meat Products.

418. Title of Act.—This act shall be known as the California meat inspection law. (G. L. 1923, Act 366, § 1.)

419. Supervision by Director of Agriculture.—The Director of Agriculture is hereby given supervision over all establishments used in the business of slaughtering and preparing animals for food purposes in the State of California, except all establishments slaughtering and preparing animals for food products under the supervision of an inspection department, of any chartered or incorporated city, or city and county, whose inspection is performed by persons employed who have passed a regular civil service meat or market inspector's examination, or where inspection is maintained by the Bureau of Animal Industry of the United States Department of Agriculture, or under and in accordance with a county meat inspection ordinance and he is empowered and directed at any and all times to visit any establishment, place, or premises where animals are slaughtered or prepared for food purposes, as well as all retail meat markets, meat canneries, sausage factories, curing and smoke houses, and similar places, for the purpose of determining the wholesomeness and healthfulness of animals slaughtered for food purposes, meats, and meat food products intended for human consumption and the sanitary conditions of buildings, drainage, sewage, cleanliness, equipment, utensils, employees, clothing, water supply, and disposal of refuse, and he is further authorized and empowered to provide suitable rules and regulations to insure a healthful, wholesome, and safe meat supply for the State of California. (Id. § 2.)

420. Inspectors.—For the purpose of this act, the director of agriculture of California is authorized to employ persons who have passed a civil service meat or market inspector's examination and found skilled in the inspection of meats and meat food products for wholesomeness and healthfulness, necessary additional employees and equipment as required, and he is authorized to utilize and employ in the enforcement of this act any employee or agent of the State Department of Agriculture. (Id. § 3.)

421. Hours for Slaughtering.—No animal shall be slaughtered for food purposes in the State of California except between the hours of seven o'clock A. M.

*For penalty for violation of this and the four preceding sections, see No. 254.

and eight o'clock P. M. of any one week day, and slaughtering is forbidden on Sundays and legal holidays unless a special permit in writing is issued by the director of agriculture, or his authorized agent. (Id. § 4.)

422. Ante Mortem Inspection.—When it is deemed necessary, in order to safeguard the public health, the director shall cause to be made an ante mortem inspection of any cattle, sheep, swine, or other animals before being slaughtered for food purposes. Such inspection shall be made prior to slaughter and satisfactory facilities shall be provided for conducting such examinations and separating from the passed animals those deemed unfit for immediate slaughter, and if any owner or person in charge is about to slaughter for food purposes any animal or animals, which the Department of Agriculture believes may be affected with disease, said director shall notify the owner or person in charge of said animals to refrain from slaughtering them for food purposes until the previously mentioned ante mortem examination shall be completed, and any owner or person slaughtering animals for food purposes after notification by the director to hold them for ante mortem examination by said director shall be guilty of a misdemeanor; provided, however, that no owner or person shall be required to refrain from slaughtering animals for a period longer than seventy-two hours. (Id. § 5.)

423. Post Mortem Inspection.—The director is authorized to provide post mortem inspection of all animals slaughtered for food purposes in any or all establishments in the State of California, if he deems the same necessary in order to safeguard the public health, and the head, tongue, tail, thymus glands, viscera, and other parts and blood used in the preparation of meat food, meat food products, or medicinal products shall be retained in such a manner as to preserve their identity until after the post mortem examination has been completed. Carcasses and parts thereof found to be sound, healthful and wholesome after inspection, fit for human food shall be passed and may be marked in the following manner: "Cal. inspected and passed." This mark may also include any number given the establishment. Each carcass or part thereof which is found on post mortem inspection to be unsound, unhealthful, unwholesome, or otherwise unfit for human food shall be marked conspicuously by the inspector at the time of inspection with the words, "Cal. inspected and condemned," and such carcasses or parts thereof, under the supervision of the inspector, shall be rendered unfit for human consumption in a manner approved by the Director of Agriculture. (Id. § 6.)

424. Continuous Inspection Service; Fee.—Any person, firm or corporation engaged in the slaughtering of cattle, sheep, swine, or other animals for food purposes, desiring to maintain continuous or part time inspection service in the establishment, in order to have the healthfulness of the meat and meat food products certified to, may make application for the inauguration of a continuous inspection service in such establishment. Such application shall be in writing addressed to the Department of Agriculture, Division of Animal Industry, of California on blanks which shall be furnished by said Department of Agriculture. In such application the applicant for inspection shall agree to comply with the provisions of this act and to maintain said establishment in a clean and sanitary manner. Upon receipt of said application the Director of Agriculture shall make an inspection of said establishment and if found clean and sanitary, and properly equipped to conduct its business in accordance with the rules and regulations of the Department of Agriculture, he shall inaugurate an inspection service therein, and shall give to such establishment an official number, and this number shall be used to mark the meat and meat food products of the establishment as provided in this section. Such an establishment shall thereafter be known as "official establishment No.," and such establishment shall pay for such inspection service a fee in the amount designated by the Director of Agriculture. All such fees payable to the Department of Agriculture shall be credited to the meat hygiene fund, which fund is hereby created, to be utilized in the payment of salaries of inspectors. All such fees shall be paid during the first week of January, April, July and October of each year, and shall be paid in advance for the ensuing three months in amounts designated by said director. The total amount of said fees, collected shall be reported at least once each month to the State Controller, and at the same time, the entire amount of such receipts shall be paid into the State Treasury. (Id. § 7.)

425. Sale of Dressed Carcasses.—The dressed carcasses of all animals intended for human consumption, parts thereof, meats, or meat food products inspected and marked in accordance with sections five and six of this act shall be permitted to be sold and offered for public consumption in the State of California, and any subdivision thereof without restriction, except that imposed

upon meat or meat food products bearing the inspection stamp of the United States Department of Agriculture. (Id. § 8.)

426. Unlawful to Have Similar Marks.—It shall be unlawful for any firm, person, or corporation, except employees of the State Department of Agriculture, to have in possession, keep, or use any mark, stamp, or brand provided or used for marking, stamping, or branding the carcass of any animal intended for food purposes, parts thereof, meats, or meat food products, or to have in possession, keep, or use any mark, stamp, or brand having thereon a device or words the same or similar in character or import to the marks, stamps, or brands provided or used by said Department of Agriculture for marking, stamping, or branding carcasses of animals intended for food purposes, parts thereof, meats, or meat food products. (Id. § 9.)

427. Rules and Regulations.—The Director of Agriculture shall from time to time provide rules and regulations necessary for the efficient execution of the provisions of this act, and all inspections and examinations made under this act shall be made in such a manner as described in the rules and regulations provided by said director not inconsistent with the provisions of this act; provided, however, that in such rules and regulations said director shall be guided by the rules governing meat inspection of the United States Department of Agriculture. (Id. § 10.)

428. Insanitary Slaughterhouse.—It shall be unlawful for any person, firm or corporation to maintain or operate a slaughtering-house, which is unclean or insanitary. (Id. § 11.)

429. Penalties.—Any person, firm or corporation engaged in the business of slaughtering and preparing animals for food purposes, or preparing or retailing meats, or meat food products, or manufacturing sausage, or operating meat canneries, curing or smoking rooms, or any owner or person in charge of any animal intended for slaughter for food purposes violating any of the provisions of this act, or the rules and regulations promulgated by the Director of Agriculture for its enforcement shall be deemed guilty of a misdemeanor. (Id. § 12.)

429a. Animals, Prevention of Spread of Contagious Diseases Among.—Any person having the care, custody or control of any animal that dies from tuberculosis, glanders, farcy, Texas fever, or other infectious disease, shall immediately upon the death of such animal cremate or bury the same, or cause the same to be cremated or buried. (G. L. 1923, Act 363, § 1.)

429b. Animals Dying From Disease Not to be Used for Food.—No animal that has died of any of the diseases named in section one of this act, shall be sold, used or permitted to be used for the food of human beings or sold, used or permitted to be used for the food of any domestic animal or fowl. (Id. § 3.)

429c. Penalty for Violation.—Any person, firm or corporation that shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon a conviction thereof shall be punished by a fine of not less than \$50 and not more than \$500, or by imprisonment in the county jail for a term not exceeding one hundred and eighty days, or by both such fine and imprisonment. (Id. § 4.)

429d. License to Slaughter Cattle; Bond; Annual Fee; Monthly Report to Board; Forfeiture of License on Failure to Make Statement.—It shall be unlawful for any person to slaughter any cattle or offer for sale, barter or exchange the meat thereof, unless he shall have a license therefor issued in accordance with the provisions of this act, except as herein otherwise provided.

Every person slaughtering cattle as a business shall do so in a designated slaughterhouse, and before he shall begin the business of slaughtering cattle or selling the meat thereof, he shall first procure from the board a license to carry on such business, under the conditions and upon the payment of the fees herein provided for.

Bond. After procuring such license and before engaging in such business he shall execute a bond to the State of California, in the penal sum of one thousand dollars (\$1,000) to be approved by the secretary of the board, conditioned that such person shall not slaughter, sell or expose for sale any cattle or the meat thereof, without first being the legal and equitable owner thereof, or being authorized to so slaughter, sell or expose for sale such animal, or the meat thereof, by such owner, and that in case he shall violate any of the provisions hereof, he shall pay therefor double the value of such animal. The amount so recovered shall be paid as follows: One-half to the owner of such animal and the remaining one-half to the cattle protection fund.

License for unexpired portion of year. Said board shall grant to every applicant therefor, who complies with all the provisions of this act a license to slaughter

cattle and sell the meat thereof for the unexpired portion of the calendar year in which said license is granted.

Annual fee. Every applicant for such a license shall pay to said board the following annual fee which shall be paid in advance: For applicants who slaughter less than ten head per month, one dollar per annum. For applicants who slaughter more than ten head and less than fifty head per month, ten dollars per annum. For applicants who slaughter more than fifty head per month, twenty-five dollars per annum. For a shorter term than one year a proportionate part of said fee shall be paid.

Location of slaughterhouse. The applicant for such license shall state in his application where his slaughterhouse is located, and during the term of such license he shall not slaughter any cattle at any other place than that specified in his license. If the holder of a license desires to change the location of his slaughterhouse, he shall apply to said board to have such license transferred and the board may reissue such license without any additional fee.

Report by holder of license. Every holder of such a license shall at the expiration of each calendar month, make a written report and send the same by registered mail to said board. Such report shall include the following:

(a) The number and sex of the cattle slaughtered in such establishment during the calendar month just past.

(b) The names and addresses of persons from whom said cattle were purchased or otherwise obtained.

(c) The brands and marks on said cattle.

(d) The dates on which said cattle were purchased or otherwise obtained and the dates on which said cattle were slaughtered.

Said statement shall be signed by such licensee or his duly authorized agent. Upon failure or neglect of said licensee or his duly authorized agent for a period of fifteen days to file such statement in the manner as herein provided, the said board shall have the power and it shall be its duty to forfeit the license of such licensee; and thereafter it shall be unlawful for the owner of said slaughtering establishment, or for any other person to slaughter any cattle in said establishment until a new application is made by him to said board, accompanied by a fee of twenty-five dollars; provided, however, that said board shall have the power and it shall be its duty to refuse to renew the license of any slaughterer who has knowingly slaughtered cattle without the consent of the owner thereof. (G. L. 1923, Act 368, § 7.)

429e. Record by Butcher of Meat Purchased; Slaughter by Ranchman for Own Consumption.—Every peddler, butcher or retailer of meats, purchasing the meat of any bovine animal, must enter in a book to be kept for that purpose and exhibit the same on demand, the name of the person from whom said meat was purchased or otherwise obtained, the date of said purchase and the quantity so purchased.

It shall be unlawful for any peddler or retailer of meat, or person in control of any butchershop, to purchase the meat of any slaughtered bovine animal from any person not known to him to be licensed under the provisions of this act.

Any person who fails on demand to inform any officer of this State where and from whom he has obtained any meat of any bovine animal that he has in his possession, shall be deemed guilty of a misdemeanor.

Nothing in this act shall be so construed as to prohibit an owner of property, or ranchman located on a definite property as a tenant, lessee or purchaser under contract, from slaughtering cattle in small numbers on said premises for his own consumption, and nothing herein shall be so construed as to prohibit such ranchman from selling or giving away a portion thereof; provided, that such person shall not be required to take out a license. (Id. § 8.)

429f. Hides Retained; Record of Cattle Slaughtered.—The hides of all such cattle slaughtered by the owner thereof, or removed from any cattle which have died from any cause, shall be retained in the possession of the owner where the same may be inspected, with the brands attached thereto, and without any alteration or disfiguration thereof, for a period of at least fifteen days after the death of said cattle, or until said hides are inspected.

Every ranchman, who so slaughters cattle on such premises, shall keep a record in a book to be kept for that purpose of all the cattle so slaughtered by him, with a description thereof, including all the marks and brands of such slaughtered cattle, the date of slaughter, and shall at the end of each month, make a true and correct copy of such record and send the same by registered mail to

the office of the cattle protection board, and shall likewise exhibit the said record on demand of any officer of this State. (Id. § 9.)

429g. No Cattle Slaughtered Until Inspected.—No cattle except cattle shipped for slaughter and which have been inspected as herein provided prior to shipment, shall be slaughtered until they shall have been first inspected and certified to as being the property of the person slaughtering the same or causing same to be slaughtered or being duly authorized by the owner thereof to slaughter said cattle; provided, that any person licensed hereunder to slaughter cattle after twenty-four hours' notice in writing, addressed to the local inspector demanding his presence at a specified time and place for the purpose of inspecting such cattle for slaughtering, may, without the certificate of inspection of said inspector slaughter said cattle, providing he makes a written statement designating the general description of the animal or animals slaughtered, such as the age, color, weight, etc., and specifying in detail the ear-marks and brands of such animal or animals; and provided, further, that he retain the hides of such animal or animals for at least fifteen days thereafter as hereinbefore provided. (Id. § 10.)

429h. Penalty.—Any person violating any provisions of this act, shall unless otherwise specifically designated herein, be guilty of a misdemeanor. (Id. § 17.)

429i. License to Slaughter or Sell Animal.—1. No person shall slaughter a bovine animal or offer for sale, barter or exchange the meat thereof, unless he shall have a license therefor issued in accordance with the provisions of this act, except as herein otherwise provided.

2. Slaughterhouse license. Every person slaughtering cattle as a business shall do so in a designated slaughterhouse. Before beginning business he must procure from the director a license to carry on such business and execute a bond to the State of California, in the penal sum of one thousand dollars to be approved by the director, conditioned that such person shall not slaughter, sell or expose for sale any cattle or the meat thereof, without first being the owner thereof, or being authorized so to do by such owner, and that in case he shall slaughter any cattle without being the owner, or so authorized by the owner, he shall, in addition to all other statutory penalties, pay therefor double the value of such animal. All amounts recovered on said bonds shall be paid as follows: One-half to the owner of such animal and the remaining one-half to the cattle protection fund.

3. Fees. Said director shall grant to every applicant who complies with the provisions of this act a license to slaughter cattle and sell the meat thereof for the unexpired portion of the current calendar year. Every applicant for such license shall pay to said director the following annual fee which shall be paid in advance: Applicants who slaughter less than ten head per month, five dollars per annum. Applicants who slaughter more than ten head and less than fifty head per month, ten dollars per annum. Applicants who slaughter more than fifty head, twenty-five dollars per annum. One-fourth of said fees shall be paid for a fractional quarter of a year. But in no case shall the fee be less than two dollars for a fractional part of the year.

4. Location. The applicant shall state in his application where his slaughterhouse is located, and he shall not slaughter cattle at any other place. If a licensee desires to change the location of his slaughterhouse, he shall apply to said director to have his license transferred, and the director may reissue the license without additional charge.

5. Forfeiture of license. Upon failure of a licensee for a period of fifteen days to pay said fee, his license shall thereupon be forfeited and thereafter it shall be unlawful for him to slaughter cattle until a penalty of twenty-five dollars and fifty cents per day for every day the licensee slaughters cattle after the expiration of his license, is paid to the director and a new license issued.

6. Revocation of license. The director may revoke a license for a willful violation of any of the provisions hereof, after notice to the interested party and a hearing and a license so revoked shall not be reissued except upon the payment of a renewal fee of twenty-five dollars.

7. Records. Every slaughterer of cattle shall keep on file in his office for ninety days after slaughter, the original bill of sale and the certificate of inspection of all cattle slaughtered by him.

8. Record of retailer. Every peddler, or retailer of meats, purchasing the meat of any bovine animal, must enter in a book to be kept for that purpose and exhibit the same on demand, the name of the person from whom said meat was purchased or otherwise obtained, the date of said purchase, the quantity so purchased, and the time and place of the delivery thereof to him.

No peddler, or retailer of meat, shall purchase the meat of a slaughtered bovine animal from any person not known to him to be licensed under the provisions of this act, or a regular wholesale dealer in meats with an established place of business.

9. Sale to retailer without license. No person not licensed as a slaughterer under this act shall give, sell, or deliver to any peddler of meats any part of the carcass of a bovine animal. This provision shall not apply to purchases from a regular wholesaler of meat having an established place of business.

10. Slaughtering for own consumption. Nothing in this act shall be so construed as to prohibit an owner of property, or a ranchman located on a definite property as a tenant, lessee or purchaser under contract, from slaughtering cattle in small numbers on said premises for his own consumption, and nothing herein shall be so construed as to prohibit such ranchman from selling or giving away a portion of the meat thereof.

11. Slaughtering calves. Any person actually engaged in the dairy business or engaged in the raising of cattle may slaughter upon his own premises, any calves under eight months of age, actually produced by him, upon annual notification to the Director of Agriculture of his intention to slaughter such calves, and filing with the office of the Director of Agriculture a monthly report giving the number of calves slaughtered per month.

12. Report of slaughterer. Every licensed slaughterer shall at the end of each calendar month mail to the director a written report stating the total number of cattle inspected for marks and brands and slaughtered during the preceding month and showing in separate columns the number thereof that were: (a) calves under one year of age; (b) cows one year of age and over; (c) steers; (d) stags; (e) bulls; (f) number slaughtered on each date; (g) branded, and (h) unbranded cattle. (G. L. 1923, Act 4638, § 5.)

429j. Inspection Before Slaughter.—1. No common carrier, or owner or driver of any conveyance or vehicle engaged in the business of freighting or transporting cattle, the carcasses of cattle or the hides thereof, shall receive cattle, the hide or the dressed carcass thereof with the hide thereon, for transportation until the same has been inspected under the provisions of this act, and said carrier, owner or driver, has been furnished with duplicate certificates signed by an inspector, showing the brands and ear-marks, the names of the shipper and consignee and also the origin and destination of the same; provided, however, that in the case of hides that have been previously tagged and the bundles or packages of the same are so arranged that the tags are all visible, the certificates shall simply tell the number of hides and the fact that they are officially tagged. No inspector shall issue such certificate in the case of dressed carcasses, with the hides thereon, or the shipment and transportation of hides, until the official tag has been attached. One copy of said certificate of inspection shall accompany said shipment and the other copy shall be sent to the consignee forthwith.

2. No cattle except cattle shipped for slaughter and which have been inspected as herein provided prior to shipment shall be slaughtered until they shall have been inspected as herein provided, and any slaughterer claiming the right to slaughter cattle because of an inspection at time of shipment, shall keep on file and produce on demand, the certificate of inspection thereof, made and forwarded to him at the time of shipment; provided, that any person licensed hereunder to slaughter cattle, after twenty-four hours' notice in writing addressed to the local inspector demanding his presence at a specified time and place for the purpose of inspecting such cattle for slaughtering, may, without the certificate of inspection, slaughter said cattle, providing he makes a written statement specifying detail the ear-marks and brands, number, and sex, of such animal or animals and mails the same immediately to the director; and provided, further, that he retain the hides of such animal or animals until inspected, and tagged as herein provided. (Id. § 7.)

NOTE.—See also Nos. 4, 6, 46-48; the cold storage law, No. 104 et seq.; No. 244; the sanitation law, No. 448 et seq.

Olive Oil.

430. Imitation Oil, What Constitutes.—For the purpose of this act every article, substance or compound, or oil other than that extracted solely from the fruit of the olive tree, made in the semblance of olive oil extracted solely from the fruit of the olive tree is hereby declared to be imitation olive oil. (G. L. 1923, Act 5657, § 1.)

431. Imitation Oil to be Labeled; Letters, Kind of Type to be Used; Name of Ingredients to be Given.—Each person who manufactures imitation olive oil shall place upon every bottle, can or other vessel containing such imitation oil a label with the words "imitation olive oil" printed thereon in capital letters in a clear and durable manner in the English language in plain type designated and known as twenty-four point letter type (two-line pica), of a Gothic face; said label shall also state plainly the name and address of the manufacturer or compounder, the name and place where manufactured and put up, and also the names and actual percentages of the different ingredients contained in each bottle, can or vessel. (Id. § 2.)

432. Not to be Consigned Unless Marked; Proviso.—No person, by himself or another, shall knowingly ship, consign or forward by any common carrier, whether public or private, any imitation olive oil unless the same be marked as provided in section two of this act; and no carrier shall knowingly receive for the purpose of forwarding or transporting, any imitation olive oil, unless it shall be marked as hereinbefore provided, consigned and by the carrier receipted for as imitation olive oil; provided that this act shall not apply to any goods in transit between foreign countries and across the State of California. (Id. § 3.)

433. Not to be in Possession.—No person shall knowingly have in his possession or under his control any imitation olive oil, unless the bottle, can or vessel or other package containing the same be clearly marked, as provided in section two of this act. (Id. § 4.)

434. Not to be Sold as Pure Olive Oil; Purchaser to be Informed of Imitation Oil; Statement, What to Contain.—No person, by himself or another, shall knowingly sell or offer for sale imitation olive oil under the name of or under the pretense that the same is pure olive oil; and no person by himself or another, shall knowingly sell any imitation olive oil unless he shall inform the purchaser at the time of sale that the same is imitation olive oil and shall deliver to the purchaser at the time of sale a statement, clearly printed in the English language, which shall refer to the article sold and which shall contain, in plain type, designated and known as twenty-four-point letter type (two-line pica), of a Gothic face, in capital letters, the words "imitation olive oil" and shall give the name and place of business of the manufacturer or compounder. (Id. § 5.)

435. Presumption as to Persons Having Imitation Oil.—Every person having possession or control of any imitation olive oil which is not marked as required by the provisions of this act shall be presumed to have known during the time of such possession or control that the same was imitation olive oil. (Id. § 6.)

436. False Representation as to Imitation Oil.—No person shall expose for sale any oil bearing the semblance of olive oil, manufactured out of the State and represent that it is manufactured in this State, nor shall offer for sale any such oil upon the receptacle of which is any cut, design or mark intended to convey the belief that such is manufactured in this State. (Id. § 7.)

437. Penalty for Violation of Provisions of This Act.—Whoever shall violate any of the provisions or sections of this act shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both fine and imprisonment, as the court may direct. (Id. § 8.)

438. Who to Enforce.—It shall be the duty of the State Board of Horticulture and the State analyst to enforce the provisions of this act. (Id. § 9.)

Raisins.

439. Packages of Raisins to Indicate Variety of Grape From Which Made.—It shall be unlawful for any person, firm or corporation to sell, offer for sale, expose for sale, or have in his possession with intent to sell, any box, package or carton containing seeded raisins, which box, package or carton shall have indicated thereon the fact that the same does contain raisins, unless it shall in addition to such indication have plainly and conspicuously marked thereon the variety of grape from which the raisins contained in such box, package or carton are manufactured or produced. (G. L. 1923, Act 69, § 1.)

440. Punishment for Violation of Statute.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than two hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment. (Id. § 2.)

Syrups.

441. Selling Adulterated Syrup.—Any person who shall knowingly sell, or keep, or offer for sale, or otherwise dispose of any syrup, or golden-drips syrup, silver-drips syrup, or molasses, containing muriatic or sulphuric acids, or glucose, or adulterated with any other substance to improve the color thereof, shall be guilty of a misdemeanor. (G. L. 1923, Act 64, § 1.)

442. Penalty.—Any person violating the provisions of section one of this act shall be punished, and imprisoned in the county jail of the county in which the offense is committed for a period not exceeding six months, or by a fine not exceeding five hundred dollars, or both. (Id. § 2.)

Vinegar.

See No. 4.

Wine.

443. Uniform Wine Nomenclature.—A uniform wine nomenclature is hereby adopted for pure wines manufactured in this State from the juice of the grape. Such wine nomenclature shall consist in use of the prefix "Cal" or "Cala" to the name of any kind, type, name or abbreviation of name of wine, as for example: "Calclaret," "Calburgundy," "Calariesing," etc., in stamping or labeling such wines. (G. L. 1923, Act 67, § 1.)

444. Unlawful to Use Prefix on Impure Wines.—And it shall be unlawful for any person, firm or corporation in this State to use such prefix in connection with wine nomenclature upon any imprint, label, trade-mark, tag, stamp, stencil, paper or brand or other inscription or device, placed or impressed upon any vessel, bottles, cask, barrel, case or package containing any liquid substance other than pure wine of California manufacture made from the juice of the grape; or to use in marking, branding, stamping, stenciling, tagging or labeling any vessel, bottle, cask, barrel, case or package containing any liquid other than pure wine of California manufacture, made from the juice of the grape, any imitation or counterfeit of such nomenclature or any paper or brand in the similitude or semblance thereof or any paper or brand of such form and appearance as to be calculated to mislead or deceive any unwary person or cause him to suppose the contents thereof to be pure wine of California manufacture, origin or production, made from the juice of the grape. (Id. § 2.)

445. Same.—And it shall be unlawful for any person, firm or corporation in this State to sell or offer for sale or have in his or its possession for sale any liquid substance marked, branded or labeled by the use of such wine nomenclature aforesaid or by the use of any mark or brand or stencil in semblance thereof, unless the same be pure wine of California manufacture made from the juice of the grape. (Id. § 3.)

446. Pure Wine Defined.—For the purposes of this act, pure wine shall be such as is defined to be pure wine under the provisions of the laws of the United States relating to the fortification of pure sweet wines and of the Food and Drugs Act, adopted by the Congress of the United States and approved June 30th, 1906, and under laws of the State of California now or hereafter adopted. (Id. § 4.)

447. Penalty for Violation of Act.—Whoever violates any of the provisions or sections of this act shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than thirty days, nor more than six months or by both such fine and imprisonment, in the discretion of the court. (Id. § 5.)

Sanitation.

448. Sanitation Required.—Every building, room, basement or cellar, occupied, or used as a bakery, confectionery, cannery, packing-house, slaughterhouse, restaurant, hotel, grocery, meat market, or other place or apartment, used for the production, preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated, and conducted with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks or other persons therein employed, and the purity and

wholesomeness of the food therein produced, kept, handled or sold; and for the purpose of this act the term "food" shall include all articles used for food, drink, confectionery or condiment, whether simple or compound, and all substances and ingredients used in the preparation thereof. (G. L. 1923, Act 6236, § 1.)

449. Protection of Food From Flies, Dust, etc.; Clothing of Operatives.—The floors, sidewalks [sidewalls], ceilings, furniture, receptacles, utensils, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, shall at no time be kept in an unclean, unhealthful or unsanitary condition; and for the purposes of this act, unclean, unhealthful and unsanitary conditions shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale or distribution is not securely protected from flies, dust, dirt, unsanitary conditions, and as far as may be necessary, by all reasonable means from all other foreign or injurious contamination; and if the refuse, dirt, and the waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling and distributing of food, are not removed daily; and if all trucks, trays, boxes, baskets, buckets, and other receptacles, chutes, platforms, racks, tables, shelves, and all knives, saws, cleavers and all other utensils, receptacles, and machinery, used in moving, handling, cutting, chopping, mixing, canning, and all other processes used in the preparation of food, are not thoroughly cleaned daily; and if the clothing of operatives, employees, clerks, and other persons therein employed, is unclean, or if they dress or undress, or leave or store their clothing therein. (Id. § 2.)

450. Walls, Ceilings and Floors.—The sidewalls and ceilings of every bakery, confectionery, hotel and restaurant kitchen, shall be well plastered, or ceiled, with metal or lumber, or shall be oil painted or kept well lime washed, or otherwise kept in a good sanitary condition and all interior woodwork of every bakery, confectionery, hotel and restaurant kitchen shall be kept well oiled or painted with oil paint, and be kept washed clean with soap and water or otherwise kept in a good sanitary condition; and every building, room, basement or cellar, occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food, shall have an impermeable floor, made of cement or tile laid in cement, brick, wood, or other suitable, non-absorbent material, which can be flushed and washed clean with water. (Id. § 3.)

451. Screens.—The doors, windows and other openings of every food producing or distributing establishment, where practicable, shall be fitted with stationary or self-closing screen doors and wire window screens, of not coarser than fourteen mesh wire gauze. (Id. § 4.)

452. Toilets, Lavatories.—Every building, room, basement or cellar, occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food, shall have convenient toilet or toilet rooms, separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing is conducted. The floors of such toilet rooms shall be of cement, tile laid in cement, wood, brick or other non-absorbent material, and shall be washed and scoured daily. Such toilets shall be furnished with separate ventilating pipes or flues, discharging into soil pipes, or on the outside of the building in which they are situated. Lavatories and washrooms shall be adjacent to toilet rooms, and shall be supplied with soap, running water and towels, and shall be maintained in a clean and sanitary condition. Operatives, employees, clerks and all persons who handle the material from which food is prepared, or the finished product, before beginning work and immediately after visiting a toilet or lavatory, shall wash their hands and arms thoroughly in clean water. (Id. § 5.)

453. Cuspidors; Expectoration.—Cuspidors, for the use of operatives, employees, clerks and other persons, shall be provided, and each cuspidor shall be emptied and washed out daily with disinfectant solution and not less than five ounces of such solution shall be left in each cuspidor while in use. No operative, employee, clerk or other person, shall expectorate or discharge any substance from his nose or mouth, on the floor or interior sidewall of any building, room, basement, or cellar where the production, manufacture, packing, storing, preparation or sale of any food product is conducted. (Id. § 6.)

454. Sleeping in Bake-Shops, etc.—No person shall be allowed to, nor shall he, reside or sleep in any room of a bake-shop, public dining room, hotel or restaurant kitchen, confectionery, or other place where food is prepared, produced, manufactured, served or sold. (Id. § 7.)

455. Employees With Infectious Diseases Not Permitted to Work.—No employer shall require, permit or suffer any person to work, nor shall any person work in a building, room, basement, cellar, place or vehicle, occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution or transportation of food, who is afflicted or affected with any venereal disease, small-

pox, diphtheria, scarlet fever, yellow fever, tuberculosis, consumption, bubonic plague, Asiatic cholera, leprosy, trachoma, typhoid fever, epidemic dysentery, measles, mumps, German measles, whooping-cough, chicken-pox, or any other infectious or contagious disease. (Id. § 8.)

456. Health Officers, Power to Inspect; Duty of District Attorney.—The members of the State Board of Health, inspectors and agents appointed by said board, and all local health officers and inspectors, shall have full power at all times to enter every building, room, basement, cellar, or any place occupied or used, or suspected of being occupied or used, for the production, manufacture, preparation, storage, sale or distribution of food, and to inspect the premises and all utensils, implements, receptacles, fixtures, furniture and machinery used as aforesaid, and if, upon inspection, any such building, room, basement, cellar, or any such place, vehicle, employer, operative, employee, clerk, driver, or other person, is found to be in violation or violating any of the provisions of this act, or if the production, preparation, manufacture, packing, storing, sale or distribution of food is being conducted in a manner detrimental to the health of the employees or operatives or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the examination shall at once make a written report of the same to the district attorney of the county, who shall prosecute all persons violating any of the provisions of this act, and also to the State Board of Health. The State Board of Health, from time to time, as in its discretion it may determine, may publish such reports in its monthly bulletin. (Id. § 9.)

457. Public Nuisances.—All buildings, rooms, basements, cellars and other places and things, kept, maintained or operated, or which are in violation of the provisions of this act or any of them, and all food produced, prepared, manufactured, packed, stored, kept, sold, distributed or transported in violation of the provisions of this act or any of them, are hereby declared to be public nuisances, dangerous to health. Such nuisances may be abated or enjoined, in an action brought for that purpose by the local or State Board of Health, or they may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health. (Id. § 10.)

458. Penal Clause.—Any person, firm or corporation, whether as principal or agent, employer or employee, who violates any of the provisions of this act shall be guilty of a misdemeanor, and each day that conditions or actions, in violation of this act, shall continue, shall be deemed to be a separate and distinct offense, and for each offense, upon conviction, he shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 11.)

NOTE.—See also the bakery products law, No. 67 et seq.; the canned goods law, No. 81 et seq.; the cold storage law, No. 104 et seq.; the dairy law, No. 128 et seq.; the ice law, No. 412 et seq.; the meat law, No. 418 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

459. Advertising to Produce Miscarriage.—Every person who willfully writes, composes, or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise, to assist in the accomplishment of any such purpose, is guilty of a felony. (Pen. Code 1923, § 317.)

Antiseptics.

See No. 46.

Cosmetics.

See No. 46.

Disinfectants.

See No. 46.

Embalming Fluids.

460. **Manufacture and Distribution of Embalming Fluids.**—It is prohibited to manufacture, sell or distribute embalming fluids within the State containing mineral poison. All fluid containers to have printed on the label "no mineral poison." All manufacturers and distributors of embalming fluids are hereby required to state the per cent formaldehyde contained therein, upon the label. (G. L. 1923, Act 2317, § 24.)

Insecticides and Fungicides.

461. **Title of Act.**—This act shall be known and referred to as "the California economic poison act of 1921." (G. L. 1923, Act 5995, § 1.)

462. **Sale of Adulterated or Misbranded Economic Poison.**—It shall be unlawful for any person to manufacture, deliver, or offer to deliver, sell, offer or expose for sale in this State any adulterated or misbranded economic poison which is adulterated or misbranded within the meaning of this act; or to export, or offer to export the same to any foreign country; provided, that no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser; but if said article shall be in fact sold, or exposed for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the provisions of this act. (Id. § 2.)

463. **Enforcement by Director of Agriculture.**—The Director of Agriculture shall administer and enforce the provisions of this act and shall make rules and regulations for carrying out the provisions of this act, including the collection and analysis or examination of samples, the registration of manufacturers and dealers, and other procedure not inconsistent with this act. No rule or regulation shall become effective until the expiration of thirty days after it shall have been first promulgated by a proclamation signed by the Director of Agriculture and published in one or more newspapers and farm journals of general circulation in the State of California and sent to each person registered in compliance with the provisions of this act. (Id. § 3.)

464. **Investigations by Director.**—The Director of Agriculture, in person or by his agents, shall take samples of economic poisons, make analysis or examination thereof, and make investigations concerning the use, sale, adulteration or misbranding of economic poisons at such times and to such extent as are necessary for the full enforcement of this act. (Id. § 4.)

465. **Publication of Results.**—The results of examination or chemical analysis [of] official samples of economic poisons shall be published by the director, and such additional information as to him may seem advisable. (Id. § 5.)

466. **Notice of Violation.**—When the Director of Agriculture becomes cognizant of the apparent violation of any of the provisions of this act or of any of the rules and regulations promulgated thereunder, it shall be his duty to cause notice of such fact, together with a copy of the findings, to be given to the person suspected of violating the law. The person notified shall be given an opportunity to be heard under such rules and regulations as may be promulgated for that purpose. (Id. § 6.)

467. **Terms Defined; Adulterated Poison; Misbranded Poison.**—The term "economic poisons" as used in this act shall include any substance, or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all insects, fungi, weeds, rodents, or other plant or animal pest, collectively or individually, which may infest or be detrimental to vegetation, man or other animals or households, or be present in any environment whatsoever.

The term "insect" as used in this act is defined as any of the small invertebrate animals known as insecta and similar forms of animal life such as centipedes, lice, and other animals of these classes.

The term "fungi" as used in this act is defined as all rusts, smuts, mildew, molds, yeasts, bacteria, and similar forms of plant life.

The term "weed" as used in this act is defined as any plant which grows where not wanted.

The term "rodent" as used in this act is defined as all members of the order Rodentia and all rabbits and hares.

The term "other plant or animal pest" as used in this act shall include any form of plant or animal life which the Director of Agriculture may by rules and regulations declare to be a pest.

For the purpose of this act an economic poison shall be deemed to be adulterated:

First, if its strength or purity shall fall below the standard or quality under which it is sold; second, if any valuable constituent of the article has been wholly or in part abstracted or omitted in its manufacture, or other materials substituted for the same; third, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, fungi, weeds, rodents, or other plant or animal pest, shall be seriously injurious to vegetation, except weeds, when used according to the directions recommended and furnished therewith.

For the purpose of this act economic poisons shall be deemed to be misbranded:

First—If the package or label thereon shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading; second, if such package or label is falsely branded as to the city, State, territory or country in which the same is manufactured or produced; third, if it be an imitation or offered for sale under the name of another article; fourth, if it be labeled or branded so as to deceive or mislead the purchaser; fifth, if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; sixth, if in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package; seventh, if it consists partially or completely of any inert substance or substances which do not prevent, destroy, repel, or mitigate insects, fungi, weeds, rodents, or other plant or animal pest, and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label; provided, however, that in lieu of naming and stating the percentage amount of each and every inert ingredient, the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every active ingredient and make no mention of the inert ingredients, except in so far as to state the total percentage of inert ingredients present.

The word "person" as used in this act shall be construed to mean both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent, or other person acting for any corporation, company, society or association, shall in every case be also deemed to be the act, omission or failure of such corporation, company, society or association, as well as that of the other person. (Id. § 7.)

468. Guaranty.—In any prosecution of any agent or dealer under the provisions of section two of this act, the proof that the adulterated or misbranded economic poison which is the basis of said prosecution was guaranteed by the wholesaler, jobber, manufacturer, or any other party from which said economic poison was purchased, to the effect that the same is not adulterated or misbranded within the meaning of this act, shall be a full and complete defense thereto. (Id. § 8.)

469. Label.—Every lot, parcel or package of economic poison sold, offered or exposed for sale, within this State, shall be accompanied by a plainly printed label, stating the name, brand or trade-mark, if any there be, under which the economic poison is sold, the name and address of the manufacturer, importer or dealer, and the place of manufacture. (Id. § 9.)

470. Exceptions.—The provisions of this act shall not apply to the sale of any of the preparations, drugs and chemicals of the United States Pharmacopœia or National Formulary when used or sold for medicinal or toilet purposes which conforms to the standard and tests prescribed in the latest addition of the United States Pharmacopœia or National Formulary, nor shall the provisions of this act apply to the sale of any medicinal or toilet preparations or substance guaranteed under the United States pure food and drugs act of June 30, 1906, and the California pure food and drugs act, Statutes of California for 1907, chapter 187 [186], and manufactured and sold exclusively for toilet and medicinal purposes. (Id. § 10.)

471. Analysis of Samples.—The Director of Agriculture shall, upon the receipt of a sample of economic poison, accompanied by the required fee, cause such analysis, examination or test to be made thereof, as will substantially establish the conformity or nonconformity of said sample to the guarantee under which it is sold, or to be sold, and shall inform the sender thereof of the results of all such analysis, examination or test. The schedule of all fees required for such analysis, examination or test shall be determined by the Director of Agriculture and shall be a part of the rules and regulations provided for in section 3 hereof. All fees collected in such manner shall be applied as provided for in section seventeen hereof. (Id. § 11.)

472. Certificate of Registration.—Every manufacturer, importer, agent of, or dealer in any economic poison, except, as hereinafter provided, shall, before the same is offered for sale, obtain a certificate of registration from the Director of Agriculture authorizing the manufacture and sale of economic poisons in this State. Every manufacturer, importer, agent of, or dealer in economic poisons, except county, State and Federal officials or employees selling the same at cost, and further excepting any person manufacturing an economic poison or poisons intended to be used in households or their immediate environments, which economic poisons do not exceed a total retail value of five hundred (500) dollars per annum before obtaining such registry, shall pay to the Director of Agriculture the sum of fifty (50) dollars to be applied as provided for in section nineteen of this act, and shall file a statement of the brands, trade-marks and kinds of economic poisons intended to be manufactured or offered for sale, together with a statement of the correct names and percentage amounts of each and every active ingredient and the total percentage of inert ingredients contained therein; or in lieu of stating the correct names and percentage amounts of each and every active ingredient and the total percentage of inert ingredients contained therein, may deliver to the Director of Agriculture or his agent a representative sample not less than one pound in weight of each economic poison desired to be registered.

Additions or corrections to the above statements may be made at any time during the period of registration without additional charge upon notifying the Director of Agriculture, together with a statement of the correct names and percentage amounts of each and every active ingredient and the total percentage of inert ingredients contained therein, or in lieu of such statement delivering to the Director of Agriculture or his agent a representative sample of not less than one pound in weight of each additional economic poison desired to be registered or for which corrected statement is desired to be made. Such registration shall expire on the thirtieth day of June of the fiscal year for which it was given; provided, the provisions of this section shall not apply to the sale, by an agent or dealer, of any economic poison which is registered by the manufacturer or wholesaler thereof as herein provided, nor to the sale of raw material to manufacturers to be used in the preparation of economic poisons. When any manufacturer, importer, agent of or dealer in economic poisons having fully complied with the provisions of this act and the rules and regulations as provided for therein makes application for registration, the Director of Agriculture shall, without unnecessary delay, cause the same to be registered and issue a license to the applicant authorizing the manufacture and sale of economic poisons in the State.

It shall be unlawful for any person, firm or corporation to manufacture, deliver, offer to deliver, sell, offer for sale, or expose for sale any economic poison not registered and described as provided for in this section. (Id. § 12.)

473. Persons Enforcing Act Not to be Interested.—All persons charged with the enforcement or execution of any of the provisions of this act shall not, directly or indirectly, be interested in the sale, manufacture or distribution of any economic poison affected by this act. (Id. § 13.)

474. Cancellation or Refusal of Registration.—The Director of Agriculture shall have the power after hearing, as provided for in this act, to cancel or to refuse to register any economic poison which has been shown to have little or no value for the purpose for which it is intended to be used, or has been shown to be generally detrimental or seriously injurious to vegetation (except weeds), to domestic animals, or to public health, when properly used. Said director shall also have the power to cancel the registration of, or refuse to register, any manufacturer, importer, agent of or dealer in economic poisons who repeatedly violates any of the provisions of this act, or rules and regulations which shall be made for carrying out the provisions of this act. (Id. § 14.)

475. Disposal of Seized Poisons.—Any economic poison that is condemned as being adulterated, or misbranded within the meaning of this act, or detrimental to agriculture or to the public health shall be seized and disposed of in such manner as the court, after notice to all interested parties and hearing, may direct. (Id. § 15.)

476. Penalty.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 16.)

477. Report of Moneys.—The Director of Agriculture shall, at least once each month, report to the State Controller the amount of fees and moneys collected, and, at the same time, he shall pay into the State treasury the entire amount of such receipts. All such receipts shall be credited to the division of chemistry fund, which fund is hereby created, and shall be held subject to the uses of the division of chemistry, State Department of Agriculture.

The division of chemistry fund shall also include all funds remaining in the State treasury when this act becomes effective, which have been collected under the provisions of an act entitled "An act to regulate the sale of commercial fertilizers or materials used for manurial purposes and to provide penalties for the infraction thereof, and means for the enforcement of the act," as amended, approved March 20, 1903, and all fees and moneys which shall be hereafter collected under said act shall also be paid into said fund and held subject to the uses of said division of chemistry. (Id. § 17.)

Pharmacy, Poisons and Narcotics.

478. Pharmacists to be Registered; Assistant Pharmacists Not.—From and after the passage of this act it shall be unlawful for any person to manufacture, compound, sell, or dispense any drug, poison, medicine or chemical, or to dispense or compound any prescription of a medical practitioner, unless such person be a registered pharmacist or a registered assistant pharmacist within the meaning of this act, except as hereinafter provided. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners, shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory or office for the sale, dispensing, or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions of medical practitioners only during the temporary absence of the registered pharmacist. Temporary absence within the meaning of this act shall be held to be only those unavoidable absences which may occur during a day's work, and when the registered pharmacist in charge shall be within immediate call, ready and able to assume the direct supervision of said pharmacy. No registered assistant [pharmacist] shall conduct a pharmacy. Every store or shop where drugs, medicines or chemicals are dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded, which has upon it or in it as a sign, the words, "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drug store," "drugs," or any of these words, or the characteristic show-bottles or globes, either colored or filled with colored liquids, shall be deemed a "pharmacy" within the meaning of this act. (G. L. 1923, Act 5886, § 1.)

479. Qualifications of Pharmacists.—Any person in order to be a registered pharmacist must be a licentiate in pharmacy, or a practicing pharmacist. (Id. § 2.)

480. Licentiates in Pharmacy, Who Are; Practicing Pharmacists, Who Are.—Licentiates in pharmacy are persons who have had five years' experience in stores where the prescriptions of medical practitioners are compounded, and shall have passed an examination before the State Board of Pharmacy, or who shall present satisfactory evidence to the said board that they have had twenty years' actual experience in the practice of pharmacy, and have also been registered as a licentiate, or assistant pharmacist in good standing in any State or territory for a period of at least ten years prior to the date of their application; provided, that graduates from a reputable college of pharmacy may be registered after eighteen years of like experience. Practicing pharmacists are persons who, at the passage of this act, are registered as such, and who shall have on or before the first day of January next succeeding the passage of this act, paid to the Board of Pharmacy of this State all moneys due for renewal of registration as required by the acts of the Legislature regulating the practice of pharmacy in the State of California, approved March 11, 1891, and March 15, 1901. (Id. § 3.)

481. Registered Assistant Pharmacists, Who Are; Who May be Registered as a Licentiate; Who May be Registered as Assistant Pharmacist.—Registered assistant pharmacists are persons who at the time of the passage of this act are already registered as such, and who shall have on or before the first day of January next succeeding the passage of this act paid to the Board of Pharmacy of this State all moneys due for renewal of registration as required by the acts of the Legislature regulating the practice of pharmacy in the State of California, approved March 11, 1891, and March 15, 1901; provided, that no person shall be examined or registered as a licentiate, unless such person has had five years' pharmaceutical experience in a pharmacy under the supervision of a registered pharmacist; and provided further, that no person shall be examined or registered as an assistant pharmacist from and after the passage of this act, unless such person shall be not less than eighteen years of age and has had not less than three years' instruction and experience in a pharmacy, under a registered pharmacist, or has been registered as an apprentice as provided in section 15 of this act for not less than three years;

and, provided further, that an applicant for registration as an assistant pharmacist must first pass a satisfactory examination before the Board of Pharmacy. (Id. § 4.)

482. Board of Pharmacy; Appointment; Oath; Term of Office; Vacancies, Filling; Location of Office; Secretary and Treasurer; Bonds of.—The Governor shall appoint seven competent registered pharmacists, residing in different parts of the State, to serve as a board of pharmacy. The members of the board shall within thirty (30) days after their appointment, individually take and subscribe before the county clerk, in the county in which they individually reside, an oath faithfully and impartially to discharge the duties prescribed by this act. They shall hold office for the term of four (4) years, and until their successors are appointed and have qualified. In case of vacancy in the board of pharmacy, the Governor shall fill the same by appointing a member to serve for the remainder of the term only. The office of the board shall be located in San Francisco. The board shall organize by electing a president, a secretary, and a treasurer. The secretary may or may not be a member of the board as the board in its sound discretion shall determine. The secretary, and treasurer shall each give a satisfactory bond running to the board of pharmacy in a sum of not less than two thousand dollars, and such greater sum as the board may from time to time, require for the faithful discharge of their respective duties. (Id. § 5.)

483. Duty of Secretary and Treasurer; Compensation of Secretary.—It shall be the duty of the secretary to keep a book of registration open at the city of San Francisco, in which shall be entered under the supervision of the board, the names, titles, qualifications, and places of business of all persons coming under the provisions of this act. The secretary shall give receipts for all moneys received by him and pay the same to the treasurer of the board, taking his receipt for same. The treasurer shall disburse the same by order of the board for necessary expenses, taking proper vouchers therefor. The balance of said money, after paying the expenses of the board, he shall pay to the State Treasurer, who shall keep it in a special fund to be used in carrying out the provisions of this act. It shall be the duty of the secretary of the board to erase from the register the name of any registered pharmacist or assistant pharmacist who has died, or who in the opinion of the board has forfeited his right under the law to do business in this State. Besides the duties required by this act, it shall be the duty of the secretary to perform such other reasonable duties appertaining to his office, as may be required of him by the board of pharmacy. The secretary shall receive such compensation as may be fixed by the board of pharmacy; if he be a member of the board, then such compensation shall be in addition to his per diem as a member of said board. (Id. § 6.)

484. Powers and Duties of Board.—Four members of the board shall constitute a quorum. They shall hold a meeting at least once in every four months. The State Board of Pharmacy shall have power:

(a) To make such by-laws and regulations, not inconsistent with the laws of this State, as may be necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) To regulate the practice of pharmacy.

(c) To regulate the sale of poisons.

(d) To regulate the quality of all pharmaceutical preparations and medicines dispensed or sold in this State, using the United States Pharmacopœia or National Formulary, as the standard.

(e) To investigate all complaints as to the quality and strength of all pharmaceutical preparations and medicines, and to take such action as may be necessary to prevent the sale of such as do not conform to the standard and tests prescribed in the latest edition of the United States Pharmacopœia or National Formulary.

(f) To employ inspectors of pharmacy and to inspect during business hours all pharmacies, dispensaries, stores, or places, in which drugs, medicines and poisons are compounded, dispensed or retailed, and to cause the prosecution of all persons whenever there appears to the board to be reasonable ground for such action.

(g) To examine and register as pharmacists and assistant pharmacists all applicants whom it shall deem qualified to be such. All persons applying for registration, under this act, shall pay the following fees therefor to the secretary of the board of pharmacy: Every applicant for registration, other than that of an apprentice, shall pay a fee of ten dollars on filing his or her application, which shall be compensation to the board of pharmacy for investigation or examination of the applicant; and if the board finds that any applicant for registration on experience and credentials is entitled to be registered, then he or she shall pay an additional fee of fifteen dollars upon the issuance of certificate of such

registration; and any licentiate found by the board on examination to be entitled to a certificate shall pay the additional sum of five dollars upon the issuance of certificate; all applicants for examination as assistant, if found satisfactory by the board, shall be entitled to their certificate without further fee; and provided further, that an applicant for registration on experience and credentials may at his or her option be examined as a licentiate without further fee for application.

(h) In the event any person having registered shall have lost his or her certificate, or the same has been destroyed, or if he or she desires the renewal of the same, a new certificate may be issued by said board upon the applicant paying therefor the sum of three dollars; provided further, that where the original certificate is not lost or destroyed, then the certificate shall be surrendered before a renewal of same shall be issued; and provided further, that the board shall have power to require satisfactory evidence from the applicant of the loss or destruction of the certificate; and provided further, that where the applicant is delinquent for the annual dues required by this act then he or she shall be required to pay to said board sufficient fees to cover his delinquency in that behalf before he or she shall be entitled to a reissue of the certificate in this subdivision provided for.

(i) To provide by proper rules and regulations for the revocation by said board of licenses issued under the provisions of this act, whenever the holder of such license shall be guilty of habitual intemperance or addicted to the use of narcotic drugs, or shall have been convicted of a felony. (Id. § 7.)

485. Members of Board Not to Teach Pharmacy Except in Certain Capacities; Compensation of Members.—No member of the board shall teach pharmacy in any of its branches, unless it be as a teacher in a public capacity and in a college of pharmacy. The members of the Board of Pharmacy shall each be paid the sum of eight dollars per diem for every meeting of the board which they attend, together with their necessary expenses, and mileage at the rate of five cents per mile for each mile necessarily traveled. All compensation of members and all other expenses of the board, shall be paid out of the examination and registration fees and fines. (Id. § 8.)

486. Annual Renewal Fee; Recording Certificate; Penalty for Violation of Statute; Duty of County Clerk.—Ever person holding a certificate from said board shall renew annually their registration with said board; and every registered pharmacist, and every assistant registered pharmacist who desires to retain his registration on the books of the Board of Pharmacy in this State shall annually, after the expiration of the first year's registration and on or before the first day of July of each succeeding year, pay to the secretary of the Board of Pharmacy a renewal fee, to be fixed by the board, which shall not exceed two dollars for registered pharmacist and one dollar for assistant registered pharmacist, in return for which fee a renewal certificate of registration shall be issued. In case any person defaults in payment of said fee his or her registration may be revoked by the Board of Pharmacy on sixty days' notice, in writing, from the secretary, unless within said time the fee is paid, together with such penalty not exceeding ten dollars, as the board may impose. Upon payment of said fee and penalty the board must reinstate the delinquent's registration. No person having received, or who may hereafter receive a certificate of registration as a pharmacist or assistant pharmacist, shall engage in business as pharmacist or assistant pharmacist, in any county of this State in which he or she shall locate, or into which he or she shall afterwards remove, until he or she shall have such certificate recorded in the office of the county clerk of such county, and it is hereby made the duty of the county clerk to record such certificate in a book to be provided and kept for that purpose, and the county clerk is authorized to charge a fee of fifty cents for the recording of such certificate—to be paid by the person offering such certificate for record. Each pharmacist or assistant pharmacist holding a certificate of registration as a pharmacist, or assistant pharmacist, and being engaged in business as a pharmacist or assistant pharmacist, shall have such certificate recorded, as in this section provided, within thirty days after the taking effect of this act. The record of the certificate required by this section, or a certified copy thereof, shall be evidence in all courts that the person holding it was registered as evidenced by said certificate on the date of the same. Any registered pharmacist or assistant registered pharmacist failing to comply with any of the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than twenty-five dollars. Upon the certificate being recorded as herein provided, it shall be the duty of the county clerk to notify the secretary of the Board of Pharmacy of the name of the party and the date of such record. (Id. § 9.)

487. Posting of Certificate; Removal of Place of Business.—Every person upon receiving a certificate of registration under this act, or who has heretofore received a certificate of registration in this State, shall keep his last receipt for re-registration, conspicuously exposed in his place of business. Every registered pharmacist, and assistant pharmacist, shall within thirty days after the changing of his place of business as designated on the books of the Board of Pharmacy, notify the secretary of the board of his new place of business, and upon receipt of said notification, the secretary shall make the necessary change in his register. (Id. § 10.)

488. Responsibility for Quality of Drugs, etc.; Adulteration; Penalty; Filing Prescriptions; Investigating Violations of Act.—Every proprietor or manager of a pharmacy or drug store shall be held responsible for the quality of all drugs, chemicals and medicines sold or dispensed by him, except those sold in the original packages of the manufacturer and except those articles or preparations known as patent or proprietary medicines. Any persons who shall knowingly, willfully, or fraudulently falsify or adulterate, or cause to be falsified or adulterated, any drug or medicinal substance, or any preparation authorized or recognized by the pharmacopœia of the United States or used, or intended to be used, in medical practice, or shall mix, or cause to be mixed, with any such drug or medicinal substance any foreign or inert substance whatever for the purpose of destroying or weakening its medicinal power or effect, or of lessening its cost, and shall willfully, knowingly, or fraudulently sell the same, or cause it to be sold, for medicinal purposes, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars and not more than two hundred dollars, or by imprisonment for not less than fifty days and not more than two hundred days, or by both such fine and imprisonment.

Every registered pharmacist shall file or cause to be filed, all physicians' prescriptions, or a copy thereof, compounded or dispensed in his pharmacy or store, and any person who shall willfully fail so to do shall be deemed guilty of a misdemeanor and upon conviction thereof shall be liable to a fine not exceeding fifty dollars; and for such [each] subsequent offense shall be liable to a fine of not less than fifty dollars, and not more than one hundred dollars. The State Board of Pharmacy may at any time, when in their judgment it appears advisable, depute one of their members, or any other competent person, to investigate any suspected violation of any of the provisions of this act, and if the result of such investigation seems to the board to justify such action the board shall cause the prosecution of any person violating any of the provisions of this act. (Id. § 11.)

489. Registration by False Representations, Penalty; Sales or Compounding to be Directed by Registered Pharmacist; Fines, Disposition of; Not to Apply to Physicians; Proprietary Medicines.—Any person who shall attempt to secure, or secures registration for himself or any other person under this act by making or causing to be made false representations, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine not exceeding one hundred dollars, or by imprisonment for a term not exceeding fifty days, or by both such fine and imprisonment. Any person who shall permit the compounding of prescriptions of medical practitioners, or the selling of drugs and medicines, in his or her store or pharmacy, except under the direct, immediate and personal supervision of a registered pharmacist, or any person not registered who shall retail medicine, poisons or chemicals, except in a pharmacy under the direct, immediate and personal supervision of a registered pharmacist, or any person violating any of the provisions of this act, when no other penalty is provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine of not less than twenty dollars, and not more than one hundred dollars, or by imprisonment of not exceeding fifty days, or by both such fine and imprisonment. All fines recoverable under this act shall be paid by the magistrate receiving the same to the State board of pharmacy. Any person convicted of violating the provisions of this act the third time shall in addition to the penalties hereinbefore mentioned have his or her registration as a pharmacist canceled. Nothing in this act shall apply to or interfere with any practitioner of medicine who is duly registered as such by the State Board of Medical Examiners of this State with supplying his own patients, as their physician, and by them employed as such, with such remedies as he may desire and who does not keep a pharmacy, open shop, or drug store, advertised or otherwise for the retailing of medicines or poisons, nor does this act apply to the exclusively wholesale business of any dealer. Nor does this apply to registered, trade-marked or copyrighted proprietary medicines, registered in the United States patent office nor to the sale of proprietary medicines,

when manufactured under the supervision of a registered pharmacist in the State of California for which trade-marks may have been filed with the Secretary of State of California, by merchants possessing a license issued by the Board of Pharmacy as described in section 16 of this act. (Id. § 12.)

490. Registered Pharmacist Must be in Charge.—Any proprietor of a pharmacy, who shall fail, or neglect to place in charge of such pharmacy a registered pharmacist, or any proprietor, who shall by himself, or any other person, permit the compounding of prescriptions, or the vending of drugs, medicines, or poisons, in his or her store, or place of business, except by or in the presence and under the direct, immediate and personal supervision of a registered pharmacist, or any person, not being a registered pharmacist, who shall take charge of, or act as manager of any pharmacy, or store, or who, not being a registered pharmacist, retails, compounds, or dispenses drugs, medicines, or poisons, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty (\$20) dollars and not more than one hundred [\$100] dollars, or by imprisonment for a term of not exceeding fifty days, or by both such fine and imprisonment. (Id. § 13.)

491. Examination of Applicants for Temporary Certificates.—Any member of the Board of Pharmacy, or inspector duly authorized by said board may examine applicants orally, or in writing, and issue a temporary certificate to practice pharmacy, which shall authorize such practice for a period not to exceed four months from its date. The issuance of such temporary certificate shall not entitle the holder thereof to a permanent certificate, and no permanent certificate shall be issued to such holder until he passes a satisfactory examination by the board. Only one temporary certificate shall ever be issued to the same applicant, and no temporary certificate shall be granted to any person whose application has been denied by the board. The member or authorized inspector conducting the examination as herein set forth shall be entitled to charge and receive the sum of three dollars for such certificate, said moneys to be paid to the board of pharmacy. (Id. § 14.)

492. Apprentices; Standard of Qualifications.—It shall be the duty of all registered pharmacists who take into their employ an apprentice, whose purpose it is to become a pharmacist, to report to the Board of Pharmacy such facts regarding his schooling and preliminary qualifications as the Board of Pharmacy may require for the purpose of registration as an apprentice. The Board of Pharmacy shall adopt a standard of qualifications regarding schooling and preliminary qualifications for all persons desiring to be registered as apprentices, as provided for in this section. The pharmaceutical experience of every apprentice shall, after the passage of this act, be deemed to begin on the date on which he began the study of pharmacy, and such date shall be inserted in the certificate of registration of said apprentice, provided the preliminary qualifications have been found satisfactory by the board. Sworn testimony shall be furnished the board upon which they shall determine the date as aforesaid. The date so determined and entered as aforesaid shall be deemed to be the beginning of the applicant's pharmaceutical experience for the purpose of this act; provided, that the students matriculating and attending any reputable college of pharmacy shall be registered as apprentices upon such facts being shown. The board shall keep a register for the registration of apprentices and furnish upon application proper blanks for this purpose. No apprentice shall be permitted to sell drugs, medicines, or poisons, or compound prescriptions except under the direct, immediate and personal supervision of a registered pharmacist. No registered apprentice shall ever be left in charge of a pharmacy. No applicant for registration as an apprentice shall be registered as such if such applicant has had more than three years' experience in a pharmacy, but must apply for registration as assistant pharmacist. (Id. § 15.)

493. Permits to General Dealers to Sell Certain Drugs.—The board of pharmacy shall issue a permit to general dealers in rural districts in which the conditions, in their judgment, do not justify the employment of a registered pharmacist, and where the store of such general dealer is not less than three miles distant from the store of a registered pharmacist; which said permit shall authorize the persons or firm named therein to sell in such locality, but not elsewhere, and under such restrictions and regulations as said board may from time to time adopt, the following simple household remedies and drugs, and no other, in such manner and form as may be hereafter authorized by said board, as follows, to wit:

Tincture of arnica, spirits of camphor, almond oil, distilled extract witch-hazel, paregoric, syrup of ipecac, syrup of rhubarb, hive syrup, sweet spirits of nitre, tincture of iron, epsom salts, Rochelle salts, senna leaves, carbonate of magnesia, seidlitz powders, quinine, cathartic pills, chamomile flowers, caraway seed, chlorate

of potash, moth balls, plasters, salves, ointments, peroxide of hydrogen, copperas, gum camphor, blue ointment, asafoetida, saffron, anise seed, saltpetre.

The board shall charge an annual fee of five dollars in advance for such permit, and it shall be unlawful for any dealer to sell any drugs or ordinary household remedies without complying with the requirements of this section. Whenever a registered pharmacist shall establish a pharmacy within three miles by the shortest road from the place of business of such dealer, no further license shall be granted, and the license already issued shall be void; provided, that the following drugs, medicines and chemicals may be sold by grocers and dealers generally without restriction viz.:

Glauber salts, vaseline, turpentine, condition powders, cream of tartar, carbonate of soda, bay rum, essence of Jamaica ginger, essence of peppermint, ammonia, alum, castor oil, bicarbonate of soda, chloride of lime, glycerine, witch-hazel, sheep dip, borax, sulphur, bluestone, flax-seed, insect powder, fly paper, ant poison, squirrel poison and gopher poison, and arsenical poisons used for orchard spraying, when prepared and sold only in original and unbroken packages and labeled with the official poison labels. (Id. § 16.)

494. Marshals and Police to Furnish List of Drug Stores to State Board; Duty of Owners of Stores.—It shall be the duty of the Board of Pharmacy, by resolution, at least annually to request of the chief of police, marshal or constable of every city, town or township in this State, to furnish a list of all drug stores, together with the names of the owners, managers, and all employees in said stores, and a brief statement of the capacity in which said persons are employed in said stores, and also the firm name of all stores retailing drugs, medicines or poisons. Upon such request in writing, it shall be the duty of the chief of police, marshal, or constable of said city, town or township to require the patrolmen or deputies under their command, upon their respective beats, to obtain such lists as are in this section specified, and deliver the same to the Board of Pharmacy. It shall be the duty of the owner or manager of any drug store or other store retailing drugs, medicines or poisons when called upon by an officer as above set forth, or by a member of the Board of Pharmacy, or a duly authorized inspector, to furnish said officer, member of the Board of Pharmacy or duly authorized inspector with the information required. Any person refusing to furnish the information, or willfully furnishing information that is false or untrue shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than fifty dollars, or by imprisonment for not less than ten days and not more than thirty-five days, or by both such fine and imprisonment. (Id. § 17.)

495. Penalties, How Recovered.—The several penalties prescribed in this act may be recovered in any court having jurisdiction, by a civil action instituted by the Board of Pharmacy, in the name of the State of California, or by criminal prosecution upon complaint being made; and it shall be the duty of the district attorney of the county wherein violations of the provisions of this act occur, to conduct all such actions and prosecutions at the request of the board. (Id. § 18.)

496. Exemption from Jury Duty.—All persons registered under this act shall be exempt and free from jury duty. (Id. § 19.)

497. Hours of Labor for Drug Clerks.—As a measure for the protection of public health, no person employed by any person, firm or corporation to sell, at retail, drugs and medicines, or to compound physicians' prescriptions, shall perform any work in any store, dispensary, pharmacy, laboratory or office for more than an average of nine hours per day or for more than one hundred eight hours in any two consecutive weeks nor on more than thirteen days in such two consecutive weeks. (Supp. 1925, G. L., Act 5887, § 1.)

498. Employer's Duty.—No person, firm or corporation employing another person to sell, at retail, drugs and medicines, or to compound physicians' prescriptions shall require or permit said employed person to perform any work in any store, dispensary, pharmacy, laboratory or office for more than an average of nine hours per day, or for more than one hundred eight hours in any two consecutive weeks nor on more than thirteen days in such two consecutive weeks; provided, however, that any licentiate or registered assistant pharmacist so employed may be so employed, and may perform such work for the full period of time permitted by this section; provided, however, that the periods of rest to be taken by the employee must be so apportioned that the employee shall be entitled to one complete day of rest during one of such weeks, and to two half-day periods in the other of such weeks; but nothing herein contained shall prevent the employer from granting to the employee a complete day of rest during each of such weeks. (Id. § 2.)

499. Penalty Emergencies.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished therefor by a fine not less than twenty dollars nor more than fifty dollars or by imprisonment, for not exceeding sixty days, or by both such fine and imprisonment at the discretion of the court; provided, however, that the provisions of this act shall not apply in any case of emergency. The word "emergency" as used herein shall be construed as being accident, death, sickness or epidemic. (Id. § 3.)

500. Enforcement.—The commissioner of the State Bureau of Labor Statistics is hereby authorized, directed and empowered to enforce the provisions of this act. (Id. § 4.)

501. Labeling Packages of Poisons; Poison Sold Only for Legitimate Purposes; Giving Fictitious Name Unlawful; Schedule and Antidote Given to Pharmacists; Entries of Sales in Poison Register; Form of Book.—It shall be unlawful for any person to vend, sell, give away or furnish, either directly or indirectly any poisons enumerated in schedules "A" and "B" in section 7 [5a, as added L. 1925, c. 59]* of this act as hereinafter set forth, without labeling the package, box, bottle or paper in which said poison is contained, with the name of the article, the word "poison," and the name and place of business of the person furnishing the same. Said labels shall be substantially in the form hereinafter provided. It shall be unlawful to sell or deliver any of the poisons named in schedule "A" or any other dangerously poisonous drug, chemical, or medicinal substance, which may from time to time be designated by the State Board of Pharmacy of California, unless on inquiry it is found that the person desiring the same is aware of its poisonous character, and it satisfactorily appears that it is to be used for a legitimate purpose. It shall be unlawful for any person to give a fictitious name or make any false representations to the seller or dealer when buying any of the poisons thus enumerated; provided, that this prohibition shall not apply to an officer or inspector of the State Board of Pharmacy in the performance of the duties enjoined by law upon said board, or to any person acting under authority of said board in the performance of said duties. Printed notice of all such additions to the schedule of poisons named and provided for in this section, and the antidote adopted by the Board of Pharmacy for such poisons shall be given to all registered pharmacists with the next following renewal of their certificates. It shall be unlawful to sell or deliver any poison included in schedule "A" or the additions thereto, without making or causing to be made, at the time of said sale, an entry in a book kept solely for that purpose, stating the date and hour of sale, and the name, address and signature of the purchaser, the name and quantity of the poison sold, the statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a duly registered pharmacist; provided, however, that said entry shall be made out in full, in ink before said signature of the purchaser is made thereto, and that said entry shall be made by said dispenser himself, and not by any person who is not a duly registered pharmacist or duly registered assistant pharmacist. Said book shall be in form substantially as follows:

Date and Hour.	Name of Purchaser.	Residence.	Kind and Quantity.	Purpose of Use.	Signature of Druggist.	Signature of Purchaser.
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This book shall always be open for inspection by the proper authorities, and shall be preserved for at least five years after the date of the last entry therein. (G. L. 1923, Act 5994, § 1.) [See also Pen. Code, 1923, § 347a, No. 519.]

502. Form of Label.—The label required by this act, to be placed on all packages of poison, shall be printed upon red paper in distinct white letters, or in distinct red letters upon white paper, and shall contain the word "poison," "the vignette" representing the skull and crossbones, and the name and address of the person or firm selling the same. The name of an antidote if any there be for the poison sold, shall also be upon the package. No poison shall be sold or delivered to any person who is less than eighteen years of age. (Id. § 2.)

503. State Board of Pharmacy to Adopt Schedule of Antidotes; Entries to be in English.—It shall be the duty of the State Board of Pharmacy to adopt a schedule of what in their judgment are the most suitable common antidotes for the various poisons usually sold. After the board has adopted the schedule of antidotes as herein provided for, they shall have the same printed and shall forward by mail one copy to each person registered upon their books, and to any other person applying for the same. The particular antidote adopted (and

*See No. 506.

no other) shall appear on the poison label, provided for in section 2 of this act, or be attached to the package containing said poison. The board shall have power to revise and amend the list of antidotes from time to time, as to them may seem advisable. The entries in the poison-book and the printed or written matter provided for in sections 2 and 3 of this act, shall be in the English language, provided that the vendor of said poison may enter the same in any foreign language he may desire, in addition to said entry and label in English. (Id. § 3.)

504. Board May Further Restrict Sales.—When in the opinion of the State Board of Pharmacy it is in the interest of the public health, they are hereby empowered to further restrict, or prohibit the retail sale of any poison by rules, not inconsistent with the provisions of this act, by them to be adopted, and which rules must be applicable to all persons alike. It shall be the duty of the board, upon request, to furnish any dealer with a copy of the laws relating to articles, preparations and compounds, the sale of which is prohibited or regulated by this act. (Id. § 4.)

505. Duty of Wholesale Dealers.—Wholesale dealers and pharmacists shall affix or cause to be affixed to every bottle, box, parcel or other inclosure of an original package containing any of the articles named in schedule "A" the additions thereto, or in sections 8 and 9 of this act, a suitable label, or brand with the word "poison" but they are hereby exempted from the registration of the sale of such articles when sold at wholesale to a registered pharmacist, physician, dentist or veterinary surgeon duly licensed to practice in the State; provided, that the provisions of this act shall not apply to the sale of such upon the prescriptions of practicing physicians, dentists or veterinary surgeons who are duly licensed to practice in this State. (Id. § 5.)

506. Schedule "A," Schedule "B."—The following is schedule "A" referred to in section one, viz: Schedule "A," arsenic, its compounds and preparations, poisonous salts of barium, corrosive sublimate and other poisonous derivatives of mercury, cyanide of potassium, strychnine, hydrocyanic acid, oils of croton, rue, savin, and tansy, phosphorous and its poisonous derivatives and compounds, strophanthus or its preparations, aconite, belladonna, nux vomica, veratrum viride, their preparations, alkaloids or derivatives, ant poisons containing any of the poisons enumerated in this schedule except ant poisons which contain not to exceed two-tenths (2-10) of one per cent (1%) by weight of arsenic expressed in terms of metallic arsenic; provided, however, that the following preparations shall not be included in this schedule, pills, or tablets of eloin, belladonna, and strychnine, plasters composed of aconite or belladonna, or elixir of iron, quinine and strychnine or ethyl alcohol denatured in accordance with any formula approved by the Internal Revenue Department of the Federal government for external use.

The following is schedule "B": hydrochloric or muriatic acid, nitric acid, oxalic acid, sulphuric acid, bromine, chloroform, cowhage, creosote, ether, solution of formaldehyde or formaline, cantharides, cocculus indicus, all of their preparations; iodine or its tincture, oil of pennyroyal, tartar emetic and other poisonous derivatives of antimony, sugar of lead, sulphate of zinc, wood alcohol, lysol and compound solution of creosol. (Supp. 1925, G. L., Act 5994, § 5a.)

507. Prosecution of Violators.—It is hereby made the duty of the district attorney of the county wherein any violation of this act is committed, to conduct all actions and prosecutions for the same, at the request of the Board of Pharmacy; provided, that the board may employ special counsel to assist the district attorney in such actions and prosecutions; provided further, that no attorney employed as special counsel shall receive as compensation therefor any sum in excess of four thousand dollars in any one year; provided further, however, that the compensation for such special counsel shall only be paid from funds derived from fines collected from prosecutions under the provisions of this act. (G. L. 1923, Act 5994, § 6.)

508. Penalties for Unlawful Sale of Narcotics, etc.—Any person convicted under section eight of this act for selling, peddling, furnishing, or giving away, or offering to sell, furnish or give away, any of the narcotic drugs or their derivatives mentioned in section eight, shall upon conviction for the first offense be punished by imprisonment in the county jail or in the State Prison for not less than six months nor more than six years and for the second and each subsequent offense, shall be imprisoned in the State Prison for not less than one year nor more than ten years.

Any person convicted under section eight of this act for having in possession any of the narcotic drugs or their derivatives mentioned therein, shall upon conviction for the first offense be punished by imprisonment in the county jail or in the State Prison for not more than six years; for the second and each subse-

quent offense of which said person so convicted shall be found guilty, said person shall be punished by imprisonment in the county jail or in the State Prison for not more than ten years.

Any person who shall hire, employ, or use, any minor under the age of sixteen years in unlawfully transporting, carrying, selling, preparing for sale, peddling, or using any morphine, cocaine, heroin, [or] opium, shall upon conviction thereof be deemed guilty of a felony and shall be punished by imprisonment in the State Prison for not less than one year nor more than five years, and for each subsequent offense upon conviction, be imprisoned in the State Prison for not less than six years.

Any person violating any of the other provisions of this act, except those contained in sections eight and eight *e* shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than thirty dollars, nor more than two hundred dollars, or by imprisonment for not less than thirty days, and not more than fifty days, or by both such fine and imprisonment. All moneys, forfeited bail or fines received under the operation of this act shall be sent without delay by the magistrate receiving same, seventy-five per cent to the State Treasurer to be deposited in the State treasury and twenty-five per cent to the city treasurer of the city, if incorporated, or to the county treasurer of the county in which the prosecution is conducted. (Supp. 1925, G. L., Act 5994, § 7.)

509. Unlawful to Sell Certain Narcotic Drugs; Regulation Concerning Sale.—It shall be unlawful for any person, firm or corporation to sell, furnish or give away or offer to sell, furnish or give away or to have in their or his possession any cocaine, opium, morphine, codeine, heroin, alpha eucaine, beta eucaine, nova caine, flowering tops and leaves, extracts, tinctures and other narcotic preparations or [of] hemp or loco weed (*Cannabis sativa*), Indian hemp, peyote (*Anhalonium*), or chloral hydrate or any of the salts, derivatives or compounds of the foregoing substances or any preparation or compound containing any of the foregoing substances or other salts, derivatives or compounds excepting upon the written order or prescription of a physician, dentist or veterinary surgeon, licensed to practice in this State, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, written in by the person writing said prescription, or if ordered by a veterinary surgeon it shall state the kind of animal for which ordered and shall be signed by the person giving the prescription or order.

Such order or prescription shall be permanently retained on file by the person, firm or corporation who shall compound or dispense the articles ordered or prescribed, and it shall not be again compounded or dispensed if each fluid or avoirdupois ounce contains more than ten grains of chloral hydrate, or four grains of Indian hemp or loco weed excepting upon the written order of the prescriber for each and every subsequent compounding and dispensing.

No copy or duplicate of such written order or prescription shall be made or delivered to any person but the original shall be at all times open to inspection by the prescriber and properly authorized officers of the law and shall be preserved for at least three years from the date of the filing thereof; provided, that the above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers to pharmacies, as defined in section one of an act entitled "An act to regulate the practice of pharmacy in the state of California and to provide a penalty for the violation thereof; and for the appointment of a board to be known as the California State Board of Pharmacy," approved March 20, 1905, and acts amendatory thereof;* or physicians, nor to each other, nor to the sale at retail in pharmacies by pharmacists to physicians, dentists or veterinary surgeons duly licensed to practice in this State; provided further, that all such wholesale jobbers, wholesalers and manufacturers, in this section mentioned shall keep in a manner readily accessible, the written orders or blank forms required to be preserved under the provisions of section two of the act of Congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing or giving away of opium or coca leaves and [their] salts, derivatives or preparations. And said records shall always be open for inspection by any peace officer or any member of the Board of Pharmacy or any inspector authorized by said board and such records shall be preserved for at least two years after the date of the last entry therein.

The taking of any order, or making of any contract or agreement, by any traveling representative, or any employee, of any person, firm or corporation, for future delivery in this State, of any of the articles or drugs mentioned in this

*See No. 478.

section shall be deemed a sale of said articles or drugs by said traveling representative, or employee, within the meaning of the provision of this act; provided further, that a true and correct copy of all orders, contracts or agreements, taken for narcotic drugs specified in this section shall be forwarded by registered mail to the secretary of the California State Board of Pharmacy within twenty-four hours after the taking of such order, contract or agreement, unless such order, contract or agreement is recorded as required under the provisions of section two of an act of Congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing or giving away of opium or coca leaves, their salts, derivatives or preparations of some wholesale jobber, wholesaler, or manufacturer permanently located in this State, as provided for in this section.

It shall be unlawful for any practitioner of medicine, dentistry or veterinary medicine to administer to himself as a habitual user or furnish to or prescribe for the use of any other habitual user of the same, or of anyone representing himself as such, any cocaine, opium, morphine, codeine, heroin, or chloral hydrate, or any salt, derivative or compound of the foregoing substances or their salts, derivatives or compounds; and it shall also be unlawful for any practitioner of medicine or dentistry to prescribe or give any of the foregoing substances for himself or any person not under his treatment in the regular practice of his profession, or for any veterinary surgeon to prescribe or furnish any of the foregoing substances for the use of himself or any other human being; provided, however, that the provisions of this section shall not be construed to prevent any duly licensed physician from furnishing or prescribing in good faith as their physician by them employed as such, for any habitual user of any narcotic drugs who is under his professional care, such substances as he may deem necessary for their treatment, when such prescriptions are not given or substances furnished for the purpose of evading the purposes of this act; provided, that such licensed physician shall report in writing, over his signature, by registered mail, to the office of the California State Board of Pharmacy, within twenty-four hours after the first treatment, each and every habitual user of such narcotic drugs as are enumerated in this section, whom he or she has taken, in good faith, under his or her professional care, for the cure of such habit, such report to contain the date, name and address of such patient, and the name and quantity of the narcotic or narcotics prescribed in such treatment; and provided, further, that the above provisions shall not apply to preparations of the United States Pharmacopoeia and National Formulary or other recognized or established formula or remedies sold or dispensed without a physician's prescription containing not more than two grains of opium, or one-fourth grain of morphine, or one grain of codeine, or one-eighth grain of heroin, or ten grains of chloral hydrate or four grains of Indian hemp or loco weed in one fluid ounce, or, if a solid preparation, in one ounce, avoirdupois, except tincture opii camphorata (commonly known as paregoric) which may be sold only upon the prescription of a physician licensed to practice in this State and said prescription shall not be again refilled or dispensed. (G. L. 1923, Act 5994, § 8.)

510. Possession of Opium Pipes a Misdemeanor.—The possession of a pipe or pipes used for smoking opium (commonly known as opium pipes) or the usual attachment or attachments thereto, or other contrivances used for smoking opium, or extracts, tinctures or other narcotic preparations of hemp, or loco weed, their preparations or compounds containing more than four grains to each fluid or avoirdupois ounce (except corn remedies containing not more than fifteen grains of the extract or fluid extract of hemp to the ounce, mixed with not less than five times its weight of salicylic acid combined with collodion), is hereby made a misdemeanor, and upon conviction thereof shall be punishable by the penalties prescribed in section 7 of this act. (Id. § 8a.)

511. Narcotics and Opium Pipes May be Seized by Peace Officers; Order of Destruction; Alternative Disposition.—All narcotic drugs specified in section 8 and also all pipes used for smoking opium (commonly known as opium pipes) or the usual attachments thereto, flowering tops and leaves, or extracts, tinctures, or other narcotic preparations of hemp, or loco weed, their preparations or compounds containing more than four grains of Indian hemp or loco weed to each fluid or avoirdupois ounce (except corn remedies containing not more than fifteen grains of the extract or fluid extract of hemp to the ounce, mixed with not less than five times its weight of salicylic acid combined with collodion), may be seized by any peace officer, and in aid of such seizure a search-warrant or search-warrants may be issued in the manner and form prescribed in chapter 3

of Title XII of Part II of the Penal Code.* All such narcotic drugs, pipes used for smoking opium (commonly known as opium pipes) or the usual attachments thereto, and all such hemp or preparation of hemp or loco weed seized under the provisions of this act shall be ordered destroyed by the judge of the court in which final conviction was had; said order of destruction shall contain the name of the party charged with the duty of destruction as herein required; provided, however, that the judge shall turn all such evidence over to the California State Board of Pharmacy for such destruction; and provided, further, that any narcotic drugs, specified in section 8, opium pipes and the usual attachments thereto, for smoking opium, seized under the provisions of this act, now in the possession of any city or county official or officials, or the California State Board of Pharmacy, or which may hereafter come into their or its possession, in which no trial was had, shall be delivered to the California State Board of Pharmacy for destruction by said board; provided, however, that none of the narcotic drugs specified in section 8, opium pipes and the usual attachments thereto, or smoking opium coming into the possession of said board, as above described, shall not be destroyed within a period of six months from the date of such seizure; and provided, further, that the Board of Pharmacy may dispose of all narcotics now on hand or hereafter coming into their possession (other than smoking opium), either by gift to the medical director of California State prisons or State hospitals or by sale to wholesale druggists, the funds received from such sales to be applied by the board of pharmacy to the carrying out the provisions of this act or of the act creating such California State Board of Pharmacy. (Id. § 8b.)

512. Revocation of Registration of Pharmacist for Violation.—The board may revoke the registration of any registered pharmacist or assistant pharmacist upon conviction of the second offense for violating any of the provisions of section 8 or 8a of this act, and in such case said registration shall not be restored before the period of one year from the date of said revocation. (Id. § 8c.)

513. Enforcement of Act.—The State Board of Pharmacy is hereby charged with the enforcement of the provisions of section 307 of the Penal Code,† and all fines, moneys or forfeited bail imposed for violation of said section upon collection shall be disposed of as is provided for the disposition of fines, moneys or forfeited bail, in section 7 of this act. (Id. § 8d.)

514. Unlawful to Sell Hypodermic Syringe or Needle Without Physician's Order; Permit to Sell; Penalties.—It is hereby made unlawful for any person to sell, vend, give away, or furnish, either directly or indirectly, to any person other than a duly licensed physician, licensed to practice and prescribe medicines in this State, or to a dentist or a veterinarian, or a pharmacist licensed to practice in this State, or person holding an unrevoked license to practice osteopathy, an instrument commonly known as a hypodermic syringe, or an instrument commonly known as a hypodermic needle, without a written, signed order from a duly licensed physician, dentist or veterinarian licensed to practice and prescribe medicine in this State, said order to contain the name and address of the party for whom ordered; or for any person other than a physician, dentist, veterinarian or pharmacist licensed to practice in this State, to have in his possession such an instrument commonly known as a hypodermic syringe or an instrument commonly known as a hypodermic needle, or any instrument or contrivance used for the same purpose as a hypodermic syringe or hypodermic needle, unless said instrument or contrivance was purchased by said person through and with a written order signed by a duly licensed physician, dentist or veterinarian licensed to practice and prescribe medicine in this State or person holding an unrevoked license to practice osteopathy, as above provided. No order, certificate or prescription shall be for more than one hypodermic syringe or for more than three hypodermic needles and no copy or duplicate of such order shall be made for or delivered to any person and said order or prescription shall be accepted and filled only once; provided, however, that the above restrictions shall not prevent any duly registered nurse of this State or student nurse in any hospital or training school for nurses from obtaining or possessing any hypodermic syringe and hypodermic needles when working the immediate direction and supervision of a licensed physician or dentist; provided, further, that the Board of Pharmacy may upon application and at its discretion issue a permit, revocable at the discretion of the said board, to any duly registered pharmacist, for a limited period, permitting and authorizing such pharmacist to sell and dispense hypodermic syringes and needles for speci-

*Entitled, "Search Warrants."

†See No. 532.

fied purposes, to persons not addicted to the use of the narcotic drugs enumerated in this act, and sales made under the authority of and in conformity with the terms of such permit shall not be construed to be in violation of the provisions of this section.

Any person violating any of the provisions of this section shall, upon conviction, be guilty of a misdemeanor and shall be punished as follows: For the first offense by a fine not less than twenty-five dollars and not more than fifty dollars or by imprisonment for not less than twenty-five days and not more than fifty days or by both such fine and imprisonment; and for each subsequent offense by a fine of not less than fifty dollars and not more than one hundred dollars or by imprisonment for not less than fifty days and not more than one hundred days or by both such fine and imprisonment. All fines, moneys, or forfeited bail imposed for violation of this section, upon collection thereof, shall be disposed of as is provided for in the disposition of fines, moneys or forfeited bail under section seven of this act. (Id. § 8e.)

515. Definitions.—For the purpose of this act the terms "veterinarian," "dentist," "pharmacist" shall be deemed to mean and shall refer only to persons who hold valid, unrevoked certificates to practice their respective professions in this State, issued by their respective examining boards in California. The term "physician," or "duly licensed physician," or "physician duly licensed to practice in this State," or "duly licensed physician licensed to practice and prescribe medicine in this State," or "practitioner of medicine," or "licensed physician," shall be deemed to mean and refer only to persons holding a valid and unrevoked physician's and surgeon's certificate, or certificate to practice medicine and surgery, issued by the Board of Medical Examiners of the State of California or under the terms or provisions of any preceding medical practice act of the State of California. (Id. § 8f.)

516. Seizure of Automobile or Other Vehicle.—Any automobile or other vehicle used to convey, carry or transport any of the drugs mentioned in section eight of this act, which are not lawfully possessed or transported, is hereby declared to be forfeited to the State, and may be seized by any duly authorized peace officer and when such seizure is made shall be considered as part of the evidence under this act and the magistrate shall upon conviction of the party charged with the violation of said act, turn the automobile or other vehicle over to the State Board of Control of the State of California and said Board of Control shall deliver to the California State Board of Pharmacy such number of said automobiles or other vehicles as may be needed by the said Board of Pharmacy in enforcing the provisions of this act; provided, that nothing contained herein shall apply to common carriers, or to an employee acting within the scope of his employment under this act. * (Supp. 1925, G. L., Act 5994, § 8g.)

517. Limit of Prescriptions to Habitual Users; Reports of Physician.—Any licensed physician treating any habitué under section eight of this act shall not prescribe for or furnish such habitué more than eight grains of opium, or four grains of morphine, or two grains of cocaine, or two grains of heroin for each daily treatment and at the end of fifteen days of such treatment the said physician shall not prescribe for or furnish to such habitué for each daily treatment, more than four grains of opium, or two grains of morphine, or one grain of cocaine, or one grain of heroin, and at the end of thirty days from the first treatment, the prescribing or furnishing of any of the narcotic drugs above enumerated shall be entirely discontinued; and the physician shall report by registered mail as required in section eight of this act, and shall in the same manner further report in fifteen days, and in thirty days, the progress of the patient under the treatment so administered by him; otherwise, said treatment shall not be considered in good faith as provided in section eight of this act; provided however, that any licensed physician may prescribe for or furnish his patient as their physician employed by them as such, and who is suffering with some incurable disease, ailment, or injury, any of the narcotic drugs mentioned in section eight, in such quantity as may be necessary for a reasonable length of time and the physician prescribing or furnishing any of the narcotic drugs must personally furnish a signed, detailed report in writing, to the office of the California State Board of Pharmacy, by registered mail, within twenty-four hours after writing the first prescription or furnishing the narcotic drug to such patient; and provided, further, that the California State Board of Pharmacy may employ a licensed physician to interview, examine and report the result of such interview or examination of any patient coming under the provisions of this section; provided, further, that the California State Board of Health shall furnish, upon request in writing from the California State Board

of Pharmacy, a list of incurable diseases or ailments which, in its judgment, might require excessive amounts of narcotic drugs to be prescribed for or furnished by a physician for relief or benefit. (G. L. 1923, Act 5994, § 8½.)

518. Sale of Carbolic Acid.—The sale or furnishing of carbolic acid (phenol) in quantities of less than one pound, is prohibited unless upon the prescription of a physician, dentist or veterinary surgeon duly licensed to practice in this State, but this prohibition shall not apply to solution of carbolic acid (phenol) containing not over ten per cent of the carbolic acid (phenol) and not less than ten per cent of ethyl alcoholic [alcohol]. All sales of carbolic acid (phenol) thus diluted so as to contain no more than ten per cent of carbolic acid (phenol) may be made under the same conditions as the drugs enumerated in schedule "B" as found in section seven [5a, as added L. 1925, c. 59],* but sales of carbolic acid (phenol) containing more than ten per cent of said acid shall be registered subject to the same regulation as the poisons enumerated in schedule "A" as found in section seven [5a, as added L. 1925, c. 59]. (Id. § 9.)

519. Poisonous Substance, How Sold and Labeled; to Whom Sold; Entry of Sale to be Made; Penalty; Not to Apply to Prescriptions.—No person must retail any arsenic, corrosive sublimate, hydrocyanic acid, cyanide of potassium, strychnia, essential oil of bitter almonds, opium, aconite, belladonna, conium, nux vomica, henbane, tansy, savin, ergot, cotton root, digitalis, chloroform, chloral hydrate, or any preparation, compound, salt, extract or tincture, of such substances, except preparations of opium containing less than two grains to the fluid ounce, white precipitate, red precipitate, red and green iodides of mercury, colchicum, cantharides, oxalic acid, croton-oil, sulphate of zinc, sugar of lead, carbolic acid, sulphuric acid, muriatic acid, nitric acid, phosphorus, or any preparation, compound, salt, extract, or tincture, of such substances, without first distinctly labeling the bottle, box, vessel, or package, and the wrapper or cover thereof in which such substance is contained, with the common or usual name thereof, together with the word "poison," and the name and place of business of the seller.

Nor must any such sale be made to any person, unless it is found, on due inquiry, that he is aware of its poisonous character, and that it is to be used for a legitimate purpose.

Nor must any person retail any of such substances, unless, before delivering the same, he makes, or causes to be made, in a book kept for that purpose only, an entry stating the date of the sale, the name and address of the purchaser, the name and quantity of the substance sold, the purpose for which it is stated by the purchaser to be required, and the name of the dispenser. Such book must always be open to inspection by the proper authorities. A person dispensing any of the substances enumerated must ascertain, by due inquiry, whether the name and address given by the person receiving the same are his true name and address, and for that purpose may require such person to be identified. Every person who violates any of the provisions of this section is guilty of a misdemeanor, and punishable by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. Nothing in this section contained applies to the prescriptions of any physician authorized to practice medicine under the laws of this State. (Pen. Code, 1923, § 347a.)

520. Apothecary Omitting to Label Drugs, or Labeling Them Wrongfully, etc.—Every apothecary, druggist, or person carrying on business as a dealer in drugs or medicines, or person employed as clerk or salesman by such person, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines, willfully, negligently, or ignorantly omits to label the same, or puts an untrue label, stamp, or other designation of contents, upon any box, bottle, or other package containing any drugs or medicines, or substitutes a different article for any article prescribed or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor, or if death ensues, is guilty of a felony. (Id. § 380.)

521. Place Where Narcotics Unlawfully Sold, a Nuisance.—Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, or giving away any opium, morphine, cocaine or heroin, and every building or place wherein or upon which said narcotics are unlawfully sold, served or given away, or allowed to be used, is a nuisance which shall be enjoined, abated and prevented as hereinafter provided, whether the same be a public or private nuisance. (Supp. 1925, G. L., Act 5319, § 1.)

*See No. 506.

522. Action to Abate.—Whenever there is reason to believe that such nuisance is kept, maintained or exists in any county or city and county, the district attorney of said county, or city and county, in the name of the people of the State of California, must, or any citizen of the State, resident within said county or city and county, in his own name may, maintain an action in equity to abate and prevent such nuisance and to perpetually enjoin the person or persons conducting or maintaining the same, and the owner, lessee or agent of the building or place, in or upon which such nuisance exists, from directly or indirectly maintaining or permitting such nuisance. (Id. § 2.)

523. Temporary Writ.—The complaint in such action must be verified unless filed by the district attorney. Whenever the existence of such nuisance is shown in such action to the satisfaction of the court or judge thereof, either by verified complaint or affidavit, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of such nuisance. On granting such writ the court or judge must require, except when it is granted on application of the people of the State, written undertaking on the part of the applicant, with sufficient securities, to the effect that he will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled thereto. (Id. § 3.)

524. Precedence of Action.—The action when brought shall have precedence over all other actions, excepting criminal proceedings, election contests and hearings on injunctions. If the complaint is filed by a citizen it shall not be dismissed by the plaintiff or for want of prosecution, except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal ordered by the court. In case of failure to prosecute any such action with reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any such citizen consenting thereto for such plaintiff. If the action is brought by a citizen and the court finds there was no reasonable ground or cause for said action, the costs shall be taxed against such citizen. (Id. § 4.)

525. Judgment.—If the existence of the nuisance be established in an action as provided herein, an order of abatement shall be entered as part of the judgment in the case, and plaintiff's costs in such action shall be a lien upon such building and place, enforceable and collectible by execution issued by order of the court. (Id. § 5.)

526. Penalty for Violation.—Any violation or disobedience of any injunction or order expressly provided for by this act shall be punished as a contempt of court by fine of no less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment. (Id. § 6.)

527. Order of Abatement; Fees.—If the existence of the nuisance be established in an action as provided herein, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, musical instruments and movable property used in conducting, maintaining, aiding or abetting the nuisance and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released, as hereinafter provided. While such order remains in effect as to closing, such building or place shall be and remain in the custody of the court. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court. (Id. § 7.)

528. Proceeds of Sale; Building May be Sold.—The proceeds of the sale of the property, as provided in the preceding section, shall be applied as follows:

First—To the fees and costs of such removal and sale.

Second—To the allowances and costs of so closing and keeping closed such building or place.

Third—To the payment of the plaintiff's costs in such action.

Fourth—The balance, if any, shall be paid to the owner of the property so sold.

If the proceeds of such sale do not fully discharge all such costs, fees and allowances, the said building and places shall then also be sold under execution

issued upon the order of the court or judge and the proceeds of such sale applied in like manner. (Id. § 8.)

529. Release of Property.—If the owner of the building or place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees and allowances which are a lien on the building or place and files a bond in the full value of the property, to be ascertained by the court, with sureties, to be approved by the court or judge, conditioned that he will immediately abate any such nuisance that may exist at such building or place and prevent the same from being established or kept thereat within a period of one year thereafter, the court, or judge, thereof, may, if satisfied of his good faith, order the premises closed under the order of abatement, to be delivered to said owner, and said order of abatement canceled so far as the same may relate to said property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject to law. (Id. § 9.)

530. Fine a Lien on Building.—Whenever the owner of a building or place upon which the act or acts constituting the contempt shall have been committed or the owner of any interest therein has been guilty of a contempt of court, and fined therefor in any proceedings under this act, such fine shall be a lien upon such building and place to the extent of the interest of such person therein, enforceable and collectible by execution issued by order of the court. (Id. § 10.)

531. "Person" Defined.—The term "person" as used in this act, shall be held to mean and include individuals, corporations, associations, partnerships, trustees, lessees, agents and assignees. (Id. § 11.)

532. Keeping or Restoring to Place Where Opium is Used.—Every person who opens or maintains, to be resorted to by other persons, any place where opium or any of its preparations is sold or given away to be smoked at such place, and any person who, at such place, sells or gives away any opium or its said preparations to be there smoked or otherwise used, and every person who visits or resorts to any such place for the purpose of smoking opium or its said preparations is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. (Pen. Code, 1923, § 307.)

532a. Taking Opium, etc., Into Jails.—Any person, not authorized by law, who brings into any State Prison, town or county jail, or city, or city and county jail, or reformatory in this State or within the grounds belonging or adjacent to any such institution, any opium, morphine, cocaine, or other narcotic, or any intoxicating liquor of any kind whatever, or any firearms, weapons, or explosives of any kind, is guilty of a felony. (Id. § 171a.)

532b. Arrest of Inebriates and Drug Habitues; May be Confined in Hospital; Recommitment of Persons Discharged.—Whenever it appears by affidavit to the satisfaction of a magistrate of a county, or city and county, that any person is so far addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control, or is subject to dipsomania or inebriety, he must issue and deliver to some peace officer for service a warrant directing that such person be arrested and taken before a judge of the Superior Court for a hearing and examination on such charge. Such officer must thereupon arrest and detain such person until a hearing and examination can be had. At the time of the arrest a copy of said affidavit and warrant of arrest must be personally delivered to said person. Such affidavit and warrant of arrest must be substantially in the form provided by section 2168 of the Political Code for the arrest of a person charged with insanity. He must be taken before a judge of the Superior Court, to whom said affidavit and warrant of arrest must be delivered to be filed with the clerk. The judge must then inform him of the charge against him, and inform him of his rights to make a defense to such charge and produce any witnesses in relation thereto. The judge must by order fix such time and place for the hearing and examination in open court as will give a reasonable opportunity for the production and examination of witnesses. Such order must be entered in the minutes of the court by the clerk and a certified copy of the same served on such person. The judge may also order that notice of the arrest of such person and the hearing of the charge be served on such relatives of said person known to be residing in the county, as the court may deem necessary or proper. The hearing and examination shall be had in compliance with the provisions of sections 2169 and 2170 of the Political Code.

The judge, after such hearing and examination, if he believes the person is so far addicted to the intemperate use of narcotics or stimulants as to have lost

the power of self-control, or is subject to dipsomania or inebriety, must make an order that he be confined in a hospital for the care and treatment of the insane designated in such order and the order must be accompanied by a written statement of the judge as to the financial condition of the patient and of the persons legally liable for his maintenance, as far as can be ascertained; provided, that before a person shall be committed to a State hospital, satisfactory evidence shall be submitted to the trial judge showing that a person to be committed is not of bad repute or bad character, apart from his or her habit for which the commitment is made, and that there is reasonable ground for believing that the person, if committed, will be permanently benefited by treatment; and

Recommitment of persons discharged. Provided, further, that no person who has heretofore been committed under the provisions of this section as an intemperate user of narcotics, and who has been discharged or has escaped, shall be again committed to any hospital unless permission for such recommitment be first obtained from the medical superintendent thereof. Such order and statement shall be in substantially the form provided by section 2171 of the Political Code for the commitment of insane persons.

The court shall commit such person for a definite period, not to exceed two years, but provided that he may be paroled by the medical superintendent under the same rules and conditions that the insane are paroled; and provided, further, that the State Commission in Lunacy shall be given the same power to discharge any person committed under this act as contained in section 2180 of the Political Code, upon the recommendation of the hospital superintendent, when satisfied that such person will not receive substantial benefit from further hospital treatment. Such person shall be delivered to the State Hospital for the Insane to which he has been committed in compliance with the provisions of section 2172 of the Political Code, providing for the commitment and deliverance of an insane person. (Pol. Code 1923, § 2185c.)

532c. Home for Inebriates; First; Election of; Duty of Supervisors.—The board of supervisors of any county, or city and county, where land has heretofore been reserved, set apart, and designated by said board of supervisors, or a committee of said board, for public use as a home for inebriates, shall cause to be erected, before August first, one thousand eight hundred and ninety-six, a suitable hospital and home for the care and treatment of dipsomaniacs and inebriates, and provide for the furnishing and maintenance of the same. The plans of construction of said hospital and home must be drawn under the direction of the board of health of said county, or city and county.

Second—Commitments. When the building or buildings constructed under the provisions of this section are so far completed that in the opinion of the board of health of said county, or city and county, commitments may properly be made thereto, said board of health shall so notify the magistrates of the said county, or city and county; and thereafter the said magistrates may commit to said hospital and home, for a term not exceeding one year, any person given to dipsomania or inebriety, whether in public or private, and who, in his opinion is a proper subject for its treatment or custody; provided, however, that no such person shall be so committed until satisfactory evidence shall be furnished to the magistrate before whom the proceedings for commitment are had, that such person or persons are not of bad repute or of bad character, apart from their habits of inebriety; and in all proceedings relative to the commitment of any such person, it shall be specifically alleged that they are either dipsomaniacs or inebriates as the case may be.

Third—Permit to be at liberty. When it shall appear to the medical superintendent and the said board of health that any person or persons held in said hospital and home will not continue to be subject to dipsomania or inebriety, or will be sufficiently provided for by themselves or their guardians, relatives or friends, they may issue to them a permit to be at liberty, upon such conditions as they may deem best and they may revoke said permit at any time previous to its expiration. The violation, by the holder of such permit, of any of the terms or conditions of the same, shall of itself make said permit void. When a permit becomes void in any manner the medical superintendent, or a member of the board of health, may issue an order authorizing the arrest of holder or holders of such permit and their return to the hospital and home, and such order of arrest may be served by any officer authorized to serve criminal process in any county, or city and county, of this State. Any person at liberty from the hospital and home upon a permit, as aforesaid, may voluntarily return to the hospital and home and put himself in the custody of the medical superintendent. The holder of said permit, when returned to said hospital and home, as aforesaid, whether

voluntarily or otherwise, shall be detained therein according to the term of his original commitment. Such inmates of said hospital and home as are able to pay for their board shall be charged for the same.

Fourth—Government of home. The board of health of said county or city and county, shall provide for the management and government of said hospital and home for dipsomaniacs and inebriates. The said board of health must appoint a medical superintendent of said hospital and home, and furnish or supply the same with nurses and attaches. The medical superintendent shall be an elector of the county, or city and county, a regular graduate of medicine, licensed to practice, and not less than thirty-five years of age, who shall have for a period of at least one year prior to his appointment, devoted his special professional attention to the treatment of dipsomania and inebriety as physician to the public private home, hospital, asylum, or sanitarium for the care and treatment of dipsomaniacs and inebriates. The medical superintendent shall receive an annual salary of three thousand dollars and shall be paid in equal monthly installments out of the general fund of said county, or city and county, in the same manner as the salaries of other officers of said county, or city and county, are paid. Said medical superintendent shall not be removed by the said board of health except for good cause, duly set forth in a complaint filed with the secretary of said board, a copy of which must be served upon said medical superintendent, and an opportunity given him to be heard in his defense. (Id. § 3022½.)

Serum, Etc.

533. University to Prepare Hog Cholera Serums.—The regents of the University of California are hereby directed to cause to be prosecuted with all possible diligence, through the agricultural experiment station, the preparation of serums or vaccines that will produce immunity in hogs against the disease known as cholera. (G. L. 1923, Act 354, § 1.)

534. Serums to be Furnished Free.—The regents of the University of California are hereby further authorized and directed to furnish such serums or vaccines in quantities not exceeding five hundred cubic centimeters, as soon as possible after this act takes effect, free of charge to any bona fide resident of the State of California who is engaged in the raising of hogs, upon application by such resident hog raiser. (Id. § 2.)

535. In Excess of Five Hundred Centimeters at Cost.—The regents of the University of California are also hereby further authorized and directed to furnish to any bona fide resident of this State who is engaged in the raising of hogs, such serums or vaccines in quantities in excess of five hundred cubic centimeters, upon the applicant paying therefor the actual cost of the production of such serums or vaccines. (Id. § 3.)

536. The Owners Only Whose Hogs are Sick or in Danger Furnished Serums Free.—It is herewith provided that no serums or vaccines shall be furnished free of charge to anyone unless the applicant shall have first furnished sufficient evidence that the disease known as cholera exists among his hogs or among the hogs in his immediate neighborhood and in such latter case evidence shall be furnished by said applicant that there is danger of the disease being communicated to the applicant's hogs. (Id. § 4.)

537. Selling, etc., a Misdemeanor.—Any person who shall sell, give away or misuse any of the serums so furnished shall, upon conviction thereof, be deemed guilty of a misdemeanor, and be punished as in such cases provided by law. (Id. § 5.)

537a. Assistance, Equipment, Materials, Etc.—The Director of the Agricultural Experiment Station shall obtain and establish such assistance, equipment, materials, appliances, apparatus and other necessary incidentals as may be necessary to the successful prosecution of this work within the appropriation herein specified. (Id. § 6.)

537b. Appropriation.—The sum of sixteen thousand (\$16,000) dollars is hereby appropriated out of any money in the State Treasury not otherwise appropriated, six thousand (\$6,000) dollars of which shall be available for the balance of the sixty-second fiscal year and ten thousand (\$10,000) dollars of which shall be available during the sixty-third and sixty-fourth fiscal years for the use of said experiment station to be expended by the regents of the University of California in carrying out the purposes of this act, and the State Controller is hereby authorized and directed to draw his warrant for the same, and the State Treasurer is hereby directed to pay such warrant. (Id. § 7.)

538. Unlawful to Sell Dangerous Hog Cholera Serum.—It shall be unlawful for any person, firm or corporation to prepare, sell, barter, ship or exchange in this State any worthless, contaminated, dangerous or harmful hog cholera serum, virus, vaccine or antitoxin. (G. L. 1923, Act 355, § 1.)

539. Must be Prepared Under Direction of University of California.—It shall be unlawful for any person, firm or corporation to prepare, sell, barter, ship or exchange in this State any hog cholera serum, virus, vaccine or antitoxin unless and until the said serum, virus, vaccine or antitoxin shall have been prepared under and in compliance with the regulations prescribed by the Director of the Agricultural Experiment Station of the University of California, hereinafter referred to as director, at an establishment holding and operating under an unsuspended and unrevoked license issued by the director as herein authorized. (Id. § 2.)

540. Director Authorized to Inspect Serum.—The director is hereby authorized to examine and inspect all hog cholera serum, virus, vaccine or antitoxin prepared, sold, bartered, shipped or exchanged in this State and to make and promulgate from time to time such rules and regulations as may be necessary to prevent the preparation, sale, barter, shipment or exchange of any worthless, contaminated, dangerous or harmful hog cholera serum, virus, vaccine or antitoxin and to issue, suspend and revoke licenses for the maintenance of establishments for the preparation of hog cholera serum, virus, vaccine or antitoxin. (Id. § 3.)

541. Licenses for Establishments Preparing Serum.—The licenses issued under the authority of this act to establishments where hog cholera serums, viruses, vaccines or antitoxins are prepared for sale, barter, shipment or exchange shall be issued on condition that the licensee shall permit the inspection of such establishment and of such products and their preparation; and the director may suspend or revoke any permit or license issued under the authority of this act after opportunity for hearing has been granted the licensee, when the director is satisfied that such license is being used to facilitate or effect the preparation, sale, barter, shipment or exchange of worthless, contaminated, dangerous or harmful hog cholera serum, virus, vaccine or antitoxin. (Id. § 4.)

542. Director May Freely Enter Establishments.—The director and each of his agents duly authorized for the purpose may at any time enter and inspect any establishment where any hog cholera serum, virus, vaccine or antitoxin is prepared. (Id. § 5.)

543. Construction of Act.—Neither this act nor any provision thereof, except when specifically so stated, shall apply or be construed to apply to commerce with foreign nations or commerce among the several States of this Union, except in so far as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress. (Id. § 6.)

544. Violation; Penalty.—Any person, firm or corporation who shall violate any provision of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not exceeding one thousand dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. (Id. § 7.)

545. License Tax.—For the purpose of carrying into effect this act the regents of the University of California are hereby authorized to collect and there shall be paid to the regents of the University of California by every manufacturer, importer, agent or dealer in hog cholera serum, virus, vaccine or antitoxin, a license tax of one mill for every cubic centimeter of serum, virus, vaccine or antitoxin sold or distributed, and each manufacturer or importer of any hog cholera serum, virus, vaccine or antitoxin shall file with the secretary of the board of regents of the University of the State of California, quarterly, a sworn statement showing all sales of hog cholera, virus, vaccine or antitoxin for the preceding quarter, accompanied by a corresponding amount of the license tax above specified; provided, however, that nothing herein shall prevent the sale or distribution of hog cholera serum, virus, vaccine or antitoxin produced in a laboratory holding a license issued by the United States Department of Agriculture to manufacture or import hog cholera serum, virus, vaccine or antitoxin. (Id. § 8.)

545a. Powers and Duties of Board.—The State Board of Health shall examine into the causes of communicable diseases in man and domestic animals occurring or likely to occur in this State. * * *

It shall have power to prepare or purchase and distribute at cost anti-toxins, vaccine and other approved serums and lymphs. * * *. (Pol. Code 1923, § 2979.)

Sulphur.

546. Amount of Arsenic Permitted in Sulphur.—No person, firm, company or corporation shall sell, offer for sale, or keep for sale sulphur containing more than ten parts per million of arsenic oxide (As_2O_3) for the purpose of sulphuring fruits or other foods. (G. L. 1923, Act 2806, § 1.)

547. Definition.—For the purposes of this act the term "sulphur for sulphuring fruits or other foods" shall be construed to mean sulphur which contains not more than ten parts per million of arsenic oxide (As_2O_3). (Id. § 2.)

548. Sale.—No person, dealer, jobber, firm, company or corporation shall sell, keep for sale, or offer for sale sulphur for sulphuring fruits or other foods which contains more than ten parts per million of arsenic oxide (As_2O_3). Every package, parcel, bag or container of sulphur for sulphuring fruits or other foods shall be labeled or tagged, and said label or tag shall contain the words in bold-faced type, not less than one-fourth inch in height, "Sulphur for sulphuring fruits or other foods." Said label or tag shall also contain the name and address of the person, firm, company or corporation which manufactures, prepares or packs the sulphur. (Id. § 3.)

549. Use.—No person, firm, company or corporation shall use sulphur containing more than ten parts per million of arsenic oxide (As_2O_3) for the purpose of sulphuring fruits or other foods. (Id. § 4.)

550. Penalty.—Any person, firm, company or corporation which violates any provision of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars, nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 5.)

551. Enforcement by State Board of Health.—The State Board of Health is hereby empowered to enforce the provisions of this act and to prescribe the form of tags, or labels to be used, and to prescribe and enforce such rules and regulations as it may deem necessary to carry into effect the full intent and meaning of this act. (Id. § 6.)

Intoxicating Liquors.

552. Duty of State Officers to Enforce Volstead Act.—California hereby recognizes the requirements of the Eighteenth Amendment to the Constitution of the United States for its concurrent enforcement by the Congress and the several States. To that end, the penal provisions of the Volstead act are hereby adopted as the law of this State, and the courts of this State are hereby vested with the jurisdiction, and the duty is hereby imposed upon all prosecuting attorneys, sheriffs, grand juries, magistrates and peace officers in the State, to enforce the same. (G. L. 1923, Act 3784, § 1.)

553. Penalties in Volstead Act Adopted.—All acts or omissions prohibited or declared unlawful by the Eighteenth Amendment to the Constitution of the United States or by the Volstead act are hereby prohibited and declared unlawful; and violations thereof are subject to the penalties provided in the Volstead act. (Id. § 2.)

554. Concurrence With Federal Laws.—California hereby recognizes that its power to enforce the Eighteenth Amendment to the Constitution of the United States should at all times be exercised in full concurrence with the exercise of the like power of Congress; and to that end, whenever Congress shall amend or repeal the Volstead act, or enact any other law to enforce the Eighteenth Amendment to the Constitution of the United States, then the provisions of sections one and two of this act shall apply thereto. (Id. § 3.)

555. Powers of Local Authorities.—Nothing in this act shall be construed as limiting the power of any city or county, or city and county, to prohibit the manufacture, sale, transportation or possession of intoxicating liquors for beverage purposes; and all fines and forfeitures collected under any ordinance now or hereafter enacted in the exercise of such power shall be paid into the treasury of the city or county, or city and county, whose ordinance is violated. (Id. § 4.)

556. "Volstead Act" Defined.—The phrase "Volstead act" as used herein is defined as title two of the act of Congress enacted October 28, 1919; such title two being enacted under the authority of the Eighteenth Amendment to the Constitution of the United States and providing for the enforcement thereof. (Id. § 5.)

PART IV.

Miscellaneous Laws.

False Advertising.

557. False Advertising Prohibited.—Any person, firm, corporation or association, or any employee thereof, who, with intent to sell, furnish, perform, or in any way dispose of real or personal property, choses in action, merchandise, service, professional or otherwise, or anything of any nature whatsoever offered by such person, firm, corporation or association, or any employee thereof, directly or indirectly, to the public for sale or distribution, or to induce the public, in any manner, to enter into any obligation relating thereto, or to acquire title thereto or any interest therein, shall make, publish, disseminate, circulate, or cause to be made, published, disseminated or circulated, or, in any manner, place, or cause to be placed, before the public in the State of California, in any newspaper, magazine, book, pamphlet, circular, letter, notice, hand-bill, poster or other publication, or on any billboard, sign, card, label, or other advertising medium, or by means of any electric sign, window sign, showcase or window display, or by any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, an advertisement of any sort regarding such real or personal property, choses in action, merchandise, service or anything so offered to the public, which advertisement shall contain any statement, representation or assertion concerning such real or personal property, choses in action, merchandise, service or anything so offered to the public, or concerning any circumstance or matter of fact connected in any way, directly or indirectly, with the proposed sale, performance or disposition thereof, which statement, representation or assertion is false or untrue, in any respect, or which is deceptive or misleading, and which is known, or which by the exercise of reasonable care should be known, to be false or untrue, deceptive or misleading, by the person, firm, corporation or association making, publishing, disseminating, circulating or placing before the public said advertisement, shall be guilty of a misdemeanor; provided, however, that this act shall not apply to any publisher of a newspaper, magazine, or other publication, who publishes said advertisement in good faith, without knowledge of its false, deceptive, or misleading character. (Pen. Code, 1923, § 654a.)

557a. Misleading Advertisements.—Any firm, person, corporation or association of persons, or any employee of such or any of such, who in the newspapers or other periodicals of this State, or in public advertisements, or in communications intended for a large number of persons knowingly makes or disseminates any statements or assertions of facts with respect to his, its or their business affairs concerning the quantity, the quality, the value, the price, the method of production or manufacture, or the fixing of the price of his, its, or their merchandise or professional work; or the manner or source of purchase of such merchandise, or the possession of awards, prizes or distinctions; or the motive or purpose of a sale, intended to have the appearance of an advantageous offer, which is or are untrue or calculated to mislead, shall be guilty of a misdemeanor. (G. L. 1923, Act 6758, § 1.)

Flag Desecration.

558. Desecration of National Flag; Penalty.—Any person, firm or corporation, who, in any manner, for exhibition or display, puts, places or causes to be placed, an inscription, picture, device, design, symbol, name, advertisement, word, letter, character, mark or notice of any kind whatsoever, upon any flag of the United States, or ensign evidently purporting to be such flag, or who in any manner appends, annexes or affixes to any such flag any inscription, picture, device, symbol, name, advertisement, word, letter, character, mark or notice whatsoever or who displays or exhibits, or causes to be displayed or exhibited, any flag of the United States or ensign purporting to be such flag, upon which is put, attached, annexed, affixed or placed in any manner, any inscription, picture, design, device, symbol, name, advertisement, word, letter, mark or notice whatsoever, or who mutilates, tramples upon, or otherwise defaces or defiles any such flag, said flag being public or private property, or who places or causes to be placed on any manufactured or prepared

article or covering of said article, such flag or indication of such flag, or who uses or causes to be used for purposes of commercial or other trade-mark, such flag or indication of such flag, shall be fined not more than two hundred dollars or imprisoned not more than one year, or both, for each and every offense, in the county jail of the county in which the trial is held; provided, however, that flags or ensigns, the property of and used in the service of the United States, or any State, Territory or District of Columbia, may have inscriptions, names of actions, battles, skirmishes, or words, marks or symbols, which are placed thereon pursuant to law or authorized regulations. (Pen. Code, 1923, § 310.)

559. Protection of Bear Flag.—Any person, firm or corporation who in any manner, for exhibition or display, puts, places or causes to be placed, an inscription, picture, device, design, symbol, name, advertisement, word, letter, character, mark or notice of any kind whatsoever upon any flag of the State of California, as designated and described in "An act to select and adopt the Bear Flag as the State flag of California,"* approved February 3, 1911, or ensign evidently purporting to be such flag or any design thereof, or who in any manner appends, annexes or affixes to any such flag or any design thereof any inscription, picture, device, symbol, name, advertisement, word, letter, character, mark or notice whatsoever, or who displays or exhibits, or causes to be displayed or exhibited, any flag of the said State of California or ensign purporting to be such flag or any design thereof, upon which is put, attached, annexed, affixed or placed in any manner, any inscription, picture, design, device, symbol, name, advertisement, word, letter, mark or notice whatsoever, or who mutilates, tramples upon, or otherwise defaces or defiles any such flag or any design thereof, said flag being public or private property, or who places or causes to be placed on any manufactured or prepared article or covering of said article, such flag or indication of such flag, or who uses or causes to be used for purposes of an advertisement or of a commercial or other trade-mark, such flag or indication of such flag, shall be fined not more than two hundred dollars or imprisoned not more than one year, or both, for each and every offense, in the county jail of the county in which the trial is held; provided, however, that flags or ensigns, the property of and used in the service of the United States may have inscriptions, names of actions, battles, skirmishes, or words, marks or symbols, which are placed thereon pursuant to law or authorized regulations; and provided, further, that patriotic societies which at the date of the passage hereof have and are using as emblems or badges of membership in said societies a design consisting of a single star and stripe and a bear, together with words or letters on or in proximity to the design indicating the society of which it is the emblem, may continue the manufacture and use of such emblems or badges as insignia of membership in said societies. (Id. § 310a.)

Tobacco—Tobacco Products.

560. Selling Tobacco to Minors; Penalty; Subsequent Offense.—Every person, firm or corporation which sells or gives or in any way furnishes to another person who is in fact under the age of eighteen years any tobacco, cigarette or cigarette papers, or any other preparation of tobacco is guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not more than sixty days; and for the second offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment for not more than ninety days; and for each subsequent offense by a fine of not less than one hundred dollars and not more than three hundred dollars, or by imprisonment for not less than ninety days nor more than six months, or by both such fine and imprisonment. Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof, shall within ninety days after this act becomes effective post conspicuously and keep so posted in his or their place of business, a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of five dollars for the first offense and twenty-five dollars for each succeeding violation of this provision, or by imprisonment for not more than thirty days.

The Secretary of State is hereby authorized to have printed sufficient copies of this act to enable him to furnish dealers in tobacco with copies thereof upon their request for the same. (Pen. Code, 1923, § 308.)

*The act referred to is No. 2643, General Laws of California, 1923.

Trade-Marks, Etc.

561. "Trade-marks" Defined.—The phrase "trade-mark" as used in this chapter includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description, and also any name or names, marks or devices, branded, stamped, engraved, etched, blown, or otherwise attached or produced upon any cask, keg, bottle, vessel, siphon, can, case, or other package, used by any mechanic, manufacturer, druggist, merchant or tradesman, to hold, contain or inclose the goods so imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description. (Pol. Code, 1923, § 3196.)

562. Registration of Farm Name.—Any person may adopt a name for any farm or estate owned or leased by him, and register it in the manner provided for the registration of trade-marks. Such registration shall have the same effect as the registration of a trade-mark. (Id. § 3196a.)

563. Trade-mark on Products.—Any person selling or marketing the products grown on any particular farm or estate may use the name of such farm or estate as a trade-mark on such products, in the same manner as provided for other trade-marks in section three thousand one hundred and ninety-six of this code, and subject to the same rights and duties as provided in this article. (Id. § 3196b.)

564. Recording Trade-Marks.—Any person may record any trade-mark or name by filing with the Secretary of State his claim to the same, and a copy or description of such trade-mark or name, with his affidavit attached thereto, certified to by any officer authorized to take acknowledgments of conveyances, setting forth that he (or the firm or corporation of which he is a member) is the exclusive owner, or agent of the owner of such trade-mark or name. (Id. § 3197.)

565. Record of, by Secretary of State.—The Secretary of State must keep for public examination a record of all trade-marks or names filed in his office, with the date when filed and name of claimant; and must at the time of filing issue to the claimant a certificate of such filing under the great seal of the State, and collected from such claimant, a fee of five dollars, as provided for in section four hundred and sixteen of this code [§ 409, subdivision 3]. Provided, however, the Secretary of State shall refuse to file any trade-mark or name identical with, or so similar to any trade-mark or name already filed as to be calculated or liable to deceive. (Id. § 3198.)

566. Ownership of Trade-Mark.—Any person who has first adopted and used a trade-mark or name, whether within or beyond the limits of this State, is its original owner. Such ownership may be transferred in the same manner as personal property, and it is entitled to the same protection by suits at law; and any court of competent jurisdiction may restrain, by injunction, any use of trade-marks or names in violation of this charter. (Id. § 3199.)

567. Counterfeiting Trade-marks.—Every person who willfully reproduces, copies, imitates, forges or counterfeits, or procures to be reproduced, copied, imitated, forged or counterfeited, any trade-mark usually affixed by any person to his goods, which has been duly recorded in the office of the Secretary of State, or with the Commissioner of Patents in the United States Patent Office, or any label or brand, composed in whole or in part of a reproduction of said trade-mark, or who affixes the same to goods of essentially the same descriptive properties and qualities as those referred to in the registration of such trade-mark, with intent to pass off, or to assist other persons to pass off, any goods to which such reproduced, copied, imitated, forged or counterfeited trade-mark, or label, or brand is affixed, or intended to be affixed, as the goods of the person, firm, company, or corporation owning the said trade-mark, is guilty of a misdemeanor. (Pen. Code, 1923, § 350.)

568. Selling Goods Which Bear Counterfeit Trade-marks.—Every person who sells, or keeps for sale, or manufactures or prepares, for the purpose of sale, any goods upon or to which any reproduced, copied, imitated, forged or counterfeited trade-mark, or label, or brand, composed in whole or in part of such a reproduced, copied, imitated, forged or counterfeited trade-mark, has been affixed, after such trade-mark has been recorded in the office of the Secretary of State, or with the Commissioner of Patents in the United States Patent Office, intending to represent such goods as the genuine goods of the person, firm, company or corpora-

tion owning the said trade-mark, knowing the same to be reproduced, copied, imitated, forged or counterfeited, is guilty of a misdemeanor. (Id. § 351.)

569. Falsely Representing Goods for Sale; Written Consent.—Any person who sells, attempts to sell, offers for sale or assists in the sale of any goods, product or output, and who willfully and falsely represents such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, or any member of a firm or any officer of a corporation, who knowingly permits any employee of such firm or corporation to sell, offer for sale or assist in the sale of any goods, product or output or to falsely represent such goods, product or output of goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, is guilty of a misdemeanor and punishable by a fine of not less than fifty dollars or more than three hundred dollars, or by imprisonment in the county jail for not less than twenty or more than ninety days, or both; provided, however, that this section shall not apply to any person who sells or offers for sale under his own name or brand the product or output of another manufacturer or producer with the written consent of such manufacturer or producer. (Id. § 351a.)

570. Definition of the Phrase "Counterfeited Trade-Marks," etc.—The phrases "forged trade-mark" and "counterfeited trade-mark," or their equivalents, as used in this chapter, include every alteration or imitation of any trade-mark so resembling the original as to be likely to deceive. (Id. § 352.)

571. "Trade-Mark" Defined.—The phrase "trade-mark," as used in the three [four] preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word or expression generally denoting any goods to be of some particular class or description. (Id. § 353.)

572. Refilling Casks, etc., Bearing Trade-mark.—Every person who has in his possession, or who uses any cask, bottle, vessel, case, cover, label, brand or other thing bearing, or having in any way connected with it, the trade-mark of another, which has been duly recorded in the office of the Secretary of State, or with the Commissioner of Patents in the United States Patent Office, or the trade name of another, for the purpose of disposing of any article other than that which such cask, bottle, vessel, case, cover, label, brand or other thing originally contained, or is connected with by the owner of such trade-mark or trade name, with intent to deceive or defraud, is guilty of a misdemeanor. (Id. § 354.)

573. Selling or Refilling Casks, etc., Containing Trade-Mark.—Every person who willfully sells, or traffics in any cask, keg, bottle, vessel, siphon, can, case or other package bearing the duly filed trade-mark or name of another, printed, branded, stamped, engraved, etched, blown or otherwise attached or produced thereon, or refills any such cask, keg, bottle, vessel, siphon, can, case or other package with intent to defraud the owner thereof, without the consent of the owner thereof, or unless the same shall have been purchased from the owner thereof, is guilty of a misdemeanor. (Id. § 354½.)

574. Destroying or Defacing Trade-mark.—Every person who shall willfully deface, erase, obliterate, cover up or otherwise remove, destroy or conceal the duly filed trade-mark or name of another, printed, branded, stamped, engraved, etched, blown, impressed or otherwise attached to, or produced upon any cask, keg, bottle, vessel, siphon, can, case, or other package, for the purpose of selling or trafficking in such cask, keg, bottle, vessel, siphon, can, case or other package, or refilling such cask, keg, bottle, vessel, siphon, can, case, or other package, with intent to defraud the owner thereof, without the consent of the owner, or unless the same shall have been purchased from the owner, is guilty of a misdemeanor. (Id. § 354¾.)

575. Search Warrant, When May be Issued.—It may be issued upon either of the following grounds:

1. When the property was stolen or embezzled; in which case it may be taken on the warrant from any place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or from any person in whose possession it may be.

2. When it was used as the means of committing a felony; in which case it may be taken on the warrant from the place in which it is concealed, or from the possession of the person by whom it was used in the commission of the offense, or from any person in whose possession it may be.

3. When it is in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to

whom he may have delivered it for the purpose of concealing it or preventing its being discovered; in which case it may be taken on the warrant from such person, or from any place occupied by him, or under his control, or from the possession of the person to whom he may have so delivered it.

When the property is a cask, keg, bottle, vessel, siphon, can, case or other package, bearing printed, branded, stamped, engraved, etched, blown or otherwise attached or produced thereon the duly filed trade-mark or name of the person by whom, or in whose behalf, the search warrant is applied for, in the possession of any person except the owner thereof, with intent to sell or traffic in the same, or refill the same with intent to defraud the owner thereof, with such intent and without such owner's consent thereto, or unless the same shall have been purchased from the owner thereof; in which case it may be taken on the warrant from such person or from any place occupied by him or under his control or from the possession of the person to whom he may have delivered it. (Id. § 1524.)

576. Trade-marks.—One who produces or deals in a particular thing, or conducts a particular business, may appropriate to his exclusive use, as a trade-mark, any form, symbol or name which has not been so appropriated by another, to designate the origin or ownership thereof; but he cannot exclusively appropriate any designation or part of a designation which relates only to the name, quality or the description of the thing or business, or the place where the thing is produced or the business is carried on. (Civ. Code, 1923, § 991.)

577. Trade-marks.—One who sells or agrees to sell any article to which there is affixed or attached a trade-mark, thereby warrants that mark to be genuine and lawfully used. (Id. § 1772.)

577a. Other Marks.—One who sells or agrees to sell any article to which there is affixed or attached a statement or mark to express the quantity or quality thereof, or the place where it was, in whole or in part, produced, manufactured, or prepared, thereby warrants the truth thereof. (Id. § 1773.)

578. Filing of Name or Device on Containers.—Any and all persons, firms, corporations or associations engaged in the manufacture, packing, canning, bottling or selling of any substance in containers with his or her name or names, or other marks or devices impressed or produced thereto; or whose equipment or supplies, owned by and used in his, her or its business, with a name or other mark or device impressed or produced thereon, may file in the office of the county clerk of the county in which his, her or its principal place of business is situate, or if such place of business is situate out of the State, then in the office of the county clerk of any county of the State, and also in the office of the Secretary of State, a description of the name or names, marks or devices so used; and also cause such description to be printed once a week for three successive weeks in a newspaper published in the county in which said description may have been filed as aforesaid. (G. L. 1923, Act 8623, § 1.)

579. Unlawful Use of Containers. It is hereby declared unlawful for any person, firm, corporation or association, without the written consent of the owner, unless the same shall have been purchased from the owner, to use or to fill with any substance, any container so marked or distinguished as aforesaid, with or by any name, mark or device, of which a description shall have been filed and published, as provided in section 1 of this act, or to erase, obliterate or otherwise cover up or conceal such name, mark or device, or to sell, buy, give, take or otherwise traffic in the same without the written consent of the persons whose name, mark or device shall be or shall have been upon said container, or article of supply or equipment used in the said business or businesses aforesaid, unless the same shall have been purchased from the person, firm, corporation or association whose mark shall be or shall have been thereon. (Id. § 2.)

580. Same.—The use by any person other than the person, firm, corporation or association whose name, mark or device shall be upon same, of any such container, supplies or equipment, without the written consent of the owner, unless the same shall have been purchased from the owner, or the having by any junk dealer, or dealer in second-hand articles, possession of any such containers, supplies or equipment, the description of the name, mark or device having been so filed and published as aforesaid, shall and is hereby declared to be presumptive evidence of unlawful use of or traffic in such containers, supplies and equipment. (Id. § 3.)

581. Deposit for Return of Container.—Whenever the owner or owners of said containers so marked or branded or of said equipment or supplies used in said business or businesses aforesaid, so marked or otherwise impressed, shall require taking or accepting of any sum of money as a deposit for security for the safe-keeping and return of such article or articles, it shall not constitute a sale of such property, either optional or otherwise, in any proceeding under this act. (Id. § 4.)

582. Search Warrant to Discover Unlawful Use of Container.—Whenever any of said persons, firms or corporations mentioned in section 1 of this act, or the agent or agents of said persons, firms or corporations, shall make oath before any magistrate that he has reason to believe, and does believe, that any of the containers, supplies or equipment mentioned in section 1 of this act, are being unlawfully sold, filled or used, or are secreted in any place, the said magistrate shall issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession such articles may be found, and if said magistrate finds that such person has been guilty of a violation of this act he must impose the punishment herein prescribed, and also award the possession of the property taken upon such search warrant to the owner thereof. (Id. § 5.)

583. Containers Acquired by Purchase.—Any person, firm, corporation or association acquiring containers, supplies or equipment so marked, by purchase or other lawful means, shall not be required to again file and publish said description, but may acquire as a part of said purchase all such benefit as the vendor has under this act. (Id. § 6.)

584. Return of Property.—Every person, firm, corporation or association who finds or receives such property as mentioned in section one of this act in the regular course of business or in any other manner shall make diligent effort to find the owner and restore said property. (Id. § 7.)

585. Penalties.—The violation of any of the provisions of this act shall constitute a misdemeanor, punishable for the first offense by imprisonment for not less than ten days nor more than six months or by a fine of fifty cents for each and every container or article of supply or equipment so filled, sold, used, disposed of, held, bought or trafficked in or by both such fine and imprisonment; and for each subsequent offense by imprisonment for not less than twenty days nor more than one year or by a fine of not less than one dollar nor more than five dollars for each and every container or article of supply or equipment so filled, sold, used, disposed of, held, bought or trafficked in or by both such fine and imprisonment. (Id. § 8.)

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586. Title of Act.—This act shall be known as the net container act. (G. L. 1923, Act 5410, § 1.)

587. Design of Act.—This act is designed to protect purchasers of any commodity within its provisions against deception as to the quantity or amount of the commodity purchased, and as against the seller shall be strictly construed with a view to effect its object. (Id. § 2.)

588. Application of Act.—The provisions of this act shall apply to foodstuffs and stuffs intended to be used or prepared for use as food or medicine for human beings and shall apply to any commodity when sold, offered or exposed for sale in containers. (Id. § 3.)

589. Net Quantity Plainly Marked.—Whenever any of the commodities within the provisions of this act are sold, or offered or exposed for sale, in containers, the net quantity of the contents of the container shall be plainly and conspicuously marked, branded, or otherwise indicated on the outside or top thereof or on a label or tag attached thereto. (Id. § 4.)

590. Designation of Quantity.—The designation of the quantity of the commodity required by section four of this act shall be in terms of weight, measure or numerical count, subject, however, to the following provisions:

(a) The quantity of the contents so marked shall be the net amount of food or stuff or other commodity in the package or container.

(b) If the designation is by weight it shall be in terms of avoirdupois pounds and ounces; if the designation is in liquid measure it shall be in terms of the United States gallon of two hundred thirty-one cubic inches and its customary subdivisions, i. e., in gallons, quarts, pints, or fluid ounces; provided, that, by like method, such designations may be in terms of the metric system of weight or measure.

(c) The quantity of solids shall be designated in terms of weight, and of fluids in terms of measure, except in case of an article in respect to which there exists a definite trade custom; in such case the designation shall be in terms of weight, or measure, or numerical count, in accordance with such custom.

(d) The quantity of the contents shall be designated in terms of weight or measure, unless the container be marked by numerical count and such numerical count gives accurate information as to the quantity of the food or other commodity in the package. When designation is by numerical count it shall be in English words or Arabic numerals.

(e) The quantity of the contents may be stated in terms of minimum weight, minimum measure or minimum count, but in such cases the designation must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(f) The quantity of viscous or semi-solid foods, or of a mixture of solids and liquids, may be stated in terms of weight and measure. When products are packed in brine or other preserving fluids, the weight or measure of such brine or fluids shall not be included in the weight or measure of the edible or commodity indicated on the container. (Id. § 5.)

591. Wherein Not Applicable.—The provisions of this act shall not apply—

(a) To any sale of a commodity within the provisions of this act when such sale is made from bulk and the quantity is weighed, measured or counted for the immediate purpose of such sale.

(b) To a sale of any container of an ornamental or symbolic character with which a quantity of some commodity is sold as merely incidental.

(c) To a sale of a commodity in any container of a net weight of two ounces or less, or of a commodity in any container of a measure of two fluid ounces or less, or of a commodity in any container of a numerical count of six or less.

(d) To the sale of medicine, when prescribed by a licensed physician, veterinarian, or dentist; or to medicinal or pharmaceutical preparations or mixtures of two or more medicinal substances. (Id. § 6.)

592. Violation Defined.—It shall not be held to be a violation of the provisions of this act when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed, provided such discrepancy is due to unavoidable leakage, shrinkage, evaporation, waste, or causes beyond the control of the seller acting in good faith. (Id. § 7.)

593. No Violation.—It shall not be held to be a violation of the provisions of this act when a commodity in a container is sold, or offered or exposed for sale, and there is a discrepancy between the actual quantity of the commodity in said container and the net quantity of the contents thereof indicated on the container as herein prescribed; provided, that the seller purchased said commodity in said container, in good faith relying upon the said indication of the net contents thereof, and sold said commodity in said container without altering the contents thereof or the indication of the contents thereof; and provided further, that the exemption of this section shall not apply to any sale unless the container had the name of a packer, manufacturer, wholesaler, or jobber thereon at the time the seller purchased it. (Id. § 8.)

594. "Person."—The term "person" used in this act shall include every person, firm, company, copartnership, society, association and corporation. (Id. § 9.)

595. Container Defined.—The term "container" used in this act is hereby defined to be any receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put for sale, or to be offered or exposed for sale. No containers, boxes, or baskets wherein food products or other commodities are packed shall have a false bottom, or be so constructed as to facilitate the perpetration of deception or fraud. (Id. § 10.)

596. Penalty.—Every person, who by himself or his agent, servant or employee violates or causes or permits to be violated, any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 11.)

597. Not a Violation of Act.—All acts and parts of acts inconsistent with or in conflict with any of the provisions of this act are hereby repealed.

(a) It shall not be held to be a violation of the provisions of this act to sell or offer for sale any commodity contained in a container which complies with the provisions and requirements of any act of Congress or the opinions and regulations as issued by the Secretary of Agriculture and appertaining to net weight or measure.

(b) The enactment of the provisions of this act shall be under the supervision of the State Superintendent of Weights and Measures.* (Id. § 12.)

* The powers and duties of the State Superintendent of Weights and Measures have been transferred to the Department of Agriculture. See Pol. Code 1923, § 361b. The acts hereunder are to be corrected accordingly.

598. Office of Superintendent of Weights and Measures Created.—There is hereby created the office of State Superintendent of Weights and Measures. Within thirty days after this act becomes effective, the Governor shall appoint a suitable person as State Superintendent of Weights and Measures. Wherever in this act the term superintendent or State superintendent is used, it shall be taken as referring to and meaning State Superintendent of Weights and Measures. (G. L. 1923, Act 9204, § 1.)

599. Term, etc., of State Superintendent of Weights and Measures.—The term of office of State Superintendent of Weights and Measures shall be four years, or until his successor shall have been appointed and qualified, but he shall always be subject to removal at the pleasure of the Governor. The salary of State Superintendent of Weights and Measures shall be four thousand dollars per annum, payable in the same manner as other State officers are paid. Before entering upon his duties he shall execute bond to the State in the sum of five thousand dollars, conditioned upon the faithful performance of his duties. (Id. § 2.)

600. Deputies. The State Superintendent may appoint a deputy, who shall have the same powers as the State Superintendent. Such deputy shall receive a salary of eighteen hundred dollars per annum, payable in the same manner as other State Officers are paid. He shall be at all times subject to removal at the pleasure of the State Superintendent. The State Superintendent may also appoint additional deputies from time to time to serve as sealers of weights and measures at the request of counties, as provided in section 16 of this act. Such deputies when actually employed shall be paid at the rate of one hundred fifty dollars per month by the county engaging their services and not by the State. They also shall receive their actual traveling expenses from such county. (Id. § 3.)

601. Traveling and Office Expenses.—The State Superintendent and his deputy shall each be allowed their actual traveling expenses, to be approved by the State Board of Control in the same manner as other claims against the State. The State Superintendent shall also be allowed necessary office expenses to be approved by the State Board of Control in the same manner as other claims against the State. (Id. § 4.)

602. Standards of Weights and Measures.—The standards of weights and measures received from the United States under a resolution of Congress approved June 14, 1836, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or renewal thereof, and such as shall be procured by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards by which all State, county and municipal standards of weights and measures shall be tried, proved and sealed. (Id. § 5.)

603. Standards.—The standards referred to in the preceding section shall be kept by the State Superintendent in a safe and suitable place in his office, from which they shall not be removed except for repairs or certification. He shall maintain such standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification. Upon demand, the Secretary of State shall deliver to the State Superintendent all standards now under the control and in the possession of the Secretary of State in his capacity of ex-officio State Sealer of Weights and Measures. The State Superintendent shall thereupon submit such standards received from the Secretary of State to the National Bureau of Standards for certification and he shall replace such standards as are incorrect and purchase such additional standards as shall be necessary to complete and make up a complete standard of weights and measures as required by this act. He shall also purchase such apparatus as shall be found necessary to a proper prosecution of the work of the office. The State Superintendent of Weights and Measures may establish tolerances and specifications for commercial weighing and measuring apparatus for use in the State of California similar to the tolerances and specifications recommended by the National Bureau of Standards, and he may establish a standard net weight or net measure or net count of any commodity, produce or article except any manufactured commodity consisting of four or more staple ingredients and prescribe such tolerances for same as he may in his best judgment deem necessary for the proper protection of the public. Any person violating such standards or tolerances shall be guilty of a misdemeanor. (Id. § 6.)

604. Copies Furnished Cities, etc.; Testing.—The State Superintendent shall at the request of the legislative body of any county, city, town, or city and county, furnish to said county, city, town or city and county, copies of the standard weights and measures of the State; such copies shall be furnished at the expense of the county, city, town or city and county requesting the same. He shall upon request

of the legislative body of any county, city, town, city and county or upon the request of a sealer of weights and measures of any such county, city, town or city and county, appointed pursuant to the provisions of this act, test and accurately approve copies of the State's standards of weights and measures procured by any such county, city, town or city and county to be used by a sealer of weights and measures in the performance and discharge of his duties. Copies furnished under the provisions of this section or copies tested and approved by the State Superintendent under the provisions of this section shall be true and correct; shall be sealed and certified to by the State Superintendent and stamped with the letter "C." Such copies need not be the same material or construction as the standards of the State and such copies may be furnished in any suitable materials or construction that the county, city, town, or city and county requiring the same may specify, subject to the approval of the State Superintendent. (Id. § 8.)

605. Inspection of Standards Used by Cities, etc.; Expense of Testing; Complete Set of Copies.—The State Superintendent shall inspect and correct the standards used by each county, city, town and incorporated city and county of the State, and at least once in two years compare the same with those in his possession and keep a record of the same, and where not otherwise provided by law he shall have general supervision of the weights and measures and weighing and measuring devices offered for sale, sold or in use in the State. Sealers of weights and measures appointed under the provisions of this act shall, upon request of the State Superintendent, deliver to the State Superintendent at his office the copies of the State's standards of weights and measures in their possession, and used in the discharge and performance of their duties, for verification and certification by the State Superintendent. The actual expense of such comparison and verification shall be borne by the county, city, town or city and county whose weights and measures are compared and verified. In addition to the standards heretofore referred to and required to be kept by the State, the State shall also have a complete set of copies of said original standards of weights and measures adopted by this act, which shall be used for adjusting county and municipal standards by the State Superintendent and his deputy in the performance of their duties, and the original standards shall not be used except for the adjustment of this set of copies and for certification purposes. Additional complete sets of copies of such original standards of weights and measures may be purchased by the superintendent when the same are necessary, for use by any Deputy State Superintendent employed by counties under section 16 of this act. The State, however, shall be reimbursed for the purchase of such copies by the county in which the same are used, in the manner hereinafter provided. (Id. § 9.)

606. Testing of Weights and Measures Used by State Institutions.—The State Superintendent or his deputy shall, at least once annually and as often as requested by the State Board of Control or the executive officers of the institutions herein referred to, test the scales, weights and measures used in checking the receipt and disbursement of supplies in every institution conducted by the State, and he shall report in writing his findings to the executive officer of the institution concerned and to the State Board of Control. (Id. § 10.)

607. Inspecting Work of Local Sealers.—The State Superintendent or his deputy shall at least once in two years visit the various cities and counties of the State and inspect the work of the local sealers of weights and measures, and in the performance of said duties he or his deputy may inspect the weights, measures, balances or any other weighing or measuring devices of any person, firm or corporation. The State Superintendent and his deputy shall have all the power of sealers of weights and measures provided for in this act. (Id. § 11.)

608. Sealers who Neglect Duty, etc.; Hearing, etc.—The State Superintendent if he finds that any sealer of weights and measures appointed under the provisions of this act, or any sealer or deputy sealer appointed by any city or county in this State, prior to this act, has refused or neglected to perform the duties of his office or refused to accept the recommendations and instructions of the State Superintendent or is guilty of any malfeasance in office or who is incompetent, shall present to the body, officer or board having power to remove such sealer or deputy sealer of weights and measures, a written charge and accusation based upon and clearly stating the alleged offense or offenses of such sealer or deputy sealer and request such body, officer or board to hear and determine such charge and accusation. Upon receipt of such charge and accusation, it shall be the duty of the body, officer or board with whom the same have been filed to make an order setting the same for hearing at a time which shall be not less than ten nor more than twenty days from the date upon which such charge and accusation shall have been filed, and shall in such order fix the time and place for such hearing. A copy of such charge

and accusation, together with a copy of such order, shall be served upon the accused at least seven days prior to the time fixed for such hearing, provided, that in the event he shall absent himself from his usual place of business, or office, such service may be made by depositing such copies in a conspicuous place therein or by leaving the same at the last known place of residence of the accused, within the time above limited. At such hearing the accused shall have the right to be represented by counsel, if he so desires, and to produce witnesses and documentary evidence in his defense. If, upon such hearing, he be found guilty of malfeasance in office, or adjudged to be incompetent to perform the duties of the office; the body, officer or board before whom such hearing is had must forthwith remove him from office. If he be found guilty of any of the other offenses herein enumerated he may be punished by removal, or by suspension without pay for a period not exceeding thirty days, as such body, board or officer may determine. If he has reason to believe that any such sealer or deputy sealer of weights and measures has committed any of the offenses specified in section 772 of the Penal Code, the State superintendent may, in his discretion, present an accusation to the Superior Court of the county in which the accused is employed, which shall thereupon be heard and determined by such court in the manner provided by law. The remedies provided in this section are cumulative merely, and shall not in any wise detract from the right of the appointing power to remove at will any such sealer or deputy sealer of weights and measures. It shall be unlawful for the State superintendent, his deputies, or any sealer of weights and measures to keep for sale, or offer or expose for sale, or to sell to any person, firm, or corporation, or dealer in goods, wares and merchandise, doing or intending to do business in the State of California, any weighing or measuring instrument, or to be interested directly or indirectly in the sale of any weighing or measuring instrument. (Id. § 12.)

609. Investigate Conditions in State; Annual Report.—It shall be the duty of the State Superintendent to investigate conditions in the various counties, cities and towns of the State in respect to weights and measures, and to the sale of goods, wares and merchandise, commodities and foodstuffs in containers. The State Superintendent shall annually report to the Governor, and shall prior to each regular session report to the legislature the work of his office, and shall make such recommendations as he shall deem proper and necessary. (Id. § 13.)

610. Instructions to Sealers.—The State Superintendent shall issue instructions and make recommendations to the county and municipal sealers of weights and measures, appointed under the provisions of this act, and such instructions and recommendations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 14.)

611. Record of Acts Done.—The State Superintendent shall keep in his office a complete record of all acts done by him, and a record of all prosecutions for violation of the provisions of this act, and the reports of the various sealers of weights and measures appointed under the provisions of this act, which records and reports shall always be open to the public. (Id. § 15.)

612. Office of Sealer of Weights and Measures Created; Compensation; Deputies; Failure to Appoint.—The office of Sealer of Weights and Measures is hereby created. Whenever in this act the term "sealer" is used, the same shall be taken to mean and refer to sealer of weights and measures. Within one hundred and twenty days after the approval of this act by the Governor, it shall be the duty of the board of supervisors of each of the counties of the State except as hereinafter provided, to appoint a sealer of weights and measures for their respective counties; said sealer shall receive as compensation the sum of five dollars per day for each day actually employed in the service of the county, to be audited and paid as other claims against the county. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties. The term of office of such sealer of weights and measures shall be four years, but he shall be subject to removal at the will of such board. A sealer appointed under this act may, with the consent of the board of supervisors of the county appointing him, appoint a deputy or deputies when necessary or expedient to carry out the provisions of this act. The compensation of such deputies shall be the same as the county sealer and paid in the same manner. Such deputies shall always be subject to removal by the sealer of weights and measures. In case the legislative body of any county or city and county shall not appoint a sealer for such county or city and county within thirty days after written request for such appointment by the State Superintendent, is received, said State Superintendent shall assign as soon as practicable a deputy superintendent who shall perform all the duties of sealer in such county or city and county as provided in this act to be performed by county or city sealers and to provide copies of the original standards of weights and measures for use

by said deputy in such county. The actual cost of such services shall be paid by the county in the same manner in which other claims against the county are paid. The amount to be paid shall be at the rate of one hundred and fifty dollars per month for the time such deputy superintendent is employed in such county in addition to the actual traveling expenses of such deputy made necessary by such appointment. The county shall also stand its proportionate share of the actual cost of the set of copies to be used in such county by such deputy, at the rate of one-twelfth of the cost thereof for every month such copies are employed therein during the first year of their use, and in that event such county may at any time pay the balance of the cost of such copies and become the owner thereof, or the county may pay rental to the State for the use of such copies at the rate of ten per cent per annum of the cost price thereof. (Id. § 16.)

613. Appointment of Sealers; in counties of Second Class; Counties in Which Deputies Appointed by State Superintendent.—The legislative body of any county or consolidated city and county of the first to the thirty-fifth classes, both inclusive, and the legislative body of any city or town may appoint a sealer of weights and measures, fix his compensation and provide for the appointment by the sealer of such number of deputies as the said legislative bodies may deem necessary and expedient. Such sealer shall receive as compensation the sum of one hundred dollars per month for each month or part thereof actually employed in the service of such county, or city and county, or city and town. He shall be allowed his traveling expenses actually and necessarily incurred in the performance of his duties; and such deputies shall each receive as compensation the sum of five dollars per day for each day actually employed in the service of such county, or city and county, or city and town. They shall be allowed their traveling expenses actually and necessarily incurred in the performance of their duties. The term of office of sealer of weights and measures appointed under the provisions of this section shall be four years. He shall be subject to removal by the power appointing him. Deputies appointed under the provisions of this section by a sealer of a county, city and county, or city, or town, shall be subject to removal by the sealer.

In counties of the second class whose charters provide for a department of weights and measures, the appointment of a sealer and deputies, the number of such deputies and the term of office thereof shall be as provided in said charter; provided, that the sealer shall receive for compensation the sum of three thousand dollars per annum, and one deputy, to be known as chief deputy, shall receive as compensation the sum of two thousand four hundred dollars per annum. Deputies shall receive as compensation the sum of one thousand eight hundred dollars per annum, each payable in the same manner as the salaries of other county officers are paid. In counties of the third class the sealer shall receive as compensation the sum of one thousand eight hundred dollars per annum, and deputies shall each receive as compensation the sum of one thousand five hundred dollars per annum, payable in the same manner as the salaries of other county officers are paid.

In all counties other than those of the first to the thirty-fifth classes, both inclusive, no county sealer or deputies shall be appointed by the legislative body thereof, but the State Superintendent of Weights and Measures shall assign to such counties, or groups of such counties, such deputy superintendents as may be necessary, but not more than one to each of such counties. Such deputies shall have jurisdiction over such county, or group of counties, as the State Superintendent may designate, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. They shall have all the powers and perform the duties of a sealer of weights and measures. They shall be paid by the county wherein employed, five dollars a day for each day employed therein, which shall not exceed one hundred twenty days in any one county in any one year, and they shall also receive from such county their actual traveling expenses. The terms of office of all sealers and deputy sealers in all counties other than those of the first to the thirty-fifth classes, both inclusive, shall terminate when this section becomes effective. (Id. § 17.)

614. Jurisdiction of Sealers.—The jurisdiction of a sealer appointed or a deputy State sealer employed for a county shall extend over the entire territorial limits of the county appointing such sealer, except within the territorial limits of those cities and towns within which sealers have been appointed under the provisions of this act. The jurisdiction of the sealer of weights and measures appointed by the legislative body of any city or town under the provisions of this act shall extend over the entire territorial limits of such city or town. (Id. § 18.)

615. Sealers Appointed Heretofore Not Affected.—This act shall not affect the appointment of any sealer of weights and measures heretofore appointed for any city, town or city and county under any law, but such dealers shall perform the

duties of the office under the provisions of this act, and shall possess the same powers and duties as sealers appointed under the provisions of this act. (Id. § 19.)

616. Copies of Standards for Counties, etc.—Except as herein otherwise provided the board of supervisors or legislative body of each county, city, town and city and county of the state shall, upon the appointment of a sealer under the provisions of this act, provide and procure for their respective county, city, town and city and county, copies of the State's standards of weights and measures at the expense of such county, city, town or city and county; such copies shall be verified and certified to by the State Superintendent of Weights and Measures as in section 8 of this act provided. (Id. § 20.)

617. Copies to be Tested.—Sealers appointed under the provisions of this act shall, at least every two years, cause to be proved and tested by the State Superintendent copies of the State's standards in their possession. If, upon such inspection, or any inspection by the State Superintendent, the copies of the weights and measures tested shall be found to be incorrect the same shall be adjusted, if the same are susceptible of being adjusted, but if not, new copies shall be procured and certified to in the same manner as original copies. (Id. § 21.)

618. Copies Deemed Correct.—In any prosecution for a violation of any of the provisions of this act any copy of the standards of weights and measures of the State furnished, procured and certified to under the provisions of this act, shall be admitted in evidence upon the trial, and such copy shall be deemed *prima facie* true and correct. (Id. § 22.)

619. Duties of Sealers.—It shall be the duty of any sealer of weights and measures to carefully preserve all copies of the standards of weights and measures in his possession, and to keep the same in a safe and suitable place when not actually in use; and it shall be his duty annually and at such other times as the State Superintendent may require, to file with such superintendent a written report of the work done by him of the weights, measures, weighing and measuring instruments inspected or tested by him and of the result of such inspection, of all prosecutions instituted by him for violations of the provisions of this act and of all other matters and things pertaining to his duties or which may be required by the State Superintendent. (Id. § 23.)

620. Dealers in Weighing and Measuring Instruments to Have Same Tested.—Every person using or keeping for use or having or offering for sale weights, scales, beams, measures of every kind, instruments or mechanical devices for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures within a county, city, town, or city and county in which there has been appointed a sealer under the provisions of this act, shall within three months after the appointment of such sealer cause all such weights, scales, beams, measures of every kind, instruments or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures to be sealed and marked by the sealer of weights and measures of the county, city, town or city and county in which the same are used, kept for use or kept or offered for sale. (Id. § 24.)

621. Instrument Must be Tested Before Sale.—No weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, nor tools, appliances or accessories connected with any or all of such instruments or measures shall be used, kept for use, sold, offered for sale or kept for sale in any county, city, town or city and county, in which there is a sealer appointed under the provisions of this act and in which for three months there has been continuously in office in such county, city, town or city and county a sealer, unless such weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures shall have been sealed and tested as in this act provided. (Id. § 25.)

622. Instruments Which May be Sold; Subject to Inspection.—When any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measurements have been tested and found correct by any sealer appointed under the provisions of this act, the same may be used, kept for use, offered for sale, sold, or kept for sale within any county, city, town or city and county of this State for one year, without any further test. Any weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures, which have been tested and sealed and certified to as correct by the National Bureau of Standards, may be kept for sale, sold or offered for sale without being first tested and sealed by a sealer as in this act provided. But all

such weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurement, and tools, appliances and accessories connected with any or all such instruments or measures shall always be subject to inspection and testing as herein provided, notwithstanding that the same have been tested and sealed either by a sealer appointed under the provisions of this act or by the National Bureau of Standards. (Id. § 26.)

623. Testing of Devices Which Must be Assembled Before Use. Any scale, beam or mechanical device for weighing or measuring which, after being sold and before being used for weighing or measuring, it is necessary to assemble or set up, may be sold, kept for sale, or offered for sale without first being tested and sealed as in this act provided; but such scale, beam or mechanical device for weighing or measuring, before being used for weighing or measuring, must be tested and sealed as in this act provided. (Id. § 27.)

624. Testing Upon Request of Resident; Testing Upon Request of Firm, etc., Using; Not Relieved From Violation.—Upon a written request of any resident of a county, city, town or city and county, in which there has been appointed a sealer under the provisions of this act, there appearing reasonable grounds therefor, the sealer for such county, city, town or city and county shall test or cause to be tested, as soon thereafter as is practicable, the weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measurements used in buying or selling by the person, firm or corporation, designated in such request. Upon the written request of any person, firm or corporation, using, having for use, selling, keeping or offering for sale any weight, scale, beam, measure of any kind or instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures, in any county, city, town, or city and county in which there has been appointed a sealer under the provisions of this act, the sealer for such county, city, town or city and county shall test or cause to be tested, as soon thereafter as is practicable, the weights, scales, beams, measures of any kind, instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures belonging to or used by such person, firm or corporation; but such written request shall not relieve the person, firm or corporation making it from any violation of the provisions of this act or of the responsibility provided in this act for using, keeping for use, selling or offering to sell, or keeping for sale, any false weight, scale, beam, measure of any kind, instrument or mechanical device for weighing or measurement, tools, appliances and accessories connected with any or all such instruments or measures. (Id. § 28.)

625. Duties of Sealers; Weigh Packages.—The sealer shall, within his county, city, town or city and county, inspect, try, test all weights, scales, beams, measures of any kind, instruments or mechanical devices for weighing or measurements, and tools, appliances and accessories connected with any or all such instruments or measures, kept for the purpose of sale, sold, or used by any proprietor, agent, lessee or employee in proving the size, quality, extent, area, weight or measurement of quantities, things, produce, articles for distribution or consumption, purchased or offered or submitted by such person or persons for sale, hire or award and ascertain if the same are correct; and he shall have the power to and shall, from time to time, weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale or sold, or in the process of delivery, in order to determine whether the same contain the quantity or amount represented and whether they are being offered for sale or sold in accordance with law and may seize for use as evidence any such amounts of commodities or package or packages which shall be found to contain a less amount than that represented. He shall, at least once in each year, or as much oftener as he deems necessary, see that the weights, measures and all weighing and measuring apparatus, used in his county, city, town, or city and county, are correct. He may, for the purpose above mentioned, and in the general performance of his duty, without formal warrant enter or go into or upon, any stand, place, building or premises or stop any vendor, peddler, junk dealer, driver of a coal wagon, ice wagon, or delivery wagon or the driver of any wagon containing commodities for sale or delivery and, if necessary, require him to proceed to some place which the sealer may specify for the purpose of making the proper tests. (Id. § 29.)

626. Violators Prosecuted.—Any sealer having knowledge of a violation of any of the provisions of this act, or of any law relating to weights and measures shall cause the violator to be prosecuted. (Id. § 30.)

627. Marking Weights and Measures Tested, etc., "Out of Order"; Removal of Tags Prohibited.—Whenever a sealer compares weights and measures or

weighing or measuring instruments and finds that they correspond, or causes them to correspond, to the standards in his possession, he shall seal or mark, under his name, such weight or measure or weighing or measuring instrument with an appropriate device showing that the weight or measure or weighing or measuring instrument is correct and the date of the inspection, which device shall be placed so as to be easily seen. He shall condemn and seize and may destroy incorrect weights and measures and weighing and measuring instruments which in his best judgment are not susceptible of repair, but any weight, measure or weighing or measuring instrument which shall be found to be incorrect but which in his best judgment is susceptible of repair, he shall cause to be marked with a tag or other suitable device with the words "Out of order." The owners or users of any weights or measures or weighing or measuring instruments which have been marked "Out of order," as in this section provided, may have the same repaired or corrected within thirty days, but until the same have been repaired or corrected and tested as herein provided the owners or users thereof, may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. When the same have been repaired or corrected the owner or user thereof shall notify the sealer and the sealer shall again test and prove the weight, measure or weighing or measuring instrument, which had been found incorrect and marked as in this section provided, and until such weight, measure, or measuring or weighing instrument has been reinspected by the sealer and found correct, the same shall not be used or in any way disposed of by the owner. Any person who removes or obliterates any tag or device placed upon any weight, measure, or weighing or measuring instrument by the sealer as in this act provided, shall be guilty of a misdemeanor. When any weight, measure or weighing or measuring instrument has been repaired and corrected, as in this act provided, and has been reinspected and found correct by the sealer of weights and measures, as in this act provided, the sealer of weights and measures shall remove the tag or device with the words "Out of order," and shall seal and mark such weight, measure, or weighing or measuring instrument in the manner provided for the marking of the same where upon inspection they are found correct. (Id. § 31.)

628. Penalty for Using False Weights and Measures.—Any person who, by himself, or his employee or agent, or as the employee or agent of another, shall use, in the buying or selling of any commodity, or retain in his possession a false weight or measure or weighing or measuring instrument, or shall offer or expose for sale, or sell, except as heretofore specifically allowed in section twenty-seven of this act, or use or retain in his possession any weight or measure or weighing or measuring instrument in any county, city, town, or city and county in which there has been appointed a sealer of weights and measures in accordance with the provisions of this act, which has not been sealed by a sealer within one year, or who shall use or dispose of any condemned weight or measure, or weighing or measuring instrument contrary to law, or any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer or expose for sale or use or have in his possession for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure, and any person who, by himself, or his employee or agent, or as the employee or agent of another, shall sell or offer, or expose for sale any commodity, produce, article or thing in a less quantity than he represents it to be or contain, shall be guilty of a misdemeanor. Possession of any false weight or measure or weighing or measuring instruments or records thereof shall be prima facie evidence of the fact that they were intended to be used in the violation of law. (Id. § 32.)

629. Penalty for Selling Commodity at Other Than True Net Weight.—No person shall by himself or his employee or agent, or as the employee or agent of another sell or offer or expose for sale any commodity, produce, article or thing at, by, or according to gross weight or measure, or at, by, as, of, or according to any weight, measure or count which is greater than the true net weight, measure or count thereof, or which is less than the standard net weight, standard net measure or standard net count, including tolerances, as such standards and tolerances are now or may hereafter be established pursuant to the provisions of this act. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (Id. § 32a.)

630. Powers of Peace Officers.—The State Superintendent, his deputy, all sealers and their deputies, in the performance of their official duties, shall have the same powers as are possessed by peace officers of this state. (Id. § 33.)

631. Hindering Officers.—Any person who shall hinder or obstruct in any way the State superintendent, or his deputy, or a sealer or his deputy, in the performance of their official duties, shall be guilty of a misdemeanor. (Id. § 34.)

632. Refusal to Exhibit Weights or Measures.—Any person neglecting or refusing to exhibit any weight, measure, or weighing or measuring instrument of any kind, or appliances and accessories connected with any or all of such instruments or measures which is [are] in his possession or under his control, to the State superintendent, or his deputy, or to a sealer or his deputy, for the purpose of allowing the same to be inspected and examined as in this act provided, shall be guilty of a misdemeanor. (Id. § 35.)

633. Refusing to Exhibit Commodities.—Any person, who by himself, or his employee or agent, or as a proprietor or manager, shall refuse to exhibit any article, commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the State superintendent, or to his deputy, or to a sealer or his deputy, for the purpose of allowing the same to be tested and proved as to the quantity contained therein as in this act provided, shall be guilty of a misdemeanor. (Id. § 36.)

634. Penalty for False Sealing.—Any sealer who shall seal any weight, measure, balance or apparatus before first testing and making the same conform with the standards of the State, or who shall condemn any weight, measure, balance or apparatus without first testing the same, shall be deemed guilty of a misdemeanor. (Id. § 37.)

635. Violation of Act a Misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 38.)

636. "Person."—The word "person," as used in this act, shall be deemed to include person, firm or corporation. (Id. § 39.)

637. Duty of Officers of Corporation.—It shall be the duty of all officers, directors and managers of corporations, whose respective corporations use or keep for use, sell or offer for sale, any weights, measures, or weighing or measuring instruments which are subject to inspection by the provisions of this act, to comply with the provisions of this act on behalf of their respective corporations; and it shall be the duty of all officers, directors and managers of corporations, whose respective corporations offer for sale or keep for sale any commodity, produce, article or thing which is subject to inspection by the provisions of this act, to comply therewith on behalf of their respective corporations. In case any corporation shall violate any of the provisions of this act, the corporation and the officers thereof directly concerned with the act or acts constituting such violation shall be severally guilty of a misdemeanor. (Id. § 40.)

638. Sealing by State Superintendent or Deputy, Effect of.—Any sealing or testing of any weight, measure, weighing or measuring instrument by the State Superintendent or his deputy shall have the same force and effect as a sealing or testing by a sealer or his deputy. (Id. § 41.)

639. Appropriation.—There is hereby appropriated out of the general fund of the State the sum of twelve thousand dollars for carrying into effect the provisions of this act. (Id. § 42.)

640. Title.—This act when cited or amended may be designated as the "weights and measures act." (Id. § 43.)

641. Standard Weights and Measures Furnished by Government; Metric System May be Used.—The standard weights and measures now in charge of the State Superintendent of Weights and Measures being the same that were furnished to this State by the government of the United States, and consisting of one standard yard measure; one set of standard weights, comprising one troy pound and nine avoirdupois weights of one, two, three, four, five, ten, twenty, twenty-five and fifty pounds, respectively; one set of standard troy ounce weights, divided decimally from ten ounces to the one ten-thousandth of an ounce; one set of standard liquid capacity measures, consisting of one wine gallon of two hundred and thirty-one cubic inches, one half gallon, one quart, one pint and one half-pint measure; and one standard half bushel, containing one thousand and seventy-five cubic inches and twenty-one hundredths of a cubic inch, according to the inch hereby adopted as the standard, are the common standards of weights and measures throughout the State; provided, however, that instead of using the common standard of weights and measures it shall be lawful throughout the State to employ the weights and measures of the metric system authorized by the Congress of the United States of America, and no contract of pleading in any court shall be deemed invalid or liable to objection because the weights and measures expressed or referred to therein are weights or measures of the metric system. (Pol. Code, 1923, § 3209.)

642. The Unit of Weights.—The standard avoirdupois and troy weights are the units or standards of weight from which all other weights are derived and ascertained. (Id. § 3214.)

643. Standard Weights.—The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, is divided into sixteen equal parts, called avoirdupois ounces; the hundredweight consists of one hundred avoirdupois pounds, and twenty hundredweight constitutes a ton. The avoirdupois ounce is divided into sixteen equal parts called avoirdupois drams. The troy ounce is equal to the twelfth part of the troy pound. The troy pennyweight is equal to the twentieth part of the troy ounce, and the troy grain is equal to the twenty-fourth part of the troy pennyweight. The apothecary's pound is equal to the troy pound. The apothecary's ounce is equal to the twelfth part of the apothecary's pound. The apothecary's dram is equal to the one-eighth part of the apothecary's ounce. The scruple is equal to the one-third part of the apothecary's dram, and the grain is equal to one-twentieth of the scruple. (Id. § 3215.)

644. Liquid Measures.—The standard gallon and its parts are the units or standards of capacity for liquids, from which all other measures of liquids are derived and ascertained. The liquid quart is equal to the one-fourth part of the standard gallon. The pint is equal to the one-eighth part of the gallon. The gill is equal to the one-fourth part of the pint. The fluid ounce is equal to the one-sixteenth part of the pint. The fluid dram is equal to the eighth part of the fluid ounce, and the minim is equal to the sixtieth part of the fluid dram. (Id. § 3216.)

645. The Barrel, the Hogshead.—The barrel is equal to thirty-one and a half gallons, and two barrels constitute a hogshead. (Id. § 3217.)

646. Unit of Solid Measure.—The standard half-bushel is the unit or standard measure of capacity for substances other than liquids, from which all other measures of such substances are derived and ascertained. (Id. § 3218.)

647. Division of the Half-bushel.—The peck, half-peck, quarter-peck, quart and pint measures for measuring commodities other than liquid are derived from the half-bushel by successively dividing that measure by two. (Id. § 3219.)

648. Division of Capacity for Commodities Sold by Heap-measure.—The measures of capacity for coal, ashes, marl, manure, Indian corn in the ear, fruit and roots of every kind, and for all other commodities commonly sold by heap-measure, are the half-bushel and its multiples and subdivisions; and the measures used to measure such commodities must be made cylindrical, with plane and even bottom, and must be of the following diameters from outside to outside: the bushel, nineteen and a half inches; half-bushel, fifteen and a half inches, and the peck, twelve and a third inches. (Id. § 3220.)

649. Heap-measure.—All commodities sold by heap-measure must be duly heaped up in the form of a cone; the outside of the measure, by which the same are measured, to be the limit of the base of the cone, and such cone to be as high as the article will admit. (Id. § 3221.)

650. Contracts to be Construed According to Common Standards.—Contracts made within this State for work to be done or for anything to be sold or delivered by weight or measure must be construed according to the foregoing common standards, known as the imperial system or according to the foregoing authorized weights and measures of the metric system, according as the units of one system or the other system are used or referred to in such contracts. (Id. § 3222.)

651. Weights of Bushels of Various Products.—Whenever wheat, rye, Indian corn, barley, buckwheat or oats are sold by the bushel, and no special agreement as to the weight or measurement is made by the parties, the bushel consists of sixty pounds of wheat, of fifty-four pounds of rye, of fifty-two pounds of Indian corn, of fifty pounds of barley, of forty pounds of buckwheat, and of thirty-two pounds of oats. (Id. § 3223.)

652. Putting Extraneous Substances in Packages of Goods Usually Sold by Weight, With Intent to Increase Weight.—Every person who, in putting up in any bag, bale, box, barrel or other package, any hops, cotton, wool, grain, hay, or other goods usually sold in bags, bales, boxes, barrels or packages, by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel or package, with intent thereby to sell the goods therein or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars for each offense. (Pen. Code, 1923, § 381.)

653. "False Weight" and "Measure" Defined.—A false weight or measure is one which does not conform to the standard established by the laws of the United States of America. (Id. § 552.)

654. Using False Weights or Measures.—Every person who uses any weight or measure, knowing it to be false, by which use another is defrauded or otherwise injured, is guilty of a misdemeanor. (Id. § 553.)

655. Stamping False Weight, Measure, or Tare on Casks or Packages.—Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells, or offers for sale, any cask or package so marked, is guilty of a misdemeanor. (Id. § 554.)

656. Sellers to Give Full Weight.—In all sales of coal, hay, and other commodities, usually sold by the ton or fractional parts thereof, the seller must give to the purchaser full weight, at the rate of two thousand pounds to the ton; in all sales of articles which are sold in commerce by avoirdupois weight, the seller must give to the purchaser full weight, at the rate of sixteen ounces to the pound, and any person violating this section is guilty of a misdemeanor. (Id. § 555.)

657. Rate of Tare on Baled Hops.—There shall be allowed on baled hops a tare at the rate of two per centum of the weight of the bale for the cloth and other material used in baling; that is, the tare shall be at the rate of two pounds per hundred on the weight of the bale. (G. L. 1923, Act 3384, § 1.)

NOTE: The last section is repeated in the Civil Code 1923, § 995.

658. Public Weighmaster; Bond; Seals; Exceptions.—All persons, firms, corporations, copartners, or individuals engaged in the business of public weighing for hire, or any person, firm, or corporation who shall weigh or measure any commodity, produce, or article and issue therefor a weight certificate which be accepted as the accurate weight upon which the purchase or sale of such commodity, produce, or article is based shall be known as a public weighmaster, and shall file a bond with the State Superintendent of Weights and Measures (Department of Agriculture) in the sum of one thousand dollars for the faithful performance of his duties, and shall pay a license fee of ten dollars per annum to the State Superintendent of Weights and Measures (Department of Agriculture) and shall obtain from the State Superintendent of Weights and Measures (Department of Agriculture) a seal for the stamping of weight certificates hereinafter provided for, which shall only be in such form as such superintendent (Department of Agriculture) may prescribe.

(a) The said seals shall be the property of the State and shall be forfeited and returned to the State Superintendent of Weights and Measures (Department of Agriculture) upon termination of the performance of the duties herein prescribed as being the duties of a public weighmaster. Such seal shall be of a form and design prescribed by the State Superintendent (Department of Agriculture) and furnished by him at the expense of the weighmaster. Said seal shall be a recognized authority of accuracy when applied to weight certificates. Nothing in this act contained shall be construed as applying to persons maintaining scales in villages or country districts for weighing farm products for hire, where such person does not carry on regularly the business of weighing for hire and any person maintaining any such scales for such purpose shall not be construed to be a "public weighmaster" within the meaning of this act. (G. L. 1923, Act 9205, § 1.)

659. Weight Certificates.—The State Superintendent shall prescribe a form of weight certificates to be used by all public weighmasters, which certificates shall be known as the "State Certificate of Weights and Measures," and shall state thereon the kind of product, the number of units of the same, the date of receipt of the product, the owner, agent or consignee, the total weight of the product, the vessel, railroad, team, or other means by which the product was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the product from like kind. No certificate other than the one herein prescribed shall be used by public weighmasters. (Id. § 2.)

660. Records.—All public weighmasters shall keep and preserve correct and accurate records of all public weighing, as provided by this act, which records shall at all times be open for inspection by the State Superintendent of Weights and Measures, or his deputy. (Id. § 3.)

661. Penalty.—All State certificates of weights and measures, as provided by this act, shall contain the accurate and correct weight of any and all commodities weighed when issued by the public weighmaster.

(a) Any public weighmaster who shall issue a State certificate of weights and measures giving a false weight or measure of any article or commodity weighed or measured by him, or his representative, to any person, firm or corporation, shall be guilty of a misdemeanor, and the State Superintendent may direct and compel the return to him of the State seal, or declare his bond as public weighmaster forfeited, or both. (Id. § 4.)

662. False or Incorrect Statements.—Any person, firm, or corporation who shall request the public weighmaster, or any person employed by him to weigh any product, commodity, or article falsely or incorrectly or who shall request a false or incorrect State certificate of weight and measure, or any person issuing a State certificate of weights and measures who is not a public weighmaster as provided for in this act, shall be guilty of a misdemeanor. (Id. § 5.)

663. Reweighing in Case of Doubt; Deputy Weighmasters.—When doubt or differences arise as to the correctness of the net or gross weight of any amount or part of any commodity, produce, or article for which a State certificate of weights and measures has been issued by a public weighmaster, the owner, agent, or consignee may, upon complaint to the State Superintendent of Weights and Measures, or his deputy, have said amount or part of the amount of any commodity, produce, or article, reweighed by the State Superintendent of Weights and Measures, or a public weighmaster designated by him, upon depositing a sufficient sum of money to defray the actual cost of reweigh with the State Superintendent of Weights and Measures. If, on reweighing, a difference in the original weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster responsible for the issuance of such faulty State certificate of weights and measures. All public weighmasters employing or designating any person to act for them as deputy public weighmaster, shall be responsible for all acts performed by such person, and the public weighmaster shall forward to the State Superintendent of Weights and Measures the name and address of persons so appointed. (Id. § 6.)

664. Lots Shall be Piled Separately.—All amounts, lots, shipments, or consignments, of products, after having been weighed, shall be piled or stored separately, as near as can be, or in some manner marked in order that said amounts, lots, shipments, or consignments may be distinguished from each of a like kind. When any product is sold subject to public weighmaster weights, such weight shall be the true net weight of the product. Net weight within the meaning of this act shall be the correct or actual weight of the commodity excluding the weight of the container. (Id. § 7.)

665. Penalty.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 7a.)

NOTE: See also No. 6 et seq.; No. 30; the apple law, No. 49 et seq.; the bread law, No. 77 et seq.; the canned goods law, No. 81 et seq.; the dairy law, No. 128 et seq.; the egg law, No. 258 et seq.; the feeding stuffs law, No. 282 et seq.; the fish law, No. 303 et seq.; the fruit and vegetable law, No. 334 et seq.; the economic poison law, No. 467 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Director of State Laboratory—Duties: Hale Co. v. Lea, 191 Cal. 202, 215 Pac. 900 (1923).

Food—Standards: *Cleveland Macaroni Co. v. State Board of Health of California et al., 256 Fed. 376 (1919).

2. Special Food Laws.

Beverages—Gaugers: *Addison v. Saulnier, 19 Cal. 82 (1861).

Butter: *Ex parte Dietrich, 149 Cal. 104, 84 Pac. 770, 5 L. R. A. (N. S.) 873 (1906).

Eggs—Imported: *In re Foley, 172 Cal. 744, 158 Pac. 1034, Ann. Cas. 1918 A, 180 (1916).

Fish: *Paladini et al. v. Superior Court of City and County of San Francisco et al., 178 Cal. 369, 173 Pac. 588 (1918); People v. Stafford Packing Co., 193 Cal. 719, 227 Pac. 485 (1924); *People v. Monterey Fish Products Co., 195 Cal. 548, 234 Pac. 398, 38 A. L. R. 1186 (1925); *Van Camp Sea Food Co. v. State Fish

and Game Commission et al., 243 Pac. 702 (1925); *Stafford Packing Co. v. Same, 243 Pac. 704 (1925); *Pacific Marine Products Co. v. Same; 243 Pac. 705 (1925); *Southern California Fish Corporation v. Same, Id., *Los Angeles Sea Food Packing Co. v. Same, Id.; *Franco-Italian Packing Co. v. Same, Id.; *Van Camp Sea Food Co. v. Newbert et al., 244 Pac. 946 (1926).

Fruit—Labeling: *Ex parte Hayden, 147 Cal. 649, 82 Pac. 315, 1 L. R. A. (N. S.) 184, 109 Am. St. Rep. 183 (1905).

Fruits and Vegetables—Canning—Women—Hours of Labor: *In re Miller, 162 Cal. 687, 124 Pac. 427 (1912), affirmed in *Miller v. Wilson, 236 U. S. 373, 35 S. Ct. 342, 59 L. Ed. 628 (1915).

Fruits, Vegetables, Etc.—Insect Pests: See *County of Los Angeles v. Spencer et al., 126 Cal. 670, 59 Pac. 202, 77 Am. St. Rep. 217 (1899); *County of Riverside v. Butcher, 133 Cal. 324, 65 Pac. 745 (1901).

Fruits, Vegetables, Etc.—Standardization Act: *In re Fujii, 189 Cal. 55, 207 Pac. 537 (1922); *In re Peppers, 189 Cal. 682, 209 Pac. 896 (1922).

Grocery Stores—License—Sanitation: *In re Hadelers, 61 Cal. App. 630, 215 Pac. 562 (1923).

Meat—Deer Meat: *Ex parte Maier, 103 Cal. 476, 37 Pac. 402, 42 Am. St. Rep. 129 (1894).

Meat—Peddler: *Ex parte Heylman, 92 Cal. 492, 28 Pac. 675 (1891).

Meat—Slaughterhouse: *Ex parte Heilbron et al., 65 Cal. 609, 4 Pac. 648 (1884); *In re Pfahler, 150 Cal. 71, 88 Pac. 270, 11 L. R. A. (N. S.) 1092 (1906).

Milk: *In re Desanta, 8 Cal. App. 295, 96 Pac. 1027 (1908); *In re Hoffman, 155 Cal. 114, 99 Pac. 517, 132 Am. St. Rep. 75 (1909); Revis v. Superior Court of San Bernardino County et al., 22 Cal. App. 479, 134 Pac. 1159 (1913).

Milk—Dairies—Registration: Luchini v. Roux et al., 29 Cal. App. 755, 157 Pac. 554 (1916).

Milk—Imitation Milk: *In re Reiniger, 184 Cal. 97, 193 Pac. 81 (1920).

Milk—Keeping Cows in City: *In re Linehan, 72 Cal. 114, 13 Pac. 170 (1887).

Milk—Milk Marketing Association—Contracts: See Silveira et al. v. Associated Milk Producers, 63 Cal. App. 572, 219 Pac. 461 (1923).

Milk—"Swill Milk": *Johnson v. Simonton, Fitch & Pickering, 43 Cal. 242 (1872).

Oranges: *In re Peppers, 189 Cal. 682, 209 Pac. 896 (1922). See also: MacRae v. Heath et al., 60 Cal. App. 64, 212 Pac. 228 (1922).

Restaurant—Conduct of: *Angelopoulos v. Bottorff et al., 245 Pac. 447 (1926).

Wine—Pure Wine Act: *Ex parte Kohler, 74 Cal. 38, 15 Pac. 436 (1887).

3. Special Drug Laws.

Abortifacients—Advertisement: People v. McKean, 243 Pac. 898 (1925).

Insecticides and Fungicides—Economic Poison Act: *Gregory v. Hecke, 73 Cal. App. 268, 238 Pac. 787 (1925).

Insecticides—Manufacture and Sale by Counties: *Farley v. Stirling et al., 70 Cal. App. 526, 233 Pac. 810 (1925).

Insecticides—Sale Under Pharmacy and Poison Acts: *In re Potter, 164 Cal. 735, 130 Pac. 721 (1913), reversing Same, 19 Cal. App. 500, 126 Pac. 1135 (1912); Same, 26 Cal. App. 45, 146 Pac. 62 (1914).

Narcotic Addicts: In re Henley, 18 Cal. App. 1, 121 Pac. 933 (1912); Henley v. Superior Court of County of Sacramento, & Hughes, 162 Cal. 239, 121 Pac. 921 (1912); *In re O'Connor, 29 Cal. App. 225, 155 Pac. 115 (1915); In re Liggett, 187 Cal. 428, 202 Pac. 660 (1921).

Narcotics: *Ex parte Hong Shen, 98 Cal. 681, 33 Pac. 799 (1893); *Ex parte Hallawell, 155 Cal. 112, 99 Pac. 490 (1909), affirming *In re Hallawell, 8 Cal. App. 563, 97 Pac. 320 (1908); *In re Yun Quong, 159 Cal. 508, 114 Pac. 835, Ann. Cas. 1912 C, 969 (1911); *McGinis et al. v. Justice's Court of Township of Calexico, County of Imperial et al., 28 Cal. App. 680, 153 Pac. 728 (1915), reversed in *McGinis et al. v. California, 247 U. S. 91, 38 S. Ct. 440, 62 L. Ed. 999 (1918), and *Same, 247 U. S. 95, 38 S. Ct. 441, 62 L. Ed. 1002 (1918); In re Woo Hah, 34 Cal. App. 35, 166 Pac. 851 (1917); People v. Dueber, 34 Cal. App. 686, 168 Pac. 578 (1917); *People v. Wren, 59 Cal. App. 116, 210 Pac. 60 (1922); People v. Herbert, 59 Cal. App. 158, 210 Pac. 276 (1922); In re Tung Fong, 59 Cal. App. 499, 211 Pac. 32 (1922); In re Silva, 191 Cal. 761, 218 Pac. 390 (1923); People v. Fong Wot, 63 Cal. App. 677, 219 Pac. 481 (1923); People v. Cross, 64 Cal. App. 443, 221 Pac. 684 (1923); People v. Tou Jue, 66 Cal. App. 235, 225 Pac. 759 (1924); *People v. Mock Don Yuen, 67 Cal. App. 597, 227 Pac. 948 (1924); People v. Galli, 68 Cal. App. 682, 230 Pac. 20

(1924); *People v. Moronati*, 70 Cal. App. 17, 232 Pac. 991 (1924); *Ex parte Lord*, 250 Pac. 714 (1926). In *re Ah Lung*, 45 Fed. 684 (1891); **Young v. California State Board of Pharmacy et al.*, 273 Fed. 30 (C. C. A.) (1921). See *Poisons*.

Pharmacy—Exempted Sales: *In *re Potter*, 164 Cal. 735, 130 Pac. 721 (1913), reversing *Same*, 19 Cal. App. 500, 126 Pac. 1135 (1912); *Same*, 26 Cal. App. 45, 146 Pac. 62 (1914).

Pharmacy—Hours of Drug Clerks—Regulation: *In *re Twing*, 188 Cal. 261, 204 Pac. 1082 (1922); In *re Hankammer*, 188 Cal. 797, 204 Pac. 1084 (1922). **Bosley v. McLaughlin*, 236 U. S. 385, 35 S. Ct. 345, 59 L. Ed. 632 (1915).

Pharmacy—Itinerant Vendors of Drugs—License Tax: *In *re Gilstrap*, 171 Cal. 108, 152 Pac. 42, Ann. Cas. 1917 A, 1086 (1915).

Poisons: **Ex parte Hallawell*, 155 Cal. 112, 99 Pac. 490 (1909), affirming* In *re Hallawell*, 8 Cal. App. 563, 97 Pac. 320 (1908); *In *re Potter*, 164 Cal. 735, 130 Pac. 721 (1913), reversing *Same*, 19 Cal. App. 500, 126 Pac. 1135 (1912); *Same*, 26 Cal. App. 45, 146 Pac. 62 (1914); **People v. City of San Bernardino*, 47 Cal. App. 232, 190 Pac. 482 (1920); *People v. Martin*, 70 Cal. App. 271, 233 Pac. 85 (1924). See also: *People v. Van Deleer*, 53 Cal. 147 (1878). See *Narcotics*.

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Drugs: *Murphy et al. v. Boericke & Runyon Co. et al.*, 72 Cal. App. 132, 236 Pac. 966 (1925).

Food: *Loucks v. Morley*, 39 Cal. App. 570, 179 Pac. 529 (1919). See also: *Flint et al. v. Lyon*, 4 Cal. 17 (1854); *Moore v. McKinlay et al.*, 5 Cal. 471 (1855); *Blackwood v. Cutting Packing Co.*, 76 Cal. 212, 18 Pac. 248, 9 Am. St. Rep. 199 (1888); *Pfoh v. Porter et al.*, 23 Cal. App. 59, 137 Pac. 44 (1913); *Barrios v. Pacific States Trading Co. et al.*, 41 Cal. App. 637, 183 Pac. 236 (1919); *Travis Glass Co. v. Robbins*, 46 Cal. App. 239, 189 Pac. 112 (1920); *W. J. Bush & Co. v. Van Camp Sea Food Co.*, 55 Cal. App. 672, 203 Pac. 1026 (1921); *MacRae v. Heath et al.*, 60 Cal. App. 64, 212 Pac. 228 (1922); *Steen v. Southern California Supply Co.*, 239 Pac. 1098 (1925).

Whiskey: *Pell v. Herbert*, 33 Cal. App. 730, 166 Pac. 386 (1917).

5. Miscellaneous.

Trade-Marks: *Woodward v. Lazar et al.*, 21 Cal. 448, 82 Am. Dec. 751 (1863); *Derringer v. Plate*, 29 Cal. 292, 87 Am. Dec. 170 (1865); **Falkinburg & Thomas v. Lucy & Hymes*, 35 Cal. 52, 95 Am. Dec. 76 (1868); *Choynski v. Cohen*, 39 Cal. 501, 2 Am. Rep. 476 (1870); *Graham v. Plate*, 40 Cal. 593, 6 Am. Rep. 639 (1871); *Burke & Wolfe v. Cassin & Cassin*, *Same v. Wertheimer & Waterman*, 45 Cal. 467, 13 Am. Rep. 204 (1873); *Shaefer v. Korbel et al.*, 2 Cal. Unrep. 166 (1883); *Eggers v. Hink*, 63 Cal. 445, 49 Am. Rep. 96 (1883); *Whittier et al. v. Dietz*, 66 Cal. 78, 4 Pac. 986 (1884); *Pierce v. Guittard et al.*, 68 Cal. 68, 8 Pac. 645, 58 Am. Rep. 1 (1885); *Sperry & Co. v. Percival Milling Co.*, 81 Cal. 252, 22 Pac. 651 (1889); *Joseph v. Macowsky*, 96 Cal. 518, 31 Pac. 914, 19 L. R. A. 53 (1892); *Schmidt et al. v. Welch et al.*, 4 Cal. Unrep. 417, 35 Pac. 626 (1893); *Schmidt et al. v. Brieg et al.*, 100 Cal. 672, 674, 35 Pac. 623, 22 L. R. A. 790 (1893); *Spieker v. Lash et al.*, 102 Cal. 38, 36 Pac. 362 (1894); *Castle et al. v. Siegfried et al.*, 103 Cal. 71, 37 Pac. 210 (1894); *Banzhaf et al. v. Chase*, 150 Cal. 180, 88 Pac. 704 (1907); *Castroville Co-operative Creamery Co. v. A. G. Col & Co.*, 6 Cal. App. 533, 92 Pac. 648 (1907); *Italian Swiss Colony v. Italian Vineyard Co.*, 158 Cal. 252, 110 Pac. 913, 32 L. R. A. (N. S.) 439 (1910); *Dunston v. Los Angeles Van & Storage Co. and Lichtenberger et al.*, 165 Cal. 89, 131 Pac. 115 (1913); *Los Angeles Creamery Co. v. J. R. Newberry Co.*, 21 Cal. App. 567, 132 Pac. 289 (1913); *Modesto Creamery v. Stanislaus Creamery Co. et al.*, 168 Cal. 289, 142 Pac. 845 (1914); **Bartollotti v. Police Court of City of Los Angeles et al.*, 35 Cal. App. 372, 170 Pac. 161 (1917); *Southern California Fish Co. v. White Star Canning Co.*, 45 Cal. App. 426, 187 Pac. 981 (1920); *Katschinski v. Keller et al.*, 49 Cal. App. 406, 193 Pac. 587 (1920); *Evans et al. v. Shockley*, 58 Cal. App. 427, 209 Pac. 42 (1922). See also: *Milbrae Co. v. Taylor et al.*, 4 Cal. Unrep. 714, 37 Pac. 235 (1894); *Weinstock, Lubin & Co. v. Marks*, 109 Cal. 529, 42 Pac. 142, 30 L. R. A. 182, 50 Am. St. Rep. 57 (1895); *Nolan Bros. Shoe Co. v. Nolan*, 131 Cal. 271, 63 Pac. 480, 53 L. R. A. 384, 82 Am. St. Rep. 346 (1900); *Hainque et al. v. Cyclops Iron Works*, 136 Cal. 351, 68 Pac. 1014 (1902); *Dodge Stationery Co.*

v. Dodge et al., 145 Cal. 380, 78 Pac. 879 (1904); Morton et al. v. Morton, 148 Cal. 142, 82 Pac. 664, 1 L. R. A. (N. S.) 660 (1905); Kullman, Salz & Co. v. Sugar Apparatus Manufacturing Co., 153 Cal. 725, 96 Pac. 369 (1908); Temple v. Gordon, 31 Cal. App. 127, 159 Pac. 983 (1916); Bradford Baking Co. v. Weber Baking Co., 43 Cal. App. 570, 185 Pac. 417 (1919); Excelsior Cereal Milling Co. v. Taylor Milling Co., 43 Cal. App. 591, 186 Pac. 207 (1919); Mills v. San Diego Conservatory of Music et al., 47 Cal. App. 300, 191 Pac. 546 (1920); Jaynes v. Weickman et al., 55 Cal. App. 557, 203 Pac. 828 (1921); Lutz v. Western Iron & Metal Co. et al., 190 Cal. 554, 213 Pac. 962 (1923); Yellow Cab Co. of San Diego v. Sachs et al., 191 Cal. 238, 216 Pac. 33, 28 A. L. R. 105 (1923); Benioff et al. v. Benioff et al., 64 Cal. App. 745, 222 Pac. 835 (1923); Reid v. St. John, 68 Cal. App. 348, 229 Pac. 863 (1924); Tomskey et al. v. Clark et al., 73 Cal. App. 412, 238 Pac. 950 (1925).

Trading Stamps: *Ex parte McKenna, 126 Cal. 429, 58 Pac. 916 (1899); *Ex parte Drexel, 147 Cal. 763, 82 Pac. 429, 2 L. R. A. (N. S.) 588, 3 Ann. Cas. 878 (1905); *Ex parte Holland, Id.; *Ex parte West, 147 Cal. 774, 82 Pac. 434 (1905); American Copying Co. v. Lehmann & Waterman, 6 Cal. App. 1, 91 Pac. 414 (1907).

Weights and Measures: *Ex parte Dietrich, 149 Cal. 104, 84 Pac. 770, 5 L. R. A. (N. S.) 873 (1906); *Scott v. Boyle, 164 Cal. 321, 128 Pac. 941 (1912); McEvers v. Boyle, 25 Cal. App. 476, 144 Pac. 308 (1914); Scott v. Boyle, 25 Cal. App. 806, 144 Pac. 311 (1914); Milliken v. Meyers, 25 Cal. App. 510, 144 Pac. 321 (1914); *In re Fujii, 189 Cal. 55, 207 Pac. 537 (1922). See also: *Higgins v. California Petroleum & Asphalt Co., 109 Cal. 304, 41 Pac. 1087 (1895); Same, 120, Cal. 629, 52 Pac. 1080 (1898); People v. Moore, 48 Cal. App. 245, 191 Pac. 980 (1920).

COLORADO.*

PART I.

General Food and Drug Law.

1. **Division of Food and Drugs—Food and Drug Commissioner.**—For the purpose of enforcing the provisions of the pure food and drugs act, approved March 7, 1907, and all other acts pertaining to the purity of food and drugs and the sanitation of places wherein they are manufactured and sold, there is hereby created a division of the State Board of Health to be known as the division of foods and drugs; and there is hereby created the office of Food and Drug Commissioner. (C. L. 1921, § 995.)

2. **Penalty for Manufacturing, Selling or Misbranding Adulterated Food or Drugs.**—It shall be unlawful for any person to manufacture, or sell, or expose for sale, or deliver, or give away, or ship, or offer for shipment, within this State, any article of food, or drug, which is adulterated or misbranded within the meaning of this act, except as such article may be in the original package and the subject of interstate commerce under the federal jurisdiction; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be punished by a fine of not exceeding five hundred dollars, or by imprisonment of not exceeding one year, or by both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for one year, or by both such fine and imprisonment, in the discretion of the court. But no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared, or packed, according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of such foreign country to which said article is intended to be shipped; but if said article shall be in fact sold, or exposed for sale, or delivered, or given away, or shipped or offered for shipment for use or consumption within this State, then this provision shall not exempt said article from the operation of any of the provisions of this act. (Id. § 996.)

3. **Uniform Rules and Regulations.**—The State Board of Health shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of all foods and drugs manufactured, or sold, or exposed for sale, or delivered, or given away, or shipped, or offered for shipment within this State, or which may be submitted for examination by any health officer of any town, city or county in this State. But such rules and regulations shall not be more stringent than, nor conflict with, the rules and regulations adopted, or which may hereafter be adopted, for the enforcement of the food and drugs act of the United States, approved June 30, 1906, regulating the misbranding or adulteration of drug or food products for interstate commerce. (Id. § 997.)

4. **Examination of Specimens.**—The examinations of specimens of foods and drugs shall be made by or under the direction and supervision of the State Board of Health for the purpose of determining from such examinations whether such articles are adulterated, or misbranded, within the meaning of this act; and if it shall appear from any such examinations that any of such specimens is adulterated, or misbranded, within the meaning of this act, the State Board of Health shall cause notice thereof to be given to the person from whom such sample was obtained. Any person so notified shall be given an opportunity to be heard, under such rules and regulations as shall be prescribed as aforesaid, and if it shall appear that any of the provisions of this act have been violated by such person then the State Board of Health shall at once certify the facts to the

*CITATIONS: "C. L. 1921" refers to the Compiled Laws of Colorado, 1921, published by authority of the Act of April 9, 1919. "L." refers to the session laws of the year cited.

proper district attorney, with a copy of the results of the analysis, or other examination, of such article, duly authenticated by the analyst, or officer making such examination, under the oath of such analyst or officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 998.)

5. District Attorney to Enforce Provisions of Act.—It shall be the duty of each district attorney to whom the State Board of Health shall report any violation of this act, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of this State, without delay, for the enforcement of the penalties as in such case herein provided. (Id. § 999.)

6. Definition of Terms.—The term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance, or compound or mixture of substances, intended to be used for the cure, mitigation or prevention of disease of either man or other animals. The term "food," as used in this act, shall include all articles used for food, drink, confectionery or condiment, by man or other animals, whether simple, mixed or compound. (Id. § 1000.)

7. Articles Deemed to be Adulterated.—For the purpose of this act an article shall be deemed to be adulterated: In case of drugs:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the tests laid down in the United State Pharmacopœia or National Formulary official at the time of investigation.

Second. If its strength or purity shall fall below the professed standard, or quality, under which it is sold.

In case of confectionery:

If it contains terra alba, barytes, talc, chrome yellow, or any mineral substance used for the purpose of adulteration, or poisonous color, or flavor, or other ingredient deleterious to health, or any vinous, malt or spirituous liquor, or compound, or narcotic drug.

In case of food:

First. If any substance has been mixed, or packed, with it so as to reduce or lower, or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly, or in part, abstracted.

Fourth. If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain formaldehyde or other harmful preservative or any added poisonous, or other added deleterious ingredient which may render such article injurious to health. But when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative are printed on the covering, or the package, the provisions of this act shall be construed as applying only when said products are ready for consumption.

Sixth. If it consist in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. (Id. § 1001.)

8. Misbranded Defined—Articles Deemed Misbranded.—The term "misbranded" as used herein, shall apply to all drugs or articles of food, or articles which enter into the composition of food, the packages or label of which shall bear any statement, word, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, territory, city, town, place or country in which it is manufactured, produced or found.

For the purposes of this act an article shall also be deemed to be misbranded: In case of drugs:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up, or the contents of the box, bottle, can or other container, sold or exposed for sale, or delivered, or given away, or shipped, or offered for shipment, shall have been removed, in whole or in part, and other contents shall have been placed in such package, or in such box, bottle, can or other container, or if such package, or such box,

bottle, can or other container, as aforesaid, fail to bear a statement on its label of any quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any harmful coal tar derivative or preparation, or any such substances, contained therein. But no such statement shall be required to be placed on such label if the drug is sold upon the prescription of a duly licensed physician, dental surgeon or veterinary surgeon, which said prescription shall be kept on file by the dispensing pharmacist, or under the name of any article defined in the United States Pharmacopœia or National Formulary, or, in the case of alcohol, or official preparations containing alcohol, when used in the manufacture of other preparations which are official in the United States Pharmacopœia or National Formulary.

In case of food:

First. If it be an imitation of, or offered for sale under, the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package, as originally put up, or of the box, bottle, can or other container, sold, or exposed for sale, or delivered, or given away, or shipped or offered for shipment, shall have been removed in whole or in part and other contents shall have been placed in such package, or in such box, bottle, can, or other container, or it shall fail to bear a statement on its label of the quantity, or the proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, or any harmful coal tar derivative, or preparation or any such substances contained therein.

Third. If in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

If the package or label of any food or drug, article or preparation manufactured, or sold within the State of Colorado shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any of the ingredients or substance contained therein which is false and fraudulent.

Fourth. If the package containing it, or the box, bottle, can or other container, or its label, shall bear any statement, word, design or device regarding the ingredients or the substances contained therein, which statement, word, design or device shall be false or misleading in any particular. But an article of food which does not contain any added poisonous ingredients, or ingredients deleterious to health, shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now, or from time to time hereafter, known as articles of food, under their own distinctive names, and not an imitation of, or offered for sale under, the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded or tagged, so as plainly to indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package, box, bottle, can or other container, in which it is offered for sale. But the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 1002.)

9. Guaranty of Manufacturer Relieves Dealer from Prosecution.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other person residing in this State, from whom he purchased any article in question, to the effect that the same is not adulterated or misbranded. Such guaranty, to afford protection, shall contain the name and address of the person making the sale of such article to such dealer, and in such case said person shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this act. (Id. § 1003.)

10. Adulterated or Misbranded Article Subject to Seizure.—Any article of food, drug or liquor that is adulterated or misbranded within the meaning of this act, that is manufactured, or sold, or exposed for sale, or delivered, or given

away, or shipped, or offered for shipment, within this State, together with its box, bottle, can or other container, except as such article may be in the original package and the subject of interstate commerce under the federal jurisdiction, is hereby declared to be a nuisance, and shall be abated upon a complaint, hearing and judgment, or order of court in a proceeding in the district court of the district where such article of food, drug or liquor is found, by seizure and confiscation for destruction or sale. If such article is condemned as being adulterated, or misbranded, or as being of a poisonous or deleterious character, within the meaning of this act, it shall be disposed of under the proper order of court by destruction, or by sale in the manner provided for the sale of chattels under execution, in the discretion of the court; and the proceeds thereof, if it be sold, less the legal cost and charges, shall be paid to the State Treasurer; but such article of food, or drug, shall not be sold in any jurisdiction contrary to the law thereof. (Id. § 1004.)

11. Person Defined—Construction of Agent's Acts.—The word "person" as used in this act shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, partnerships, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, partnership, society or association within the scope of his employment or office shall in every case also be deemed to be the act, omission or failure of such corporation, company, partnership, society or association, as well as that of the person. (Id. § 1005.)

Miscellaneous General Provisions.

12. Sale of Adulterated Food or Drink—Penalty.—If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spirits, malt liquor or other liquor intended for drinking, he shall, upon conviction, be punished by imprisonment in the county jail not more than one year or by fine not exceeding three hundred dollars, and the article so adulterated shall be forfeited and destroyed. (C. L. 1921, § 951.)

13. Adulteration of Drugs and Medicines.—If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine in such manner as to render the same injurious to the health he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding four hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed. (Id. § 952.)

14. Mix, Color, Stain or Powder Articles of Food with Injurious Ingredient.—No person shall mix, color, stain or powder, or order or permit any other person to mix, color, stain or powder any article of food with any ingredient or material so as to render the article injurious to health, with the intent that the same may be sold; and no person shall knowingly sell or offer for sale any article so mixed, colored, stained or powdered. (Id. § 953.)

15. Mix, Color, Stain or Powder any Drug or Medicine.—No person shall except for the purpose of compounding in the necessary preparation of medicine, mix, color, stain or powder, order or permit, any other person to mix, color, stain or powder any drug or medicine with any ingredient or materials so as to affect injuriously the quality or potency of such drug or medicine with intent to sell the same, or shall sell or offer for sale any such drug or medicine so mixed, colored stained or powdered. (Id. § 954.)

16. Mix, Color, Stain or Powder Any Food, Drink or Medicine Without Labeling—Penalty.—No person shall mix, color, stain or powder any article of food, drink, or medicine, or any article which enters into the composition of food, drink or medicine with any other ingredient or material, whether too injurious to health or not, for the purpose of gain or profit, or sell or offer the same for sale or order or permit any other person to sell or offer for sale any article so mixed, colored, stained or powdered, unless the same be so manufactured, used or sold, or offered for sale under its true and appropriate name, and notice that the same is mixed or impure is marked, printed or stamped upon each package, roll, parcel or vessel, containing the same, so as to be and remain at all times readily visible, or unless the person purchasing the same is fully informed by the seller of the true name and ingredients (if other than such as are known by the common name thereof) of such article of food, drink or medicine at the time of making sale thereof or offering to sell the same. (Id. § 955.)

17. Adulterated Foods Must be Marked.—No person shall mix any glucose or grape sugar with syrup, honey or sugar intended for human food, or any oleomargarine, suine, beef fat, lard or any other foreign substance with any butter or cheese intended for human food, or shall mix or mingle any glucose or grape sugar or oleomargarine with any article of food without distinctly marking, stamping or labeling the article or the package containing the same with the true and appropriate name of such article and the percentage in which glucose or grape sugar, oleomargarine or suine enter into its composition; nor shall any person sell or offer for sale, or order or permit to be sold or offered for sale, any such food into the composition of which glucose or grape sugar or oleomargarine or suine has entered, without at the same time informing the buyer of the fact, and the proportions in which such glucose or grape sugar or oleomargarine or suine has entered into its composition. (Id. § 956.)

18. Violations of Act—Penalty.—Any person convicted of violating any provision of any of the foregoing sections of this act shall be fined not more than fifty dollars or imprisoned in the county jail not exceeding three months. (Id. § 957.)

19. District Attorneys Prosecute.—It is hereby made the duty of the district attorneys of this State to appear for the people and attend to the prosecution of all complaints under this act in all the courts in their respective counties. (Id. § 958.)

20. Penalty for Selling Diseased Meat or Adulterated Food.—If any person or persons shall knowingly sell, or offer for sale, or permit to be sold, any flesh of any diseased animal, or of any animal being in good health, which shall not have been butchered or killed for the purposes of sale, or if any person or persons shall knowingly offer for sale, sell, or permit to be sold, any diseased, or decayed, or partially diseased or decayed fish, flesh or game, or other unwholesome provisions, or any article of food or drink which shall be adulterated with anything injurious to health, the person or persons so offending shall be deemed guilty of felony, and on conviction thereof shall be punished by imprisonment in the penitentiary of not more than two years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. (Id. § 1006.)

21. Poisonous Adulterations—Felony.—If any person or persons shall knowingly sell, offer for sale or permit to be sold any article or food or drink adulterated with any substance poisonous or injurious to health, and sickness or death should result from the use of such article, the person or persons so selling or offering for sale, or permitting such article to be sold, shall be guilty of felony, and on conviction thereof shall be punished by imprisonment at hard labor in the penitentiary for not more than five years. (Id. § 1008.)

22. Adulterated Articles to be Marked—Failure—Penalty.—If any person or persons shall knowingly sell or offer to sell, or permit to be sold as pure and unadulterated, any article of food or drink which shall be adulterated with any other substance, without marking or branding the same, or in some other manner notifying the purchaser, or prospective purchaser of the article sold, offered for sale or permitted to be sold, that the same is adulterated, the person or persons so offending shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. (Id. § 1009.)

23. Penalty for Selling Imitations Without Marking.—If any person or persons shall knowingly sell, or offer for sale, or permit to be sold, any article made in the semblance of, or purporting to be any other article of food or drink, without marking or branding the same, or otherwise notifying the purchaser, or prospective purchaser, of the real character or the actual composition of the article so sold, offered for sale or permitted to be sold, the person or persons so offending shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars. (Id. § 1010.)

24. Analyses of Food and Drugs.—It shall be the duty of the State Chemist to make or cause to be made chemical analyses of all such samples of foods and drugs as may be collected for the purpose of analysis by the regularly appointed inspectors under the supervision of the State Pure Food Commissioner, and to make sanitary chemical and bacteriological analyses of samples of water from the water supply of towns or school districts upon the request of the authorities of the same, whenever such water supplies are suspected of being contaminated. The State Chemist shall make full and complete written reports without unnecessary delay of such analysis; in the cases of foods and drugs to the State Pure

Food Commissioner, and in case of waters to the municipal health officers or other authorities concerned. (Id. § 1013.)

25. Certificate of Analysis Presumptive Evidence.—By the authority of this act every certificate of analysis of foods, drugs or water duly signed by the State Chemist shall be presumptive evidence of the facts therein stated. (Id. § 1014.)

26. Destruction of Food Prohibited.—It shall be unlawful for any person, firm, partnership, association, corporation or any servant, agent, employee or officer thereof, to destroy, or cause to be destroyed, or to permit to decay, or to become unfit for use or consumption, or to take, send or cause to be transported out of this State so to be destroyed or permitted to decay, for the purpose of maintaining prices or establishing higher prices for the same, or for the purpose of limiting or diminishing the quantity thereof available for market, or for the purpose of procuring, or aiding in procuring, or establishing, or maintaining a monopoly in such articles or products, or for the purpose of in any manner restraining trade, any fruits, vegetables, grain, meats or other articles or products ordinarily, now or hereafter, grown, raised, produced, or used in any manner, or to any extent, as food for human beings or for domestic animals. (Id. § 3692.)

27. Act Applicable to Unmatured Foods.—This act shall apply as well to the destruction of unripe or unmatured food products or articles as to the destruction of the same when matured or ready for marketing. (Id. § 3693.)

28. Evidence.—Evidence of the voluntary destruction, or of the destruction, if unexplained, of any of the food products or articles herein mentioned, or of voluntarily and willfully permitting the same to decay, or of the taking, sending or causing the same to be transported out of this state to be destroyed or permitted to decay, shall be prima facie proof of the violation of this act. (Id. § 3694.)

29. Violation of Act—Penalty.—Any person or persons, whether acting individually or otherwise, in his own behalf, or as the agent, employee, servant, director, officer or any other person, partnership, firm, association or corporation, or any corporation, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment in the discretion of the court. (Id. § 3695.)

30. Enforcement of Act.—It shall be the duty of the district attorneys in their respective districts, and of the Attorney-General, to enforce the provisions of this act; and it is hereby declared the duty of all citizens of this state who shall have knowledge or information of a violation of this act to at once inform against anyone who may have violated the same. (Id. § 3696.)

31. Liberal Construction of Act.—This act shall be liberally construed to effectuate its purpose of preventing waste and of conserving and protecting the food supply available to the people of the State, and to the end that the people may enjoy the benefit of any abundance or over-supply of any such food articles or products that may from time to time arise in any locality, or in the State at large. (Id. § 3697.)

32. Co-operation with U. S. Government.—The Governor is hereby authorized and empowered to co-operate with the government of the United States and its agents and representatives in all matters pertaining to the conservation, distribution or production of food, in so far as he may find it possible so to do. (Id. § 3699.)

33. Powers of Governor.—The Governor of the State of Colorado is hereby vested with any and all police and regulatory powers regarding the production, storage, refrigeration, manufacture, distribution, handling, dealing in or sale of foodstuffs or food products and other necessities of life, whether in the raw state or in manufactured form, or any article used or capable of use as food for man or beast, which are now vested or may hereafter be vested in the President or any other executive officer of the United States. Provided, the rules, regulations and orders promulgated by the Governor in the exercise of the power herein conferred shall not be more drastic than nor in conflict with the rules, regulations and orders of the President and executive officers of the United States government. (Id. § 3700.)

NOTE: See also No. 97.

PART II.

Special Food Laws.

Bakeries.

See No. 117 et seq.

Beverages.

See Nos. 12, 24-25, 213 et seq., and 247 et seq.

Cantaloupes and Melons.

34. Condition of Cantaloupes and Melons Must be Certified to.—It shall be unlawful for any person, association, corporation, association or federation of growers, or commission merchants, bailee, receiver or agent, to sell, ship or offer for sale or shipment, or place upon the market for human consumption, any cantaloupes or melons grown within this State, unless the same shall be first certified as to maturity, and fitness of condition for shipment, by a regularly appointed inspector, under the provisions of this act. (L. 1925, c. 95, § 1.)

35. Appointment of State Inspector of Cantaloupes and Melons—Supervision and Duties—Deputy Inspector—Assistants—Bonds—Removal for Cause—Compensation and Expenses—State Inspector Settle Disputes—Secretary of State Issue Certificates.—The Governor of the State shall appoint a State Inspector of Cantaloupes and Melons, said appointee to have had not less than four years' experience in the growing or handling of cantaloupes and melons, who shall have supervision over all matters relating to the inspection of cantaloupes and melons, within the State, and such inspector shall have power to appoint a deputy inspector, whose duties shall be to assume the duties of State Inspector, in case of sickness or absence from duties, and as many assistant inspectors under this act as may be necessary to carry out the provisions of this act. Said deputy and assistant inspector shall have had not less than two years' experience in the handling of the kind of cantaloupes and melons grown in the immediate vicinity or locality where they are employed. The State Inspector shall give a good and sufficient bond to be in the penal sum of two thousand dollars, the deputy and the assistant inspectors shall also furnish a good and sufficient bond in the sum of three hundred dollars each, for the faithful performance of their duties, such bond to be approved by the State Treasurer. The State Inspector shall have power to remove any such deputy or assistant inspectors for neglect of duty or incompetency. The compensation of the State Inspector of Cantaloupes and Melons shall be ten dollars a day and reasonable necessary traveling expenses beginning August first, and not to exceed one hundred and twenty days in any one calendar year, employed in the inspection of cantaloupes and melons, the salary of the deputy shall be eight dollars per day with reasonable expenses and the assistant inspectors shall be paid at a rate not to exceed \$7.00 per day with reasonable expenses for each day necessarily so employed, and all inspectors shall be State officers. All disputes concerning inspection of cantaloupes or melons shall be finally adjusted by the State Inspector. The Secretary of State shall issue certificates of authority to the Inspector and assistant inspectors. (Id. § 2.)

36. Duties of Inspector—Mark Crates—Certificate of Inspection—Fees for Inspection and Marking—Keep Account of Moneys Received—Paid Over to State Treasury—"The Melon Inspection Fund."—The State Inspector of Cantaloupes and Melons, or his deputy or assistants shall inspect, examine and certify all cantaloupes and melons grown within this State for human consumption so far as possible or practicable, and shall have marked each crate or package thereof in a plain and legible way, showing the name and address or number of the grower or growers or shipper or shippers, number or approximate number and variety of cantaloupe or melon contained therein and it shall be the duty of the Inspector, his deputy or assistant inspectors to attach a certificate of inspection to each manifest and bill of lading of carload or part of carload of cantaloupes or melons loaded within this State for shipment; provided, that only in case of loading and shipment of cantaloupes or melons in full carload lots shall it be necessary to so mark each and every crate or package thereof. It shall be the duty of the State Inspector, his deputy or assistants to collect from the shippers or owners of said cantaloupes and melons the following amounts for making said inspection and for issuing certificates as herein provided.

Cantaloupes, standard, pony, honey dew, and all flat crates in less than carload lots, one cent (1) per crate; carload lots, four dollars (\$4.00) per car, one-half ($\frac{1}{2}$) paid by grower, one-half ($\frac{1}{2}$) by shipper. For each carload of watermelons inspected the Inspector shall collect four dollars (\$4.00) from the shipper or owner. The State Inspector shall keep a correct account of all moneys received from said melon shippers or owners on account of said inspection by himself, his deputy and his assistants, and shall pay the same over to the State treasury, and the State Inspector shall furnish to the State Auditing Board proper vouchers for all salaries and expenses. All moneys paid over to the State Treasurer hereunder shall be credited by him to a fund to be known as "The Melon Inspection Fund." Such fund shall be a continuing one and the same is hereby appropriated for the purpose of carrying out the provisions of this act. (Id. § 3.)

37. **Continuing Fund.**—Any moneys remaining in the fund appropriated by chapter 113, S. L. 1923, shall upon passage and approval of this act, be credited by the State Treasurer to the Melon Inspection Fund hereby established. (Id. § 4.)

38. **Unlawful to Sell, Ship, etc., Melons Contrary to Provisions of Act.—Misdemeanor—Penalty—Inspector Prosecute Violations.**—Any person, association, corporation, association or federation of growers, or commission merchant, agent, bailee, or receiver, who sells, ships, offers for sale or shipment, or places upon the market any cantaloupes or melons for human consumption contrary to the provisions of this act, or who sells, ships, offers for sale or shipment, or places upon the market any cantaloupes or melons for human consumption, which have been rejected by the Inspector or inspectors, or who shall sell, ship, offer for sale or shipment, or place upon the market any cantaloupes or melons for human consumption, by falsely representing that such cantaloupes or melons have been inspected and approved by an inspector operating under this act, or by using any false placard, label or imitation calculated to deceive, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars for each offense. The State Inspector shall prosecute all violations of this act. (Id. § 5.)

39. **Inspector Retain Possession of Melons Forty-eight Hours.**—The State Inspector or his deputy or assistants, may in their discretion keep under their care and supervision any or all of the cantaloupes or melons which have been inspected and rejected by them, for a period of forty-eight hours. (Id. § 6.)

40. **Commission Merchant Transmit Report of Sale to Consignor Within Forty-eight Hours—Contents of report—Records Retained One Year—Open for Inspection—Burden of Proof on Commission Merchant.**—Every commission merchant shall, upon receipt of cantaloupes and melons and as he handles and disposes of the same, make a record thereof, specifying the name and address of the consignor, the date of receipt, the kind and quality of such produce, the amount of goods sold, the date of sale, the price received, the name and address of the person to whom the goods are sold or his license number, where the same can be secured with reasonable diligence, and the items and expense connected therewith; and this record, together with payment in settlement for such shipment shall be mailed to the consignor within forty-eight hours unless otherwise agreed. The commission merchant shall retain the foregoing record for a period of one year and the same shall be open to the inspection of the secretary of the State Board of Agriculture and the consignors or the agents of either of them. The burden of proof shall be upon the commission merchant to prove the correctness of his accounting as to any transaction which may be questioned. (Id. § 7.)

41. **How Pack Cantaloupes.**—All cantaloupes grown within this State and offered for shipment or transportation by private or common carrier, shall be packed with care in crates not less than twenty-three and one-half inches in length. It shall be the duty of all shippers and distributors of melons to co-operate with the Federal officers of markets, if any, established in the locality, and it shall be the duty of the State Inspector to co-operate with the Federal Department of Agricultural Economics in standardization and inspection. (Id. § 8.)

42. **Less Than Carload Lots—Exempt from Act.**—All cantaloupes and melons sold or given away, for consumption in this State, in less than carload lots in the locality or markets where grown shall not come under this act. (Id. § 9.)

Cold Storage.

See No. 79d.

Confectionery.

See Nos. 7, 90 and 117 et seq.

Dairy Products—Substitutes for Dairy Products.

43. State Dairy Commissioner—Deputy — Assistants — Salaries — Miscellaneous Expenses.—The head of the department of animal husbandry of the State Agricultural College is hereby declared to be ex officio State Dairy Commissioner for the purposes of this act. The State Dairy Commissioner shall receive a salary of six hundred dollars (\$600.00) per year and expenses incurred in official duties, expenses not to exceed four hundred dollars (\$400.00) per year. The said commissioner is hereby authorized to appoint one deputy whose salary shall be twenty-five hundred dollars (\$2,500.00) per year and traveling expenses not to exceed six hundred dollars (\$600.00) per year; one fieldman, whose salary shall be twenty-two hundred dollars (\$2,200.00) per year and traveling expenses not to exceed fifteen hundred dollars (\$1,500.00) per year; two inspectors, whose salaries shall be eighteen hundred dollars (\$1,800.00) per year, each, and traveling expenses not to exceed fifteen hundred dollars (\$1,500.00) per year, each; one inspector, whose salary shall be thirteen hundred dollars (\$1,300.00) per year and traveling expenses not to exceed fifteen hundred dollars (\$1,500.00) per year; one inspector, whose salary shall be twelve hundred dollars (\$1,200.00) per year and traveling expenses not to exceed twelve hundred dollars (\$1,200.00) per year; one analyst, whose salary shall be eighteen hundred dollars (\$1,800.00) per year; one clerk and stenographer, whose salary shall be twelve hundred dollars (\$1,200.00) per year; and other temporary deputies with or without pay. His employees provided for above shall be paid each month as other State officials are paid. Miscellaneous expenses for operating the office shall be as follows: Postage, stationery, office supplies, printed forms, circulars, temporary inspectors, samples, laboratory supplies, and miscellaneous, not to exceed twenty-four hundred dollars (\$2,400.00) per year. All traveling, office, incidental, and other necessary expenses incurred by the commissioner or any of his deputies, or members of his force, including pay for temporary deputies or extra help of any kind, and all expenses incident to the work devolving upon the State Dairy Commissioner by law, shall be paid upon duly itemized and certified bills in like manner as the incidental and traveling expenses of other State officials are paid; except that a sworn bill for the purchase of samples of dairy products bought for investigation, or as evidence of violation of law, shall be paid although not accompanied by receipt. (C. L. 1921, § 3068.)

44. Records—Annual Report.—The State Dairy Commissioner shall preserve in his office all correspondence, records, documents and property of the State pertaining thereto and turn over the same to his successor. He or his agent may attend meetings of dairymen or others in a business correlated with dairying, and he shall foster the dairy industry of the State in every possible way. He shall make an annual report to the Governor not later than December first of each year; and all persons, firms, or corporations engaged in producing, manufacturing, handling or storing dairy products, shall furnish such information concerning their business as the State Dairy Commissioner shall require for this report. (Id. § 3069.)

45. Powers and Duties of Commissioner.—The State Dairy Commissioner shall cause to be enforced the provisions of this act and all other State laws regarding the production, manufacture and sale of dairy products. He shall personally inspect or cause to be inspected, any milk, butter, cheese or other dairy products which he may suspect or have reason to believe to be unsanitary, adulterated or counterfeit, and shall inspect or cause to be inspected any cows, buildings, dairies, or premises used for the production of any dairy product when he may suspect or have reason to believe such product to be unsanitary, adulterated or counterfeit. Unsanitary or adulterated dairy products shall be subject to condemnation by the State Dairy Commissioner or his assistants, after notice to the owner thereof and hearing thereon and when condemned must be so treated that it [they] cannot be manufactured or renovated for human food.

The State Dairy Commissioner, his deputy or assistants shall have free access to any barn or stable where any cow is kept or milked or to any factory, building, dairy, premises or place in which he has reason to believe any dairy product or counterfeit dairy product is manufactured, handled, prepared, sold or offered for sale, and may enforce such measures as are necessary to secure perfect cleanliness in and around the same and of any utensil used therein, and to prevent the sale of any unsanitary, adulterated, or counterfeit dairy product.

He or his inspectors may open any package or receptacle of any kind, containing, or which is supposed to contain, any dairy product or counterfeit dairy product, and examine or analyze the contents thereof. And such article or sample thereof may be seized or taken for the purpose of having it analyzed; but if the person from whom it is taken shall so request, at the time of taking, the officer shall then,

and in the presence of such person securely seal two samples of such article, one of which shall be for analysis under the direction of the commissioner, and the other shall be delivered to the person from whom the sample or article was obtained.

The State Dairy Commissioner shall use his inspector, and such assistants as may hereafter be provided, in the field as much as possible, for the development of dairy production, leaving regular inspection, except in cases of suspected premises or products, to the municipalities concerned.

The State Dairy Commissioner shall not ordinarily duplicate the inspection of any municipality, board of health, or other legal body causing inspection to be made within the territory [over] which such body has power, but may inspect where complaint is made to him concerning specific dairies or premises, or where he has reason to believe a dangerously unsanitary condition exists.

When application is made by any municipality, the State Dairy Commissioner shall appoint inspectors for such municipality, who shall have all the powers of other inspectors or assistants from the State Dairy Commissioner's office; such inspectors to be paid in full for their services and expenses by the municipality.

The State Dairy Commissioner is further empowered to provide such number of inspectors as may be necessary, to be employed full time, or part time, in the inspection of the milk supply of cities and towns which cannot singly support full-time inspectors. Such cities and towns having made application for the services of such part-time inspectors, the Dairy Commissioner may assign territory and inspectors to the most advantage. Such inspectors shall have full authority to enforce State laws in the same manner as other inspectors employed by the State Dairy Commissioner. Such inspectors shall receive not to exceed twelve hundred dollars (\$1,200) per annum for such services, in addition to necessary traveling expenses, which sums, salary and expenses, shall be equitably prorated by the Commissioner among the municipalities so served, and such inspectors shall have no claim for compensation and expenses against the funds of the State, beyond the sum so paid by such municipalities so served. For this purpose, the State Dairy Commissioner may enter into a co-operative agreement with such municipalities, providing for such inspection and that each such municipality shall pay a stipulated per diem cost of inspection to the State Dairy Commissioner, who shall remit such funds to the State Treasurer. These funds shall be credited to the miscellaneous expense of the State Dairy Commissioner, and be subject to expenditure by him for this purpose. The Auditor of State is hereby authorized to draw warrants upon such fund in vouchers signed by the State Dairy Commissioner, in payment for such services and expenses, (Id. § 3070.)

46. Appropriation.—For the purpose of paying the salaries of the State Dairy Commissioner, his deputy and assistants, there is hereby provided as a continuous appropriation the sum of fourteen thousand four hundred dollars (\$14,400.00) per annum, until such time as these salaries are changed by legislative act, and for the purpose of providing an expense fund for carrying out the provisions of this act, and for the payment of all traveling, office and miscellaneous expenses incident thereto, incurred by the State Dairy Commissioner or any of his deputies or assistants, or any member of his force, there is hereby appropriated as a continuing appropriation the sum of ten thousand six hundred dollars (\$10,600.00) per annum, until such time as this appropriation is changed by legislative act, and the Auditor of the State is hereby authorized to draw warrants therefor upon the State Treasurer upon receipt of vouchers signed by the State Dairy Commissioner. (Id. § 3071.)

47. Unsanitary Dairy Products—Sale Prohibited.—Milk containing less than three per cent butter fat; or milk drawn within eight days before or four days after calving; or milk drawn from cows that are kept in barns or stables which are not reasonably well lighted and ventilated, or that are kept in barns or stables that are filthy from an accumulation of animal feces and excreta or from any other cause; or milk which shall be drawn from cows which are themselves filthy or in an unhealthy condition; or milk kept or transported in dirty, rusty, or open-seamed cans or other utensils; or cream produced from any such aforesaid milk, or milk, cream, butter, or other dairy product that is stale or putrid, or milk, cream, butter or other dairy products which has [have] been exposed to foul or noxious air or gasses in barns occupied by animals, or drawn or kept exposed in dirty, foul, or unclean places or under unclean conditions, or where transmissible human disease exists; or a cream containing less than sixteen (16) per cent butter fat; or cream produced by the use of a cream separator, which separator has not been thoroughly washed, cleansed, and scalded after previous use in the separation of cream from milk; or cream produced by the use of a separator placed or stationed in any unclean or filthy room or place, or in any building containing a stable wherein are kept cattle or other animals, unless some [said] cream separator is so separated and shielded by partition from the stable portion of such

building as to be free from all foul or noxious air or gases which issue or may issue from such place or stable; or cream which when delivered at the point of shipment is more than three days old during the months of May to October, inclusive, or more than four days old during the month of November to April, inclusive; or milk or cream to which has been added in any quantity, any foreign substance or coloring matter, chemical or preservative, butter, or butter fat, whether for the purpose of increasing the quantity of milk or for preserving the condition of sweetness thereof, or for any purpose whatever, is hereby declared to be unsanitary; provided that nothing in this act shall be construed to prohibit the sale of homogenized cream made from butter and milk if such product be labeled or stamped "Imitation Cream" according to the requirements of the State Dairy Commissioner; or of standardized milk which otherwise meets with the requirements of this act.

No person shall by himself, his servant, or agent, or as the servant or agent of any other person, or as the officer, servant, or agent of any firm or corporation, sell or offer for sale, furnish or deliver or have in possession, or under his control with intent to sell or offer for sale, or furnish, or deliver to any person, firm or corporation as food for man, or to any creamery, cheese factory, milk, condensing factory, or milk or cream dealer, any unsanitary milk, cream, or butter or any adulterated dairy product.

No person, or corporation shall by himself, his servant, or his agent use in any way, in connection or association with the sale, or exposure for sale, or advertisement of any compound or imitation dairy product, or product designed to be used as a substitute for a dairy product, not made wholly from milk or cream, salt, and harmless coloring matter, the words, "cream," "butter," "creamery," "dairy," or "milk," or the name or representation of any breed of dairy cattle, or any word or combination of words embracing them. Nothing in this act shall operate to prevent the use of such words in giving a true table of composition of any such product.

No person shall by himself, his servant, or agent, or as the servant or agent of any other person, or as the servant of any firm or corporation, manufacture for sale any article of food for man from any unsanitary milk or from any unsanitary cream. (Id. § 3072, as amended, L. 1923, c. 97.)

48. Unsanitary Utensils and Premises Prohibited.—All premises and utensils used in the handling of milk, cream, and by-products of milk, and all premises and utensils used in the preparation, manufacture, or sale, or offering for sale, of any food for man from milk or cream or the by-products of milk, which shall be kept in an unclean, filthy, or noxious condition are hereby declared to be unsanitary; and it shall be unlawful for any person, firm or corporation using such premises or utensils, or causing them to be used, to maintain them in an unsanitary condition. (C. L. 1921, § 3073.)

49. Handling Containers of Dairy Products—Skim Milk Pasteurized.—Any person, firm or corporation, who receives in cans, bottles or other vessels any milk, cream, or other dairy product intended as food for man, which has been transported over any railroad or by other common carrier, when such cans, bottles, or vessels are to be returned, shall cause the said cans, bottles, or other vessels to be thoroughly washed and cleansed before return shipment, and it shall be unlawful for any common carrier to neglect or fail to remove or ship from any railroad depot, on the day of its arrival there for shipment, any milk, cream or other dairy products left at such depot for transportation; and it shall be unlawful for any person, firm, or corporation using cans in which milk or cream is shipped, to allow the same to remain at a railroad depot longer than one day from the date of their arrival, or to allow them to stand more than one day without removing the covers and inverting the cans in pure air. Creameries, skimming stations, and any person, firm, corporation or institution receiving milk from dairymen to be skimmed, the milk being returned to the dairyman, shall pasteurize all such skimmed milk to a temperature of at least 180 degrees F. before the same is returned. (Id. § 3074.)

50. Butter Defined—Standards—Renovated Butter—Tests—Labels—Ice Cream.—Butter is the product made by gathering, in any manner, the fat of fresh or ripened milk or cream into a mass, and it shall be unlawful for butter to contain less than eighty (80) per cent of butter fat or more than sixteen (16) per cent of water, or such per cent as shall be established by the Department of Agriculture of the United States; provided, that the amount of butter fat or water in the product of any one manufacturer, or in any given quantity of butter, shall be determined as hereinafter provided with reference to renovated or process butter. Butter may contain a harmless vegetable coloring matter. Renovated or process butter is the product made by melting butter and reworking without the addition or use of chemicals or any substance except milk, cream or salt, and it shall be unlawful for any such renovated or process butter to contain less than eighty

(80) per cent of butter fat or more than sixteen (16) per cent of water, or such test as shall be established by the Department of Agriculture of the United States; provided, that the amount of butter fat or water in the product of any one manufacturer, or in any given quantity of butter, renovated or process butter shall be ascertained in the following manner, to wit: Five samples shall be taken from five different packages of any one manufacturer, or from any tub or churning of butter, and a careful analysis made by the official method adopted by the Association of Agricultural Chemists. The samples herein mentioned shall be taken in duplicate and one each shall be delivered to the manufacturer of butter so sampled. If this analysis of butter or process butter shall show less than eighty (80) per cent. of butter fat or more than sixteen (16) per cent of water, the butter or process butter thus analyzed is defined to be adulterated and shall be condemned by the Commissioner. Renovated or process butter may contain a harmless vegetable coloring matter. All such butter shall be plainly stamped "Renovated butter" or "Process butter," in such manner as will advise the purchaser of its true character, and the State Dairy Commissioner shall prescribe rules for the labeling of such products in a manner to advise the purchaser. Ice cream is the frozen product made from cream and sugar with or without flavoring, and it shall be unlawful for any person, firm or corporation to manufacture, handle or offer for sale, ice cream containing less than ten (10) per cent butter fat. The use of eggs, gelatine and vegetable gums is not forbidden, but must not be used to conceal an inferior product. (Id. § 3075.)

51. Babcock Tests—False Reading—Standards—License.—It shall be unlawful for any person, or persons engaged in buying, selling, testing or handling, or engaged in determining the value of milk, cream or other dairy products by the use of the Babcock test, to give by himself or his agent any false reading of the test or to manipulate the test in any way so as to give a higher or lower per cent of butter fat than the milk, cream, or other dairy products actually contain, or to cause any inaccuracy in reading the per cent of butter fat by securing from any quantity of milk, cream or other dairy products to be tested, an inaccurate sample for the test. It shall be unlawful for any persons to use any test tube, bottle, pipette, or instrument in connection with such test, which is not perfectly clean; and for the purpose of this act, any such unclean glassware is declared to be inaccurate.

In the use of the Babcock test, the standard milk measure or pipettes shall have a capacity of 17.6 cubic centimeters, and the standard test tubes or bottles for milk shall have a graduated capacity of two cubic centimeters for each 10 per cent marked on the necks thereof; cream shall be tested by weight and the standard unit for testing shall be 9 grams or 18 grams, and it shall be unlawful to use any other standards of milk or cream measures in creameries or cheese factories or any other place where milk or cream is purchased by or furnished to a receiver and the value of said milk or cream is determined by the per cent of butter fat contained in the same.

It shall be unlawful for any manufacturer, merchant, dealer or agent, to offer for sale or to sell a milk pipette or measure, test tube, or bottle which is inaccurate or not correctly marked or graduated as herein described.

In sampling cream or milk from which composite tests are to be made, to determine the per cent of butter fat contained therein, no such sample or sampling shall be lawful unless a sample be taken from each weighing and the quantity thus used shall be proportioned to the total weight of the cream or milk sampled.

It is hereby required in making tests of milk or cream for the purpose of determining the value of such milk or cream when bought, or sold, that the milk shall be poured once from one vessel to another and that cream shall be poured from one vessel to another, at least three times before sampling, unless the said milk or cream is thoroughly stirred and sampled by the "McKay" sampler, or some other recognized sampler that will secure a representative sample.

All tests shall be maintained in a water bath for five minutes at a temperature between 120 degrees and 130 degrees F. until read. (Except when glymol or other light reading oil is used for cream tests, the tests shall be held at a temperature between 135 degrees and 140 degrees F. in a water bath for five minutes until read.) All oils used in reading tests shall be approved by the State Dairy Commissioner.

It shall be unlawful after the passage of this act, for any person to sample or test milk, cream, or other dairy products for the purpose of determining the value of such products when bought and sold or to instruct another person for such purpose without first having a license granted by the State Dairy Commissioner and such license shall be conspicuously displayed in his place of business. This license shall be granted to those who shall have completed a course in milk and cream testing in any recognized college or dairy school, or to those who shall pass a satisfactory examination under the direction of the State Dairy Commissioner;

and beginning July 1, 1923, payment of a yearly fee of three dollars (\$3.00) shall be required and the license shall be issued for the period of one year dating July first next preceding actual date of issue, subject to cancellation by the State Dairy Commissioner at any time that he shall find that the person holding said permit is incompetent or guilty of violating any of the provisions of this act. All testers' licenses in force June 30, 1923, shall become null and void upon that date.

Beginning July 1, 1923, every person, firm, or corporation engaged in receiving, buying, selling, or otherwise handling milk or cream for sale, shipment, manufacture, or distribution, except public transportation companies and hotels and restaurants manufacturing for their own table use only, and milk plants supplying milk exclusively to cities having municipal inspection shall be required to hold a license to be known as a dairy plant license for operation of each receiving station, skimming station, concentrating station, milk plant condensary, creamery, cheese factory, ice cream factory or other dairy plant being operated by him or them for such purposes.

Upon application, and payment of a yearly license fee as follows: two dollars (\$2.00) for each milk or cream receiving station or skimming station and ten dollars (\$10.00) for each concentrating station, milk plant, condensary, cheese factory, ice cream factory or other places of business where dairy products are manufactured or put in containers for sale or distribution, a temporary permit may be issued by the State Dairy Commissioner, such permit to be valid until an inspection shall have been made by an agent of the State Dairy Commissioner, when, if the applicant has complied with the requirements of the dairy laws, the State Dairy Commissioner shall issue a license for a period of one year dating from July first next preceding the actual date of issue.

The State Dairy Commissioner shall have power to issue necessary regulations for the government of licensed plants, and licensed testers, covering such points as disposal of sewage, location with regard to living rooms and other possible sources of contamination, and other points not specifically mentioned in the dairy laws.

These regulations shall have the force and effect of law, and the State Dairy Commissioner shall have power to cancel a license for a period not exceeding ninety days when he shall find that the holder thereof has violated the law or regulations, provided that suit may be brought against the State to establish the reasonableness of a regulation, and if the decision affirms the reasonableness of the regulation, it shall be enforced.

The money for all license fees as provided for in section 9 of this act [3076] shall be paid to the State Dairy Commissioner, by whom it shall be transmitted to the State Treasurer, to be deposited in the general fund. (Id. § 3076, as amended, L. 1923, c. 97.)

52. Condensed Milk and Cream—Standards.—No person shall manufacture for sale within the State, or offer or expose for sale or have in his possession with intent to sell or exchange, any sweetened condensed milk, unless the same shall contain not less than twenty-eight (28) per cent, by weight, of milk solids and not less than seven and seven-tenths (7.7) per cent butter fat, or any unsweetened condensed milk, unless the same shall contain not less than seven and seven-tenths (7.7) per cent butter fat; provided, that nothing in this act shall be construed to prohibit the handling, manufacture or sale of bulk condensed or evaporated skim milk when properly tagged and labeled in accordance with rulings of the State Dairy Commissioner.

No person shall manufacture for sale within this State, or offer or expose for sale, have in his possession with intent to sell, or sell or exchange, or for evaporated or condensed cream, any substance except the product obtained by the evaporation of a portion of water from cream containing not less than eighteen (18) per cent, by weight, of butter fat; provided, that nothing in this act shall apply to goods manufactured within this State for sale and shipment outside of the State. (C. L. 1921, § 3077.)

53. Cheese—Filled, Unlawful—Brands and Labels—Defacement.—No person shall by himself, his agent or servant, manufacture, buy, sell, offer, ship, consign, expose or have in his possession for sale, any filled cheese or counterfeit whole milk cheese or cheese manufactured from or by the use of skim milk to which there has been added any fat which is foreign to such milk. Full cream cheese shall contain not less than 50 per cent butter fat in comparison with the total solids. Cheese containing less than the above prescribed amount of fat shall be branded "skim" cheese or "part skim" cheese, as the case may be, according to requirements of the State Dairy Commissioner.

All persons, companies, and corporations engaged in the transportation or manufacture of any dairy product or ice cream, or in bottling milk and cream for sale and use, may adopt a mark or marks of ownership to be stamped or marked

on any can, bottle, cask, keg, barrel, or other receptacle used in handling and transportation of any said products, and may file in the office of the Secretary of State a description of the name or mark so used by them or either of them, and the use to be made of any such can, bottle, cask, keg, barrel or other receptacle. The brand or mark so selected and adopted herein provided may consist of a name, design, mark or marks, or some particular color of paint, [or] enamel used upon the can, bottle, cask, keg, barrel or other receptacle or any part thereof. It shall be unlawful for any person, company or corporation to adopt or use any brand or mark which has already been designed, appropriated or obtained under the provisions of this act. It shall be unlawful for any person other than the rightful owner thereof to use any can, cask, keg, barrel or other receptacle marked or branded as herein provided, for any purpose or for the transportation or handling of any [other] article or product than designed or provided for by such branding. It shall be unlawful for any person or other than the rightful owner thereof to deface or remove any such brand, mark or stamp put upon any such can, bottle, cask, keg, barrel or other receptacle as herein provided. For the purpose of preventing the use of said cans, bottles, casks, kegs, barrels, or other receptacle for any purpose other than herein provided, and to insure the wholesomeness and high quality of said products and the sanitary conditions of the receptacles in which the same are transported, it shall be the duty of the State Dairy Commissioner and his deputies to enforce the provisions of this act. (Id. § 3078.)

54. Imitation Butter and Cheese—Oleomargarine.—Every person, who shall by himself or by his agents, or servants, sell, offer for sale, expose for sale or have in their possession with intent to sell, or use or serve to patrons, guests, boarders or inmates in any hotel, eating house, restaurant, public conveyance or boarding house, or public or private hospital, asylum, school or eleemosynary or penal institution, any article, product, or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof not produced directly and at the time of manufacture from unadulterated milk or cream from the same, which shall be in imitation of cheese or yellow butter produced from pure, unadulterated milk or cream from the same shall be deemed guilty of a misdemeanor and punished as hereinafter provided; provided, that nothing in this act shall be construed to prohibit the manufacture or sale or serving of oleomargarine or filled cheese in a separate and distinct form, and in such manner, as will advise the consumer, by a conspicuously displayed sign, of its real character. (Id. § 3079.)

55. Substances Considered Oleomargarine.—For the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as oleomargarine, namely, all substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, vegetable oil, annatto and other coloring matter made in imitation or semblance of butter, or when so made, calculated or intended to be sold as a substitute for butter. (Id. § 3080.)

56. Oleomargarine—Manufacturers' Regulations—Bond.—Every manufacturer of oleomargarine shall file with the State Dairy Commissioner of the State of Colorado, such notices, inventories and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number as to his factory and conduct, with the approval and under the regulation of the Colorado State Dairy Commissioner. But the bond required of such manufacturer shall be with surety satisfactory to the said State Dairy Commissioner and in the penal sum of not less than five thousand dollars (\$5,000), conditioned upon the faithful observance of the law and the requirements of this act. (Id. § 3081.)

57. Oleomargarine—Sale Regulations.—No such substance shall hereafter be sold, offered for sale, or exposed for sale, unless it be put up by manufacturers in bricks, prints, or rolls, or one-half of one pound, one, two, or three or five pounds, and in no other larger or smaller subdivisions. Such bricks, prints or rolls shall be wrapped and sealed and upon such seal shall be plainly printed the name and address of the manufacturer of said oleomargarine, and the said package shall be plainly and conspicuously labeled with the word "Oleomargarine" in Gothic or equally conspicuous letters at least three-eighths of an inch high. Said seals shall be so affixed to the one-half of one pound, one, two, three and five-pound bricks, prints or rolls as to seal the wrappers thereof so that such wrappers or cover may not be opened without destroying the seal affixed thereto. Said bricks, prints or rolls may be packed by the manufacturer thereof in wooden or other packages or containers, each containing not less than ten pounds. All sales made by manufacturers of oleomargarine and wholesale dealers in oleomargarine shall be in the original

manufacturer's packages, as described above, in quantities of ten pounds or more at one time. Retail dealers in oleomargarine shall sell only from the manufacturer's original packages and in the manufacturer's sealed, subdivided packages, to wit: one-half of one pound, one, two, three or five-pound bricks, prints or rolls, and in quantities of ten pounds, or less, at one time. Each retailer's wooden or paper package must have the name and address of the dealer printed or branded thereon, likewise the words "Pound" and "Oleomargarine," in letters not less than one-quarter of an inch square, and the quantity written, printed, or branded thereon in figures of the same size (one-quarter of an inch square), substantially as follows:

- 1.....
- 2.....
- 3.....

Pounds.

Oleomargarine.

1. Here give dealer's name.

2. Here give street number.

3. Here give name of city or town.

The words "Oleomargarine" and "Pound," which are required to be printed or branded on retailers' wooden or paper packages, in letters not less than one-quarter of an inch square, and the quantity which is required to be written, printed, or branded thereon in figures of like size, must so be placed as to be plainly visible to the purchaser at the time of delivery to him. Illegible or concealed marks and brands are not those contemplated and required by the law and regulations. It will not be deemed a compliance with this regulation if the word "Oleomargarine" and the other required words and figures shall be illegibly branded or printed, or so placed as to be concealed from view by being on the inside of the package, or by folding in the stamped portion of the paper sheet used for wrapping or otherwise. The required words and figures must be placed, and no other word or business card should be placed in such juxtaposition thereto as to divert attention from the fact that the contents of the package are wholly oleomargarine. The color of the ink with which the words are printed must be in the strongest contrast to the color of the package. Every person, company or corporation, or any agent of any company or corporation, who violates any provision of this act, or who sells or offers for sale, or delivers, or offers to deliver any oleomargarine in any other form of package than as above described, or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package, or affixes a stamp or brand on any package, denoting that it contains other than oleomargarine, shall be fined for the first offense not more than five hundred dollars (\$500), and shall be imprisoned for not more than thirty (30) days in the county jail, and for a second, or other offense, shall be fined not more than one thousand (\$1,000) dollars and imprisonment in the county jail for one month to twelve months, in the discretion of the court. (Id. § 3082.)

58. Label—Failure—Fine.—Every manufacturer of oleomargarine shall securely affix, by pasting on each package containing oleomargarine manufactured by him, a label on which shall be printed, besides the number of the factory and the location in which it is situated, these words:

Notice: The manufacturer of the oleomargarine herein contained has complied with all the requirements of the law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases.

Every manufacturer of oleomargarine who neglects to affix such label to any package containing oleomargarine made by him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package shall be fined \$50.00 for each package in respect to which such offense is committed. (Id. § 3083.)

59. Prosecutions—Special Counsel—Disposition of Fines.—The State Dairy Commissioner shall prosecute or cause to be prosecuted any person, firm or corporation engaged in the production, manufacture or sale of any unsanitary, adulterated or counterfeit dairy product in violation of law, and any person, firm, corporation, or legal body violating the provisions of this act. The district attorney of the county in which a violation of any such law has occurred shall, when called upon by the commissioner or either of his assistants to do so, give all aid he can to secure the execution of the law and shall prosecute cases arising under the provisions of this act or other provisions of Colorado statutes relating to dairy products. Upon

application from the Dairy Commissioner, the Attorney-General shall furnish or appoint special counsel, to prosecute or assist in the prosecution of any violation of this act. All fines in excess of costs of conducting prosecutions collected in prosecutions begun or caused to be begun by the State Dairy Commissioner or any of his assistants shall be paid into the State treasury by the State Board of Agriculture. (Id. § 3084.)

60. Interference With Officer—Penalty.—Whosoever shall refuse to allow the inspection herein provided for or shall in any way hinder or obstruct the proper officers performing their duties hereunder shall be punished by a fine not exceeding one hundred dollars (\$100), or by imprisonment in the county jail not exceeding thirty (30) days. (Id. § 3085.)

61. Analyses Signed by Commissioner Prima Facie Evidence.—Reports of analysis and tests signed by the State Dairy Commissioner shall be accepted in all courts and places as prima facie evidence of the properties, constituents, or condition of the articles analyzed. (Id. § 3086.)

62. Violation of Act—Penalty.—Any person, company, or corporation or any agent or servant of a person, company, or corporation violating any of the provisions of this act, for violation of which punishment is not elsewhere herein prescribed, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10) nor more than two hundred dollars (\$200) and not over sixty days in jail for each offense. (Id. § 3087.)

63. Unlawful to Sell Impure or Adulterated Milk.—It shall be unlawful for any person, either by himself or agent, to sell or expose for sale within the State of Colorado any unwholesome, watered or adulterated or impure milk, or swill milk or colostrum, or milk from cows kept upon garbage, swill or any substance in a state of fermentation or putrefaction, or other deleterious substances, or from cows kept in connection with any family in which there are infectious diseases. The addition of water or ice to the milk is hereby declared an adulteration. (Id. § 959.)

64. Violation of Preceding Section—Penalty.—Any person who shall violate any of the provisions of the preceding section shall, upon conviction, be punished by a fine not to exceed one hundred dollars, or by imprisonment not to exceed three months, or by both such fine and imprisonment, in the discretion of the court. (Id. § 960.)

65. Milk Inspector—Compensation—Duties.—Authority is hereby given the board of health of any county, city or town, to appoint an inspector of milk in any such city or village, and to fix their compensation, and when appointed said inspectors shall perform all the duties required of inspectors as provided herein, and such other powers and duties as may be conferred or imposed by the ordinances of said cities or villages. (Id. § 961.)

66. Selling Skimmed Milk—Penalty.—Any dealer in milk who shall by himself, or by his servant, or agent, sell, exchange or deliver, or have in his custody or possession with intent to sell or exchange the same, or exposes or offers for sale as pure milk any skimmed milk, from which the cream or part thereof has been removed, shall be guilty of a misdemeanor, and shall for such offense, be punished by the penalty provided in the preceding section.* (Id. § 962.)

67. Sale of Oleomargarine or Butterine.—Every person who shall manufacture for sale, or who shall offer or expose for sale, by the tub, firkin, box or package or any greater quantity, any article or substance in semblance of butter not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animal not produced from milk enters as a component part, or into which melted butter or any oil thereof has been introduced to take the place of cream, shall distinctly and durably stamp, brand or mark upon the top and also upon the side of every such tub, firkin, box or package of such article or substance the word "oleomargarine" where it can be plainly seen in Roman letters which shall be burnt on, or printed therein with permanent black paint, in a straight line, and each letter shall not be less than one inch in length; and in case of retail sales of such article or substance, in parcels; the seller shall, in all cases, sell or offer for sale from a tub, firkin, box or package, stamped, branded or marked as herein stated and shall also deliver therewith to the purchaser a printed label bearing the plainly printed word "oleomargarine" or "butterine" as the same may be, with the name of the manufacturer, in Roman letters not less than one-half inch in length, which shall be printed in a straight line, and every sale of such article or substance by tub, firkin, box or package or in any greater quantity not so stamped, branded or marked as "oleomargarine or butterine" as the same may be, and every sale of such article or substance at retail in parcels that shall not be sold from a tub, firkin, box or package so stamped, branded or marked, or without

*So in the law.

delivery of a label therewith as above stated, is declared to be unlawful and void, and no action upon any contract shall be maintained in any of the courts of this State to recover upon any contract for the sale of any such article or substance not so stamped, branded, marked, labeled or sold. (Id. § 963.)

NOTE: For penalty see No. 130.

68. Penalty for Selling Adulterated Milk.—Whoever shall, for the purpose of sale for human food, adulterate milk with water, or any foreign substance, or whoever shall knowingly sell for human food, milk from which cream has been taken without the purchaser thereof being informed, or knowing the fact, or whoever shall knowingly sell for human food, milk from which, what is commonly called "strippings" has been withheld, without the purchaser thereof being informed or knowing the fact, or whoever shall knowingly sell for human food, milk drawn from a diseased cow, knowing her to be so diseased as to render her milk unwholesome, or whoever shall knowingly sell for human food, milk so tainted or corrupted as to be unwholesome; or whoever shall knowingly supply, or bring to be manufactured into any substance for human food, to any cheese or butter factory or creamery, without all interested therein knowing or being informed of the fact, milk which is adulterated with water or any foreign substance, or milk from which cream has been taken, or milk from which what is commonly called "strippings" has been withheld; or milk drawn from a diseased cow, knowing her to be so diseased as to injure her milk, or milk so tainted or corrupted as to be unwholesome; or whoever shall knowingly add any foreign substance to the milk or cream, whereby it or the products thereof, shall become unwholesome for human food, shall be guilty of an offense, and on conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the penitentiary not exceeding one year, or by both such fine and imprisonment. (Id. § 1007.)

69. Tested Cattle Tagged—State Veterinarian Keep Record of Tag—Purebred Registered Cattle Excepted—Condemned Animal Branded and Tagged—Record Thereof Reported to State Veterinarian—Violation of Act by Owner of Animal—Penalty—Tuberculosis Tests Reported to State Veterinarian—Pasteurized Milk of Tuberculosis Animals—Flesh of Tuberculosis Animal Inspected Before Sold—How Owner Shall Dispose of Infected Animals.—Whenever any animal shall have been tested by the State Veterinary Surgeon or any of his authorized deputies, and found free from tuberculosis, there shall be inserted in the ear of such animal by the testing veterinarian, a suitable metal tag, to be furnished by the State Veterinary Surgeon, showing such animal to have successfully passed the tuberculin test; such tags shall be numbered serially and the State Veterinary Surgeon shall keep a record of each tag so inserted, showing date of insertion, name and address of owner of animal, name and registry number of the animal, if registered, and a description of animal, if not registered.

Provided, that it shall not be compulsory to tag purebred animals which have been registered.

Whenever any animal shall have been condemned as tuberculous by the State Veterinary Surgeon, or by any of his authorized deputies, or by a veterinarian licensed to practice in Colorado, or by a veterinarian of the U. S. Bureau of Animal Industry working in co-operation with the State of Colorado, such animal shall be branded by the owner under supervision of the testing veterinarian by burning a letter T not less than two inches in length on the left jaw of such animal with a hot iron. The animal shall also be tagged with a suitable tag furnished by the State Veterinary Surgeon. All such reacting animals shall be reported by the testing veterinarian to the State Veterinary Surgeon, accompanied by a description of the animal and tag number, together with the owner's name and address. The State Veterinary Surgeon shall keep a record of all such diseased animals until they are destroyed.

If such owner refuses to brand and slaughter such tuberculous animals as herein provided, no milk or dairy products shall be marketed from the premises where the tuberculous animals are located, until all of the provisions of this act shall have been complied with and if such owner shall market or attempt to market or permit the marketing of any dairy products from such premises until he shall have complied with the provisions of this act, he shall be deemed guilty of a violation of this act, and shall be subject to the penalties thereof.

Every licensed veterinary surgeon or person making tests upon cattle for tuberculosis in this State shall immediately after the test is concluded, report the result of his test as to each animal tested to the State Veterinary Surgeon.

No milk or milk products from any animal reacting to the tuberculin test shall be used for human food or be fed to other domestic animals until the same shall have been pasturized [pasteurized] by being subjected to a temperature of 145 degrees Fahrenheit for a period of at least 30 minutes, nor shall the flesh of such

animal be used or sold or offered for sale for human consumption or fed to domestic animals unless the same shall have been inspected at the time of slaughter by an authorized Federal or Municipal meat inspector, or inspector authorized by the State Veterinary Surgeon, and passed for such use by him. All animals reacting to any tuberculin test shall be disposed of by the owner within thirty days after such test, as follows: (a) They shall be slaughtered at a slaughtering plant where Federal or Municipal meat inspection is maintained and the carcass be disposed of according to such Federal or Municipal Regulations. (b) When it is not convenient for condemned cattle to be slaughtered at an establishment having government or municipal meat inspection, they shall be slaughtered under the supervision of an inspector authorized by the State Veterinary Surgeon or United States Bureau of animal Industry in which case the appraisal committee shall determine the salvage value of the animal. (L. 1925, c. 167, § 4.)

70. Violation of Act, a Misdemeanor—Penalty—Duties of State Veterinarian—Present Evidence to District Attorney—District Attorney Prosecute.—Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars, or by imprisonment in the county jail not to exceed ninety days; or by both such fine and imprisonment at the discretion of the court. It shall be the duty of the State Veterinary Surgeon to enforce all the provisions of this act including the slaughter of tuberculous animals. He shall collect evidence and the names of witnesses and present the same to the district attorney of the county where the offense was committed and do all things in his power to carry into effect the provisions of this act, and it is hereby made the duty of such district attorney to prosecute all violations of this act, of which he may in any way become advised. (Id. § 9.)

NOTE: See also No. 17; No. 79a et seq.; the sanitation law, No. 117 et seq.

Feeding Stuffs.

See No. 26 et seq.

Fish.

See Nos. 20 and 101 et seq.

Fruits and Vegetables.

71. Purpose of Act—Cantaloupes and Melons Excepted—Inspection and Classification.—In order to provide the means whereby producers of fruits and vegetables, except cantaloupes and melons, the inspection of which is otherwise by statute provided for, and all interested parties, may secure prompt and efficient inspection, and classification of grades of all fruits and vegetables, except cantaloupes and melons, at reasonable cost, this act is passed. It is here recognized that the standardization of the fruit and vegetable industry by the proper classification and grading of fruits and vegetables (except cantaloupes and melons), by prompt and efficient inspection under competent authority is beneficial alike to producer, shipper, carrier, receiver and consumer, in that it furnishes the producer and the shipper with prima facie evidence of quality and condition of products, it guarantees the carrier and the receiver as to the quality and condition of products carried and received by them and assures the ultimate consumer of the quality and condition of products which he is purchasing. (L. 1925, c. 96, § 1.)

72. Inspected and Classified by Colorado Director of Markets—Not Compulsory.—The inspection in the State of Colorado of all fruits and vegetables (except cantaloupes and melons), and the classification of grades thereof, shall be under the direction and control of the Colorado Director of Markets, hereinafter designated as the "Director." Such inspection, and classification of grades and grades established and promulgated shall not be compulsory in any case, but shall be optional in all cases. (Id. § 2.)

73. Powers of "Director"—Joint Federal and State Inspection Service.—The "Director" is hereby authorized and empowered to enter into such agreement or agreements with the United States Department of Agriculture as he may determine to be necessary or advisable for the establishment of a joint State and Federal inspection service in Colorado for fruits and vegetables (except cantaloupes and melons). (Id. § 3.)

74. Fees—How Fixed.—The "Director" is hereby authorized and empowered to fix and assess, and collect and cause to be collected fees for the inspection in Colorado, and the classification of grades of fruits and vegetables (except cantaloupes and melons). (Id. § 4.)

loupes and melons) and the issuance of certificates of such classifications of grades. Such fees shall be fixed on a carlot basis. The amount of such fees on each different commodity inspected and for each different service rendered on each such commodity under the provisions of this act, shall be fixed as nearly as possible with reference to the cost of the establishment and maintenance of such service for such particular commodity, and may be different in the coarse [case] of each different commodity and in the case of each different service rendered on each such commodity. Such fees shall be uniform throughout the State of Colorado for the particular service rendered. The amount of such fees shall be fixed annually on the first day of July of each year and shall remain as so fixed until the first day of July of the following year. The amount of such fees on the different commodities and for the different services rendered under the provisions of this act shall be determined as near as may be to the end that the inspection service provided by this act shall pay for itself out of the annual aggregate amount of such fees collected under the provisions of this act, together with any appropriation made for the "Fruits and Vegetables Inspection Fund" created by this act, and any other sums properly credited to said "Fruits and Vegetables Inspection Fund." Such fees shall be paid by the person requesting the service of inspection at the time such service is rendered. No person employed by the "Director" shall charge or collect any fees other than the fees in such amounts as shall be authorized and established by the "Director." (Id. § 4.)

75. Interested Person May Appeal to "Director," if Classification Not Satisfactory.—Any interested party, who may be dissatisfied with any classification of grades of any fruits or vegetables (except cantaloupes and melons) made as the result of inspection under this act, may within such time after such inspection and in such manner as may be prescribed by the "Director" appeal to the "Director" and the "Director" is hereby authorized and empowered to promulgate rules and regulations governing the time and manner of such appeal. Upon such appeal to him being regularly taken, the "Director" shall cause such investigation to be made and such tests to be applied as he may deem necessary to determine the true grade or classification in the particular case in question, and shall issue a finding determining the true grade or classification in the particular case. Whenever an appeal to the "Director" shall be taken as herein provided he shall fix and assess, and collect or cause to be collected a reasonable fee, which shall be uniform, and which shall be refunded to the person paying the same, if, the findings of the "Director" on appeal are to the effect that the grade or classification as determined and certified on the original inspection were erroneous, and a new or different grade or classification is determined by the "Director." Any re-inspection certificate issued as the result of an appeal shall supersede the original inspection certificate. (Id. § 5.)

76. Creation of "Fruits and Vegetables Fund"—Collection, Custody and Use of Fund—How Paid Out.—There is hereby created a special fund to be known as the "Fruits and Vegetables Inspection Fund" which shall be a continuing fund. All fees and other moneys collected under the authority of the provisions of this act shall be turned over to the Treasurer of the State of Colorado and shall be by him credited to said fund. The "Director" is hereby authorized and empowered to use the moneys in said fund in defraying the expenses arising out of the establishment and maintenance of the inspection service provided by this act and for no other purpose whatsoever. The State Treasurer shall keep an account of all fees and other moneys paid into the State treasury on account of said fund and shall report all such sums to the Governor of the State. It shall be the duty of the Auditor of State, whenever there is any money in said "Fruits and Vegetable[s] Inspection Fund," to issue a warrant upon the State Treasurer for the payment of all vouchers drawn against said fund by the "Director." (Id. § 6.)

77. Information Confidential—"Director" Make Rules.—All information obtained as the result of any inspection made under the provisions of this act shall be confidential and shall not be disclosed by the "Director" or by any of his agents, assistants or employees; provided, however, that the "Director" shall prepare and certify to any interested party a copy of the original inspection certificate of any inspection, upon the payment to him of his fees therefor. The "Director" is hereby authorized and empowered to prescribe such rules and regulations governing the issuance of such certificates and to fix a reasonable fee to cover the cost of the issuance of such certificates. (Id. § 7.)

78. "Director" Employ Assistants and Pay Same on Car Lot Basis.—The "Director" is hereby authorized and empowered when he deems it necessary and conducive [conducive] to economical administration under the provisions of this act to employ inspectors, employees and agents to make inspections and pay such inspectors and agents or employees fees on a carlot basis instead of a per diem. (Id. § 8.)

79. Appropriation—Purpose.—The sum of five thousand dollars (\$5,000) is hereby appropriated out of any money in the Treasury not otherwise appropriated to be paid into the "Fruits and Vegetables Inspection Fund" for the purpose of carrying out the provisions of this act and for use as herein authorized. (Id. § 9.)

79a. Director of Markets—Powers.—There is hereby created the office of Colorado Director of Markets for the purposes and with the powers and duties as follows, to-wit:

First—To act as advisor for producers and distributors, when requested, assisting them in economical and efficient distribution of any agricultural product.

Second—To co-operate with the United States Department of Agriculture at gathering and disseminating impartial market and trade information concerning demand, supply, prevailing prices, and commercial movements of agricultural products, including the movement of such products to and from common and cold storage.

Third—To promote, assist and encourage the organizations and operation of co-operative and other associations and organizations for improving the relations and services among producers, distributors and consumers of any agricultural product, and to protect and conserve the interests of the producers and consigners of such products.

Fourth—To foster and encourage co-operation between producers and distributors in the interest of the general public.

Fifth—To foster and encourage the standardizing, grading, inspection, labeling, handling, storage and marketing of agricultural products. And, after investigation and public hearings thereon, the Director of Markets shall, from time to time, as far as may be practicable, acting in co-operation with the United States Department of Agriculture, establish and promulgate standard grades and other standard classifications of and for agricultural products except cantaloupes, melons, hay and grain. Any standard grade or other standard classification for any agricultural product now or hereafter made mandatory under authority of the Congress of the United States, shall forthwith, as far as applicable and practicable in this State, be established and promulgated by the Director of Markets as the official standard grade, classification or requirement in this State; provided, that no standard herein established shall supersede or supplant the existing standards in force and effect as established by the Colorado State Dairy Commissioner and Colorado Pure Food and Drug Act.

Sixth—To act as a mediator or arbitrator, upon joint invitation by both parties, in any controversy or issue that may arise between producers and distributors of any agricultural products concerning the grade or classification of such products.

Seventh—To certify for the protection of owners, buyers, creditors or other interested parties, when requested so to do, warehouse receipts for any such products by verifying quantities, qualities, grade and classifications thereof; and to charge for such services reasonable fees which shall at least be sufficient to make the service self supporting.

Eighth—To issue labels bearing the seal of the Director of Markets on the request of a producer, packer, canner or distributor of any agricultural product for which State labels have not otherwise been authorized by law, under such rules and regulations as the Director of Markets may deem necessary, and to charge for such labels reasonable fees.

Ninth—To act on behalf of the consumers of any agricultural product in conserving and protecting their interest in every practicable way.

Tenth—To improve, broaden and extend in every practicable way the distribution and sale of Colorado agricultural products throughout the markets of the world.

Eleventh—To promote, in the interest of the producer, the distributor and the consumer, economical and efficient distribution of any and all agricultural products of this State; and to that end the Director of Markets shall co-operate, in so far as practicable, with the Department of Commerce of the United States and any other department or agency of the Federal Government which may be helpful in the premises.

Twelfth—To obtain and furnish information relating to the proper selection of shipping routes, adoption of advisable shipping methods, avoidance of delays incident to the transportation of agricultural products, or helpful in the solution of other transportation problems connected with the distribution of agricultural products.

Thirteenth—To require any co-operative association doing business in this State to file with the Director of Markets a certified copy of its by-laws and of any exclusive contract of sale or agency between the association and its members or patrons.

Fourteenth—To prescribe uniform systems of accounting for co-operative associations doing business in this State and to require any such association to render

reports to show the nature and volume of business, resources, liabilities, profits, losses and any other facts bearing on the financial condition of the association.

Fifteenth—To investigate, when directed by the Governor so to do, the management of any co-operative association doing business in this State and make the facts relating to such management available to the members of the association; provided that such investigation shall have been first requested in writing by at least twenty per cent of the members of the association. A reasonable fee shall be charged for all such services.

Sixteenth—To require of co-operative associations organized under the provisions of this act a detailed statement reporting all promotion expenses and other expenditures incident to the organization of such association. (L. 1923, c. 141, § 1.)

79b. Definitions.—This act shall be known as the "Director of Markets Act." The following terms used in this act shall, unless a different meaning is plainly required by the context, be construed as follows:

First—The "Director" shall be the Colorado Director of Markets himself personally or his duly appointed and authorized representative.

Second—The term "agricultural products" shall include horticulture, viticulture, forestry, dairy, live stock, poultry, bee and any and all farm products.

Third—The term "organizations of producers and distributors" shall include all corporations, societies, associations and organizations of producers, or of producers and distributors, or of distributors, co-operative or otherwise, formed for the purpose of facilitating the marketing of any agricultural products.

Fourth—A "person" shall be understood to include individuals, partnerships, associations and corporations, their agents, employees and other representatives.

Fifth—When the singular is used the plural is also included. When the masculine is used the feminine and neuter are included. (Id. § 2.)

79c. Powers.—The Director of Markets is hereby vested with full power and authority as designated and conferred upon that office by the terms and provisions of this act; and with full power and authority to do the things reasonably necessary for the carrying out of and the giving of force and effect to the terms and provisions of this act. And the Director of Markets is hereby expressly empowered to designate any competent person as inspector of agricultural products for the purpose of determining and certifying the grade, quality or classification of any such products, and may commission such person with power and authority to make such inspection of agricultural products in accordance with the standards, grades and classifications which shall have been established under the provisions of this act, except cantaloupes and melons, hay and grain. Any certificate of the grade, quality or classification of any agricultural products issued under the provisions of this act shall be accepted in the courts of this State as prima facie evidence of the facts recited in such certificate. (Id. § 4.)

79d. Investigations.—The Director of Markets may make pertinent investigations concerning the aggregate amount of products held in common or cold storage; and in connection with any such investigation, the Director of Markets shall have the right to inspect only the pertinent books and records of the common or cold storage warehouses under inspection; and the result of such inspection and investigation shall be publicly announced by him. (Id. § 12.)

79e. Unlawful to Ship Farm Produce Into State and Reship to Mislead.—It shall be unlawful for any person or persons, firm or corporation, to ship, transport or convey farm produce of any nature whatsoever into the State of Colorado from any other State or Territory and reship said farm produce without the State of Colorado with the intent to fraudulently mislead those who may purchase the same into the belief that the aforesaid farm produce was raised within the State of Colorado. (C. L. 1921, § 6950.)

79f. Shipping Bill Must Show Where Produce Was Raised.—Should any person or persons, firm or corporation, ship, transport or convey any farm produce into the State of Colorado, from any other State or Territory, and reship the same to some other State or Territory, the shipping bill shall show the State or Territory wherein said farm produce was raised. (Id. § 6951.)

79g. Violation—Misdemeanor.—Should any person or persons or the agents of any firm or corporation, violate the provisions of this act, said person, or persons, and agents of any firm or corporation, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than two hundred dollars and not more than one thousand dollars. (Id. § 6952.)

NOTE: See also Nos. 26 et seq.; 275 et seq.

Glucose.

See No. 17.

Grain.

80. Grain—System of Grading—Buyers Secure Licenses.—Any person, firm, company, association or corporation, foreign or domestic, who makes a business of buying grain, wheat, corn, barley, oats or rye from the producer shall on and after July 1, 1919, be required to buy the same on Federal grades, and the purchasing agent of each and every person, firm, company, association or corporation dealing in grain shall secure a license from the chief State Grain Inspector to inspect, and shall inspect and grade all grain purchased in accordance with the Federal grades in effect at the time of said inspection, except that it shall not be necessary for licensee to make a moisture test. (C. L. 1921, § 3683.)

81. Violation of Act—Penalty.—Any person, firm, company, association or corporation, violating any of the provisions of this act, and any officer or agent of any firm, company, association, or corporation, or any member of the same, or any individual found guilty of the willful violation thereof, shall upon conviction be fined not less than twenty-five (\$25.00), nor more than five hundred dollars (\$500.00), or to have their license revoked, or suffer both penalties at the discretion of the court. (Id. § 3684.)

82. Federal Inspector Made Grain Inspector—Licenses—Fees.—The Federal grain inspector employed at the Denver Grain Exchange Association, is hereby declared to be the Chief State Grain Inspector for the State of Colorado and shall issue licenses to inspect and grade grain to the grain buyer or agent of any firm, company, association or corporation, buying from the producer. Said licenses shall provide for the inspection and grading of wheat, corn, barley, oats and rye, in accordance with the Federal grades as in force at the time of said inspection. The Denver Grain Exchange Association shall collect an annual fee of five dollars (\$5.00) from each person receiving a license to inspect grain, and shall also receive a fee of one dollar (\$1.00) for inspection or re-inspection of samples sent to his office by any of the licensees. The Chief State Grain Inspector shall have direct supervision over all licensees and shall when requested re-inspect samples of wheat, corn, barley, oats and rye, or any other grains on which a Federal grade may be established. (Id. § 3685.)

83. Reinspection—Fee—Samples.—Licensees shall grade all grain to the best of their ability based on Federal grades. If the seller of grain objects to the grade placed on same by the licensee, a sample for re-inspection by the Chief State Grain Inspector must be taken at the time of delivery and before the load, lot, or parcel of grain in question has lost its identity, and a sample of at least two quarts in quantity in an air-tight container, which both parties to the transaction are agreed is representative of the lot, be forwarded to the office of the Chief State Grain Inspector together with a fee of \$1.00. The findings of the Chief State Grain Inspector shall be final and binding on both parties to the transaction. This fee to be paid by the appellant, when the grade of the licensee is not raised by the Chief State Grain Inspector, and by the licensee when the grade is raised by the Chief State Grain Inspector; provided, that whenever the parties to the transaction cannot agree as to what is a representative sample of the lot, they may select a disinterested party to obtain a sample of the grain in accordance with the instructions issued by the Chief State Grain Inspector. (Id. § 3686.)

84. Licensee Informed of Government Standards—Revocation of License.—It shall be the duty of the Chief State Grain Inspector to mail to each and every licensee a pamphlet containing all government rules as to Federal grades on all grains on which the grade has been standardized by the Federal government. It shall be the duty of the licensee to familiarize himself with said rules. If repeated re-inspections by the Chief State Grain Inspector develop the fact that any licensee is unfair or incompetent, it shall be the duty of the Chief State Grain Inspector to make an investigation, and if said Chief State Grain Inspector finds the licensee has been repeatedly unfair or is incompetent, it shall be his duty to revoke the license of said licensee. Party calling for re-inspection shall deposit with the licensee an amount necessary to cover all expenses when the sample is taken. (Id. § 3687.)

85. Selling Grain by Sample.—Provided, that when grain is offered for sale by sample and when it can be agreed between the buyer and the seller as to value, it shall be lawful to purchase or sell grain by sample. (Id. § 3688.)

86. Grain Screenings Delivered to Seller Upon Request.—Every corporation, partnership, association or individual now engaged or who shall hereafter become engaged in the business of buying, selling and milling wheat, oats, rye, barley

or other cereal products and who shall screen such products shall, unless otherwise agreed upon between the seller and purchaser, deliver all such screenings to the seller of such cereal products free of charge upon request being made therefor by such seller. (Id. § 3689.)

87. Violation of Act—Penalty.—Any corporation, partnership, association or individual violating any of the provisions of this act shall upon conviction thereof be fined in a sum not less than ten dollars (\$10.00), nor more than five hundred dollars (\$500.00). (Id. § 3690.)

88. Right of Action for Damages.—In addition to the penalties hereinabove provided for, a right of action is hereby given to every such seller of cereal products as damages from any purchaser of such cereal products the value of all such screenings so wrongfully detained by any such corporation, partnership, association or individual. (Id. § 3691.)

NOTE: See also No. 26 et seq.

Honey.

89. Adulterated Bee Products Must be Labeled and Marked.—No person, firm or corporation shall have in his, its or their possession any adulterated or imitation bee products, or substance which has been stored or made by honey bees from sugar, syrup, or any other material or substance fed to them, or shall adulterate or cause or solicit any person, firm, or corporation to adulterate any bee products, or to mix or compound any substances so as to resemble bee products, or sell or offer to sell, or solicit others to sell or offer to sell, exchange, or give away any adulterated or imitation bee products, or any compounds purporting to be or to imitate bee products, or substances designed to be used as a substitute for bee products, unless each and every package of such adulterated or imitation bee products or compounded articles is clearly, durably, and prominently either labeled or marked so as to inform the purchaser of the exact ingredients and the exact percentage of each ingredient used, or is labeled or marked "imitation honey" or "imitation beeswax" as the case may be, in heavy Gothic type of not less than forty-eight points, printers' measure, in size, and the words "Honey" or "Beeswax" shall not be used upon any package of material described in this section unless the same shall be preceded by the word "imitation"; and no person, firm or corporation shall sell such goods unless he or they themselves inform the purchaser or his representative of the exact ingredients and the percentage of each; and the possession of such goods shall be held to imply knowledge of the true character and name thereof, and the intent to use them in violation of this act; provided, that this section shall not be deemed to apply to persons having such goods in their possession for actual consumption by themselves or their families. (C. L. 1921, § 3060.)

90. Use of Word "Honey."—The word "honey" shall not be used as part and parcel of the trade designation of drugs, medicines, confections, or any other articles of trade or commerce, unless honey is actually employed as one of their ingredients, and to the full extent to which the use of such designation shall lead the purchaser to expect. (Id. § 3061.)

91. Mutilation of Label or Mark a Misdemeanor.—Whoever shall deface, erase or remove any label or mark provided for in this act, with intent to mislead, deceive or to violate any of the provisions of this act, shall be guilty of a misdemeanor. (Id. § 3062.)

92. Shipping Adulterated Bee Products.—No person, by himself or others, shall ship, consign, or forward by any common carrier, or otherwise, public or private, any adulterated or imitation bee products, or other compounds provided for in this act, unless it or they shall be labeled or marked on each case or shipping package in plain lettering, according to the provisions of this act, and receipted for by the true name thereof; provided, that this act shall not apply to any goods in transit between other and foreign States across the State of Colorado. (Id. § 3063.)

93. Examination of Samples—Violation—Complaint—Confiscation.—Whenever any State office regulating the adulteration or imitation of any food products exists in this State, it shall be the duty of the executive of such office to take in a lawful manner samples of suspected bee products, or imitation or compounds thereof, reasonably compensating therefor from any funds in his hands belonging to his office, and cause such samples to be immediately analyzed or otherwise satisfactorily tested by a practical chemist, at a cost not to exceed twenty dollars (\$20) in any case, and if the result of such analysis shows that the provisions of this act have been violated, to immediately make complaint before a justice of the peace of the county in which the offense was committed or such product was found, and the justice of the peace shall thereupon take full jurisdiction and hear and determine

all matters connected therewith, and enter judgment accordingly, and the analysis herein mentioned shall be recorded and preserved as evidence, and the expenses for making such analysis or test may be taxed as costs in case the prosecution shall be successful; the certificate of such result, sworn to by the chemist, shall be competent evidence in all prosecutions under this act; provided, that the person accused may, by subpoena, compel the attendance in court of such chemist. In all cases where the defendant is found guilty of a violation of this act, such product shall be confiscated and may be destroyed or sold by an officer of such court and the receipts thereof, after being applied to the costs of the case, any balance remaining shall be turned into the State treasury. If any food officer whose duty it is to inspect or bring proceedings as herein provided, shall corruptly or negligently fail to do so, he shall be deemed guilty of malfeasance and shall be fined and debarred from his office, the amount of such fine going to the informer of such malfeasance; all proceedings provided and mentioned in this act, to be brought against a person, firm or corporation for violation thereof, or against any officer for malfeasance, shall be in the name of the people of the State of Colorado, and in no such case shall any advancement of costs or any bond or other security be required. (Id. § 3064.)

94. Honey and Beeswax Defined.—For the purpose of this act the word "honey" shall be held to be the nectar of flowers gathered and stored by honeybees, and it shall be held to have been adulterated when glucose, cane sugar, grape sugar or any other substance or compound has been mixed with or added to it or fed to bees; and the word "beeswax" shall be held to be the wax rendered from combs built by honeybees, either without foundation, or upon foundation of pure beeswax, and it shall be held to have been adulterated when paraffine, tallow, or any other wax or fat, mineral or vegetable, or any other substance or compound has been mixed with or added to it. (Id. § 3065.)

95. Action to Recover Price of Adulterated Article.—No court of this State shall sustain any action brought to recover any sum due or alleged to be due by reason of the purchase of any adulterated bee products, or compounds specified in this act, unless the same shall have been labeled or marked as provided in this act, which duty of labeling or marking shall be proven as part of the case in chief. (Id. § 3066.)

96. Violation of Act—Misdemeanor—Penalty.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for the first offense not less than twenty dollars (\$20), nor more than one hundred dollars (\$100), and for the second and subsequent offenses not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), together, in all cases, with all costs of suit; and justices of peace may have jurisdiction of all offenses arising under this act. (Id. § 3067.)

NOTE: See also No. 17.

Meat—Meat Products.

97. Sale of Diseased Meat—Penalty.—If any person shall knowingly sell any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer he shall upon conviction be punished by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred dollars. (C. L. 1921, § 950.)

98. Unlawful to Sell Any Stale or Diseased Meat—Killing Diseased Animal—Inspection of Suspected Diseased Animal.—It shall be unlawful for any person, association, firm or corporation to sell, expose for sale, give away for use as human food, or to can or pack for the purpose of transportation to and sale in any market or place in this State, any unwholesome, unhealthy, stale, emaciated, blown, tainted, putrid, or measly meat, or the flesh of any diseased animal not slaughtered for the purpose of food, knowing, or having good reason to believe that such meat is as above described, or that such flesh is the flesh of a diseased animal or of an animal not slaughtered for such purpose, and no person, association, firm or corporation, owning or operating any slaughterhouse or packing establishment in this State, shall receive for the purpose of killing, or kill, for human food, any diseased animal, or offer for sale the flesh of any animal found to be diseased after slaughter, or render the carcass of any animal that shall die by disease or by consequence of exposure or that shall not have been slaughtered for food, knowing or having good reason to believe that such animal was diseased, or had died from disease or in consequence of exposure, or had not been slaughtered for food. Provided, however, that where such animals have been inspected by a duly qualified inspector of the United States Department of Agriculture, such animals may be handled according to the rules and regulations of said department under the supervision of said duly qualified inspector, but not otherwise. Whenever any inspector of the United States

Department of Agriculture shall suspect any animal intended for slaughter for food as suspicious, and shall tag the same as a suspected animal, such animal shall be slaughtered only under the supervision and inspection of the State Veterinary Surgeon, or some one appointed by him for this duty, according to such regulations as may be made by the said State Veterinary Surgeon, except where such animals are slaughtered under the inspection of the United States Department of Agriculture. (Id. § 1026.)

99. Unlawful to Sell Meat Containing Artificial Coloring, Etc.—No person by himself or his agent shall offer or expose for sale, take orders for, or sell, or have in his possession with intent to sell for use or consumption, within this State, any sausage or chopped meat compound containing any artificial coloring, chemical preservative or antiseptic, except such as are or may be allowed by the rules and regulations adopted by the United States Department of Agriculture. (Id. § 1027.)

100. Rules Governing Packing Plants—Unlawful to Sell Meat Labeled to Deceive.—The State Veterinary Surgeon is authorized and instructed to adopt the rules and regulations of the United States Department of Agriculture as they relate to the inspection of live animals and the manufacture labeling and marking of meat food products from slaughtering, canning and packing establishments, in so far as they can be applied to the meat food and meat food products manufactured and offered for sale in this State, and it shall be unlawful for any person to sell or offer for sale any meat or meat food products labeled or marked in a manner calculated to deceive the buyer as to what such products are or contain, and any person offering for sale or selling any meat food or meat food product, so prepared and offered for sale as to appear different from what it really is or which contains ingredients not permitted by the regulations of the United States Department of Agriculture, or which is misrepresented in any way with intention to deceive the buyer, shall be guilty of a misdemeanor under this act. (Id. § 1028.)

101. Inspection of Slaughtering Plants by State Veterinary Surgeon.—It is hereby made the duty of the State Veterinary Surgeon to maintain, or cause to be maintained, an inspection of all slaughtering, meat canning, salting, packing, rendering or similar establishments in this State, in which cattle, sheep, swine, goats, fish or poultry are slaughtered and the meat or meat products thereof prepared and offered for sale as food, and the said State Veterinary Surgeon shall make, or cause to be made such inspection of said slaughtering plants and similar establishments where cattle sheep, swine, goats, fish or poultry are slaughtered and prepared for food, as may be necessary to inform himself concerning the sanitary conditions of the same and he shall prescribe such rules and regulations of sanitation under which such establishment shall be maintained. Whenever the State Veterinary Surgeon shall find the conditions of any such establishment of a nature that the meat or food products prepared therein are rendered unclean, unsound, unhealthful, unwholesome, or otherwise unfit for human food, he shall immediately condemn and close such establishment and shall prohibit its further use for such purpose until the same shall have been put in a sanitary condition satisfactory to the said State Veterinary Surgeon. (Id. § 1029.)

102. Inspector of Meat and Slaughter Plants—Salary—Expenses.—The State Veterinary Surgeon is hereby authorized to appoint, with the approval of the Governor, a competent man as meat and slaughter plant inspector, who shall act under the direction of the State Veterinary Surgeon and shall devote all of his time to the inspection of all slaughtering plants and packing establishments, stores, shops, etc., as provided herein, except such as are operating under United States government inspection. Said meat and slaughter plant inspector shall receive a salary of fifteen hundred dollars per annum, to be paid in monthly installments, and such traveling expenses as may be necessary in the actual and necessary performance of his duties, all bills to be approved by the State Veterinary Surgeon. (Id. § 1030.)

103. State Veterinary Surgeon—Salary Under this Act.—In addition to the salary already allowed the State Veterinary Surgeon by law, he shall be allowed an additional salary of \$500 per annum, for his services under the provisions of the act, to be paid in monthly installments upon warrants drawn by the State Auditor. (Id. § 1031.)

104. Possession of Diseased Meat Prima Facie Evidence of Violation of Act.—Whenever the State Veterinary Surgeon or the State Meat and Slaughtering Plant Inspector shall find any diseased, putrid, unwholesome or unhealthy meat or product of any animal known to be diseased, unhealthy, unwholesome, or not slaughtered for food, in any slaughtering, packing, canning or rendering establishment, or in any store, shop, cooler, vendor's wagon or other place, where same may be offered for sale for food, or if any such diseased or unwholesome or unfit meat or meat products shall be found in the possession of any one, under conditions that

make it reasonably certain that it is the intention of such person to offer the same for food, it shall be prima facie evidence of a violation of this act, and any such person or the owner or owners or employees of any such place, shall be deemed guilty of a misdemeanor and subject to the penalty provided herein. (Id. § 1032.)

105. Diseased Meat Declared Unfit Food and Destroyed.—Whenever the State Veterinary Surgeon or the State Meat and Slaughtering Plant Inspector shall find any such putrid, tainted, diseased, unwholesome, unhealthy, meat or meat product, he shall declare the same unfit for human food and immediately take possession of the same for the State and destroy the same by the cheapest and most practical manner. (Id. § 1033.)

106. Inspector's Right to Enter Plants for Inspection.—The State Veterinary Surgeon or the State Meat and Slaughtering Plant Inspector shall have the right to enter and inspect any and all slaughtering, meat canning, salting, packing, rendering or similar establishment in this State, in which cattle, sheep, swine, goats, fish or poultry are slaughtered or prepared for human food, and they shall have the right to enter any store, shop or other place where such meat or meat products are offered for sale for human food and to inspect the same, and to inspect any wagon, cart or other vehicle used by a vendor of meat or meat products, and any opposition or interference with such inspection shall be a misdemeanor under the provisions of this act. (Id. § 1034.)

107. Violation of Act—Penalty.—Any violation of any provision of this act shall be deemed a misdemeanor and upon conviction, the violator shall be fined not less than \$50 nor more than \$1,000 or may be imprisoned in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 1035.)

108. Act Not to Interfere with U. S. Inspection.—Nothing in this act shall be construed to interfere or apply in any way to those plants in this State where the United States Department of Agriculture maintains regular inspection. (Id. § 1036.)

NOTE: See also Nos. 7, 17, 20, 26 et seq., 55, 69-70, 79a et seq.; the sanitation law, No. 117 et seq.

Sugar.

See No. 17.

Sugar Beets.

109. Farmers' Chemist at Sugar Factories—Duties.—Hereafter a majority of the farmers raising sugar beets under contract or otherwise, for any sugar factory within the State of Colorado, may and hereby are authorized and empowered to select a thorough and competent chemist examined and certified by the professor of chemistry at the Agricultural College of the State of Colorado, to be paid by the farmers employing him. The duties of such chemist shall be to observe the weighing, docking, taking of samples, and analyzing of all beets delivered to the factory for which he is designated, and to observe and investigate all other matters necessary to determine the quantity, quality and value of the beets. Said chemist shall make and keep such records as he deems necessary for the purpose of comparing his readings and observations with the records of the sugar factory and for such other purposes as he may be directed by the farmers. Such chemist shall, further, possess all the powers of an inspector of weights and measures for the purpose of testing all scales used at such sugar factory for weighing sugar beets or any materials used in making analyses of sugar beets. (C. L. 1921, § 3016.)

110. Sugar Factory Post List of Farmers.—Each and every sugar factory in the State of Colorado shall, not later than the first day of July of each year, post in its local office in a conspicuous and public place, for the inspection of the public, a list of the names of all the farmers raising beets for delivery to such factory, either by contract or otherwise, giving in connection with the name, the number of acres devoted to beets, and the location of the farm upon which said beets are growing or to be grown. (Id. § 3017.)

111. Chemist Have Access to Scales, etc.—Whenever a majority of the farmers growing beets for said factory, either by contract or otherwise, shall, by writing, certify to any beet sugar factory the name of the chemist chosen by them as hereinbefore provided, the sugar factory through its proper officers, agents and employees, shall permit such chemist access to all scales, dumps, beet sheds, bins, chemical laboratories, apparatus and all other buildings or structures forming a part of or pertaining to the said sugar factory, and shall permit said chemist to secure samples of beets from each lot delivered by each farmer employing him,

and shall permit said chemist to inspect all matters pertaining to the deductions made by said factory from the gross weight of said beets, and the system whereby the tare on said beets is measured and adjusted; shall permit said chemist to have full and complete access to each and all of the chemical laboratories pertaining to said factory, where the chemical analysis of beets is made, and shall permit said chemist to inspect the analysis of said beets as made by the sugar factory, and to check or compare therewith any analysis of the same lot or lots of beets made by him; provided, however, that nothing herein contained shall be construed as giving said chemist any right, privilege or authority of making any inspection of any sugar factory further than to determine the matters hereinbefore set forth. (Id. § 3018.)

112. Inspector of Laboratory Apparatus—Duties—Pay.—The professor of chemistry at the State Agricultural College is hereby made State inspector of laboratory apparatus used in sugar beet analyses. It shall be his duty to test any instrument used in sugar beet analyses in any sugar factory of this State when requested to do so by any of the farmers selling beets to such a factory. The expense of making such tests shall be borne by the farmers making such request except when any of the apparatus so tested is found at fault, in which case the expense shall be borne by the sugar factory at fault. Such expense may be collected in the name of the people of the State of Colorado, for the benefit of said State inspector as any debt together with the cost of collection and the district attorney of the district in which such test was made shall bring the action in any court of competent jurisdiction. In no case shall said inspector receive more than ten dollars (\$10.00) per day for time actually and necessarily spent in making such test and his necessary traveling expenses. Every owner or lessee shall without previous notice, give said inspector free and unobstructed access to all apparatus to be tested. No instrument found defective or incorrect shall thereafter be used until corrected. (Id. § 3019.)

113. Agricultural College Furnish Sugar Solution.—Whenever any local chemist desires to test any polariscope used in testing sugar beets in the factory where he is stationed, the State Agricultural College through said State inspector of laboratory apparatus shall furnish to said local chemist at cost a sufficient quantity of a standardized pure sugar solution. Said chemist shall possess all the powers of the aforesaid State inspector for testing such apparatus by means of said solution. (Id. § 3020.)

114. Farmer Defined—Joint Interests One Vote.—The term farmer, under this act, shall be held to mean the person or persons in whose name the contract for the growing beets is made with the sugar factory, in the event that they have a contract, and in the event that there be no contract, it shall include the person or persons actually farming the land upon which said beets were grown, whether said person or persons be owner or tenant; provided, however, that in determining a majority of the farmers as hereinbefore provided, but one vote shall be given to any and all persons having a joint interest in any specific acreage of beets, but that such persons having such joint interest, shall count as one farmer for such purpose. (Id. § 3021.)

115. Sugar Factory Defined.—The word sugar factory for the purposes of this act, shall include all persons, corporations or associations operating any plant for the manufacture of beet sugar and for the proper construction of this act, shall include the officers, agents and employees of any such person, corporation or association. (Id. § 3022.)

116. Organization Voluntary—Expenses—Violation of Act—Penalty.—The organization of the farmers for the purpose of selecting said chemist shall be voluntary, and all persons participating in the selection of such chemist shall contribute to the costs and expenses, including salary, of maintaining such chemist, and no sugar factory shall be required to accept or receive more than one chemist for each operating shift of said factory. Each sugar factory violating the terms of this act shall suffer a penalty of one hundred dollars (\$100.00) for each and every day of such violation, said penalty to be recovered in the name of the people of the State of Colorado, upon relation of any farmer or farmers included within the majority employing the chemist, designated pursuant to the terms hereof, for such factory, and shall be paid into the road fund of the county wherein such sugar factory is located. The district attorney of the district in which such sugar factory is located is hereby empowered and directed to prosecute all violations of this act. (Id. § 3023.)

Syrup.

See No. 17.

Water.

See Nos. 24-25.

Sanitation.

117. Premises Kept in Sanitary Condition—Food Defined.—Every building, room, basement, inclosure, or premises occupied, used, or maintained as a bakery, confectionery, cannery, packing house, slaughterhouse, creamery, cheese factory, restaurant, hotel, grocery, meat market, or as a factory, shop, warehouse, or any public place or manufacturing place used for the preparation, manufacture, packing, storage, sale or distribution of any food as defined by statute, which is intended for sale, shall be properly and adequately lighted, drained, plumbed and ventilated, and shall be conducted with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks or other persons therein employed, and the purity and wholesomeness of the food therein produced, prepared, manufactured, packed, stored, sold or distributed and for the purposes of this act, the term "food" as used herein shall include all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof. (C. L. 1921, § 1015.)

118. Sanitary Regulations—Places, Processes, Containers—Implements of Manufacturer.—The floors, sidewalls, ceilings, furniture, receptacles, utensils, dishes, implements and machinery of every restaurant, hotel kitchen and every such establishment or place where such food intended for sale is produced, prepared, manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of such food products, shall at no time be kept or permitted to remain in an unclean, unhealthful or insanitary condition; and for the purpose of this act, unclean, unhealthful and insanitary conditions shall be deemed to exist if food in the process of production, preparation, manufacture, packing, storage, sale, distribution or transportation is not securely protected from flies, dust, dirt, and from all other foreign or injurious contamination, as far as may be necessary by all reasonable means; or if the refuse, dirt or waste products incident to the manufacture, preparation, packing, selling, distributing or transportation of such food are not removed daily, or if all trucks, trays, boxes, buckets or other receptacles, or the chutes, platforms, racks, tables, shelves, and knives, saws, cleavers or other utensils, or the machinery used in moving, handling, cutting, chopping, mixing, canning or other processes are not thoroughly cleaned daily, or if the clothing of operatives, employees, clerks or other persons therein employed, is unclean; or if all dishes, cups, glasses, knives, forks and spoons are not thoroughly washed in hot or running water and rinsed after each usage; or if dishes, cups or glasses are used which are so cracked, chipped or broken as to be detrimental to health or if all ice cream cones and straws are not securely covered. (Id. § 1016.)

119. Construction of Sidewalls, Floors, Ceilings.—The sidewalls, floors, and ceilings of every bakery, confectionery, creamery, cheese factory, and hotel or restaurant kitchen, and every building, room, basement or inclosure occupied or used for the preparation, manufacture, packing, storage, sale, or distribution of food shall be so constructed that they can easily be kept clean. (Id. § 1017.)

120. Protection from Flies, Dust and Dirt.—All such factories, buildings, and other places containing food, shall be so provided with proper doors and screens necessary and adequate to protect against the contamination of the product from flies, dust or dirt. (Id. § 1018.)

121. Toilet Rooms and Lavatories.—Every such building, room, basement, inclosure, or premises occupied, used or maintained for the production, preparation, manufacture, canning, packing, storage, sale or distribution of such food, shall have adequate and convenient toilet rooms, lavatory or lavatories. The toilet rooms shall be separate and apart from the room or rooms where the process of production, preparation, manufacture, packing, storing, canning, selling and distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other non-absorbent material, and shall be washed and scoured daily. Such toilet or toilets shall be furnished with separate ventilating flues and pipes discharging into soil pipes or shall be on the outside of and well removed from the building. Lavatories and wash rooms shall be maintained in a sanitary condition. (Id. § 1019.)

122. Nuisances—Misdemeanor.—If any such building, room, basement, inclosure, or premises occupied, used or maintained for the purposes aforesaid, or if the floors, sidewalls, ceilings, furniture, receptacles, utensils, implements, appliances or machinery of any such establishment, shall be constructed, kept, maintained or permitted to remain in a condition contrary to any of the requirements or provisions of the preceding five (5) sections of this act, the same is hereby declared a nuisance, and any toilet, toilet room, lavatory or wash room as aforesaid, which shall be constructed, kept, maintained or permitted to remain in a condition contrary to the requirements or provisions of section five (5) of this act [1019], is

hereby declared a nuisance; and any car, truck or vehicle used in the moving or transportation of any food product as aforesaid, which shall be kept or permitted to remain in an unclean, unhealthful or unsanitary condition is hereby declared a nuisance. Whoever unlawfully maintains, or allows or permits to exist a nuisance as herein defined shall be guilty of a misdemeanor, and on conviction thereof shall be punished as herein provided. (Id. § 1020.)

123. Rooms Not Used for Sleeping Purposes.—It shall be unlawful for any person to sleep, or to allow or permit any person to sleep in any workroom of a bake shop, kitchen dining room, confectionery, creamery, cheese factory, or any place where food is prepared for sale, served, or sold, unless all foods therein handled are at all times in hermetically sealed packages. (Id. § 1021.)

124. Work by Diseased Persons Forbidden.—It shall be unlawful for any employer to require, suffer or permit any person who is affected with any contagious, infectious, or venereal disease to work, or for any person so affected to work in a building, room, basement, inclosure, or premises, or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution or transportation of food. (Id. § 1022.)

125. Powers of Food Commissioner and Inspectors—Order to Abate Conditions—Hearing—Prosecutions.—It shall be the duty of the State Food Commissioner and food and drug inspectors to enforce this act, and for that purpose the State Food Commissioner and food and drug inspectors shall have full power at all times to enter every such building, room, basement, inclosure or premises occupied or used or suspected of being occupied or used for the production, preparation, or manufacture for sale, or the storage, sale, distribution or transportation of such food, to inspect the premises and all utensils, fixtures, furniture and machinery used as aforesaid; and any refusal to permit such inspection shall be deemed a violation of this act; and if upon inspection any such food producing or distributing establishment, conveyance, or any employer, employee, clerk, driver or other person is found to be violating any of the provisions of this act, or if the production, preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees and operatives, or to the character or quality of the food therein produced, prepared, manufactured, packed, stored, sold, distributed or conveyed, the State Food Commissioner or food and drug inspectors shall issue a written order to the person, firm or corporation responsible for the violation or condition aforesaid to abate such condition or violation or to make such changes or improvements as may be necessary to abate them, within such reasonable time as may be required in which to abate them. Notice of such order may be served by delivering a copy thereof to said person, firm or corporation, or by sending a copy thereof by registered mail, and the receipt thereof through the postoffice shall be prima facie evidence that notice of said order has been received. Such person, firm or corporation shall have the right to appear in person or by attorney before the State Food Commissioner, or the person appointed by him for such purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why such order or instructions should not be obeyed. Such hearing shall be under such rules and regulations as may be prescribed by the State Food Commissioner. If after such hearing it shall appear that the provisions or requirements of this act have not been violated, said order shall be rescinded. If it shall appear that the requirements or provisions of this act are being violated, and that the person, firm or corporation notified as aforesaid is responsible therefor, said previous order shall be confirmed or amended, as the facts shall warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with said final order. If such person, firm or corporation is not present or represented when such final order is made, notice thereof shall be given as above provided. On failure of the party or parties to comply with the first order of the State Food Commissioner or food and drug inspector within the time prescribed, when no hearing is demanded, or upon failure to comply with the final order, within the time specified, the State Food Commissioner or food and drug inspector shall certify the facts to the district attorney of the county in which such violation occurred, and such district attorney shall proceed against the party or parties for the fines and penalties provided by this act, and also for the abatement of the nuisance; provided, that the proceedings herein prescribed for the abatement of nuisance as defined in this act shall not in any manner relieve the violator from prosecution in the first instance for any such violation nor from the penalties for such violation prescribed by section 11 of this act [1025]. (Id. § 1023.)

125. Prosecutions—Disposition of Fines.—All fines collected under the provisions of this act shall be paid into the county treasurer of the county in which the prosecution is brought, and it shall be the duty of the district attorneys in the re-

spective counties to prosecute all persons violating or refusing to obey the provisions of this act. (Id. § 1024.)

127. Violation of Act—Penalty.—Whoever violates any of the provisions of this act, or refuses to comply with any lawful order or requirement of the State Food Commissioner or food and drug inspector, duly made in writing as provided in section 9 of this act [1023], shall be guilty of a misdemeanor and on conviction shall be punished for the first offense by a fine of not more than two hundred dollars (\$200.00), and for the second and subsequent offense by a fine of not more than two hundred dollars (\$200.00), or by imprisonment in the county jail for not more than ninety days, or both, in the discretion of the court; and each day after the expiration of the time limit for abating insanitary conditions and completing improvements to abate such conditions, as ordered by the State Food Commissioner or food and drug inspector, as aforesaid, shall constitute a distinct and separate offense. (Id. § 1025.)

NOTE: See also the dairy law, No. 43 et seq.; the meat law, No. 97 et seq. For the inspection of bakeries, see C. L. 1921, § 4313 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

128. Unlawful to Sell or Advertise Substance to Procure Abortion.—No person shall in any manner except as hereinafter provided, advertise, publish sell, or publicly expose for sale any pills, powders, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion. (C. L. 1921, § 965.)

129. Drug or Medicine Producing Abortion Sold Only on Prescription—Registered.—Any drug or medicine known to be designed and expressly prepared for producing abortion shall be sold only upon the written prescription of an established practicing physician of the city, village or county in which the sale is made, and the druggist or dealer selling the same, shall, in a book provided for that purpose register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold and the name and residence of the physician prescribing the same. (Id. § 966.)

130. Penalty for Violation of Four Preceding Sections.—Any person violating any of the provisions of sections seventy-three [963, C. L. 1921],* seventy-four [964, C. L. 1921],† seventy-five or seventy-six [965 or 966], of this act, shall upon conviction thereof be punished by a fine of not less than twenty-five (25) dollars, nor more than one hundred [100] dollars at the discretion of the court. (Id. § 967.)

131. Advertisement of Substances to Cure Private Diseases, Prevent Conception or Procure Abortion Unlawful—Penalty.—The publication, circulation or sale within this State of any circular, newspaper, pamphlet, or other book, containing receipts or prescriptions, immoral in tendency, for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compounds, designed to prevent inceptions, or tending to produce miscarriage or abortion, is hereby prohibited; and the publisher, circulator and seller thereof, shall each be deemed guilty of a misdemeanor and shall upon conviction be liable to a fine of not less than ten or more than one hundred dollars for each offense. (Id. § 968.)

131a. Penalty for Exhibiting or Selling Obscene Books.—Whoever exhibits, lends, gives away, sells, or offers to exhibit, lend, give away, or sell; or in any manner publishes, or offers to publish, or has in his possession, for any such purpose, any obscene, lewd, or indecent, or lascivious book, pamphlet, paper, drawing, print, picture, writing, advertisement, circular, or other representation, figure, or image, on, or of paper, or other material; or any cast, instrument, or other article of an immoral or indecent nature; or any drug, or medicine or instrument, for procuring abortion, or for self-pollution, or for preventing conception; or any news-

*See No. 67.

†See No. 207

paper, or magazine, containing pictures of nude, or partly nude, men or women, or pictures of men or women in indecent attitudes or positions; or which publishes, by pictures or descriptions, indecent or immoral details of crime, vice or immorality, calculated to corrupt public morals, or to offend common decency, or to make vice and crime, immorality and licentiousness attractive, or advertises the same for sale; or writes, or prints, or causes to be sold, or written, or printed, any card, circular, letter, handbill, book, pamphlet, advertisement, or notice thereof, of any kind; or gives information orally or otherwise, stating when, where, how, or of whom, or by what means, any of the articles or things hereinbefore mentioned can be purchased or otherwise obtained, or are manufactured, or published; or manufactures, draws, or prints, or in any wise makes, with intent to exhibit, sell, lend, or give away, or have exhibited, sold, loaned, or given away, any such articles or things, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty dollars, nor more than two thousand dollars, with costs of court, or imprisoned in the county jail for not less than one month, nor more than one year, or both; but nothing in this act shall be construed to affect teaching in regularly chartered medical colleges, or the publication, sale and use of standard medical books, or the practice of regular practitioners of medicine, or druggists in their legitimate business. (Id. § 6851.)

131b. Penalty for Depositing Obscene Books in Post Office.—Whoever deposits in any post office within this State, or places in charge of any person to be carried or conveyed any of the articles or things named in the preceding section; or any card, circular, letter, handbill, book, pamphlet, notice or advertisement of any kind of or concerning such articles or things; or gives oral or other information stating when, where, how, or of whom, or by what means such articles or things can be purchased or otherwise obtained; or knowingly or willfully receives the same with intent to carry or convey, or knowingly carries or conveys the same in any manner, except in the United States mail, shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty dollars, nor more than two thousand dollars, or imprisoned at hard labor in the penitentiary not less than one month, nor more than one year, or both. (Id. § 6852.)

131c. Search Warrant May Issue for Obscene Books.—A warrant to search for such articles or things named in section one [6851] may be issued by any justice of the peace, like other search warrants, and when any of them are found by the officer serving it, they shall be brought before the justice and kept by him, or the officer, to be used as evidence in any case that may arise concerning them or any person connected therewith, and, on conviction of such offender, or, if such articles shall be found to be such as are prohibited by the provisions of this act, said articles shall be destroyed by order of the court trying the case. (Id. § 6853.)

Alcohol.

132. Alcohol—License for Sale and Use—Fee.—All wholesale dealers in alcohol and all manufacturers, including pharmacists, using alcohol in their manufactured products, shall hereafter obtain a license from the Secretary of State, with the approval of the Governor, for which license a fee of two dollars (\$2.00) per annum shall be charged. (C. L. 1921, § 4636.)

133. Who May Sell and Buy—Requisition Blanks—Wholesaler's Report.—Wholesale dealers, so licensed, may sell, and licensed manufacturers, including pharmacists, and hospitals for laboratory purposes only, educational institutions, chemical laboratories, assayers and dealers in assayers' supplies, may purchase alcohol; provided, that upon any sale thereof, the purchaser shall execute, in triplicate, requisition blanks to be furnished by the Secretary of State, at cost, stating that the alcohol so purchased will not be resold, except as a component part of some manufactured article, and that no article ordinarily used as a beverage will be manufactured therefrom; one copy of which requisition shall be retained by the wholesaler, and one by the purchaser, for a period of two years and open to public inspection; the third copy of such requisition to be filed with the Secretary of State by the purchaser, within thirty days after such purchase. From time to time, upon request from the Governor, wholesalers shall prepare and file a report, based upon such requisitions, showing the amount, date and purchaser on each sale, and covering the period from the last report so filed. (Id. § 4637.)

134. Limit of Stock.—No wholesaler shall carry in stock alcohol in excess of five per cent of the value of his or its general merchandise stock; provided, that wholesalers who are manufacturers of products in which alcohol is a component part, may withdraw from their stock, alcohol in such quantities, from time to time, as may be necessary to meet their manufacturing requirements, but a record, open

to public inspection, shall be kept showing the date and amount of each such withdrawal, and no article ordinarily used as a beverage shall be manufactured therefrom. (Id. § 4638.)

135. Denatured and Bathing Alcohol—Formulas—Tests—Labels.—It shall be lawful for licensed wholesale or retail druggists to purchase and sell alcohol denaturized under either one of the two following formulæ:

(1) Tartar emetic, U. S. P.	1.00 gm. (58 grains)
Solution of formaldehyde	2.60 mls. ($\frac{1}{2}$ fl. oz.)
Distilled water	375.00 mls. (48 fl. oz.)
Alcohol	650.00 mls. (83 fl. oz.)

To make about 1,000.00 mls. (1 Gal.)

Dissolve the tartar emetic in the water, add the formaldehyde solution, then the alcohol and mix well. And to comply with the following test:

If 100 mls. of bathing alcohol prepared in accordance with this formula be evaporated to dryness on a waterbath and then heated in an airbath at 100 degrees C. for fifteen minutes or until all of the formaldehyde is dissipated, the residue obtained should respond to the tests of identification given under antimony and potassium tartrate in the U. S. P., and should require not less than five mls. of tenth-normal iodine V. S., when assayed according to the U. S. P. process, corresponding to not less than .083 gm. of tartar emetic per 100 mls. of bathing alcohol.

(2) Croton oil, U. S. P.	1 mil. (62 minims.)
Ether	19 mls. ($2\frac{1}{2}$ fl. oz.)
Formaldehyde solution, U. S. P.,	4 mls. ($\frac{1}{2}$ fl. oz.)
Alcohol, U. S. P.	976 mls. (125 fl. oz.)

To make about 1,000 mls. (1 gal.)

Dissolve the croton oil in the ether, then add the alcohol and formaldehyde and mix well. And to comply with the following test:

If 100 mls. of bathing alcohol prepared in accordance with this formula be evaporated on a waterbath until the alcohol and ether has [have] been dissipated, the residue dissolved in about 10 mls. of ether, filtered, the filtrate evaporated, on a waterbath, until the odor of ether is no longer perceptible, the oily residue, after heating in an airbath at 100 C. for fifteen minutes, should weigh not less than .085 gm. nor more than .100 gm. and correspond to the tests of croton oil as given by the U. S. P.; provided that such denatured alcohol shall bear the following form of label when sold or offered for sale:

BATHING ALCOHOL.

Formula No.

For External Use Only.

Poisonous if Taken Internally.

(Id. § 4639.)

136. Alcohol Defined—Permissible Sales.—The term alcohol as used in this act is hereby defined to mean 94.9 per cent alcohol or 99 per cent dehydrated alcohol, in either case meeting all the requirements and tests of the United States Pharmacopœia; and it shall be unlawful for any person, association or corporation to possess, purchase, sell or give away any other alcohol, except alcohol denaturized and labeled as in section 4 [4639] hereof provided, or to possess, purchase, sell or give away alcohol as herein defined in any other manner than as herein provided; provided, however, that this act shall not apply to wood alcohol, or to commercial denaturized alcohol complying with either of the two following formulæ:

(1) Ethyl alcohol	100 parts by volume.
Approved wood alcohol	10 parts by volume.
Approved benzine $\frac{1}{2}$ of	1 part by volume.
(2) Ethyl alcohol	100 parts by volume.
Approved wood alcohol	2 parts by volume.
Approved pyridin bases $\frac{1}{2}$ of	1 part by volume.

(Id. § 4640.)

137. Violations of Act—Penalty—Subsequent Offenses.—Any person, agent, employee, representative, manager, proprietor, pharmacist, physician, the member or members of any association, the officer or officers of any corporation, or any other

person who shall violate any of the provisions of this act, and any person, association or corporation, whose officer, agent, employee, representative or servant shall violate any of the provisions of this act shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months, or both such fine and imprisonment, in the discretion of the justice or court. Every second or subsequent offense, committed within five years of the first, by any of the persons herein designated, shall be deemed a felony, and upon conviction thereof, he shall be imprisoned in the State penitentiary, at hard labor, not less than one year and not more than three years; and if a corporation be so convicted, a second or subsequent time, it shall be fined in a sum of not less than one thousand nor more than five thousand dollars; and the license of any physician to practice medicine or the permit of any person to purchase or sell alcohol so convicted a second or subsequent time shall be forfeited, and none shall thereafter be granted such person within a period of five years following such second or subsequent conviction. A certified copy of the entry of judgment, or other proper court record, showing the former conviction of the defendant, from any justice, county or district court within this State, shall be conclusive proof of a former conviction. (Id. § 4641.)

Dangerous Caustic or Corrosive Substances.

138. "Dangerous Caustic or Corrosive Substances" Defined.—For the purpose of this act the term "dangerous caustic or corrosive substances" means each and all of the acids, alkalies and substances below:

(a) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten per centum or more;

(b) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten per centum or more. (L. 1925, c. 144, § 1.)

139. Require Conspicuous Label on Retail Package—Contents of Label—Name—Name and Address of Distributor—Marked Poison—Treatment for Injury.—Any retail parcel, package or container of any dangerous caustic or corrosive substance shall be and is hereby declared to be a misbranded parcel, package or container, unless containing a conspicuous, easily legible label or sticker, containing:

(a) The name of the article;

(b) The name and place of business of the manufacturer, packer, seller, or distributor;

(c) The word "Poison," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed Gothic capital letters, the letters to be not less than 24 point size unless there is on said label no other type so large, in which event the type shall be not smaller than the largest type on the label, and

(d) Directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance. (Id. § 2.)

140. Sending Misbranded Package Out of State, Prohibited—Proviso.—No person shall, for sale, barter, or exchange, send or carry, or pack or hold with intent to send or carry from the State of Colorado, into any other State, or into any territory, the District of Columbia, or any other place under the exclusive jurisdiction of the United States, any dangerous caustic or corrosive substance in a misbranded parcel, package, or container; provided, that this section shall not apply to any regularly established common carrier in the ordinary course of its business; nor to the packing, holding for export, or exporting to a foreign country, of any dangerous caustic or corrosive substance in parcels, packages or containers, branded in accordance with the specifications of the foreign purchaser, when not in conflict with the laws of said foreign country. (Id. § 3.)

141. Bringing Misbranded Package Into State, Prohibited—Proviso.—No person shall, for sale, barter or exchange, receive in the State of Colorado from any other State, or from any territory, the District of Columbia, or any other place under the exclusive jurisdiction of the United States, any dangerous caustic or corrosive substance in a misbranded parcel, package or container; provided, that this section shall not apply to any regularly established common carrier in the ordinary course of its business; nor to any broker receiving such substance in the ordinary course of his business, for export to a foreign country, in parcels, packages, or containers labeled in accordance with the specifications of the foreign purchaser, when not in conflict with the laws of the said foreign country. (Id. § 4.)

142. **Dealing in Misbranded Package in State, Prohibited.**—No person shall sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter, or exchange, in the State of Colorado any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container.* (Id. § 5.)

143. **Dangerous Substance in Misbranded Package Proceeded Against Wherever Found—Jurisdiction and Procedure of District Court—Destroyed or Sold—Proceeds to General State Fund—Redelivery to Owner on Giving Bond.**—Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container that is being sold, bartered, or exchanged, or held, displayed, or offered for sale, barter, or exchange, or for shipment or carriage to a foreign country, or to any other State, or to any territory, the District of Columbia, or any other place under the exclusive jurisdiction of the United States shall be liable to be proceeded against in any District Court within the jurisdiction of which the same is found and seized for confiscation by a process of libel; and if such substance is condemned as misbranded by said court, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds less the actual costs and charges shall be paid over to the General Fund of this State; but such substance shall not be sold contrary to the provisions of the laws of the State; provided, however, that upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof. (Id. § 6.)

144. **Violation of Act—Penalty.**—Any person violating the provisions of this act shall upon conviction thereof be punished by a fine of not more than two hundred dollars (\$200.00), or by imprisonment for not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 7.)

145. **Enforcement by Food and Drug Division—Brands and Labels Registered—If Prosecution, Submission of Brand or Label Immaterial.**—Any health officer or inspector of the food and drug division shall enforce the provisions of this act, and he is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this act, as may be submitted to him for that purpose and as may, in his judgment, conform to the requirements of this statute; provided, however, that in any prosecution under this act the fact that any brand or label involved in said prosecution has not been submitted to said health officer or inspector for approval, or if submitted, has not been approved by him, shall be immaterial. (Id. § 8.)

146. **District Attorney Prosecute.**—Every district attorney to whom there is presented, or who in any way procured, satisfactory evidence of any violation of the provisions of this act shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided. (Id. § 9.)

147. **Act—How Cited.**—This act may be cited as the "Colorado Caustic Alkali Act, 1925." (Id. § 10.)

148. **Act Apply After September 1, 1925.**—On and after September 1, 1925, any retail parcel, package or container of any dangerous caustic or corrosive substance shall be deemed a misbranded parcel, package or container, unless labeled in conformity with the provisions of this act. (Id. § 11.)

149. **Act Not Affect Past Violations.**—Nothing herein contained shall be construed as modifying or interfering with the institution or continuance of any prosecution based upon any violation of law committed before the passage of this act, nor with the enforcement of the penalties provided for any such violation. (Id. § 12.)

Insecticides and Fungicides.

150. **Insecticide Poisons—Adulteration—Analyses.**—It shall be deemed a violation of this act for any one to sell in Colorado, insecticide poisons such as Paris green, London purple, white arsenic, arsenate of lime, arsenate of lead, acetate of lead, arsenate of zinc, cyanide of potassium, hellebore, pyrethrum powder, or any other materials or preparations sold or offered for sale, for the control of insect pests or plant diseases, that are diluted or mixed with other substances, unless the kind and amount of the adulterations or mixtures are conspicuously printed in the English language upon each and every package sold. Upon all packages of arsenate of lead or arsenate of zinc sold in paste form, the percentage of water, by weight, must be guaranteed. The State Entomologist may inspect, examine and make

* So in the act.

analyses of insecticide, fungicide or other materials held or offered for sale within the State for the purpose of determining their purity, their strength and their value for the destruction of insects or plant diseases in any stage of their development. He shall have free access during all reasonable business hours upon or into any premises or structures to make examinations of insecticide or fungicide materials and upon tendering payment therefor at the current value, may take any sample or samples for examination, analyses, or tests, the results of which may be published for the information of the public. (C. L. 1921, § 3102.)

Pharmacy, Poisons and Narcotics.

151. State Board of Pharmacy—Qualifications of Members—Term—Vacancies.—From and after the passage of this act and biennially thereafter, the Colorado Pharmacal Association shall submit to the Governor of the State of Colorado the names of five registered pharmacists having at least ten years' practical experience as dispensing pharmacists in this State, and from this number the Governor shall appoint three who shall constitute a State Board of Pharmacy, who shall hold office for terms of six, four and two years, respectively, thereafter, and until their successors shall have been appointed and qualified. Thereafter all members shall be appointed for six years. In case of the resignation or removal from the State of any member of said board, or a vacancy occurring from any cause, the Governor shall appoint a registered pharmacist from the five names previously submitted to him to serve as a member of the board for the remainder of the unexpired term. (C. L. 1921, § 4580.)

152. Officers—Powers and Duties of Board—Notice of Examinations.—The board shall within thirty days after its appointment meet in the city of Denver, Colorado, and organize, and shall select a president, secretary and treasurer, who shall serve for a term of two years, and who shall perform the duties prescribed by the board. Meetings for the examination of applicants for registration, granting of certificates, and the transaction of other necessary business shall be held at least once every four months and at such time and place as may be fixed by the board; provided, that ten days' public notice of the time and place of each meeting at which there is to be an examination of candidates for registration shall be given. It shall be the duty of the board to receive all applications for examination and registration, submitted in proper form; to grant certificates to such persons as may be entitled to same under this act; to cause the prosecution of all persons violating any of the provisions of this act; to report annually to the Governor and the State Pharmacal Association upon the condition of pharmacy in the State of Colorado; which report shall furnish also a record of the proceedings of the board and the names of all persons registered under this act; to keep a book for registration in which shall be entered the names and places of business of all persons registered under this act, and showing under what particular section of this act each one was registered; and all other facts pertaining to the granting of certificates. The said board shall have power to make by-laws for the full and proper execution of its duties under this act; to prescribe the forms and methods of application and examination and registration; to demand and receive from applicants the fees herein provided, which shall be held by the board and applied to the payment of salaries and other necessary expenses incident to the full discharge of its duties. (Id. § 4581.)

153. When Board May Refuse or Revoke License.—The said board of Pharmacy shall not grant a license to any applicant if satisfied that the safety of the public health will be endangered by reason of the habits or the character of said applicant. If any person shall have obtained a license by misrepresentation or fraud, or shall have become unfit or incompetent by reason of negligence, habits or other cause to practice as a pharmacist or assistant pharmacist, the State Board of Pharmacy shall have the power to revoke such license after giving such person reasonable notice and opportunity to be heard; and if any licensee shall repeatedly violate any of the provisions of this act or the rules and requirements established by the Board of Pharmacy, such board may revoke his or her license upon sufficient evidence of such violation, in addition to any other punishment that may be imposed by law. The said Board of Pharmacy shall have power to inspect or employ inspectors of pharmacy to inspect during business hours all pharmacies, dispensaries, stores or places in which drugs and medicines and poisons are compounded, dispensed or retailed. (Id. § 4582.)

154. Salaries—Compensation—Reports—Bond.—The salaries of the respective members of said board shall be five dollars for each day of actual service, and all legitimate expenses incurred in the discharge of official duties. The board may employ such assistance as it may deem proper to investigate violations of this act,

enforce the provisions hereof, and to cause prosecutions for violations hereof, and to fix the compensation therefor, and pay the same out of funds in the hands of the board. The secretary of said board shall receive an additional salary to be fixed by the board and not to exceed five hundred dollars per annum. He shall pay to the treasurer at each meeting, or whenever the board may direct, such funds of the board as may be in his possession, and take the treasurer's receipt therefor; provided, that no part of the salaries and expenses of the board shall be paid out of the State treasury. In its annual reports to the Governor and the Colorado Pharmacal Association the board shall render an account of all moneys received or disbursed pursuant to this act. The secretary and treasurer shall each give such bond as said board shall from time to time direct. (Id. § 4583.)

155. Disposition of Funds.—On the first day of July of each year the said Board of Pharmacy shall pay into the treasury of the Colorado State Pharmacal Association all moneys then held by said board over and above the sum of three hundred dollars (\$300), and which have been received by said board as penalties for violations of this act, or as registration fees for the expiring year; provided, that the moneys thus paid to the said pharmacal association shall be held by said association as a fund for educational and scientific purposes. (Id. § 4584.)

156. Board May Administer Oaths and Summon Witnesses—Secretary Aid Enforcement of Act.—Said board shall have authority to administer oaths, to summon witnesses and to take testimony in any matters relating to its duties. It shall be the duty of the secretary, under the direction of the board, personally or by deputy, to aid in the enforcement of this act, and prosecution of all persons charged with violating any of its provisions. (Id. § 4585.)

157. Examination Fee—When Entitled to Certificate—Permits.—Every person seeking registration under this act whose registration is not otherwise provided for shall make application in the manner and form prescribed by the board and deposit with the secretary of the board a fee of ten dollars, and present himself or herself at the time and place directed by the board, and after passing a satisfactory examination he or she shall be granted an appropriate certificate setting forth his or her particular qualifications; provided, that in case of failure of the applicant to pass a satisfactory examination he or she shall be entitled to a second examination without charge at the next succeeding meeting of the board; provided, also, that a person presenting a certificate of registration from a similar board of another State of the United States, having requirements for registration equivalent to those of Colorado, may be granted a certificate without examination, upon payment of a fee of fifteen dollars. (Id. § 4586.)

158. Annual Registration—Renewal Fee—Penalty for Failure to Register Annually.—Every registered pharmacist, or assistant pharmacist, who desires to continue in the pursuit of pharmacy shall annually after the expiration of the first year of registration, on or before the second day of July of each year, pay to the secretary of the Board of Pharmacy a renewal fee to be fixed by the board, which shall not exceed two dollars (\$2.00), in return for which a renewal of registration shall be issued. If any person shall fail or neglect to procure his annual registration as herein specified, notice of such failure having been mailed to his post office address, as obtained from the books of the secretary, the board may, after the expiration of thirty (30) days deprive him or her of his or her registration. In order for such persons to regain registration it will be necessary for them to apply and pass the examination as provided in section 7 of this act [4586]. (Id. § 4587.)

159. Certificate Displayed in Place of Business.—Every person registered under this act shall receive from the said board a proper certificate which shall be conspicuously displayed at all times in his or her place of business. (Id. § 4588.)

160 Registered Pharmacist Defined.—A registered pharmacist is defined to be a person registered as such in the State of Colorado on July 2, 1906, who has been authorized to conduct or manage a pharmacy in the State of Colorado, and all persons over twenty-one years of age having four years' practical experience in compounding and dispensing physicians' prescriptions, and giving sufficient evidence of possessing an education equivalent to the course prescribed by a grammar school and who shall pass a satisfactory examination before the State Board of Pharmacy. (Id. § 4589.)

161. Assistant Pharmacist Defined—Restrictions—License Without Examination.—An assistant pharmacist is defined to be a person regularly registered as a licentiate in pharmacy in the State of Colorado on July 2, 1906, who has been authorized to assist in the dispensing and compounding of physicians' prescriptions under the supervision of a properly qualified person, and all persons over eighteen (18) years of age having three years' practical experience in the compounding and dispensing of physicians' prescriptions who shall pass such an examination as the State Board of Pharmacy shall require. Assistant pharmacists shall

not be permitted to conduct or manage a pharmacy on their own account, nor assume the management of such business for others in cities of over 500 population; provided, that any registered pharmacist or graduate in pharmacy from any State in the United States or any country in Europe, upon presenting his diploma or certificate of registration, to the secretary of the board, may be entitled to license of assistant pharmacist without examination, upon the payment of a fee of ten dollars (\$10). (Id. § 4590.)

162. Apprentice—Registered Apprentice—Fee for Registration.—Every licensed pharmacist may take into his employ an apprentice for the purpose of learning pharmacy, and shall report the same to the board within three months thereafter. The board may issue to such apprentice, when his character and qualifications are satisfactory, a certificate of registration as a registered apprentice, and the date of the certificate shall be proof of the time when his or her practical experience began. The fee for such registration shall be fifty (50) cents. (Id. § 4591.)

163. Actual Name of Proprietor Displayed on Premises—Fees for Registration of Store.—Every person, partnership, association or corporation doing business as proprietor or proprietors of a place in which drugs and medicines or poisons are retailed or physicians' prescriptions are compounded or dispensed shall cause the actual name of such proprietor or proprietors to be displayed upon a sign which shall be kept conspicuously placed upon the exterior of the premises where such business is conducted. The name or names so displayed upon the sign shall be deemed presumptive evidence of the ownership of such pharmacy, drug store or business, and every such pharmacy, store or dispensary shall, after satisfying the board that same is conducted according to law, pay the sum of fifty (50) cents a year to the secretary of said board, upon which the secretary shall register said pharmacy, store or dispensary, and furnish the proprietor or manager thereof with license. (Id. § 4592.)

164. Penalty for Compounding Drugs Unless Registered—Exceptions.—Any proprietor of a pharmacy or other person who shall permit the compounding or dispensing of physicians' prescriptions or the vending of drugs, medicines or pharmaceutical preparations in his or her store or place of business except by registered pharmacist or pharmacists within the meaning of this act, or by a registered apprentice under the supervision of a registered pharmacist, or who shall fail or neglect to procure his or her annual registration; or any person who shall make any false representation to procure for himself, or for another, registration under this act shall be deemed guilty of a misdemeanor; provided, that nothing herein contained shall interfere with the business of those merchants who keep or sell such poisons, acids or chemicals as are regularly used in agriculture, mining and the arts, when kept and sold for such purposes only, in sealed and plainly labeled packages; provided, also, that nothing in this act shall in any manner interfere with the business of a physician in regular practice to prevent him from supplying to his or her patients such articles as may to him seem proper; nor with the marketing or vending of any proprietary or patent medicine, nor with the exclusive wholesale business of any store except as hereinafter provided; provided, further, that nothing in this act shall in any manner interfere with the business of merchants in towns having less than five hundred (500) inhabitants in which there is no licensed pharmacy, to sell or vend such medicines, compounds or chemicals as are required by the general public. (Id. § 4593.)

165. Others Than Pharmacists Precluded from Selling Drugs in Schedules A and B.—The proprietors of establishments other than pharmacies and where physicians' prescriptions are not dispensed, as well as itinerant vendors of merchandise shall not be permitted to sell or give away or keep on sale any of the drugs mentioned or included in schedules A and B of this act, or any patented or proprietary preparation for medicinal, dietetic or toilet purposes, known to contain in large or small proportions any such ingredients. It shall be the duty of the board, when called upon, to furnish dealers with a list of such articles, preparations and compounds the sale of which is prohibited or regulated by this section. Any person who shall make any false representation about the character or composition of any preparation or compound with the object of deceiving the officers of the State or defeating the purposes of this act shall be deemed guilty of a misdemeanor. (Id. § 4594.)

166. Unlawful to Use Title of Registered Pharmacist Without Authority.—Any person who shall unlawfully and without authority take, use or exhibit the title of registered pharmacist (Ph. R.), graduate in pharmacy (Ph. G.), or assistant pharmacist shall be deemed guilty of a misdemeanor. (Id. § 4595.)

167. Registered Pharmacist, Etc., Exempt from Jury Service.—All persons registered under the provisions of this act and actively engaged in the practice of pharmacy shall be exempt from serving as jurors. (Id. § 4596.)

168. Disposition of Fines and Penalties.—All fines or penalties collected for the violation of any of the provisions of this act shall be paid to the State Board of Pharmacy, to be held by said board as hereinafter provided. (Id. § 4597.)

169. Record of Poisons Sold—Labeling Poisons Sold—Schedules A and B.—Every person who shall dispose of or sell at retail or furnish any poisons included under schedule A shall, before delivering same, make or cause to be made, an entry in a book kept for the purpose, to be furnished by the State Board of Pharmacy, stating the date of sale, the name and address of the purchaser, the name and quantity of poison, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser, such book to be always open for inspection by the proper authorities and to be preserved for at least five years after the last entry. He shall not deliver any of the said poisons without satisfying himself that the purchaser is aware of its poisonous character, and the said poison is to be used for a legitimate purpose. This section shall not apply to the dispensing of medicines or poisons on physicians' prescriptions. Articles named in schedule B shall only be dispensed with the red caution label affixed, with the word "poison" plainly printed thereon.

Schedule A. Arsenic, hydrocyanic acid, and its salts, cocaine, morphine, strychnia, and all other poisonous vegetable alkaloids and their salts, oil of bitter almonds, opium and its preparations, except paregoric and such others as contain less than two (2) grains to the ounce.

Schedule B. Aconite, belladonna, cantharides, colchicum, conium, cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of tansy, oil of pennyroyal, oil of savin, veratrum viride, and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloral hydrate, chloroform, corrosive sublimate, creosote, croton oil, mineral acids, oxalic acid, Paris green, salts of lead, salts of zinc, white hellebore. (Id. § 4598.)

170. Penalty for Violation of Act.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than two hundred and fifty dollars (\$250), or by imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment in the discretion of the court. (Id. § 4599.)

171. Giving False Name by Purchaser—Penalty.—Any person, who in making application to purchase and receive, or purchase or receive, any of the poisons, substances or liquids mentioned in schedules A and B, appended to this act, shall give a false or fictitious name or address to the apothecary, druggist, or other person, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined a sum not exceeding five hundred dollars or imprisonment in the county jail not exceeding six months, or both such fine and imprisonment, in the discretion of the judge.

Schedule A. Arsenic and its preparations, prussic acid, cyanides of potassium, and all metallic cyanides, strychnine, and all poisonous vegetable alkaloids and their salts, aconite and its preparations, and tartar emetic.

Schedule B. Belladonna, conium, cantharides, corrosive sublimate, henbane, nux vomica, savin oil, ergot, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, oxalic acid, opium, and all preparations of opium, except paregoric and other preparations of opium containing less than two grains to the ounce. (Id. § 4600.)

172. Anhalonium, or Peyote, Declared Dangerous.—It is hereby declared in the exercise of the police and sovereign power of the State of Colorado that the use of anhalonium, or peyote, within this State is dangerous to the life, liberty, property, health, education, morals, and safety of the citizens of this State, and is inconsistent with the good order, peace and safety of the State. (Id. § 4601.)

173. Sale, Gift or Barter Unlawful.—No person, association, or corporation shall, within this State, use or sell or keep for sale, or give away, dispose of, exchange, barter, or otherwise furnish any anhalonium, or peyote, or any compound, manufacture, derivative, or preparation thereof, to any person whomsoever; and no person, association, or corporation shall import into this State any anhalonium, or peyote, or any compound, manufacture, derivative, or preparation thereof, for sale, exchange, barter, or gift; and no person, association, or corporation shall, within this State, offer any anhalonium, or peyote, or any compound, manufacture, derivative, or preparation thereof, for gift, use, sale, barter, or trade. (Id. § 4602.)

174. Violation of Act—Penalty.—Any person, agent, employee, representative, proprietor, the member or members of any association, the officer or officers of any corporation, or any other person, who shall violate any of the provisions of this act, and any person, association, or corporation whose officer, agent, employee, representative, or servant shall violate any of the provisions of this act, shall, for

the first offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine of not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300), or by imprisonment in the county jail not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment, in the discretion of the court. Every second and subsequent offense committed within five (5) years of the first by any of the persons herein designated, shall be deemed a felony, and, upon conviction thereof, he shall be imprisoned in the State penitentiary at hard labor not less than one year nor more than three years; and if a corporation be so convicted a second time, it shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000). A certified copy of the entry or [of] judgment or other proper court records showing the conviction of the defendant from any justice, county, or District Court within this State, shall be conclusive proof of a former conviction. (Id. § 4603.)

175. Liberal Construction of Act.—Whenever this act, or any part thereof, is interpreted by any court, it shall be liberally construed by such court. (Id. § 4604.)

176. Declaration of Legislative Intent.—If any part, section, subsection, sentence, clause, phrase, word or words, of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The General Assembly hereby declares that it would have passed this act and each part, section, subsection, sentence, clause, phrase, word or words, irrespective of the fact that any one or more other parts, sections, subsections, sentences, clauses, phrases, or words be declared unconstitutional. (Id. § 4605.)

177. Cocaine and Eucaine—Disposition Regulated.—It shall be unlawful for any person to sell or offer for sale, give away or offer to give away, buy or offer to buy, receive or offer to receive, any cocaine or its salts, alpha or beta eucaine and their salts, any compound mixture or solution or other product whatsoever of which cocaine or any of its salts, alpha or beta eucaine or any of their salts is a constituent or ingredient, except as hereinafter provided. (Id. § 4606.)

178. Registered Pharmacist—Dispense on Prescription.—Any registered pharmacist may dispense any drug, compound, mixture or solution or other product mentioned in section 1 of this act [4606], upon a bona fide written prescription of a duly registered physician, which prescription shall be kept on file for five years, in the pharmacy, drug store, dispensary, or sanitarium, or hospital in which the same was dispensed, and said prescription shall be filled but once, and no copy shall be taken by or furnished to any person except the same be required for the enforcement of this act. (Id. § 4607.)

179. Druggist—Sale to Physicians, Etc.—Record.—Any wholesale or retail druggist actively engaged in such business may sell any article mentioned in section 1 of this act [4606] to any other wholesale or retail druggist actively engaged in such business, or to duly registered physicians, veterinaries, and dentists actively engaged in the practice of their respective professions provided that at the time of making sale, entry shall be made in a book kept exclusively for that purpose, of the name of purchaser, date of sale, quantity, name of article sold, and name of person by whom the sale is made. Inspection of said book, at reasonable times, shall be permitted to all health and peace officers in the discharge of their duties, and said books shall be preserved for a period of five years after date of last entry made. (Id. § 4608.)

180. Administration to Patients—Record.—It shall be unlawful for any physician, veterinarian, or dentist to furnish to any person, any cocaine or its salts, alpha or beta eucaine, or their salts, or any compound mixture or solution or other product whatsoever of which cocaine or any of its salts, or alpha or beta eucaine or any of their salts is a constituent or ingredient, except in such quantity as may be necessarily employed upon the patient at a time and place of treatment, and it shall be the duty of every physician, and dentist to cause a record to be made in a book kept exclusively for that purpose, of the name of the patient, date of treatment, the quantity, name of articles used, and the name of person by whom the treatment was administered. The provisions of this section shall not apply to physicians whose prescriptions containing said drugs are kept on file by a registered pharmacist. Inspection of such record, at reasonable times, shall be permitted to all peace and health officers in the discharge of their duties. (Id. § 4609.)

181. Prescription—Contents.—It shall be unlawful for any person to write or furnish, dispense or compound any prescription for cocaine, alpha or beta eucaine and their salts, unless it shall bear the signature of prescriber, name of patient, and date, and shall be for a quantity not in excess of 30 grains in all of the aforesaid substances. (Id. § 4610.)

182. Violation of Act—Penalty—Jurisdiction of Justice.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined for each offense not less than \$25.00 or more than \$300.00,

or imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court. Justices of the peace, in their respective counties, shall have jurisdiction of any violation of the provisions of this act. (Id. § 4611.)

183. Sale of Opium and Coca Leaves Unlawful.—It shall be unlawful for any person to sell, barter, exchange, distribute, give away or in any manner dispose of, at retail or to a consumer, opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, within this State, except upon the original written prescription of a duly licensed physician, dentist or veterinary surgeon, and pursuant to all the requirements of this act. (Id. § 4612.)

184. Small Quantities Sold in Good Faith.—The provisions of this act shall not be construed to apply to the sale, barter, exchange, distribution, giving away, dispensing or the disposition in any manner, or the possession within this State, of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce; or if solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them; provided, that such remedies are sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentment and provisions of this act. The provisions of this act shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine. (Id. § 4613.)

185. Written Prescriptions Defined—Duties Relating Thereto.—The original written prescription required by the provisions of section 1 of this act [4612] shall be signed in full by the duly licensed physician, dentist, or veterinary surgeon issuing it and dated as of the day on which so signed and shall also indicate the office address, office hours, license number and telephone number of such duly licensed physician, dentist or veterinary surgeon, the name and address of the person to whom such written prescription is issued, and, when given by a duly licensed veterinary surgeon, shall indicate, in addition, the kind of animal for the treatment of which such written prescription is issued. No written prescription containing more than four grains of morphine, sixteen grains of opium, two grains of heroin, eight grains of codeine, or two grains of cocaine, shall be filled unless the due issuance and correctness thereof be first verified. No written prescription shall be filled, without sufficient verification, if, for any reason, the proper issuance and presentation thereof appears questionable. Such verification may be made by telephone, or by some other sufficient method. Such written prescription shall be exactly filled as soon as received, or as soon thereafter as practicable, but no such written prescription shall be filled more than ten days subsequent to the date on which it was signed. The person filling such written prescription shall write or indicate thereon the date of filling and the date when and the name and address of the person to whom he delivers the drugs so prescribed. Such written prescriptions shall be filled but once and shall not be copied, except for the purpose of record by the duly licensed physician, dentist, or veterinary surgeon issuing it or by the person filling it, and shall be preserved on file, receiving a consecutive file number, by the person filling it, for a period of two years from the day on which such prescription is filled, in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 8 of this act [4619]. (Id. § 4614.)

186. Written Prescription to be Issued in Course of Professional Practice Only.—It shall be unlawful for any duly licensed physician, dentist or veterinary surgeon to issue the written prescription required by section 1 of this act [4612] except in good faith and in the course of his professional practice for medicinal purposes only. It shall be unlawful for any duly licensed veterinary surgeon to prescribe any of the drugs mentioned in this act for the treatment of or consumption by a human being. (Id. § 4615.)

187. Dispensing by a Physician, Dentist or Veterinary Surgeon—Restricted.—A duly licensed physician, dentist or veterinary surgeon may dispense, distribute or in any manner give, within this State, to his patient any of the drugs mentioned in this act, provided such dispensing, distribution or giving is made in good faith and in the course of his professional practice for medicinal purposes only; provided, further, that such duly licensed physician, dentist or veterinary surgeon shall keep a record of all such drugs so dispensed distributed, or given, showing, in each instance, the amount so dispensed, distributed or given, the date when, and the name and address of the patient to whom such drugs are so dispensed, distributed or given, except such drugs as may be dispensed, distributed or given to a patient upon whom

such duly licensed physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing, distributing, or giving such drugs, subject to the inspection provided for in section 8 of this act [4619]. It shall be unlawful for any duly licensed veterinary surgeon to dispense, distribute or give any of the drugs mentioned in this act for the treatment of or consumption by a human being. (Id. § 4616.)

188. Sales at Wholesale—Upon Official Order Forms Only.—Except as provided in the preceding sections of this act, it shall be unlawful for any person to sell, barter, exchange, distribute, give away or in any manner dispose of, within this State, the drugs mentioned in this act, except in pursuance of a written order, in the form defined in this section, of the person to whom any such drug is sold, bartered, exchanged, distributed, given away or in any manner disposed of. Every person who shall accept any such order, and in pursuance thereof shall sell, barter, exchange, distribute, give away or in any manner dispose of any of the aforesaid drugs, shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees and officials mentioned in section 8 of this act [4619]. Every person who shall give an order, as in this section provided, to any other person for any of the aforesaid drugs, shall, at or before the time of giving such order, make or cause to be made a duplicate thereof, in the form defined in this section, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees and officials mentioned in section 8 of this act [4619]. The official order forms and the duplicate copies thereof issued by the Commissioner of Internal Revenue of the United States Treasury Department under the act of congress approved December 17th, 1914, entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons, who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," shall be the official order forms and duplicate copies thereof required by this section. It shall be unlawful for any person to obtain by means of said order forms, any of the aforesaid drugs for any purpose other than the use, sale or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession, pursuant to the intentment of this act. The provisions of this section requiring official order forms shall not apply—(a) To the sale, exportation, shipment or delivery of any of the aforesaid drugs by any person within this State to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by the said country, pursuant to such regulations as are promulgated from time to time by the Secretary of State of the United States. (b) To the sale, barter, exchange, or giving away of any of the aforesaid drugs to any officer of the United States government or of any State, territorial, district, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the army, and navy, the public health service, and the government, State, territorial, district, county, or municipal or insular hospitals or prisons. (Id. § 4617.)

189. Record of Receipts.—Any person who produces, manufactures, compounds, deals in, dispenses, sells, distributes, gives away, or in any manner disposes of, within this State, any of the drugs mentioned in this act, shall, whenever required so to do by the Department of Health of this State, render to said department a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in this State during such period immediately preceding the demand of the said department not exceeding three months, as the said department may fix and determine; the names of the persons from whom said drugs were received; the quantity in each instance received from each of such persons and the date when received. (Id. § 4618.)

190. Inspection of Records.—The order forms and duplicate copies thereof, the prescriptions, and other records required to be preserved under the provisions of sections 3, 5 and 6 of this act [4614, 4616 and 4617], and the statements or returns filed with the Department of Health under the provisions of section 7 of this act [4618], shall be open to inspection by the Department of Health through its duly authorized officers, agents and employees, and by such officers, agents or employees of any organized municipality within this State as shall be duly charged with the enforcement of any municipal ordinance, or provisions regulating the sale, prescribing, dispensing, dealing in, or distribution of the drugs mentioned in this act, and, also, by the officers, agents and employees of the United States Treasury Department duly authorized to make similar inspections under the act of congress approved December 17th, 1914, hereinbefore mentioned. Any such officer, agent or employee who shall disclose or use the information contained in said statements or returns, or in said

order forms or duplicate copies thereof, or in the other records mentioned in this section, except as herein expressly provided, and except for the purpose of enforcing the provisions of this act or the act of Congress approved December 17th, 1914, hereinbefore mentioned, and except for the purpose of enforcing any ordinance of any organized municipality within this State, regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs, and except in the public interest, unless directed by a court, shall, on conviction, be fined or imprisoned as provided by section 23 of this act [4634]. (Id. § 4619.)

191. Habitual Users—Treatment Recorded.—A duly licensed physician who, in the course of his professional practice, and not for the purpose of evading the provisions of this act, prescribes for, dispenses or in any manner gives any of the drugs mentioned in this act to a patient known to him as an habitual user of such drugs shall keep a record of all such drugs so prescribed, dispensed or given, showing, in each instance, the amount so prescribed, dispensed or given, the date when, and the name and address of the patient for or to whom such drugs are so prescribed, dispensed or given, which record shall be preserved for a period of two years from the date of such prescribing, dispensing or giving in such a manner as to be readily accessible to inspection by the Department of Health. (Id. § 4620.)

192. Habitual Users—Commitment.—Whenever a complaint shall be made in any police or municipal court, justice of the peace court, county or District Court that any person is addicted to the use of drugs mentioned in this act in a manner contrary to the public welfare, and such use is not prescribed, directed, or approved by a duly licensed physician acting in the course of his professional practice pursuant to the provisions of this act, and such judge or court, after a fair hearing held upon a reasonable notice, is satisfied that the complaint is sufficiently founded, he may commit such person to a State, county or city hospital or institution, or to the common jail of the city or county. Whenever it shall appear to any magistrate, judge or court that such person is no longer addicted to the use of the aforesaid drugs in a manner contrary to the public welfare, or in his discretion, he may order a discharge from such commitment. The provisions of this section shall not be construed to prohibit any person committed to any institution or jail under its provisions from appealing to any court having jurisdiction for a review of the sufficiency of the evidence upon which the commitment was made. (Id. § 4621.)

193. Revocation of License of Habitual User.—The board of officers of this State duly empowered to issue a license to a physician, dentist, veterinary surgeon, pharmacist or nurse, authorizing the practice of his profession in this State, may, at any time, and after a fair hearing held upon a reasonable notice, revoke such license upon the production of sufficient evidence that the licensee is addicted to the use of the drugs mentioned in this act in a manner contrary to the public welfare. Whenever it shall appear to such board or officers that such physician, dentist, veterinary surgeon, pharmacist or nurse is no longer addicted to the use of the aforesaid drugs in a manner contrary to the public welfare they may re-issue said license. (Id. § 4622.)

194. Revocation of License After Conviction.—A duly licensed physician, dentist, veterinary surgeon, pharmacist or nurse duly convicted of a substantial violation of this act shall be liable to a revocation of his license by the board or officers of this State, duly empowered to issue such license, after a fair hearing held upon a reasonable notice, provided such revocation shall be in the public interest. Such board or officers may, in their discretion, re-issue such license. (Id. § 4623.)

195. Unlawful Delivery Prohibited.—It shall be unlawful for any person to send, ship, carry or deliver any of the aforesaid drugs within this State in a manner contrary to the provisions of this act; provided, that nothing contained in this section shall be construed to apply to the delivery of the aforesaid drugs to common carriers or warehousemen, provided the requirements of this act are in all other respects complied with; or to the handling of the aforesaid drugs by any employee or agent, acting within the scope of his employment or agency, or any person dealing in such drugs pursuant to all the requirements of this act; or to the delivery of the aforesaid drugs by a duly licensed physician, dentist or veterinary surgeon to a nurse for administration to his patient under the direction and supervision of such duly licensed physician, dentist or veterinary surgeon in the course of his professional practice. (Id. § 4624.)

196. Unlawful Possession Defined.—It shall be unlawful for any person to have in his possession or under his control any of the drugs mentioned in this act, if such possession or control is obtained in a manner contrary to the provisions of this act; and such possession or control shall be presumptive evidence of a violation of this act; provided, that this section shall not apply to the possession or control of the aforesaid drugs by any employee or agent, acting within the scope of his employment or agency, of any person dealing in such drugs pursuant to all the require-

ments of this act, and such possession or control does not operate to evade any of the provisions or the intendment of this act; or to the possession or control by a nurse, for medicinal treatment only and not on his own account, acting under the supervision and direction of a duly licensed physician, dentist or veterinary surgeon engaged in the legitimate practice of his profession; or to the possession or control of the aforesaid drugs by any United States, State, county, municipal or other duly authorized public officer or official who has such possession or control of the aforesaid drugs [or] by a warehouseman or a common carrier holding such possession or control under the direction of a person who has received such drugs pursuant to the requirements of this act; provided, further, that it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information or indictment, or other writ or proceeding laid or brought under this act, and the burden of proof of any such exemption shall be upon the defendant. (Id. § 4625.)

197. Search Warrant.—If any person make an affidavit before any justice of the peace, or judge of any county or District Court, stating that he has reason to and does believe that any person has in his possession or under his control any of the drugs mentioned in this act, within the jurisdiction of such justice or court, and describing in such affidavit the person, premises, wagon, automobile, vehicle, contrivance, thing or device to be searched, then such justice or the judge of such court, shall issue a warrant to any officer which the complainant may designate having power to serve original process, commanding such officer to search the person, premises, wagon, automobile, vehicle, contrivance, thing or device described in such affidavit. Such warrant shall be substantially as follows:

State of Colorado, County of ss.

THE PEOPLE OF THE STATE OF COLORADO TO

..... Greeting.

Whereas, There has been filed with the undersigned an affidavit of which the following is a copy:

(Here copy the affidavit.)

THEREFORE, YOU ARE HEREBY COMMANDED, in the name of the people of the State of Colorado, forthwith, together with the necessary and proper assistance to search (Here describe the person, place or thing mentioned in the affidavit.) of the said situate or being in the of in the county of aforesaid, and there diligently search for the said drugs, and that you bring the same or any part thereof, found in such search, together with such vessels in which such drugs are found and the implements and furniture used in connection therewith, forthwith before me, to be disposed of and dealt with according to law.

Given under my hand and seal this day of
....., A. D. 19.....

.....
Judge of the Court.

or
Justice of the Peace.

The officer charged with the execution of said warrant may, when necessary to obtain entrance, or when entrance has been refused, break open any premises, wagon, automobile, vehicle, contrivance, thing or device which by said warrant he is directed to search; and such officer shall have the right to use such reasonable force as may be necessary to search any person whom by said warrant he is directed to search. (Id. § 4626.)

198. Duty of Officer.—If any of the drugs mentioned in this act are found on said person, or on or in any such place, said officer shall seize the same with the vessels in which they are contained and all implements and furniture used or kept for such illegal possession or control, and them safely keep, and make immediate return on such warrant. Such drugs, vessels, implements and furniture shall be held subject to the order of the justice or the judge of the court issuing said warrant, as evidence in the prosecution of any case for the violation of any of the provisions of this act. Such drugs, vessels, implements and furniture so seized shall not be taken from the custody of any officer seizing or holding the same, by a writ of replevin or other process, while the proceedings relating thereto are pending. Final judgment of conviction in such proceedings shall be, in all cases, a bar to any and all suits for the recovery of any drugs seized, or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof; and judgment shall be entered finding such drugs to be unlawful and directing their destruction, and the said vessels, implements and furniture shall be likewise ordered destroyed, in the discretion of the justice or court; and the officer so ordered shall forthwith destroy same. If no person is in possession of the premises where such

drugs are found, the officer seizing such drugs shall post in a conspicuous place on such premises, a copy of his warrant, and if at the time fixed for said hearing, or within thirty days thereafter, no person appears, said justice of the peace or court shall order such drugs destroyed. (Id. § 4627.)

199. Officers Search.—Any sheriff, deputy sheriff, constable, health officer, or any municipal officer designated by ordinance, acting within his jurisdiction, having personal knowledge or reasonable information that any of the drugs mentioned in this act are kept in violation of law by or on any person or in any place, shall search such suspected person or place without a warrant, and without any affidavit being filed, and if such officer find upon the person or the premises such drugs, he shall seize the same, and arrest any person or persons in charge of such place or on whom such drugs are found; and shall take such person or persons with such drugs so seized forthwith, or as soon as convenient, before a justice of the peace or judge of any court in the county in which such seizure is made, having jurisdiction as herein provided, to try cases for a violation of this act, and such officer shall without delay make and file a complaint for such violation of law as the evidence justifies. It shall be lawful for officers in executing the duties imposed upon them by this section, to break open doors or other enclosures for the purpose of obtaining possession of any such drugs, vessels, implements and furniture; and to use such reasonable force as may be necessary to search any such suspected person. (Id. § 4628.)

200. Rules.—The rules and regulations made by the commissioner of internal Revenue with the approval of the Secretary of the Treasury for carrying into effect the act of Congress approved December 17, 1914, hereinbefore mentioned, shall, so far as applicable, be adopted for the enforcement of this act. (Id. § 4629.)

201. Municipality May Enact.—Any municipality may enact ordinances in conformity with the provisions of this act. (Id. § 4630.)

202. Person Defined.—The word "person" as used in this act shall be construed to mean and include a partnership, association, company or corporation, as well as a natural person. (Id. § 4631.)

203. Enforcement.—The state board of health shall be charged with the duty of enforcing all of the provisions of this act, and in so doing shall work in conjunction with the district attorneys, health commissioners, sheriffs, and other peace and health officers of the State, and officers of the United States Revenue Department. (Id. § 4632.)

204. Jurisdiction of Courts.—Justices of the peace and county courts in their respective counties shall have jurisdiction over all violations of this act which are declared herein to be misdemeanors; and district courts in their respective districts shall have jurisdiction over all civil suits arising under this act, except as in this act provided, and over all violations of this act. (Id. § 4633.)

205. Penalties.—Any person, agent, employe, representative, manager, proprietor, pharmacist, physician, the member or members of any association, the officer or officers of any corporation, or any other person who shall violate any of the provisions of this act, and any person, association or corporation, whose officer, agent, employee, representative or servant shall violate any of the provisions of this act, shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months, or both such fine and imprisonment, in the discretion of the justice or court. Every second and subsequent offense, committed within five years of the first, by any of the persons herein designated, shall be deemed a felony, and upon conviction thereof, he shall be imprisoned in the State penitentiary, at hard labor, not less than one year and not more than three years; and if a corporation be so convicted, a second or subsequent time, it shall be fined in a sum of not less than one thousand nor more than five thousand dollars; and the license of any physician to practice medicine or the permit of any person to purchase or sell any of the drugs mentioned in this act so convicted a second or subsequent time shall be forfeited, and none shall thereafter be granted such person within a period of five years following such second or subsequent conviction. A certified copy of the entry of judgment, or other proper court record, showing the former conviction of the defendant, from any justice, county or District Court within this State, shall be conclusive proof of a former conviction. (Id. § 4634.)

206. Declaration of Legislative Intent.—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The General Assembly hereby declares that it would have passed the act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. (Id. § 4635.)

207. Sale of Poison Without Marking—Penalty.—Every apothecary, druggist or other person who shall sell and deliver at retail any arsenic, corrosive sublimate, prussic acid or any other substance or liquid usually denominated poisonous without having the word "poison" and the true name thereof and the name of some simple antidote, if any is known, written or printed upon the label attached to the vial, box or parcel containing the same, shall be punished by a fine, not exceeding one hundred dollars. (Id. § 964.)

NOTE: For penalty see No. 130.

208. Furnishing Drugs or Liquor to Convicts—Penalty.—Any person who shall furnish, or attempt to furnish, or aid or assist in furnishing or attempting to furnish, to any prisoner confined in the penitentiary, or restrained on or in any ranch, farm or camp owned, operated or maintained by the State of Colorado, or by authority thereof, or at any place whatsoever, any morphine, cocaine, codeine, or other such habit-forming drug, or any intoxicating liquor, shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the State penitentiary not more than five years. Knowingly leaving or causing to be left any such article where it may be obtained by any such convict shall be held to be, within the meaning of this section, the furnishing such article to such convict. (Id. § 6803.)

Serum, Antitoxin, Etc.

209. Report of Antitoxin Products Sold.—It shall be the duty of all those engaged in selling, handling or manufacture of drugs, sera, antitoxin, vaccines, or other pharmaceutical products, to make a report to the local board of health of all antitoxin sold by them, stating to whom such antitoxin was sold and the date on which it was sold; if purchased upon a prescription of a physician, the name of the purchaser as well as the name of the physician ordering the antitoxin. Such reports shall be made within twelve (12) hours of the date of sale. (C. L. 1921, § 937.)

210. Violation of Two Preceding Sections.—Any person failing to discharge and perform any of the acts and duties imposed by sections forty-six and forty-seven of this act [936* and 937], shall, for every such failure be deemed guilty of a misdemeanor, and upon conviction thereof be fined in a sum of not less than five nor more than twenty dollars. (Id. § 938.)

Venereal Disease Drugs.

211. Remedies—Necessity for Prescription—Druggist's Report.—No medicine, remedy or preparation of any kind for the relief or cure of any of said venereal diseases, shall be sold by any one within the State of Colorado, except upon the original written prescription of a licensed, practicing physician in Colorado, which prescription shall bear the name and address of the prescribing physician and the name of the municipality or health district in which the patient resides.

The said prescription shall not be refilled nor copy given, except to the proper health officer or on his order, shall be subjected to inspection by authorized health officers and kept on file for at least two years.

No prescription shall be made out or professional services rendered by any physician or other person in case of venereal disease, unless the name, address and occupation of the patient is known. Any person applying to any physician, pharmacist, hospital or sanitarium for treatment, medicine or hospital care in case of venereal disease, who shall falsely report to any physician, pharmacist, hospital or sanitarium the name, address or occupation of the person having such disease or the person for whom the prescription or remedy is intended, shall be deemed to have violated the provisions of this act. (C. L. 1921, § 1078, as amended, L. 1925, c. 146, § 2.)

212. Violation of Act—Penalty.—Any person, firm or corporation violating any of the provisions of this act or any lawful rule or regulation made by the State Board of Health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any State, county, or municipal health officer, pursuant to the authority granted in this act, shall, upon conviction, be fined in a sum not to exceed three hundred dollars or imprisonment not exceeding ninety days or both fine and imprisonment at the discretion of the court. (C. L. 1921, § 1082.)

212a. Unlawful to Advertise Cures for Sexual Disease—Except.—It shall be unlawful for any person, association, society, partnership or corporation to cir-

* Section relates to "Registry of births and deaths by attendants."

culate, disseminate, spread, print, publish, or cause the circulation, dissemination, spreading, printing or publication of, any public advertisement, announcement, publication, notice or information of the treatment, alleviation, palliation, cure or prevention of any sexual or menstrual disease, weakness or condition; or to display, or expose to the public view, on any public street, alley or road, any instrument, device or thing designed or intended or sold for the treatment, cure, alleviation, palliation or prevention of any sexual or menstrual disease, weakness or condition. But this act shall not prevent such publication and dissemination of any such advertisement in exclusively medical publications and publications designed and circulated among dealers as trade journals, not for public inspection. (Id. § 6854.)

212b. Same—Penalty—Agent.—Any person, association, society, partnership, or corporation, who, or which, shall violate any provision of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than three hundred dollars, and, in the discretion of the court, may be punished by imprisonment, either accompanied or unaccompanied by a fine, for a period not less than ten days nor more than six months. In construing and enforcing this act, the act of any officer, agent, employee, or servant, acting within the scope of his employment, shall in every case be deemed to be the act of such person, association, society, partnership or corporation. (Id. § 6855.)

Intoxicating Liquors.

213. Prohibition.—No person, association or corporation shall, within this State, manufacture for sale or gift any intoxicating liquors; and no person, association or corporation shall import into this State any intoxicating liquors for sale or gift; and no person, association or corporation shall, within this State, sell or keep for sale any intoxicating liquors or offer any intoxicating liquors for sale, barter or trade; and no person, association or corporation shall keep or have in his or its possession, for personal use or otherwise, any intoxicating liquors or permit another to have or keep or use intoxicating liquors on any premises owned or controlled by him, or give away or furnish any intoxicating liquors to another; provided, however, that intoxicating liquors may be imported into this State and handled for medicinal and sacramental purposes only in the manner prescribed in this act and no other. (C. L. 1921, § 3701.)

214. Advertising.—It shall be unlawful for any person, association or corporation either directly or indirectly, to advertise intoxicating liquors in this State for sale or gift in any newspaper, periodical, circular, handbill or price list or on any sign, signboard, billboard, bulletin board, or in any manner whatsoever; or for any owner, officer or person in charge of any newspaper, periodical, sign, signboard, billboard, bulletin board, printing office, advertising agency or publicity bureau, or any other person, to publish or distribute any matter in this State which either directly or indirectly advertise intoxicating liquors for sale or gift. (Id. § 3703.)

215. Orders.—It shall be unlawful for any person, association or corporation to solicit or take any order or orders for or any purchase or purchases of intoxicating liquors in any manner whatsoever, except as in this act provided. (Id. § 3704.)

216. Bootlegging.—It shall be unlawful for any person to carry on or about his person, or for any person, association or corporation to engage or employ any other person to so carry, in any quantity, any intoxicating liquors for the purpose of selling, bartering, exchanging, giving away or illegally delivering the same. (Id. § 3705.)

217. Common Carrier.—It shall be unlawful for any common, public, private or other carrier, or for any person, association or corporation, to carry any intoxicating liquors into this State or from one point to another within this State except for medicinal or sacramental purposes, as in this act provided. Any common, public, private or other carrier, or any person, association or corporation which shall carry intoxicating liquors into this State, or from one point to another within this State, for medicinal or sacramental purposes, shall within three days after the first day of each month file with the county clerk and recorder of the county in which such intoxicating liquors are delivered, and with the Secretary of State, a statement in writing covering the preceding calendar month, setting forth the dates on which each delivery of intoxicating liquors was made, the kind and quantity of such intoxicating liquor, together with the invoice price thereof, the name and post office address of each consignor and each consignee, the place of delivery and to whom delivered, together with a fee of twenty-five cents for each shipment so delivered. Said fee shall be paid to the county clerk and recorder, who shall remit one-half thereof to the Secretary of State within thirty days after payment. The county clerk and

recorder and Secretary of State shall keep such statements on file as public records. Such statements or certified copies thereof, shall be admissible as evidence in any court of this State having jurisdiction of violations of this act. (Id. § 3707.)

218. How Carriers Shall Deliver.—It shall be unlawful for any common, public, private or other carrier, or any person, association or corporation, delivering intoxicating liquors for medicinal or sacramental purposes, to deliver same to a minor, fictitious name or person, or to any person other than the consignee, and the same shall not be delivered to such consignee without first having said consignee pay twenty-five cents and execute an affidavit, subscribed in ink, and in substantially the following form:

State of Colorado,
..... County.

AFFIDAVIT.

I, the undersigned, solemnly swear that my true name is
that I reside at

(Give street and number.) (Give town, city or post office.)

Colorado, that I am more than twenty-one years of age; that I am the consignee of a shipment of intoxicating liquors from (Name of consignor.)
..... located at

(Give street and number.) (Give town, city or post office.)

State as follows: (Insert quantity and kind of intoxicating liquors, also the invoice price) and that said intoxicating liquors so consigned to me are for

(Indicate whether for medicinal or sacramental purposes.)

and that I am duly authorized to receive the same by virtue of Permit No.
issued to me by the Secretary of State under date of

Consignee.

Subscribed and sworn to before me this day of A. D. 19...
(Seal.)

This oath to the affidavit shall be administered by some officer authorized by law to administer oaths or affirmations; and falsely taking the said oath shall be deemed a violation of this act. Such affidavit shall be made in duplicate and one copy thereof shall be kept by such delivering agency for a period of two years and open to public inspection, and one copy thereof shall be delivered or mailed to the county clerk and recorder of the county in which such delivery was made within twenty-four (24) hours after delivery, postage prepaid, and the same shall be filed and kept by the county clerk and recorder as a public record. (Id. § 3708.)

219. Not Open Original Packages.—It shall be unlawful for any person or persons, to open any original package, or packages, in which intoxicating liquor is being shipped, while the same is in transit and undelivered; or for any common or special carrier, or any agent or employee of the same, to allow any original package, or packages, in which intoxicating liquor is being shipped, to be opened or divided in any manner whatsoever, while same is upon their premises or in their possession. (Id. § 3709.)

220. Mark Package.—It shall be unlawful for any person, association or corporation, or for any common or special carrier, to ship or knowingly carry any intoxicating liquor to any point in this State, or from one point to another within this State, without marking conspicuously on the package containing such liquor, where it can be plainly seen and read, the words "This package contains intoxicating liquor." (Id. § 3710.)

221. Medicinal and Sacramental Use.—It shall be unlawful for any person, association or corporation to sell or give away intoxicating liquors for medicinal or sacramental purposes except as herein provided. On the payment of one dollar therefor, the Secretary of State shall issue a permit, valid for one year, to any person duly designated by any regularly organized or incorporated church or religious society, which according to the accepted doctrines of such church or religious society uses intoxicating liquors in any of their services, to purchase and use intoxicating liquors in such religious services. On the payment of one hundred dollars and the filing with him of a verified application therefor, stating the approximate value of his, its or their entire stock in trade, and that they do not desire to carry more than one per cent thereof in intoxicating liquors, corroborated by the affidavits of three disinterested freeholders of this State, the Secretary of State, with the approval of the Governor, if satisfied of the good faith of said application, shall issue a permit valid for one year, to any person, association or corporation engaged in the drug

business at wholesale, authorizing the sale of intoxicating liquors to any duly licensed and registered pharmacist actually employed or engaged in business as such, and also to any person holding and presenting a permit as aforesaid authorizing him to purchase such liquors for sacramental purposes. On the payment of five dollars therefor, and the filing with him of a verified application as hereinbefore required of wholesale druggists, the Secretary of State shall issue a permit, valid for one year, to any duly licensed and registered pharmacist as aforesaid, to sell intoxicating liquors on prescriptions by duly registered physicians in actual practice, and also to any person holding and presenting a permit as aforesaid authorizing him to purchase such liquors for sacramental purposes. It shall be unlawful for any person, association or corporation engaged in the drug business at wholesale, or any duly licensed and registered pharmacist as aforesaid, to carry in stock an amount of intoxicating liquors exceeding at any time one per cent in value of his, its or their entire stock in trade. (Id. § 3715.)

222. Purchases Only on Requisitions.—It shall be unlawful for anyone to import intoxicating liquors into this State for medicinal purposes, except persons, associations or corporations engaged in the drug business at wholesale, exclusively, in the manner in section 15 of this act [3715] provided; and all purchases of intoxicating liquors by duly licensed and registered pharmacists actually engaged in business as such shall be made only from such persons, associations or corporations engaged in the drug business at wholesale within this State as herein provided. All purchases of intoxicating liquors by wholesale dealers, pharmacists and all persons, associations and corporations mentioned in section 15 of this act [3715], shall be on requisition blanks supplied to them by the Secretary of State at actual cost. Such requisitions shall be in triplicate, one copy to be kept by the purchaser at his place of business for two years and open to public inspection, one to be kept by the seller, if located in this State, at his place of business for two years and open to public inspection, and the third shall be filed by the purchaser with the Secretary of State within ten days after his receipt of such liquors so purchased. (Id. § 3716.)

223. Reports.—Within ten days after the first days of April, July, October and January of each year, beginning with April, 1916, all persons, associations and corporations selling or giving away intoxicating liquors for medicinal or sacramental purposes under this act, shall make and file with the Secretary of State a full and complete verified report covering all their transactions in intoxicating liquor during the three months immediately preceding the said first days of April, July, October and January. Pharmacists shall include in their reports a full and complete statement of all their purchases of such liquors, giving the date when made, from whom made and the kind and quantity purchased, and also a full and complete statement of each and all prescriptions by them filled, and as to each shall state the date, the name of purchaser, the name of the physician making same, the kind and quantity of intoxicating liquors sold and the purpose for which sold; and they shall also include therein the date, the name of purchasers and kind and quantity of such liquor sold to persons for sacramental purposes. Wholesale dealers shall include in their reports a full and complete statement of all their purchases of intoxicating liquor, giving the dates when made, from whom made and the kind and quantity of such liquor purchased, and also the dates of all their sales of such liquor, to whom made and kind and quantity of such liquors sold. (Id. § 3717.)

224. Pharmacists Sell on Prescriptions.—Pharmacists may sell intoxicating liquor upon written prescriptions only, by registered physicians in actual practice. Such prescriptions shall be on numbered forms furnished by the Secretary of State, and when issued shall be signed by the physician giving his true, full name and address and dated, giving the hour, and shall state particularly the disease or malady for which prescribed, the true name and address of the person for whom such liquor is prescribed and the number and dates of previous prescriptions for liquor given by such physician to such person within the year next preceding. Only one sale shall be made upon each prescription and all prescriptions must be kept on file by the pharmacist filing the same, for at least two years, and open to public inspection. Prescriptions if presented more than forty-eight hours after their date shall be void, and no prescription shall be for an amount exceeding four ounces of any such intoxicating liquor. It shall be unlawful for any physician to prescribe intoxicating liquor for any person unless he does so in good faith. (Id. § 3718.)

225. Evidence.—In all prosecutions under this act the possession of intoxicating liquor by any person, association or corporation, except as in this act provided, shall be deemed a violation of this act. The possession of an internal revenue stamp or tax receipt issued by the United States government, permitting or relating to the sale of intoxicating liquors, by any person, association or corporation not authorized under this act to handle intoxicating liquor, or a certificate from the collector of

internal revenue, or any of his agents, clerks or deputies, showing the payment of such internal revenue tax by any such person, association or corporation aforesaid, shall be prima facie evidence of a violation of this act. (Id. § 3721.)

226. Penalties.—Any person, agent, employee, representative, manager, proprietor, pharmacist, physician, the member or members of any association, the officer or officers of any corporation, or any other person who shall violate any of the provisions of this act, and any person, association or corporation, whose officer, agent, employee, representative or servant shall violate any of the provisions of this act, shall for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months, or both such fine and imprisonment, in the discretion of the justice or court. Every second and subsequent offense, committed within five years of the first, by any of the persons herein designated, shall be deemed a felony, and upon conviction thereof, he shall be imprisoned in the State penitentiary, at hard labor, not less than one year and not more than three years; and if a corporation be so convicted, a second or subsequent time, it shall be fined in a sum of not less than one thousand nor more than five thousand dollars; and the license of any physician to practice medicine or the permit of any person to purchase or sell intoxicating liquor for medicinal or sacramental purposes so convicted a second or subsequent time shall be forfeited, and none shall thereafter be granted such person within a period of five years following such second or subsequent conviction. A certified copy of the entry or [of] judgment, or other proper court record, showing the former conviction of the defendant, from any justice, county or district court within this State shall be conclusive proof of a former conviction. (Id. § 3722.)

227. Governor Enforce.—The Governor of the State shall compel the enforcement of all provisions of this act, and for this purpose he may call upon any State, district, county, precinct or municipal officer, or he may appoint such agents as necessity may require, and for the purpose of enforcing this act, the Governor and his agents are hereby vested with all powers now or hereafter vested by the laws of this State in the district attorneys, sheriffs, constables and police officers of the State, and to enable the Governor to make this act effective, there is hereby created a law enforcement fund, to which the General Assembly shall appropriate out of any unappropriated money in the State treasury, the sum of five thousand dollars annually. The State Auditor is hereby authorized to draw warrants upon such fund, and the State Treasurer shall pay the same upon vouchers certified by the Governor. Nothing herein, however, shall be construed to in any manner release any officer named from the performance of his duties in the enforcement of the provisions of this act; but in the event the Governor does act as herein provided, no such officer shall interfere therewith. (Id. § 3723.)

228. Construction.—This act shall be construed liberally to include within its provisions intoxicating liquors of every kind and character, which now are in use or which in the future may come into use as a beverage, no matter by what name they may be known or called, and no matter how small the percentage of alcohol they may contain, and no matter what other ingredients may be in them. (Id. § 3729.)

229. Felony to Own, Operate, or Knowingly Possess Still for Manufacture of Intoxicating Liquor—Penalty—Costs.—Any person, whether acting in his own behalf, or as the agent, servant, officer or employee of any other person, firm, association or corporation, who shall be the owner of, or who shall operate or knowingly have in his possession any still used, designed or intended for the manufacture of intoxicating liquor, shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment in the penitentiary for not less than two nor more than five years, and in all cases of conviction the offender shall pay the costs of prosecution. (L. 1925, c. 80, § 1.)

PART IV.

Miscellaneous Laws.

Convict-Made Goods.

229a. License to Sell Convict-Made Goods.—It shall be unlawful for any person or persons or corporation to knowingly expose for sale within the State of Colorado, without first obtaining from the Secretary of State a license to sell, any

convict-made goods, merchandise or wares, as hereinafter provided. (C. L. 1921, § 3745.)

229b. Application to Deal in Convict Goods—Bond of Dealer.—Every person or persons, or corporation desiring to act as agents for or to deal in convict-made goods, within the limits of the State of Colorado, shall make an application in writing to the Secretary of State, setting forth his or their residence or office, the class of goods he, they or it desires to deal in, the town, village or city, giving the street number at which he, they or it intends to locate, together with the names of two or more responsible citizens of the State of Colorado, who shall enter into a bond of not less than five thousand (\$5,000) dollars to guarantee that the said applicant will in all and every particular, comply with any and all laws of the State of Colorado regulating and prescribing the sale of convict-made goods, wares and merchandise. (Id. § 3746.)

229c. License.—The Secretary of State shall thereupon issue a license to such applicant for one year, except as hereinafter provided, which license shall set forth the name of the person, persons or corporation, and shall be kept conspicuously posted in his, their or its place of business. (Id. § 3747.)

229d. Annual Report of Dealers.—Such person, persons or corporation shall annually, before the fifteenth day of January of each year, transmit to the Secretary of State a verified statement setting forth:

1. The name of the person, persons or corporation.
2. His, their or its place of business.
3. The name of the persons, agents, wardens or keepers of any prison, jail, penitentiary or reformatory, or establishment using convict labor, with whom he has done business, and the person, persons or corporation to whom he has sold goods, wares or merchandise, giving the State, city or town and street number of such purchaser or purchasers.
4. In general terms the amount paid to such agents, wardens or keepers of goods, wares or merchandise, and the character of the goods, wares or merchandise so received. (Id. § 3748.)

229e. License Fee.—Every person, persons or corporation shall pay annually, upon the issue of such license as hereinbefore provided, the sum of five hundred (\$500) dollars to the Secretary of State as a license fee, which amount shall be credited to the maintenance account of the State Prison. (Id. § 3749.)

229f. Length of License.—Licenses shall be for one year unless revoked as subsequently provided. (Id. § 3750.)

229g. Revocation of License.—The Secretary of State shall have the power to revoke the license of any person, persons or corporation upon satisfactory evidence or upon conviction for any violation of any law regulating the sale of convict-made goods, wares or merchandise; but no such revocation shall be made until due notice to the person, persons or corporation so complained of, and for the purpose of this section the said Secretary of State, or his authorized agents, shall have power to administer oaths and compel the attendance of persons and the production of books, papers, et cetera. (Id. § 3751.)

229h. Convict Goods Must be Labeled or Marked.—All goods, wares or merchandise made or partly made by convict labor in any penitentiary, prison or reformatory or other establishments shall, before being exposed for sale, be branded, labeled or marked as hereinafter provided, and shall not be exposed for sale in any place within this State without such brand, label or mark. Id. § 3752.)

229i. Contents of Brand, Label or Mark—When Each Used—Where Placed.—The brand, label or mark hereby required shall contain at the head or top thereof the words "Convict-made," followed by the year and name of the penitentiary, prison or reformatory or other establishment in which it was made, in plain English letters, in style known as great primer Roman capitals. The brand or mark shall, in all cases where the nature of the article will permit, be placed upon the same, and only where such branding and marking is impossible a label shall be used, and where a label is used it shall be in the form of a paper tag, which shall be attached by wire to each article, where the nature of the article will permit, and placed securely upon the boxes, crates or other covering in which such goods, wares or merchandise may be packed, shipped or exposed for sale. Said brand, mark or label shall be placed upon the outside of and upon the most conspicuous part of the finished article and its box, crate or covering. In case of manufactured clothing of any nature, such label shall be of linen and securely sewed upon each article of such clothing in a place where upon examination it may be easily discovered. (Id. § 3753.)

229j. Prosecution for Violation—Penalty.—When, upon complaint or otherwise, the deputy labor commissioner has reason to believe that this act is being

violated, he shall advise the district attorney of the county in which such alleged violation has occurred of the fact, giving the information in support of his conclusions, and said district attorney shall at once institute the proper legal proceedings to compel compliance with the act. Any person offending against the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding ten hundred (\$1000) dollars and not less than fifty (\$50) dollars or to be imprisoned for a term not exceeding twelve months and not less than ten days, or both. (Id. § 3754.)

229k. Evidence of Violation.—It shall be lawful for any person, persons or corporation to furnish evidence as to the violation upon the part of any person, persons or corporation, and upon the conviction of such person, persons, or corporation, one-half of the fine provided for by this act, which shall be secured, shall be paid to the deputy labor commissioner, to be used by him in investigating and securing conviction for violation thereof. (Id. § 3755.)

False Advertisements.

229l. Misrepresentations to Effect Sale—Misdemeanor.—Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this State, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading shall be guilty of a misdemeanor. (C. L. 1921, § 6942.)

229m. Violation of Act—Penalty.—On conviction of each and every offense, as hereinabove set forth, the violator shall be punished by a fine of not less than ten dollars, nor more than three hundred dollars, or by imprisonment in the county jail for a term not exceeding thirty days, or by both such fine and imprisonment. (Id. § 6943.)

229n. When Not Apply to Newspaper.—Nothing in this act shall be construed to apply to any proprietor or publisher of any newspaper or periodical, who publishes or circulates any such advertisement without knowledge of the untruthful nature of such advertisement. (Id. § 6944.)

229o. Jurisdiction—Justice of the Peace.—Justices of the peace in their respective counties shall have jurisdiction over all causes arising out of the violation of this act. (Id. § 6945.)

Flag Desecration.

230. Unlawful to Print Advertisement on Flag—Mutilation—Penalty—Construction of Word Flag—Possession.—Any person, who in any manner, for exhibition or display, shall after this act takes effect, place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement, of any nature, upon any flag, standard, color or ensign of the United States or State flag of this State or ensign, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign, upon which, after this act takes effect, shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall, after the first day of September, 1905, expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose, any article, [or] substance, being an article of merchandise, or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which after this act takes effect, shall have been printed, painted, attached, or otherwise placed, a representation of any such flag, standard, color, or ensign, to advertise, call attention to, decorate, mark, or distinguish, the article, or substance, on which so placed, or who shall publicly mutilate, deface, defile, or defy, trample upon, or cast contempt, either by words or acts, upon any such flag, standard, color, or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars

or by imprisonment for not more than thirty days, or both, in the discretion of the court; and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered with costs in a civil action, or suit, in any court having jurisdiction, and such action or suit may be brought by and in the name of any citizen of this State, and such penalty when collected less the reasonable cost and expense of action or suit and recovery to be certified by the district attorney of the county in which the offense is committed shall be paid into the treasury of this State; and two or more penalties may be sued for and recovered in the same action or suit. The words flag, standard, color or ensign, as used in this subdivision or section, shall include any flag, standard, color, ensign, or any picture or representation, of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of, said flag, standard, color or ensign, of the United States of America, or a picture or a representation, of either thereof, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard, or ensign, of the United States of America. The possession after this act takes effect, by any person, other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be made anything unlawful at any time by this section, or of any article or substance or thing on which shall be anything made unlawful at any time by this section, shall be presumptive evidence that the same is in violation of this section, and was made, done or created after this act takes effect, and that such flag, standard, color, ensign, or article, substance, or thing, did not exist when this act takes effect. (C. L. 1921, § 6649.)

NOTE: The misuse of the State flag is subject to the same penalties. C. L. 1921, § 489.

Tobacco—Tobacco Products.

231. Unlawful to Give or Sell Cigarettes to Children.—It shall be unlawful for any person or persons to give or sell cigarettes to any person or persons under the age of sixteen years. (C. L. 1921, § 6911.)

232. Penalty.—Any person who shall be convicted of violating any of the provisions of the preceding sections of this act, shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding three months, or both, in the discretion of the court; and upon conviction for a second or any subsequent offense, shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not exceeding six months. (Id. § 6912.)

233: Penalty for Selling or Giving Tobacco to Children.—Any person who shall sell, give or furnish any tobacco or article made in whole or in part of tobacco, to any child under sixteen years of age, without the written order of the father or guardian of such child, shall be fined in a sum not less than five dollars, nor more than one hundred dollars, or imprisoned in the county jail not more than three months. (Id. § 6913.)

Trade-Marks, Etc.

234. When Label or Trade-Mark May be Adopted—Effect.—Any person, corporation, firm or association of persons, organized for the promotion of the common welfare of its members, and the members of its order or society, in the manufacture or sale of any goods, wares or merchandise may adopt and use a label or trade-mark to indicate either the origin or ownership, or both the origin and ownership, of the goods, wares or merchandise, manufactured, sold or offered for sale within this State, by any such person, corporation, firm or the members of such association, order or society having a common interest in promoting the manufacture or sale of such goods, wares or merchandise; and any such person, corporation or firm, and each and every member of such association, order or society, shall have and be protected in the exclusive use of such label or trade-mark, adopted and used for the purpose aforesaid, on compliance with the following requirements: First—Such person, corporation, firm or association, shall cause to be filed in the office of the Secretary of State a facsimile of such label or trade-mark, accompanied with a written statement, under oath, by such person, or the principal officer of such corporation or association, or some member of such firm, to the effect that the person, corporation, firm or association, in behalf of its members and the members of its order or society, claiming protection in the use of such label or trade-mark, is entitled to the exclusive use of the same; and, in case of an association organized for promoting the welfare of its members, and the members of its order or society, as aforesaid, then a general description shall be given of the class of

persons for whom the protection is sought, sufficient to identify them, which may include all members of the order or society, of which the particular association claiming the protection, is a branch; and it must also appear in such statement, that no other person, corporation, firm or association, has the right to use such label or trade-mark, either in the identical form presented, or in any such near resemblance thereto as would be likely to deceive the public; and also the principal place of business of such person, corporation or firm, and the name and location and purpose of such organized association, and also the class of goods, wares or merchandise to which such label or trade-mark is to be applied; provided, the Secretary of State shall not file for record in his office any label or trade-mark, which is identical with any previously filed in his office, nor of such near resemblance to any such previously filed in his office, as to be likely to deceive the public; and, provided, also, that no exclusive rights shall be acquired under this act, to the use of the proper name of any article, or matter of mere description of the quality, value or condition of the article manufactured or sold, nor to the real name of the manufacturer of the article, as against another person of the same name, nor to the geographical name of the locality where the same is manufactured, as against another manufacturer in the same locality. Second—The payment to the Secretary of State of a fee of \$5.00 for filing and entering a description of the same upon the books of his office. (C. L. 1921, § 4014.)

235. Claims Filed to be Preserved—Certified Copies.—It shall be the duty of the Secretary of State to keep in his office, free to the inspection of the public, all claims filed under this act, with the date of filing endorsed thereon by him, and a book showing the date of filing, a brief description of the label or trade-mark, and reference to the book and page, or place, where the same may be found, together with a proper index of the same. And the original label or trade-mark, and the accompanying statement so filed in his office and indorsed by him, shall be considered a part of the records of his office. And a certified copy of any such record by the Secretary of State shall be evidence in all courts of the making and filing thereof, and of its contents as therein stated; for which he shall be entitled to charge the sum of \$5.00 and such additional sum as he may be necessarily compelled to expend in producing a certified copy of such record. (Id. § 4015.)

236. Liability of Party Unlawfully Using Trade-Mark.—Any person who unlawfully uses any such label or trade-mark, or any label or trade-mark, in such near resemblance thereto as to be likely to deceive the public, shall be liable in damages to any such person, corporation, firm or association acting in behalf of its members and the members of its order or society, having the exclusive right to the use thereof under this act; and in every such case the plaintiff may in the same action have relief by injunction as provided by law, against a future or continued violation of his rights by the defendant; if it be made to appear to such court or judge that the giving of notice, would seriously impair the plaintiff's rights, may have a temporary writ of injunction, which the defendant may at any time thereafter move to dissolve as in other cases when issued without previous notice. And in case the plaintiff is successful in maintaining his action either for damages, or permanent relief by injunction, or for nominal damages only, he shall be entitled to recover a reasonable attorney's fee to be taxed by the court as a part of his costs; provided, that in case where such organized association of persons has filed in the office of the Secretary of State, a claim for the exclusive right to the use of a label or trade-mark, as herein provided, it shall be lawful for the trustees or directors of such association in its own proper name, to bring any suit herein provided for, for the use and benefit of such association, without joining therewith the name of any other of its members, and on the trial of such action, if it shall be proven that such action is brought in behalf of its members, and the members of its order or society; such damages may be recovered as may have accrued to each and every member of said association, order or society and in case the defendant in such action shall recover judgment against the plaintiff for damages or costs, the said defendant may on petition, have a writ of scire facias against any or all the members of such association in whose name the suit is brought, at the time of commencing said action, to show cause why said judgment should not be entered against them. (Id. § 4016.)

237. Penalty for Unlawful Use.—It shall be unlawful for any person or persons, corporation, firm or association to use, give away, sell or exhibit, or keep for any purpose, any label or trade-mark, the exclusive use of which is secured by this act to any other person or persons, corporation, firm or association, or any other label or trade-mark in such near resemblance thereto as would be likely to deceive the public; and any person who shall knowingly and unlawfully use, give away, sell, exhibit or keep for any purpose, any such label or trade-mark, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine not exceeding three hundred dollars (\$300), nor less than twenty-five dollars (\$25) and imprison-

ment not exceeding thirty days nor less than ten days; or by both fine and imprisonment. (Id. § 4017.)

238. Jurisdiction of Justice—Appeals.—Justices of the peace shall have jurisdiction of all offenses under the provisions under this act, saving to any party defendant the right to be tried by a jury as in other criminal cases before such justices now provided for by law; and also the right to appeal in manner and form as by law now or hereafter to be provided for by law in criminal cases before such justices. (Id. § 4018.)

239. Unlawful to Counterfeit Label or Trade-Mark.—Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workingmen or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or to use, sell, offer for sale or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement. (Id. § 4019.)

240. Penalty for Use of Counterfeit Label.—Whoever counterfeits or imitates any such labels, trade-mark, term, design, device or form of advertisement; or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement; or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other products of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed shall be punishable by a fine of not more than five hundred (\$500) dollars, or by imprisonment for not more than three months or by both such fine and imprisonment. (Id. § 4020.)

241. Filing Label or Trade-Mark—Secretary Issue Certificates—May Refile.—Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device or form of advertisement as provided in section 1 of this act [4019], may file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof, with said secretary and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed; the class of merchandise and description of the goods to which it has been or is intended to be appropriated stating that the party so filing or on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union or corporation has the right of such use, either in the identical form, or in any such near resemblance thereto as may be calculated to deceive and that the facsimile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement. Said Secretary of State shall not record for any person, union or association any label, trade-mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association. But the said secretary shall file and record under this act any label, trade-mark, term, design, device or form of advertisement, which may have been previously filed by any person, or any association or union of workingmen, provided the person, association or union seeking to file and record under this act is the same person, association or union that previously filed or recorded the same label, trade-mark, term, design, device or form of advertisement. (Id. § 4021.)

242. Penalty for False Representations in Procuring Filing of Label.—Any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade-mark, term, design, or form of advertisement in the office of the Secretary of State under the provisions of this act, by making any false or fraudulent representations, or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction and shall be punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment not exceeding three months, or by both such fine and imprisonment. (Id. § 4022.)

243. Owner of Label May Enjoin Use or Sale of Counterfeit—Damages.—Every such person, association or union adopting or using a label, trade-mark, term, design, device, or form of advertisement as aforesaid, may proceed by suit for damages to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and all courts of competent jurisdiction shall grant injunction to restrain such manufacture, use, display or sale and award the complainant in any such suit damages resulting from such manufacture, use, sale or display as may be by the said court deemed just and reasonable, and shall require the defendant to pay to such person, association or union all profits derived from such wrongful manufacture, use, display, or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant to be destroyed. (Id. § 4023.)

244. Penalty for Unauthorized Use of Label—Suits, How Prosecuted.—Every person who shall use or display the genuine label, trade-mark, term, design, device or form of advertisement of any such person, association or union in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by a fine of not more than five hundred dollars (\$500). In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union. (Id. § 4024.)

245. Penalty for Unlawful Use of Name or Seal.—Any person or persons who shall in any way use the name or seal of any such person, association or union or officer thereof in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months or by a fine of not more than five hundred dollars (\$500). (Id. § 4025.)

246. Recovery of Attorney's Fee.—In case the plaintiff is successful in maintaining his action either for damages or for permanent relief by injunction, or for nominal damages only, he shall be entitled to recover a reasonable attorney's fee, to be taxed by the court as a part of the costs, and merged in the judgment. (Id. § 4026.)

247. Dealers in Bottle or Keg Goods May Adopt Brand or Mark.—All manufacturers, or bottlers of, or dealers in, soda or mineral waters, beer, ale, porter, cider, wine or other beverages, or medical or other preparations, who may use barrels, kegs, casks, boxes, fountains, bottles, jugs, syphons or other vessels, upon which shall appear the names, brands, marks, trade-marks, or other designations of ownership, stamped, impressed, engraved, or in any manner affixed thereon, may file in the office of the county clerk of the county wherein the principal office, manufactory or depot of such business is located in this State, a description of the names, brands, marks or other designations of ownership, so used by them, respectively, and cause the same to be published for two successive weeks in a newspaper of general circulation in such county. (Id. § 4027.)

248. Unlawful to Break Bottles or Deface Brand.—It shall be unlawful for any person or persons without the written consent of the owner or owners thereof, to use, sell, dispose of, buy or traffic in, or to willfully break, destroy or otherwise injure any such barrels, kegs, casks, boxes, fountains, syphons, bottles, jugs or other vessels, to willfully mar or erase any such names, brands, marks or other designations so appearing thereon, or to fill the same with other beverages, medicines, compounds, or substances whatever. (Id. § 4028.)

249. Penalty for Violation of Act.—Any person or persons, association or corporation, who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any justice of the peace, shall be fined five dollars (\$5.00) for every barrel, keg, cask, box, syphon or fountain, and one dollar (\$1.00) for every bottle, jug or other vessel so by him or them used, sold, disposed of, bought, trafficked in or so marred, erased, broken,

destroyed or otherwise injured, or filled, together with costs of prosecution; and the employer or principal shall be so liable for the acts of his employees or agents for any such violation of this act, when engaged in the business of such employer or principal. (Id. § 4029.)

250. Procedure in Case of Unlawful Use of Bottle, Keg or Brand—Evidence.—The using by any person other than the rightful owner thereof, without such written permission, of any such cask, barrel, keg, fountain, bottle, syphon, box or other vessel for the sale therein of ale, porter, lager beer, soda, mineral waters, or other beverages, or any other article of merchandise, medicine, compound or preparation, or to be furnished to customers, or the buying, selling or trafficking in any such barrel, keg, bottle, fountain, syphon, box or other vessel by any person other than the owner, without the written permission of such owner, or the fact that any junk-dealer or dealers in casks, barrels, kegs, bottles, boxes, or other vessels, shall have in his or her possession any such cask, barrel, keg, bottle, fountain, syphon, box or other vessel, so marked or stamped, and registered as aforesaid, without such written permission, shall and is hereby declared to be prima facie evidence that such use, buying, selling, trafficking in or possession is unlawful within the meaning of this act. And it is hereby declared to be the duty of any justice of the peace, upon oath having been made in writing before him, that any person or persons, association or corporation, has violated any of the provisions of this act, to immediately issue his warrant and cause such person or persons so accused to be brought before him, and proceed to try such accused party, as in cases of assault and battery, and in case such accused party be found guilty of having violated any of the provisions of this act, shall assess the fine, as provided in the third section of this act [4029], such fine and costs to be collected as provided by law in other cases of misdemeanor. (Id. § 4030.)

251. When Search Warrant Shall Issue.—In case such owner or owners of any such cask, barrel, bottle, box, fountain, syphon or other vessel, shall, in person or by his agent, make oath, in writing, before any justice of the peace, that he has reason to believe, and does believe, that any other person is using in any manner by this act declared to be unlawful, any of the casks, barrels, kegs, bottles, boxes, fountains, syphons or other vessels, of such person, or his principal, or that any junk dealer, or dealer in casks, barrels, kegs, bottles, or boxes, or any other dealer, manufacturer or bottler, has any such casks, barrels, kegs, bottles, boxes, fountains, syphons or other vessels secreted in, about or upon his, her or their premises, the said justice of the peace shall issue his search warrant and cause the premises so designated to be searched, as in other cases where search warrants are issued, as is now provided by law. And in case any such cask, barrel, keg, bottle, box, fountain, syphon or other vessel shall be found in, upon or about the premises so designated, the officer executing such warrant shall thereupon arrest the person or persons named in such search warrant, and bring him, her or them before the justice of the peace who issued such warrant, who shall thereupon hear and determine such case, and if the accused is found guilty, he, she or they shall be fined as provided in the third section of this act [4029]. (Id. § 4031.)

252. Refilling Barrels, Sacks, Etc., to Deceive Purchasers, or Injure Proprietor.—No person or persons whatever shall be permitted to use or refill any barrels, sacks or packages with flour or other goods containing the brand or mark of the manufacturer or dealer thereof for the purpose of deceiving the purchaser or consumer, or injuring the reputation of the manufacturer or his brand. (Id. § 4032.)

253. Penalty for Violation of Act.—All persons who shall knowingly or willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor; and all persons convicted for such offense shall be fined not less than ten and no more than two hundred dollars; and the manufacturer shall be entitled to such damages as may be made to appear. (Id. § 4033.)

NOTE: See also the dairy law, No. 53 et seq.

Trading Stamps, Etc.

254. Trading Stamps and Premium Devices Unlawful.—It shall be unlawful in the State of Colorado to use or offer for the purpose of attracting or enticing trade or in any way to issue, give, deliver or distribute, in consideration of or as a part of or on account of or accompanying any purchase of goods, wares or merchandise, any trading stamp, profit-sharing coupon, profit-sharing certificate, or other token, certificate or evidence of liability which shall be redeemable or exchangeable, alone or in connection with other such stamps or evidence of liability in any way for

premiums, whether such premiums be in the form of goods, wares or merchandise or in the form of any valuable right or property right whatsoever. (C. L. 1921, § 3769.)*

255. Offer or Delivery of Premiums, Prizes, Etc., Prohibited.—No person, firm or corporation shall offer or deliver with goods, wares and merchandise bargained and sold or to be sold any premium or prize or any article of value in the nature of a premium or prize, or shall sell, give or offer to sell or give any goods or articles of value in the nature of a bonus, prize or premium in consideration of the purchase of or agreement to purchase any goods, wares or merchandise or shall sell or offer to sell any article of value in the nature of a bonus, prize or premium in connection with the sale or purchase of any other article of goods, wares or merchandise and as an inducement to purchase such goods, wares and merchandise. (Id. § 3770.)

256. Giving Evidences of Liability Prohibited.—No person, firm or corporation shall offer or deliver, with or in consideration of or as part of any purchase of goods, wares, and merchandise, any receipt, coupon or other evidence of liability which shall entitle the recipient, holder, owner or beneficiary thereof to any cash, cash refund, credit, bank credit, discount or reduction, except such beneficiary at the time of such issuance or delivery shall then and there actually receive a cash refund or receive an unconditional cash credit of like amount upon the books of the person, firm or corporation made liable to pay or allow the same under the terms of such transaction. (Id. § 3771.)

257. Premium Devices Prohibited.—The punching or marking of any ticket, book, or other like devices, by any person, firm or corporation, which ticket, book or device evidences the ownership, possession or right of the purchaser, recipient or holder of any such ticket, book or device to receive anything as a premium, bonus, discount or otherwise within any of the foregoing sections, shall be deemed equivalent to the issuance and delivery of a premium, bonus, discount or other like forbidden device and shall be likewise unlawful. (Id. § 3772.)

258. Redeemable and Exchangeable Bonuses, Etc., Prohibited—Cash Discounts.—No person, persons, firm or corporation shall conduct or carry on any trade system, practice or business scheme or plan which includes or involves the offering or delivery, with or in consideration of any purchase of goods, wares and merchandise, of any bonuses, premiums, discounts, rebates, credits or prizes or any trading stamps, profit-sharing coupons, tokens or other evidences of liability of any sort, which are redeemable or exchangeable in any way for bonuses, premiums, discounts, rebates, credits, or prizes, where the success or maintenance of any such trade system, practice or business scheme or plan, or any advantage or profit to be derived in the course of it, arises from or depends upon any or either of the following factors or causes: (a) Arises from or depends upon the credulity, ignorance, misinformation or negligence of the person or persons to whom said bonuses, premiums, evidences of liability or other devices above mentioned are offered or delivered, or of the public, or of the persons who are dealt with in the course of such practice or business plan. (b) Arises from or depends upon the failure or negligence of any person or persons to whom such offer or delivery is made or of the beneficiaries of any such bonuses, premiums, rebates, tokens, evidences of liability, or other devices above mentioned, or of the general public, or of the customers or persons trading with the person making such offer and delivery, or of part of either, to accept or take the advantage of any such bonuses, premiums, discounts, rebates or prizes, or other devices, or to redeem or exchange any token, tokens, or evidence or evidences of liability therefor. (c) Arises from or depends upon the encouragement of any profligate, excessive or inconsiderate purchasing of goods, wares and merchandise or from or upon anything which materially encourages or tends to encourage any of the same. (d) Arises from or depends upon the opportunity for deceit, fraud or misrepresentation in the course thereof, or the opportunity to play upon the ignorance, credulity or inexperience of the public. (e) Arises from or depends upon the inducement or encouragement given the general public or the persons dealt with in the case or retail trade in articles or materials for food, clothing, household supplies or other articles of ordinary family or personal use, to purchase such articles either wholly or partially because of the value of or any profit or advantage to be derived from the acquisition of any such bonus, premium, discount, rebate, credit or prize as distinguished from purchasing the same solely because of the intrinsic value of or need for or any advantage in the acquisition of the articles themselves which are accompanied by such bonuses, premiums, discounts, rebates, credits or prizes or by something exchangeable therefor. Every day on or in which any trade system, practice, business scheme or plan forbidden under any

*This law (Nos. 254-261) is unconstitutional and hence void. See *Cases*, post.

of the foregoing paragraphs is conducted or carried on shall constitute a separate offense. (f) Provided, that nothing in this section shall be construed to prohibit the giving or receiving of cash discounts (Id. § 3773.)

259. Constitutional Construction Clause.—If any section, sentence, paragraph or part of this act or the applicability of this act to any particular device, scheme, or class of trade shall, for any reason, be adjudged by any competent court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but every such section, clause, sentence, paragraph or part hereof is declared to be passed separately and to be divisible and its application to every such device, scheme or class of business to be separable and divisible. (Id. § 3774.)

260. Violation of Act—Penalty.—Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, punishable by a fine of not more than three hundred dollars or imprisonment in the county jail for not more than sixty days, or both. (Id. § 3775.)

261. Municipal Regulation.—Nothing herein contained shall limit or affect the power of any town, city or municipality (whether organized under general or special law or any constitutional provisions) to enact any ordinances or other local measures whatsoever on the subjects herein contained; provided, that such ordinance or local measure shall not have the effect of making lawful anything forbidden in this act. (Id. § 3776.)

262. Gift Enterprise Business Forbidden.—From and after the passage of this act it shall be unlawful, in the State of Colorado, for any person or persons to engage in any manner in any gift enterprise business. (Id. § 3767.)

263. Penalty.—Any person or persons who shall in any manner engage in any gift enterprise business in the State shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine in the sum of not to exceed one thousand dollars, or imprisonment for not exceeding sixty days or both in the discretion of the court. (Id. § 3768.)

263a. Lotteries Unlawful—Penalty for Promoting, Advertising, Etc.—It shall not be lawful hereafter for any person, persons, association of persons, or corporation to engage in or otherwise promote any lottery or gift enterprise of any nature, or for any purpose whatsoever. Every person who shall knowingly engage in or in anywise promote any lottery or gift enterprise, whether in his own behalf, or as the agent or employe of another, or of a corporation, or who shall for himself, or as such agent or employe, knowingly sell, give, or exchange or offer to sell, give or exchange any ticket, share, certificate, receipt, or other token in any lottery or gift enterprise, or who for himself or as such agent or employe, shall knowingly advertise any lottery or gift enterprise, in any manner whatsoever, shall be guilty of a misdemeanor, and, on conviction, fined in the sum of not less than one hundred dollars, and imprisoned in the county jail for a period of not less than thirty days. (Id. § 3759.)

Weights and Measures.

264. When U. S. Weights and Measures Accepted.—The weights and measures accepted and used by the government of the United States at the present time, except as hereinafter provided, shall be deemed the lawful standard of weights and measures of the people of this State. (C. L. 1921, § 4109.)

265. Ton, Defined.—The ton shall be twenty hundred pounds weight, avoirdupois. (Id. § 4110.)

266. Produce—Lime—Coal—Charcoal—Stone—Brick—Water.—Sixty pounds of wheat, fifty-six pounds of rye, fifty-six pounds of Indian corn, seventy pounds of corn in the ear, forty-eight pounds of barley, thirty-two pounds of oats, sixty pounds of potatoes, sixty pounds of beans, sixty pounds of clover seed, forty-five pounds of timothy seed, forty-four pounds of hemp seed, fifty-two pounds of buckwheat, fourteen pounds of blue grass seed, fifty pounds of corn meal, fifty-seven pounds of onions, eighty pounds of salt, eighty pounds of lime, eighty pounds of mineral coal, respectively, shall be the standard weight of a bushel of each of the foregoing articles; and twenty-five hundred cubic inches of charcoal shall be the standard measure of a bushel; and a perch of stone in mason work shall be considered sixteen and one-half cubic feet; and for brick work measure, when laid up in wall, shall be counted twenty-two brick per cubic foot for foot wall, and fifteen brick for what is known as eight-inch wall; a common brick to be eight and one-half inches in length, four and one-quarter inches in width, and two and three-eighths inches in thickness; and water sold by the inch by any individual or corporation shall be measured as follows to wit: Every inch shall be considered equal to an inch square orifice under a five-inch pressure, and a five-inch pressure shall be

from the top of the orifice of the box put into the banks of the ditch, to the surface of water; said boxes, or any slot or aperture through which such water may be measured, shall in all cases be six inches perpendicular, inside measurement, except boxes delivering less than twelve inches, which may be square, with or without slides; all slides for the same shall move horizontally and not otherwise; and said box put into the banks of ditch shall have a descending grade from the water in ditch of not less than one-eighth of an inch to the foot. (Id. § 4111.)

267. Treasurer Procure Standard.—It shall be the duty of the treasurer of this State to procure as soon as possible from the proper department of the Federal government, all necessary weights and measures for the use of the State, and as soon as he shall receive them, to give public notice through two or more newspapers, for thirty days, to each and every board of county commissioners in the State, to obtain copies or duplicates of said weights and measures. (Id. § 4112.)

268. Comparison of Scales with Standard—Approval—Condemnation.—All vendors and traders in goods, wares and merchandise, gold dust and other articles of traffic shall, within ninety days after the reception of the standards by said commissioners, have their balances, weights and measures compared with said standards of their respective counties, and approved and marked by the county inspector, and if the same are found to be correct, to be sealed with the name or initial letters of the county inscribed thereon, or condemned by him if found incorrect. (Id. § 4113.)

269. County Board Appoint Inspector Annually—Bond.—On the first regular meeting of the board of county commissioners in each county in this State, after the passage of this chapter, and thereafter annually, on the first regular monthly meeting of every year, said county commissioners shall appoint a fit and proper person, who shall be styled inspector of weights and measures, and shall give bond to the county for the faithful performance of the duties of his office, as said commissioners may direct. (Id. § 4114.)

270. County Board Fix Fees of Inspector.—Each county board shall make out a list of fees to be charged by said inspector, and which fees when charged shall be recoverable in any court, as any other debt or account is recovered. (Id. § 4115.)

271. County Board Furnish Inspector Tools.—It shall be the duty of each county board, as aforesaid, to furnish to each inspector all the necessary tools, marks and brands which he may require, to be paid for out of the county funds. (Id. § 4116.)

272. Penalty for Wrongful Selling.—All persons, for the purpose of weighing or measuring goods, wares, merchandise, water or other articles of traffic, actually sold by him, not in accordance with this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof may be imprisoned not exceeding one year, or fined not exceeding one thousand dollars, at the discretion of the court in which the conviction shall be obtained. (Id. § 4117.)

273. Inspector's Duty—Complaint Against Offender.—Whenever it shall come to the knowledge of the inspector that any person within his county has violated any of the provisions of this chapter, it shall be his duty to enter a complaint against him before some magistrate having jurisdiction of the offense thereof, to the end that the offender may be punished and fined according to this law. (Id. § 4118.)

274. Fines Paid Into County Treasury.—All fines imposed and collected for violation of the provisions of this chapter shall be paid into the county treasury for the use of the people of the county in which the offense was committed. (Id. § 4119.)

275. Standard Container for Fruits and Berries—Short Measure Permitted if Branded.—On and after the first day of November, 1915, A. D., it shall be unlawful for any person, firm or corporation to sell or offer for sale baskets or other open containers for small fruits or berries, filled or unfilled, within the State of Colorado, which shall contain when even full less than one dry quart or sixty-seven and two-tenths (67.2) cubic inches, one pint which shall contain when even full less than thirty-three and six-tenths (33.6) cubic inches, one-half pint which shall contain when even full less than sixteen and eight-tenths (16.8) cubic inches, or multiples of the dry quart; provided, that nothing herein contained shall prevent the sale of baskets or other open containers for small fruits or berries, filled or unfilled, of smaller than the above sizes if the basket or container is stamped with letters at least three-fourth ($\frac{3}{4}$) of an inch in height, "short measure" on both ends or both sides, and also stating the cubical contents of such basket or other open container. (Id. § 4125.)

276. Violation of Act—Penalty.—Any person, firm or corporation who shall violate any provisions of this act shall be guilty of a misdemeanor, and for each offense

upon conviction thereof, be fined not to exceed one hundred dollars (\$100), or sentenced to the county jail for not more than twelve (12) months, either or both, in the discretion of the court. (Id. § 4126.)

277. District Attorney Prosecute Violations.—It shall be the duty of each district attorney within the State of Colorado to whom any sealer of weights and measures, or other officer in the State, shall present satisfactory evidence of any violation of this act, to cause appropriate proceedings to be commenced and prosecuted in a court of competent jurisdiction, for the enforcement of the penalties herein provided. (Id. § 4127.)

278. False Weights in Taking Toll at Mill—Penalty.—If any person shall knowingly sell by false weights or measures, or shall knowingly use false measures at any mill, in taking toll for grinding corn, wheat, rye or other grain, he shall be deemed a common cheat, and on conviction shall be fined not less than two hundred dollars and be imprisoned in the county jail not exceeding three months. (Id. § 6940.)

279. False Weights and Scales—Penalty.—If any person shall knowingly have, keep or use any false or fraudulent scales or weights for weighing gold or gold dust or any other article or commodity, every such person so offending shall, on conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months. (Id. § 6939.)

NOTE: See also No. 8; the cantaloupe and melon law, No. 34 et seq.; the dairy law, No. 43 et seq.; the beet sugar law, No. 109 et seq.

PART V.

Cases.

1. Special Food Laws.

Beverages—Jamaica Ginger: McLean v. People, 66 Colo. 486, 180 Pac. 676 (1919).

Ice: Munn v. Corbin et al., 8 Colo. App. 113, 44 Pac. 783 (1896), writ of error dismissed in Same, 24 Colo. 381, 51 Pac. 1002 (1897).

Meat: DeWeese v. People, 61 Colo. 140, 156 Pac. 594, L. R. A. 1916 E, 326 (1916); Burtis v. City of Montrose, 79 Colo. 475, 247 Pac. 186 (1926).

Meat—Inspection Before Slaughter: *Schmidt v. People, 18 Colo. 78, 31 Pac. 498 (1892).

Milk: *See Hecht v. Wright, 31 Colo. 117, 72 Pac. 48 (1903).

Oleomargarine: Haines v. People, 7 Colo. App. 467, 43 Pac. 1047 (1896); Glendinning v. City and County of Denver, 50 Colo. 240, 114 Pac. 652 (1911).

2. Special Drug Laws.

Narcotics: Stadler v. People, 59 Colo. 159, 147 Pac. 658 (1915).

Venereal Disease Drugs—Advertising: See *Chenoweth v. State Board of Medical Examiners et al., 57 Colo. 74, 141 Pac. 132, 51 L. R. A. (N. S.) 958, Ann. Cas. 1915 D, 1188 (1914).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Food: See J. D. Best Mercantile Co. v. Brewer, 50 Colo. 455, 115 Pac. 726 (1911); DeWeese v. People, 61 Colo. 140, 156 Pac. 594, L. R. A. 1916 E, 326 (1916).

4. Miscellaneous.

Advertising Literature—Distribution—License: *Pueblo v. Lukins, 63 Colo. 197, 164 Pac. 1164, L. R. A. 1917 E, 699 (1917).

Gift Enterprise: Cross et al v. People, 18 Colo. 321, 32 Pac. 821, 36 Am. St. Rep. 292 (1893).

Trade-Marks: Solis Cigar Co. v. Pozo & Suarez, 16 Colo. 388, 26 Pac. 556, 25 Am. St. Rep. 279 (1891); Hyman v. Solis Cigar Co. et al., 4 Colo App. 475, 36 Pac. 444 (1894).

Trade-Marks—Milk Receptacles—Malicious Prosecution: Climax Dairy Co. et al. v. Mulder, 78 Colo. 407, 242 Pac. 666 (1925).

Trading Stamps: *City and County of Denver v. Frueauff, 39 Colo. 20, 88 Pac. 389, 7 L. R. A. (N. S.) 1131, 12 Ann. Cas. 521 (1906); *City and County of Denver v. United Cigar Stores Co., 68 Colo. 363, 189 Pac. 848 (1920); *United Cigar Stores Co. v. People, 68 Colo. 546, 190 Pac. 1117 (1920).

CONNECTICUT.*

PART I.

General Food and Drug Law.

1. **Manufacture or Sale.**—It shall be unlawful for any person to manufacture, transport, sell or offer for sale or transportation any article of food or drugs which is adulterated or misbranded within the meaning of this chapter. (G. S. 1918, § 2436.)

2. **"Drug" and "Food"; Definitions.**—The term "drug" as used in this chapter shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external medicinal use and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals. The term "food" as used in this chapter shall include all articles, whether simple, mixed or compound, used for food, drink, confectionery or condiment by man or animals. (Id. § 2437.)

3. **"Adulterated"; Definition.**—For the purposes of this chapter an article shall be deemed to be adulterated: In case of drugs: First, if, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in said United States Pharmacopœia or indicated by the National Formulary official at the time of investigation; provided, no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated on the bottle, box or other container thereof although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or indicated by the National Formulary; Second, if its strength or purity falls below the professed standard or quality under which it is sold. In the case of confectionery: If it contains terra alba, barytes, talc, chrome yellow or other mineral substances or poisonous color or flavor or other ingredients deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drugs. In the case of foods: First, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; Second, if any substance has been substituted wholly or in part for the article; Third, if any valuable constituent of the article has been wholly or in part abstracted therefrom; Fourth, if it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed; Fifth, if it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health; Sixth, if it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance or any portion of an animal unfit for food, whether manufactured or not, if it is the product of a diseased animal or one that has died otherwise than by slaughter. (Id. § 2438.)

4. **"Misbranded"; Definition.**—The term "misbranded" as used in this chapter shall apply to all drugs or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular and to any food or drug product which is falsely branded as to the State, territory or country in which it is manufactured or produced. For the purposes of this chapter an article shall be deemed to be misbranded: In the case of drugs: First, If it be an imitation of or offered for sale under the name of another article; Second, if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package or, except when dispensed by a registered physician or veterinary or by a licensed pharmacist in filling the prescription of a registered physician or veterinary or

*CITATIONS: "G. S. 1918" refers to the General Statutes of Connecticut, Revision of 1918, published by authority of the State. "P. A." refers to the public acts of the year cited.

in case of drugs for external use only or except when a drug is sold under or by a name recognized in the United States Pharmacopœia, the package fails to bear a statement on the label of the quantity or proportion of alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilid or any derivative or preparation of any of said substances contained therein; Third, if the package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein which is false. In the case of foods: First, if it be an imitation of or offered for sale under the distinctive name of another article; Second, if it be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign product when not in fact a foreign product or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fails to bear a statement on the label of the quantity or proportion of morphine, opium, cocaine, alpha or beta eucaine, heroin, chloroform, cannabis indica, chloral hydrate or acetanilid or any derivative or preparation of any of said substances contained therein; Third, if when in package form and the contents are stated in terms of weight or measure, the weight or measure is not plainly and correctly stated on the outside of the package; Fourth, if the package containing it or the label of such package shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided, an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases: First, in the case of any mixture or compound which may be known as an article of food under its distinctive name and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where such article has been manufactured or produced; Second, in the case of an article labeled, branded or tagged so as to plainly indicate that it is a compound, imitation or blend, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided, nothing in this chapter shall be construed to require proprietors or manufacturers of proprietary foods which contains no unwholesome added ingredients to disclose their trade formulæ except so far as the provisions of this chapter may require to secure freedom from adulteration or misbranding. (Id. § 2439.)

5. Rules and Regulations.—The dairy and food commissioner and the director of the Connecticut Agricultural Experiment Station, acting jointly, shall make uniform rules and regulations for carrying out the provisions of this chapter including the collection and examination of specimens of foods and drugs manufactured, sold, transported or offered for sale or transportation within this State, or which may be submitted for examination by any health, food or drug officer of any town, city or county in the State. Such rules and regulations shall, where possible, conform to and be the same as the rules and regulations adopted from time to time for the enforcement of the act of Congress approved June 30, 1906, and known as the "Food and Drugs Act." (Id. § 2440.)

6. Collection of Samples.—Under said rules and regulations representative samples shall be collected by the Dairy and Food Commissioner or his deputies and the Connecticut Agricultural Experiment Station or its agents. The Dairy and Food Commissioner or his deputies and the agents of said agricultural experiment station shall have access, at all reasonable hours, to any place where it is suspected that there is kept for sale, use, compounding, dispensing, distribution or export, any article of food or drugs, adulterated or misbranded within the meaning of this chapter, and said Dairy and Food Commissioner or his deputies and the agents of said agricultural experiment station, upon tendering the market price thereof, may take from any person, firm or corporation samples of such articles. Samples may be purchased in the open market, and if in bulk, the marks, brands or tags upon the package, carton, wrapper or other container and the accompanying printed or written matter shall be noted, and the person collecting such samples shall also note the names of the vendor and the agent through whom the sale was made, with the date of the purchase. Samples shall be divided into three equal parts and each part shall be labeled with identifying marks, one of such parts shall be delivered to the person from whom the purchase was made, or if a guaranty has been given as hereinafter provided, such part shall be delivered to the guarantor, one of such

parts shall be sent to the Connecticut Agricultural Experiment Station and one part shall be held under seal by the Dairy and Food Commissioner. The parts of the samples so divided shall be sealed by the person collecting the same with a seal provided for such purpose. (Id. § 2441.)

7. Analyses.—It shall be the duty of the Connecticut Agricultural Experiment Station to make analyses and examinations of all such articles as shall be furnished under the provisions of the preceding section for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this chapter, and to certify the results of such analyses and examinations to the Dairy and Food Commissioner. (Id. § 2442.)

8. Hearings For Accused Persons; Certificates.—When any such examination or analysis shows that any provisions of this chapter have been violated, the Dairy and Food Commissioner shall cause notice of such fact, together with a copy of the findings, to be given to the party or parties from whom the sample was obtained, and to the party, if any, whose name appears upon the label as manufacturer, packer, wholesaler, retailer or other dealer. The parties so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed under section 2440, and notices shall specify the date, hour and place of such hearing, and if any person or corporation concerned resides without the State, reasonable notice shall be given by mail at such address as may with due diligence be obtained. The hearing shall be private and the parties interested therein may appear in person or by attorney. If, after such hearing, the Dairy and Food Commissioner shall find that any provision of this chapter has been violated he shall at once certify to the proper prosecuting officer a copy of the results of the examination or analysis of such article, duly authenticated by the analyst or officer making such examination or analysis, under oath of such officer. (Id. § 2443.)

9. Duties of Prosecuting Officer.—It shall be the duty of the prosecuting officer to whom said Dairy and Food Commissioner shall report any such violation as hereinbefore provided to forthwith cause appropriate proceedings to be commenced in the proper court for the enforcement of the penalties in such cases provided. (Id. § 2444.)

10. Judgment; Appeal.—After judgment of said court, notice thereof shall be given by publication in such manner as may be prescribed by the rules and regulations referred to in section 2440, and if an appeal be taken from the said judgment notice of that fact shall be included in said publication. (Id. § 2445.)

11. Penalties.—Any person violating any of the foregoing provisions of this chapter shall be guilty of a misdemeanor, and for a first offense shall be fined not less than five nor more than three hundred dollars, and for each subsequent offense not less than fifty nor more than five hundred dollars or imprisoned not less than thirty days nor more than one year or both. No civil action shall be maintained on account of any sale or other contract made in violation of section 2436. (Id. § 2446.)

12. When Dealer Not Punished.—No dealer shall be punished under the provisions of this chapter for selling or offering for sale any article of food or drugs in the original unbroken package in which it was received by said dealer, provided, he can establish a guaranty by the wholesaler, jobber, manufacturer or other person residing in the United States from whom he purchased such article to the effect that said article is not adulterated or misbranded within the meaning of this chapter, provided, said guaranty shall contain the name and address of the person making the sale of said article to such dealer, and in such case said person shall be amenable to the prosecution and penalties which would otherwise attach to said dealer under the provisions of this chapter. When the examinations or analyses herein provided for show that the provisions of this chapter have been violated and the dealer is relieved from prosecution under this section by the production of a guaranty signed by a person residing outside of this State, then the Dairy and Food Commissioner shall report such fact to the Secretary of Agriculture of the United States, or the proper officer appointed for the enforcement of the act of Congress approved June 30, 1906, and known as the "Food and Drugs Act." (Id. § 2447.)

13. "Person"; Definition.—The word "person" in this chapter shall be construed to import the singular and the plural as the case demands, and shall include corporations, companies, societies and associations; and the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association, within the scope of his employment or office, shall be deemed to be the act, omission or failure of such corporation, company, society or association as well as that of said person. (Id. § 2448.)

Miscellaneous General Provisions.

14. Convicts; Employment Restricted.—No person confined for crime shall be employed in or about the manufacture or preparation of tobacco; or of any article which in its use comes into contact with the mouth of a human being; provided, the State Department of Health may, subject to such inspection and such regulations as it may adopt concerning the persons who may be so employed, permit such employment. (G. S. 1918, § 1936.)

15. Manufacture of Food Products Prohibited.—The provisions of section 1936 shall apply to prisoners confined in a jail or workhouse. (Id. § 2011.)

16. Report on Adulterated Food Products.—The Connecticut Agricultural Experiment Station shall make an annual report to the Governor upon adulterated food products, which shall not exceed one hundred and fifty pages. (Id. § 2493.)

17. Analysis of Food.—The local health authorities of the several cities, boroughs and towns, may procure from any dealer in provisions, groceries, medicines or other articles of consumption, samples of such articles and cause the same to be analyzed by one of the State chemists, and if on such analysis it shall be found that the article analyzed is adulterated with a deleterious or foreign ingredient, other than is represented verbally and in a conspicuous label by the seller, the chemist making the analysis shall issue his certificate setting forth the kind and quantity, as near as may be, of deleterious and foreign ingredients found in the article analyzed; and the health officer causing such analysis to be made shall cause said certificate to be published in some paper published in the city, borough or town, or one nearest thereto where the article analyzed was obtained, for such length of time as he may think proper, and the cost of analysis and the cost of the publication of the certificate shall be paid by the person or firm from whom the article analyzed was obtained; and if such person or firm shall so elect he or they may annex to said certificate an affidavit setting forth from whom the article analyzed was purchased. (Id. § 2495.)

18. Cost of Analysis.—In each case where an analysis has been made according to the provisions of section 2495 and the article analyzed shall have been found pure and free from foreign ingredients, the cost of the analysis shall be paid by the city, borough or town whose health officer caused such analysis to be made. (Id. § 2496.)

NOTE: See also Nos. 159a and 290.

PART II.

Special Food Laws.

Apples.

19. Sale of Apples; "Grades," "Bruises" and "Defects" Defined.—Apples when assorted and packed in standard closed packages, as defined in this chapter,* shall be graded as follows: Fancy grade, standard A grade, standard B grade, and unclassified grade. The fancy grade shall consist of matured apples of one variety of normal shape and color, sound and free from insect and fungus injury, bruises, and other defects that may injure the appearance or quality. Standard A grade shall consist of apples of one variety, of normal shape which may be slightly below normal color, but sound and practically free from insect or fungus injury, bruises, or other defects that may injure the appearance or quality. Standard B grade shall consist of apples of one variety which are sound, but may be subject to slight imperfections resulting from insect or fungus or other slight defects, provided, such defects do not materially affect the quality. Such grade shall not be subject to color requirements. The unclassified grade may consist of apples conforming to any of the preceding grades or to apples not conforming to the requirements of the preceding grades or to a mixture of any such apples. The terms "bruises" and "defects," as used in this section, shall not be construed to include bruises or defects made upon the contents of any standard closed package in packing, or after packing, by agencies over which the packer has no control. (G. S. 1918, § 4790.)

*Chapter 237 entitled, "Weight and Measurement of Specific Articles."

20. Standard Barrel to be Used For Apples.—The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: Length of stave twenty-eight and one-half inches; diameter of head seventeen and one-eighth inches; distance between heads twenty-six inches; circumference of bulge sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch; provided any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard box for apples shall be of the following dimensions, by inside measurement: Eighteen inches by eleven and one-half inches by ten and one-half inches, without distention of its parts, and shall have a capacity of not less than two thousand one hundred and seventy-three and one-half cubic inches. (P. A. 1919, c. 295, § 1.)

21. Classified Standards of Apples.—The standard grades of apples when packed or repacked in close packages within this State shall be as follows: "(Name of State) Standard Fancy" shall consist only of apples of one variety of which not less than ninety-seven per centum shall be well matured specimens, shall be hand-picked, color above medium and high for the variety, normal shape, of good size for the variety and reasonably uniform in size, with none less than two and one-half inches in diameter, sound and free from dirt, disease, insect or fungus injury, bruises and other defects, except such as are necessarily caused in the operation of packing, and shall be packed properly in clean, strong packages. "(Name of State) Standard A" shall consist only of apples of one variety of which not less than ninety-five per centum shall be well matured specimens, shall be hand-picked, properly packed, of medium color for the variety, normal shape, sound and practically free from dirt, disease, insect or fungus injury, bruises and other defects, except such as are necessarily caused in the operation of packing. "(Name of State) Standard B" shall consist only of apples of one variety of which not less than ninety per centum shall be properly packed, shall be of practically normal shape, practically free from dirt, disease, insect or fungus injury, bruises and other defects that materially injure the useful quality of the apples. "Unclassified." Apples not conforming to the foregoing specifications of grade or, if conforming, not branded in accordance therewith, shall be classed as "unclassified" and so branded. (Id. § 2.)

22. Packages Containing Apples to be Marked.—Every closed package of apples packed or repacked in the State and intended for sale, either within or without the State, shall have marked in a conspicuous place on the outside of the package in plain letters the following statements in the order named: (1) The name of the State where grown; (2) the name of the grade as specified in section two of this act; (3) the minimum size of the apples contained therein; (4) a true statement of the quantity of the contents; (5) the name of the variety; (6) the name and address of the person by whose authority the apples were packed. If the true name of the variety shall not be known to the person by whose authority the apples were packed, then such statement shall include the words "variety unknown." Every closed package of apples which is repacked shall bear the name and address of the person by whose authority the apples are repacked in place of that of the original owner. (Id. § 3.)

23. Minimum Size to be Marked on Package.—The minimum size of the fruit in all grades, including the unclassified, shall be marked upon the package as required in section 3, and shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end. Minimum size shall be stated in variations of one-quarter of an inch. Minimum sizes may be designated by figures instead of words. The word "minimum" may be designated by using the abbreviation "min." (Id. § 4.)

24. Marks Indicating Grade Not to be Accompanied by Marks Inconsistent Therewith.—The marks indicating the grade shall not be accompanied by any other designation of grade or brand which is inconsistent with or marked more conspicuously on the package than the mark or marks required by section three of this act. (Id. § 5.)

25. Marking on Barrels to be in Block Letters.—The branding or marking of barrels under the provisions of this act shall be in block letters and figures of a size not less than one-half inch in height. (Id. § 6.)

26. Packing, Selling or Distributing Packages With Adulterated or Misbranded Contents, Prohibited.—It shall be unlawful for any person to pack, sell, distribute or offer or expose for sale or distribution apples which are adulterated or misbranded within the meaning of this act. (Id. § 7.)

27. Adulterated Packages Defined.—For the purposes of this act, apples packed in a closed package shall be deemed to be adulterated if their measure, quality or grade does not conform in every particular to the brand or mark upon

or affixed to the package or if the faced or shown surface gives a false representation of the contents of the package. (Id. § 8.)

28. Misbranded Packages Defined.—For the purposes of this act, apples packed in a closed package shall be deemed to be misbranded: (1) If the package is packed or repacked in the State and fails to bear all statements required by sections 2, 3, 4 and 5, and in accordance with the provisions of section 6 of this act; (2) if the package, whether packed or repacked within or without the State, is falsely branded or bears any statement, design or device regarding the apples contained therein which is false or misleading or if the package bears any statement, design or device indicating that the apples contained therein are of a specified standard grade, and said apples, when packed or repacked, do not conform to the requirements prescribed by the provisions of this act for such grade. (Id. § 9.)

29. Inspection of Apples.—The secretary of the State Board of Agriculture, or any agent or employee of said board, may, at any reasonable time, enter any building or place where apples shall be packed, stored, sold or offered or exposed for sale and may open therein any box, barrel or other container of any such apples and may take samples therefrom upon paying or tendering payment of the retail market price for the quantity of each such sample taken. (Id. § 10, as amended P. A. 1925, c. 89.)

30. Penalty.—Any person who adulterates or misbrands apples within the meaning of this act, or who packs, repacks, sells, distributes or offers or exposes for sale or distribution apples in violation of any provision of this act, or who willfully alters, effaces or removes or causes to be altered, effaced or removed, wholly or partly, any brands or marks required to be put upon a closed package under the provisions of this act, shall be fined not more than fifty dollars for the first offense and not more than two hundred dollars for each subsequent offense. (P. A. 1919, c. 295, § 11.)

31. When Seller or Distributor Not Deemed to Have Violated Act.—No person who sells or distributes or offers or exposes for sale or distribution apples adulterated or misbranded within the meaning of this act shall be deemed to have violated any of the provisions of this act, if it shall appear that he acted in good faith solely as a distributor, or if he shall furnish a guaranty signed by the person from whom he received the apples, with the address of such person, that the apples are not adulterated or misbranded within the meaning of this act. In such cases the person from whom the distributor received the apples shall be liable for the acts of the distributor who relied upon his guaranty to the same extent as the distributor would have been liable under the provisions of this act. (Id. § 12.)

32. Terms "Person" and "Closed Package" Defined.—The word "person" as used in this act shall include persons, firms, corporations, societies and associations, and the acts of the agents and employees shall be construed to be the acts of their principals and employers as well as of the agents and employees. The words "closed package" shall mean a barrel, box or other container the contents of which cannot be sufficiently seen for the purposes of inspection without opening the container. (Id. § 13.)

32a. Commissioner of Agriculture to Enforce Provisions of Chapter 295, Public Acts of 1919,* Relative Grading of Apples.—The Commissioner of Agriculture shall assume and exercise the authority conferred and perform the duties imposed upon the State Board of Agriculture by the provisions of chapter 380 of the public acts of 1921.† (P. A. 1925, c. 228, § 1.)

NOTE: See also No. 289.

Bakeries—Bakery Products.

33. Bake Shops; Regulations.—Every building or room occupied as a bakery shall be drained and plumbed in a manner conducive to its healthful and sanitary condition and constructed with air shafts and windows or ventilating pipes sufficient to insure ventilation, as the Commissioner of Labor and Factory Inspection shall direct. Every bakery shall be provided with a wash-room and water-closet apart from the bakeroom and any room where the manufacturing of food products is conducted, and one locker for each employee. No water-closet, earth-closet, privy or ash pit shall be within or communicate directly with a bakery. Rooms used for the manufacture of flour and meal foods shall be at least eight feet in height; the side walls of such rooms shall be plastered or wainscoted, the ceilings plastered or ceiled with lumber or metal, and, if required by the Commissioner of Labor

*See Nos. 20-32.

†See Nos. 176a-176c.

and Factory Inspection, shall be whitewashed at least once in three months; the furniture, utensils and floor of such rooms shall be kept in sanitary condition. The manufactured flour or meal food products shall be kept in dry, clean and airy rooms. The sleeping rooms for persons employed in a bakery shall be separate from the rooms where food products are manufactured or stored. No person, firm or corporation shall operate a bakery without having obtained from the Commissioner of Labor and Factory Inspection a certificate of inspection describing the building used as a bakery and stating that the same complies with the laws of the State relating to bakeries, which certificate shall be kept posted by the owner or operator of such bakery in a conspicuous place in the shop described in such certificate or in the salesroom connected therewith. Such certificate shall be valid for one year from the date of its issue and a fee of one dollar shall be collected from the person to whom such certificate is issued. Such certificate may be revoked by said commissioner for cause and when revoked said commissioner shall cite the person operating such bakery, or, in the case of a corporation, the manager, to appear before him within ten days thereafter to show cause why such certificate should not remain revoked. No person, firm or corporation shall open a new bakery without having given at least ten days' notice to the Commissioner of Labor and Factory Inspection of his intention to open such bakery, which notice shall contain a description of the building proposed to be used as such bakery and shall give its location. Upon receipt of such notice said commissioner shall examine the premises, and if found to comply with the provisions of the statutes relating to bakeries he shall issue such certificate of inspection. The provisions of this section shall not prevent local health authorities from enforcing orders or regulations concerning the sanitary condition of bakeries. (G. S. 1918, § 2518.)

34. Bake Shops; Rooms Used.—No room or rooms either wholly or partly under ground, not used as a bakery, on August 15, 1905, shall be used as a bakery, and no such room or rooms then used as a bakery, which have since been or shall be closed, shall be again used as a bakery; but no such room or rooms closed on account of fire, attachments, observance of religious ceremonies or quarantine regulations, shall be deemed to be closed within the meaning of this section. A bake shop shall be deemed to be closed whenever for any reason except those specified herein, the business of baking for the public shall be suspended therein. (Id. § 2519.)

35. Duty of Employer.—No employer shall permit any person to work in his bake shop who is affected with pulmonary tuberculosis, scrofulous or venereal disease, or with a communicable skin affection, and every employer shall maintain himself and his employees in a clean and sanitary condition while engaged in the manufacture, handling or sale of such food products. (Id. § 2520.)

36. Orders of Commissioner of Labor and Factory Inspection.—The owner, agent or lessee of any property used as a bakery shall, within thirty days after the service of notice upon him of an order issued by the Commissioner of Labor and Factory Inspection, comply therewith or cease to use or allow the use of such premises as a bake shop; such notice shall be in writing and may be served upon such owner, agent or lessee, either personally or by mail, and a notice by registered letter, mailed to the last known address of such owner, agent or lessee, shall be sufficient service. (Id. § 2521.)

37. Penalty.—Every person who violates any provision of sections 2518, 2519, 2520 or 2521, or who fails to comply with an order of the Commissioner of Labor and Factory Inspection, shall be fined not more than fifty dollars for the first offense, not more than one hundred dollars or imprisoned not more than ten days for the second offense, and not more than two hundred dollars and imprisoned not more than thirty days for each subsequent offense. (Id. § 2522.)

38. Bake Shop Provisions; Application to Other Shops.—The provisions of sections 2518, 2520, 2521 and 2522 shall apply to all confectionery, candy and ice cream factories, macaroni factories and all other factories for the preparation of foodstuffs, tobacco and cigars. In any factory of the above named classes where the Commissioner of Labor and Factory Inspection shall have cause to suspect that an operative or employee has any disease enumerated in the statutes pertaining thereto, he shall have authority to cause an examination to be made of such suspected case by a physician. (Id. § 2523.)

NOTE: For ice cream factories, see Nos. 103-120.

39. Bakery Defined.—The word "bakery" is defined, for the purpose of this act, as follows: A building or part of a building wherein is carried on as a principal occupation the production of bread, cakes, pies or other food products made either wholly or in part of flour. (P. A. 1923, c. 183, § 1.)

40. Bread to be of Standard Weight.—Standard loaves of bread produced in any bakery and procured or kept for the purpose of sale, offered or exposed for

sale, or sold, shall be of the following standard avoirdupois weights: One pound or one and one-half pounds or some multiple of one pound. The provisions of this act shall not apply to biscuits, buns, crackers, rolls or loaves weighing less than one-quarter pound per unit, or to what is commonly known as "stale" bread and sold as such, provided the seller at the time of sale shall expressly state to the buyer that the bread so sold is stale bread. (Id. § 2.)

41. Bread Manufactured in Bakeries to Have Weight Plainly Marked When Not of Standard Weight.—Loaves of bread produced in any bakery which shall not be of any of the standard weights herein provided for, which shall be procured or kept for the purpose of sale, offered or exposed for sale, or sold, shall have their weight plainly and conspicuously stated in one of the following ways: Bread wrapped in paper or other material prior to the time of sale to have, on the outside of such wrapper, a plain statement of the weight of the loaf of bread contained therein; bread sold or exposed for sale without being wrapped, to have, on each loaf, either a pan impression plainly setting forth its weight, or a label attached to the loaf on which its weight shall be plainly written or printed. The weight marks on such wrappers or labels shall be printed in plain, heavy gothic, capital letters and figures not less than five thirty-seconds of an inch in height, and shall not be affixed to the loaf in a manner or with a gum or paste which is unwholesome or unsanitary. (Id. § 3.)

42. Limit of Variation of Weight.—No loaf of bread produced in any bakery shall, within twelve hours after delivery by the baker, vary more than one ounce per pound from the standard or marked weight. The weight of twelve loaves of bread selected at random from any one baking of bread shall not be less than the total of the standard or marked weight of such loaves. (Id. § 4.)

43. Penalty.—Any person who, by himself or by his agent or servant, shall violate any provision of this act shall, upon the first conviction, be fined not more than two hundred dollars, and upon a subsequent conviction not more than five hundred dollars or imprisoned not more than six months or both. (Id. § 5.)

Beverages.

44. Dairy and Food Commissioner Authorized to Issue License.—The Dairy and Food Commissioner is authorized to issue licenses for the business of bottling water and manufacturing and bottling beverages for the purpose of sale, upon application therefor by any person, firm or corporation, which application shall be in writing, signed by the applicant and shall describe the person to be licensed and the place where such manufacturing or bottling is to be carried on, and no person, firm or corporation shall engage in such business without having secured such a license. (P. A. 1925, c. 102, § 1.)

45. License.—A fee of twenty dollars shall accompany each application for such license. Each such license shall expire on the thirtieth day of June next following the issuance thereof. Such license shall be in such form as the commissioner shall determine and shall be kept exposed to view in a conspicuous place upon the premises where such business shall be conducted or carried on. All fees received for such licenses shall be paid by the commissioner to the State Treasurer and shall be added to the regular appropriation for the expense of the Dairy and Food Commissioner. (Id. § 2.)

46. Equipment of Manufacturing Establishment; Term "Beverage" Defined.—The establishment used for the preparation, manufacture and bottling of any beverage shall be adequately lighted and ventilated and all floors shall be constructed of cement, concrete or tile laid in cement or other material impervious to water, and shall have sufficient pitch to insure drainage; walls and ceilings shall be varnished or painted in light color and kept clean; doors, windows and other openings of any room in which beverages or the ingredients of such beverages shall be prepared shall be screened and all entrances and exits shall be equipped with automatic closing devices, and each room in such establishment shall have at least one device for the catching of flies. Wash basins, sinks and toilets shall be provided for employees and no toilet shall open directly into any room used for the preparation or bottling of any beverage. Each such establishment shall be equipped with adequate and efficient machinery for the soaking, automatic cleaning and sterilizing of all bottles in which any such beverage or water shall be placed for the purpose of sale. The term "beverage" as used herein shall include all waters, soft drinks and like products, whether simple, mixed or compounded, and all substances or ingredients used in the preparation thereof. (Id. § 3.)

47. Equipment and Containers, How Cleaned; Use of "Hutchinson Plunger" Bottles Prohibited.—Each bottle and container used for the purpose of containing any beverage shall be cleansed before being used by soaking, spraying and rinsing in an alkali solution of at least three and one-half per centum alkali strength at a temperature of not less than one hundred and twenty degrees Fahrenheit for not less than five minutes, provided each container used for mineral or spring water shall be cleansed with a hot alkali solution and rinsed before being filled. No bottle shall be used on which the rubber part of the stopper may come into contact with the beverage. No person shall use as containers for beverages the "Hutchinson plunger" bottles or re-use any cap, crown or stopper. Caps, crowns or stoppers, before use, shall be kept in a device having a self-closing cover. All containers in which syrups, fruit juices, syrup fruit juices or flavors or other extracts shall be stored or prepared, shall be constructed of porcelain, glass, glazed-lined metal or stone crocks; provided prepared syrups or extracts may be retained in the original containers in which they were delivered. Such containers shall be covered at all times. (Id. § 4.)

48. Use of Impurities in Manufacture Prohibited.—No impure, contaminated or polluted water shall be used for the manufacture of such beverages. All wells and springs supplying water shall be covered to prevent surface contamination. No impure or adulterated material and no saccharin or coal tar, other than certified color, shall be used in the manufacture of such beverages. Beverages other than cereal beverages, cider or spring or mineral water, shall have a sugar content of not less than five per centum by weight. No false or fraudulent statements or designs shall be displayed concerning such beverages. (Id. § 5.)

49. Employment of Persons Suffering From Communicable or Contagious Disease Prohibited.—No person suffering from any communicable or contagious disease shall be employed in or about an establishment where beverages shall be manufactured or bottled. No person shall be employed in such establishment during the time in which a case of contagious disease shall exist in the house in which he shall reside, nor until such house shall have been disinfected, provided such person may be so employed if the local board of health shall issue a certificate that no danger of public contagion or infection would result from the employment of such person in such establishment. (Id. § 6.)

50. No License to be Issued Before Inspection.—No such license shall be issued until the place where the applicant therefor proposes to conduct such business shall have been inspected by said commissioner or his agent and found to be in a clean and sanitary condition, and such place shall be inspected at least twice each year and at such other times as the commissioner shall consider necessary. (Id. § 7.)

51. Suspension and Revocation of License; Not to Manufacture, or Sell, or Offer to Sell Any Beverage Manufactured Before Suspension or Revocation of License.—Said commissioner, after hearing, of the time and place of which reasonable notice shall have been given, may suspend or revoke any such license for any of the following causes: The use of any polluted water or failure to conduct such business in a sanitary place and under sanitary conditions; the use of saccharin or any ingredient impure or injurious to health; a conviction for a violation of the Federal or State prohibition laws; failure to comply with the provisions of chapter 128 of the General Statutes* relating to the manufacture of pure foods so far as the same may apply to the provisions of this act or failure to comply with any order of the commissioner under the provisions of this act. No person, during any period when his license shall be suspended or revoked, shall manufacture any beverage or sell or offer for sale any beverage previously manufactured by him. No person shall sell any beverage from open containers. (Id. § 8.)

52. Appeal From Decision of Commissioner.—Any person aggrieved by reason of the refusal of said commissioner to grant any such license, or by the suspension or revocation of any such license, may, within ten days after such refusal or such suspension or revocation, appeal to the Superior Court of the county in which such business shall be conducted or carried on. Such appeals shall be taken to the next return day or the next return day but one after such refusal, suspension or revocation, and no such appeal shall be taken until the applicant shall file with the appeal a bond, with surety, in the amount of one hundred dollars, conditioned that the appellant shall pay all taxable costs in the event that he shall fail to prevail in such

*Chapter 128 of the general statutes covers sections 2436 to 2505, inclusive, all of which will be found either in Part I, under "General Food and Drug Law" and "Miscellaneous General Provisions," or in Part II, "Special Food Laws," arranged according to their several subjects.

appeal. In such appeal costs shall be taxed as in civil cases, but no costs shall be taxed in favor of any such appellant. Upon any such appeal said court shall review such refusal, suspension or revocation, and the causes thereof, and grant such relief in the premises as it may determine. (Id. § 9.)

53. Penalty.—Any person who shall violate any provisions of this act shall be fined not more than three hundred dollars or imprisoned not more than three months or both. (Id. § 10.)

53a. Improper Use of Drinking Utensils; Penalties.—No person shall place any offal, garbage, kerosene or other foul substance in any bottle, jar or cask used as a receptacle for drinking water. Any person who shall violate any of the provisions of . . . this section shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (G. S. 1918, § 2552.)

53b. Using or Injuring Receptacles for Sale of Malt Liquors.—Every person who shall use, traffic in, sell, dispose of, convert, mutilate, destroy or detain, after demand shall be made by the owner, any butt, hogshead, barrel, half-barrel, cask, half-cask, quarter-cask or keg, used in the manufacture and sale of malt liquors, without the permission of the owner or owners thereof, or unless there shall have been a sale in express terms of any such receptacle exclusive of the malt liquors contained therein, by the lawful owner or owners, shall be fined ten dollars for each and every such receptacle so used, trafficked in, sold, disposed of, converted, mutilated, destroyed or detained; and for each and every subsequent violation of this section shall be fined twenty dollars and imprisoned not more than three months. (Id. § 6305.)

53c. Adulteration of Beer; Penalty.—No person or corporation engaged in brewing or manufacturing ale, beer or other fermented liquors shall use in the process of brewing or manufacturing, poisonous or deleterious drugs or chemicals or any impure or injurious materials or such as are prejudicial to the health of any person brewing or making use of such ale, beer or other fermented liquors. Every violation of any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or both. (Id. § 2497.)

NOTE: See also Nos. 54, 245 et seq.; the trade-mark law, No. 270 et seq.

Cold Storage.

See Nos. 160-161.

Confectionery.

54. Sale of Candies Containing Intoxicating Liquors.—All statutes relating to the illegal sale or delivery of spirituous and intoxicating liquors and the penalties for the same are made applicable to the sale or delivery of candies or confections containing any such liquors or any syrup of which one per centum or more is alcohol. (G. S. 1918, § 6427.)

NOTE: See also Nos. 3 and 38.

Dairy Products—Substitutes For Dairy Products.

55. Definition of Oleomargarine and Imitation Butter.—Any article resembling butter and not made wholly from milk or any product of milk, salt and coloring excepted, shall be oleomargarine or imitation butter within the meaning of chapter 128 of the general statutes as amended by chapter 120 of the public acts of 1921.* The term "oleomargarine" and the term "imitation butter" shall include butterine and any article made or compounded in imitation of butter or as a substitute for butter and not made exclusively from milk or any product thereof, salt and coloring excepted, and any article labeled or branded as oleomargarine upon which a tax is collected by the Federal government. The term "butter," "dairy" or "creamery" or the name or term of any breed of cattle or any combination of any such names or terms or any symbol thereof shall not be used in whole or in part upon or to form the name of any oleomargarine or imitation butter, or upon any box, tub or package containing oleomargarine or imitation butter. (G. S. 1918, § 2449, as amended, P. A. 1923, c. 273.)

56. Persons Selling or Manufacturing Oleomargarine, Butterine or Renovated Butter, to be Licensed; Penalty.—No person shall manufacture, sell, offer

*See Nos. 56-57.

or expose for sale, or have in his possession with intent to sell or use, oleomargarine, butterine or renovated butter, unless annually licensed by the Dairy and Food Commissioner. Any person who shall keep, store or display any oleomargarine, butterine or renovated butter with other merchandise, or have any such commodity in his custody or control, shall be deemed to offer the same for sale under the provisions of this act. Such license shall be issued in the form approved by the Dairy and Food Commissioner and shall be hung in a conspicuous place in the premises where such business is conducted, and shall contain the name of the licensee and a description of the premises wherein such business is to be conducted and such license shall expire June thirtieth in each year. The application for such license shall be in such form as the commissioner shall prescribe and shall contain the name of the applicant and a description of the place and character of the business conducted by such applicant. Applications for such license shall be accompanied by the following fee, payable to the Treasurer of the State: For making oleomargarine, butterine or renovated butter, one hundred dollars; for selling oleomargarine, butterine or renovated butter in quantities of more than ten pounds, fifty dollars; for selling oleomargarine, butterine or renovated butter at retail in quantities of not more than ten pounds, six dollars; for the use of oleomargarine, butterine or renovated butter by a hotel, restaurant, dining-room or bakery, three dollars. A license may be issued under the provisions of this section from the first day of any month to expire the following thirtieth day of June, at a rate proportionate to the yearly rate. Any person who, under the provisions of this act, is required to pay a fee of one hundred dollars and who shall fail to secure such license, shall pay in addition to such fee the sum of twenty dollars for each month or fraction thereof during which such failure shall continue; any person so required to pay a fee of fifty dollars who shall fail to secure such license shall pay, in addition thereto, the sum of ten dollars for each month or fraction thereof of such failure; any person so required to pay a fee of six dollars who shall fail to secure such license shall pay, in addition thereto, the sum of one dollar for each month or fraction thereof of such failure; and any person so required to pay a fee of three dollars who shall fail to secure such license shall pay, in addition thereto, the sum of fifty cents for each month or fraction thereof of such failure. The managing officer or agent of a corporation or any other person who violates any provision of this section shall be fined not more than one hundred dollars. (G. S. 1918, § 2450, as amended P. A. 1921, c. 120.)

57. Sale of Imitation Butter Regulated; Conditions Under Which Imitation Butter Can be Sold.—No person by himself, his agent or servant shall render or manufacture, sell, offer or expose for sale, take orders for the future delivery of, or have in his possession with intent to sell, any article, product or compound, made wholly or partly from any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same which shall be in imitation of yellow butter produced from pure unadulterated milk or cream from the same; but the provisions of this section shall not prohibit the manufacture or sale of oleomargarine in a separate and distinct form and in such manner as will advise the consumer of its real character, free from coloration and from any ingredient intended to cause it to look like butter. No person shall sell any oleomargarine, butterine or renovated butter at retail except it be sold in packages containing not more than five pounds, such packages to have printed thereon on two sides in letters not less than one-quarter of an inch square the words "oleomargarine," "butterine" or "renovated butter," as the case may be, also the name and address of the manufacturer. No imitation butter shall be sold, exposed for sale or delivered except under the following conditions: (1) The seller shall maintain in plain sight, over the main outer entrance of the premises where the selling is done, a sign bearing in plain black Roman letters, not less than two inches wide and four inches long, on a white ground the words "sold here" preceded by the name of the imitation article. If the selling is done from a vehicle such vehicle shall conspicuously bear such sign upon both sides of such vehicle upon the outside; (2) all imitation butter shall be kept in an enclosing package which shall bear on the outside of its body and cover, at all times in plain sight of a beholder of the package in black Roman letters, not less than one inch wide and two inches long on a white or light colored ground, the name of the imitation article. All cases containing packages of imitation butter of five pounds or less, after being opened, shall bear a sign in black Roman letters, not less than one inch wide and two inches long, on a white or light colored ground, the name of the imitation article. All signs prescribed in this section and in sections 2452 and 2453 of the General Statutes shall be provided by the Dairy and Food Commissioner, and all signs required to be maintained in plain sight over the main outer entrance of the premises where the selling is done shall

be placed in position subject to the direction of the Dairy and Food Commissioner or his agents. All signs so furnished by the Dairy and Food Commissioner shall be paid for by the parties receiving the same, at the actual cost thereof. (Id. § 2451.)

58. Vendor Must Expose Sign.—No baker or vendor of food shall sell or expose for sale any article of food containing imitation butter unless such baker or vendor shall maintain the kind of a sign prescribed by section 2451 [as amended], in the way and manner prescribed in that connection, except that the word "used" shall be substituted for the word "sold." If the selling be done from a vehicle such vehicle shall conspicuously bear such sign. (G. S., 1918, § 2452.)

59. Hotel Keeper Must Expose Sign.—No keeper of a hotel, boarding house or restaurant, temporary or permanent, shall furnish a guest with imitation butter or food containing it, unless such keeper shall maintain in plain sight of all guests sitting at tables where food is served such a sign or signs as prescribed by section 2451 [as amended], except that the word "used" shall be substituted for the word "sold." (Id. § 2453.)

60. Sale of Tub Butter Regulated.—No person by himself, his agents or his servants, shall sell, offer for sale or have in his possession with intent to sell, butter known as "tub butter" which is pressed or printed into what is known as bricks, pats or balls, except under the following conditions: Every such brick, pat or ball, shall have the words "tub butter" in one-half inch Roman letters, stamped or pressed upon it, and if wrapped the wrapper shall be marked in like manner. Every person violating any provision of this section shall be fined not more than one hundred dollars. (Id. § 2454.)

61. Penalties.—Every person violating any provision of sections 2449, 2451 [both as amended], or 2452, and every person, except a boarding house keeper, violating section 2453 shall, for the first offense, be fined not more than one hundred dollars or imprisoned not more than sixty days or both; for each subsequent offense, he shall be fined not more than two hundred dollars or imprisoned not more than four months or both. Every boarding house keeper violating section 2453 shall, for the first offense, be fined twenty-five dollars or imprisoned not more than thirty days or both; for each subsequent offense he shall be fined not more than fifty dollars or imprisoned not more than sixty days or both. Evidence of any violation shall be prima facie evidence of willful violation. (Id. § 2455.)

62. Renovated Butter; Sale.—No person, by himself or agent, or otherwise, shall sell, expose for sale or have in his possession with intent to sell, any article which is produced by taking original packing stock or other butter, or both, melting the same so that the butter fat can be drawn off, and mixing the said butter fat with skim milk, cream or other milk product, and re-churning the said mixture, or by any similar process, and which is commonly known as process butter, unless he shall have the words "Renovated Butter" conspicuously stamped, labeled or marked, in a straight line in printed letters, not less than one-half inch in length of plain Gothic type, so that said words cannot be easily defaced, upon the top, side and bottom of every tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound, which is not in the original package, shall himself or by his agent, attach to each package, sold, and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package, the words "Renovated Butter" in printed letters not less than one-half inch in length in a straight line of plain Gothic type. Every person who shall violate the provisions of this section, shall be fined not less than ten nor more than one hundred dollars. The manufacture, sale and use of renovated butter shall be regulated by the use of such signs as are prescribed for the use and sale of oleomargarine as defined in sections 2451 [as amended], 2452 and 2453, but the words "Renovated Butter" shall be substituted for the word "Oleomargarine." (Id. § 2456.)

63. Print Butter; Marked.—No person shall, by himself, his servant or agent, sell or offer or expose for sale, or have in his possession with intent to sell any print butter unless the package or wrapper containing the same shall have conspicuously printed thereon, in letters or figures not less than one-half inch in height, in plain Gothic type, the net weight of the butter contained therein. Every person who shall violate any provision of this section shall be punished by a fine not exceeding twenty-five dollars. (Id. § 2457.)

63a. Credit Authorized for Certain Licenses Paid by Manufacturers and Dealers in Imitation Butter.—Any manufacturer or user of, or dealer in, oleomargarine, butterine or renovated butter, licensed under the provisions of section 2450 of the general statutes, shall, upon application for renewal of such license as provided

by section one of chapter 120 of the public acts of 1921,* be given credit by the dairy and food commissioner for the portion of such license fee which applies to the period between June 30, 1921, and September 30, 1921. (P. A. 1921, c. 253.)

64. Dairy and Food Commissioner to Examine Persons Who Test Milk and Cream For Public Use; Certificate to be Issued to Person Passing Examination; Person Making Test Must Have Certificate; Preserving For Testing; Test.—The Dairy and Food Commissioner shall make rules and regulations for the examination of persons who may engage in sampling or testing milk or cream which is to be sold on the basis of the butter fat content or the bacterial count, or for the purpose of determining the butter fat content or bacterial count for publication for advertising or any other purpose, provided such rules shall conform to the specifications and directions for testing milk and cream for the butter fat content and bacterial count, adopted from time to time by the Association of Official Agricultural Chemists. Applications for such examination shall be made in writing to the Dairy and Food Commissioner, who shall designate the time and place of holding any such examinations. An examination fee of one dollar shall be charged for each examination. Said commissioner may issue a certificate to sample or test any milk or cream to any person who shall have complied with the rules and regulations for such examination and shall have passed the same to the satisfaction of the commissioner, which certificate shall be valid until the thirty-first day of December next following the issuance thereof and may be renewed annually upon written application to the commissioner, who may suspend or revoke any such certificate for cause after hearing thereon. No person shall take any sample of or test any milk or cream for the purpose of determining its butter fat content or its bacterial count except as herein provided, provided any person not holding such certificate may take any unbroken package of milk or cream as a sample. Milk placed in any mixing tank shall be run through a fine mesh strainer before any sample shall be taken therefrom and, if any such tank shall be in excess of five feet in length, milk therein shall be thoroughly agitated before any sample shall be taken. When a composite sample of milk or cream shall be taken to determine its butter fat content, such sample shall consist of a quantity of milk or cream, which shall include not less than seventeen cubic centimeters, taken each day in a period of not exceeding eleven days from the same vendor of such milk or cream at the time of delivery thereof, which daily sample shall, at the time of taking, be placed in the same container having therein a preservative approved by the Dairy and Food Commissioner, which container shall be free from moisture at the time of placing therein the first daily sample. Such container shall be approved by the Dairy and Food Commissioner and shall be closed so as to prevent the entrance of any other substance and shall be kept in a cool place until such test shall have been made, which shall be within seventy-two hours, Sundays and holidays excepted from the time of placing the last sample in such container. When any sample of milk or cream, other than a composite sample or a daily sample taken as herein provided for the purpose of including in a composite sample, shall be taken for the purpose of determining the butter fat content of such milk or cream, the person making such test shall take a sample which he shall retain in a container approved by the Dairy and Food Commissioner which shall have therein a preservative approved by the commissioner and shall be free from moisture when such sample shall be placed therein and shall be closed so as to prevent the entrance of any other substance, and such sample and the portion of any composite sample unused in making any such test shall be retained in such container by the person, firm or corporation making the test, for a period of not less than seven days for the purpose of making a check test by the commissioner or his agent. Any such test shall be made by the use of a standard Babcock test having a centrifugal speed indicator, and report of such tests shall be made to the commissioner upon blank forms furnished at cost by the commissioner immediately after completion of the same. Any sample of milk or cream taken for the purpose of determining the bacterial count shall be kept at a temperature not exceeding fifty degrees Fahrenheit until such count shall be taken. Such sample may be taken either in the original container or by dividing the contents of an original container, and, when any such sample shall have been divided, such content shall be placed in sterilized containers approved by the Dairy and Food Commissioner which shall be closed so as to prevent the entrance of any other substance until such count shall have been determined. (P. A. 1923, c. 180, § 1, as amended P. A. 1925, c. 222, § 1.)

* See No. 56.

65. Penalty.—Any person violating any provision of this act shall be fined not more than fifty dollars or imprisoned not more than sixty days or both. (P. A. 1923, c. 180, § 2.)

66. Penalty.—Any person who shall, for the purpose of resale, purchase any milk or cream on the basis of the butter fat content or bacterial count of such milk or cream which shall not have been determined in accordance with the provisions of this act or any person who shall publish for any advertising or other purpose the butter fat content or bacterial count of any milk or cream not determined in accordance with the provisions of this act shall be fined not more than fifty dollars or imprisoned not more than sixty days or both. (P. A. 1925, c. 222, § 2.)

67. Milk of Standard Quality Defined.—Any milk which is sold or exchanged or offered for sale or exchange, shall be deemed to be sold, exchanged or offered as of standard quality, unless otherwise expressly stated at the time of such sale, exchange or offer. Milk of standard quality shall contain not more than eighty-eight and one-quarter per centum of watery fluid, not less than eleven and three-quarters per centum of milk solids, not less than eight and one-half per centum of solids not fat, and not less than three and one-quarter per centum of milk fats; and the certificate of the director of the Connecticut Agricultural Experiment Station or chemist in charge thereof, or of the director of the laboratory of the State Department of Health or chemist in charge thereof, shall be prima facie evidence of the composition of any milk. (G. S. 1918, § 2465, as amended P. A. 1923, c. 143.)

68. Adulterated Milk; Sale Forbidden.—No person shall, by himself, his servant or agent, sell or exchange, or offer for sale or exchange, or have in his possession with intent to sell or exchange, as of standard quality, any milk which is not of standard quality, or any milk diluted with water or adulterated by the addition of any foreign substance, or which has been wholly or in part skimmed, or shall knowingly deliver or offer for delivery milk that is tainted or partly sour to any customer buying the same for sweet milk. (G. S. 1918, § 2466.)

69. Sale of Skimmed Milk Restricted.—No person shall sell or offer or expose for sale, milk from which the cream or any part thereof has been removed, without displaying in such place as the Dairy and Food Commissioner may determine in each place or room where such milk is sold, offered or exposed for sale, a sign having thereon the words "Skimmed milk sold here," which sign shall be furnished by said commissioner, and without distinctly and durably affixing a metal label or tag in a conspicuous place upon the outside, and not more than six inches from the top of every can, vessel or package containing such milk, and such metal label or tag shall have the words "Skimmed Milk" stamped, printed or indented thereon in letters not less than one inch in height; and such milk shall only be sold out of a can, vessel or package so marked. Skimmed milk may be sold in milk bottles if plainly marked or tagged as such. (Id. § 2467, as amended P. A. 1921, c. 154.)

70. Cream; Standard Quality Defined.—The term "cream" as used in this chapter shall mean that portion of milk which rises to the surface of unagitated, unadulterated milk while standing, or is separated from it by centrifugal force and contains not less than sixteen per centum of butter fat. Any other substance sold as cream shall be clearly and distinctly labeled declaring the principal constituents thereof and the per centum of fat contained therein. Any person violating any provision of this section shall be fined not more than one hundred dollars. (G. S. 1918, § 2468.)

71. Adulterated Cream; Sale Forbidden; Exception.—No person shall sell or exchange or offer for sale or exchange, or have in his possession with intent to sell or exchange, as of standard quality, any cream which is not of standard quality or any cream which has been adulterated by the addition of any foreign substance. Cream of less than sixteen per centum of butter fat may, however, be sold if the minimum per centum of butter fat is plainly printed or stamped on the label attached to the container. (Id. § 2469.)

72. "Pasteurized" Milk; Labels.—No person shall sell or exchange or offer or expose for sale or exchange, or have in his possession with intent to sell or exchange, any milk or cream which has been subjected to the action of heat, commonly known as "pasteurization" unless the receptacle in which the same is contained is plainly labeled "Pasteurized," with the day of the week of pasteurization. If such milk or cream has been pasteurized more than one week, there shall be printed on the label in letters at least one-eighth of an inch high the following: "Pasteurized more than one week." (Id. § 2470.)

73. Terms "Condensed Milk," "Evaporated Milk," "Concentrated Milk," "Sweetened Condensed," "Sweetened Evaporated Milk," "Sweetened Concentrated Milk," "Condensed Cream," "Evaporated Cream" and "Concentrated Cream" Defined; Term "Adulterated" Defined; Sale of Prohibited.—For the purpose of this act the terms "condensed milk," "evaporated milk" and "concentrated

milk" shall be synonymous and shall mean milk from which a portion of the water shall have been taken by evaporation or milk in which the ratio of fat to the non-fat solids shall have been changed by the addition or abstraction of cream and from which a portion of the water shall have been taken by evaporation. The terms "sweetened condensed milk," "sweetened evaporated milk" and "sweetened concentrated milk" shall be synonymous and shall mean condensed milk to which sugar shall have been added. The terms "condensed cream," "evaporated cream" and "concentrated cream" shall be synonymous and shall mean cream from which a portion of the water shall have been taken by evaporation. The term "adulterated" shall mean: (a) When used in reference to condensed milk, any such milk in which the milk solids shall be less than twenty-five and five-tenths per centum, or in which the milk fat shall be less than seven and eight-tenths per centum, or in which the milk solids and the milk fat combined shall be less than thirty-three and seven tenths per centum, or to which any foreign substance shall have been added; (b) when used in reference to sweetened condensed milk, any such milk in which the milk solids shall be less than twenty-eight per centum, or the milk fat shall be less than eight per centum, or to which any foreign substance shall have been added; (c) when used in reference to condensed cream, any such cream in which the milk solids shall be less than forty per centum, or the milk fat shall be less than twenty-eight and four-tenths per centum, or to which any foreign substance shall have been added. No person shall sell, exchange or offer or expose for sale or exchange or have in his possession with intent to sell or exchange any condensed, evaporated or concentrated milk, or any sweetened condensed, sweetened evaporated or sweetened concentrated milk or any condensed, evaporated or concentrated cream which shall have been adulterated. (Id. § 2471, as amended P. A. 1925, c. 106.)

74. Evaporated Milk or Cream; Sale Restricted.—No person shall sell or exchange or offer for sale or exchange, or have in his possession with intent to sell or exchange, any milk powder or evaporated milk or cream except in the original packages in which the same are packed by the manufacturer or maker thereof, and every such package shall be plainly marked so as to show the contents thereof and the ingredients composing such contents. (G. S. 1918, § 2472.)

75. Penalties.—Every person convicted of a first violation of any of the provisions of sections 2465 [as amended], 2466, 2467 [as amended], 2469, 2470, 2471 [as amended], and 2472, shall be fined not less than seven nor more than two hundred dollars, and for each subsequent conviction such person shall be so fined, or imprisoned for not less than ten days or more than six months or both. (Id. § 2473.)

76. Milk or Cream; Measure.—All sales of milk or cream shall be made by wine measure. (Id. § 2474.)

77. Milk and Cream; Cans, Jars and Bottles.—No person shall, by himself or by his servant or agent, or as the servant or agent of any other person, firm or corporation having custody of any can, jar, bottle, measure or other vessel used as a container for milk intended for sale, place or cause or permit to be placed therein any offal, swill, kerosene or vegetable matter, or any article other than milk, skimmed milk, buttermilk or cream, or water or other agent used for cleansing such can, jar, bottle, measure or other vessel. (Id. § 2475.)

78. Milk Containers; What Uses Forbidden.—No person shall, by himself or by his servant or agent, or as the servant or agent of any other person, firm or corporation, send, ship, return or deliver, or cause or permit to be sent, shipped, returned or delivered to any producer of milk, any can, jar, bottle, measure or other vessel used as a container for milk, containing any offal, swill, kerosene, vegetable matter, rotten or putrid milk or any other offensive material. (Id. § 2476.)

79. Penalties.—Every person who shall violate any provision of the three preceding sections shall be fined seven dollars for each offense. (Id. § 2477.)

80. Printed Notices.—A printed notice containing sections 2465 to 2476, inclusive, and this section, shall be conspicuously posted in all public places, creameries or factories where milk is received or sold. (Id. § 2478.)

81. Dairy and Food Commissioner; Powers.—The Dairy and Food Commissioner shall have power to enforce the provisions of the preceding sections of this chapter, and when the necessary evidence is submitted by the Connecticut Agricultural Experiment Station that any of said provisions has been violated, he shall make complaint to the proper prosecuting officer. The Dairy and Food Commissioner, or his authorized agent, shall have the right to take samples of milk or cream from any producer or vendor upon tender of the market price thereof and he shall seal and mark a duplicate sample of such milk or cream and leave the same with such producer or vendor. (Id. § 2479.)

82. Agents and Assistants; Prosecutions.—The Dairy and Food Commissioner may employ agents and assistants to enforce the provisions of the general

statutes relating to the production and marketing of milk or cream and the provisions of the rules and regulations of the milk regulation board and the orders of said commissioner as authorized by said board. If the Dairy and Food Commissioner, his deputy or any agent or assistant, shall find that any of the said provisions of the General Statutes or any of the provisions of the rules and regulations of the milk regulation board or any order authorized thereby has been violated, said commissioner, his deputy or any agent or assistant, shall cause prosecution for such violation. (Id. § 2480.)

83. Milk From Diseased Cows; Penalty For Sale.—Every person who shall sell or expose for sale milk or any product of milk from a cow which is emaciated from unknown causes or which shows physical symptoms of a disease, which disease may, or may be reasonably suspected to, affect the healthfulness of such milk or any product thereof, after such cow shall have been adjudged by the commissioner on domestic animals or his deputy or agent to be so emaciated or diseased, shall be fined not more than twenty-five dollars or imprisoned not more than thirty days or both. (Id. § 2481, as amended P. A. 1925, c. 231.)

84. Sale of Impure Milk Prohibited; Penalty.—No person, firm or corporation shall offer or sell or expose for sale for human consumption any milk containing an average of more than one million bacteria per cubic centimeter, as determined by analyses made by a laboratory approved by the State Department of Health of at least three separate samples taken, within a period of not exceeding thirty days, from milk offered or sold or exposed for sale by the same person, firm or corporation, and no person, firm or corporation shall, for any purpose, use or publish any result of any count or test of bacteria, which count or test shall not have been made by the State Department of Laboratories or by a laboratory approved by the State Department of Health. Any person, firm or corporation violating any provision of this act shall be fined not more than one hundred dollars. (G. S. 1918, § 2482, as amended P. A. 1925, c. 101.)

85. Sale of Milk; Order of Prohibition.—Every official authorized to prohibit the sale of milk shall state in each order issued for such purpose whether the same is issued to prevent the sale of milk which is unfit for consumption as food. (G. S. 1918, § 2483.)

86. Damages.—Any official issuing such order shall ascertain the average daily quantity of milk produced by the cows or goats of each person affected by such order of prohibition and the municipality wherein such sale is prohibited shall pay damages for the value of the milk which such person has been unable to sell because of such order during the period of prohibition upon proof that at the time such order was issued such milk was fit for such consumption, and the premises where such milk was produced were free from contagious disease. Any person aggrieved by such order, in the event of failure to agree with the municipality as to the value of the milk produced during such period, may collect the value thereof from such municipality. (Id. § 2484.)

87. Qualifications and Appointment of Members of the Milk Regulation Board; Term of Office; Removal of Members of Board.—On or before the fifteenth day of May, 1923, and quadrennially thereafter, the Governor, with the advice and consent of the Senate, shall appoint two electors of the State actively engaged in the production of milk who, with the Dairy and Food Commissioner, the Commissioner of Health, the secretary of the State Board of Agriculture and the Commissioner on Domestic Animals, shall constitute the Milk Regulation Board. Such two electors so appointed to membership on said board shall hold office for four years from the first day of May in the year of their respective appointments and until their successors shall have been appointed and qualified. If a vacancy shall occur in the office of either member of said board appointed by the Governor as herein provided when the General Assembly shall not be in regular session, such vacancy shall be filled by the Governor until the third Wednesday of the next regular session of the General Assembly, when such office shall be filled by appointment by the Governor, with the advice and consent of the Senate, as hereinbefore provided. The Governor, for cause, after a public hearing, may remove any member of the board appointed by the Governor with the advice and consent of the Senate or appointed by the Governor to fill a vacancy. Said board shall keep a record of all of its proceedings and may appoint its officers and prescribe their duties. The office of said board shall be with the Dairy and Food Commissioner. (Id. § 2485, as amended P. A. 1923, c. 167.)

88. Regulations.—Said board, after public hearing, notice of which shall be given by publication in a newspaper published in each county at least two weeks before such hearing, may make, amend, repeal or suspend rules and regulations concerning the inspection of dairies, the production, care, handling, marketing or

sale of milk or cream within the State, to protect the public from the use of milk or cream which is unsanitary or detrimental to public health. Such rules and regulations shall take effect twenty days after such publication. (G. S. 1918, § 2486.)

89. Appeals From Local Authorities.—Any person claiming to be aggrieved by an order issued by any official authorized to prohibit the sale of milk or cream in any town, city or borough may appeal from such order to the milk regulation board. Such appeal shall be taken by filing in the office of said board a copy of the order prohibiting such sale, with a brief statement of such grievance. Said board shall, within one week after the receipt of such appeal, ascertain the methods employed by the person taking such appeal in producing, handling or distributing milk or cream, and shall cause an inspection of all implements and equipment used in the production and handling of the same, the cows from which, and barn and premises where such milk or cream is produced or procured, and after such inspection shall forthwith affirm, modify or rescind such order, but the original order shall remain in force pending such appeal. (Id. § 2487.)

90. Appeals From Milk Regulation Board.—Any person claiming to be aggrieved by any rule, regulation or order made by said board may appeal from the same to the Superior Court for the county wherein such person resides, if said court is in session, and if said court is not in session such appeal may be taken to any judge of said court within thirty days after the publication of such rule, regulation or order. Such appeal shall be taken by petition in writing with a citation signed by competent authority to said board and the same shall be served upon the Attorney-General at least twelve days before the next return day of said court and if to a judge of said court the same shall be served ten days before date of hearing thereon. Said petition shall contain a copy of the rule, regulation or order appealed from, with a statement of the grievance of the party taking such appeal. Said court or judge, by itself or by a committee appointed by it, may hear such appeal de novo and may affirm, modify or rescind such rule, regulation or order or any part thereof. (Id. § 2488.)

91. Requirements For Dealers.—No person shall engage in the production, care, marketing or sale of milk or cream unless he shall have complied with the rules and regulations of said board and the provisions of sections 2485 [as amended] to 2492, inclusive. (Id. § 2489.)

92. Sale and Distribution Prohibited.—The Dairy and Food Commissioner, or his deputy, shall prohibit the sale or distribution of any milk or other dairy product which is unsanitary or detrimental to health, and which has not been produced, cared for or handled in the manner prescribed by said sections and by the rules and regulations of said milk regulation board. (Id. § 2490.)

93. Local Regulations Not Affected.—No provisions of sections 2485 [as amended] to 2492, inclusive, shall affect the authority of any town, city or borough to enact ordinances or by-laws for the control, regulation, sale or distribution, within its limits, of milk which is detrimental to public health. (Id. § 2491.)

94. Penalties.—Any person who shall violate any provision of sections 2486, 2489, 2490, or any rule or regulation established by said board or any order of said commissioner duly authorized, shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (Id. § 2492.)

95. Dairy and Food Commissioner.—The Governor shall appoint a citizen of the State as a Dairy and Food Commissioner, who shall hold office for four years from and after the first day of May succeeding his appointment and until his successor is appointed, unless sooner removed by the Governor for cause, and the Governor may fill any vacancy in the office. A room in the Capitol shall be set apart for the Dairy and Food Commissioner, who shall enforce the provisions of this chapter. Said commissioner may appoint and remove a deputy, who may also act as clerk, and who, under the direction of the commissioner, shall have all the powers of the commissioner. For the purpose of examining into any suspected violation of the provisions of this chapter, the said commissioner or his deputy shall have free access, at all reasonable hours, to all places and premises, apartments of private families keeping no boarders excepted, where he suspects imitation butter to be made, sold, used, kept or stored in transit, or where it is suspected that the provisions of the law relating to adulterated molasses* or imitation vinegar† or the manufacture or sale thereof or that the laws relating to tub, print, renovated or process butter or eggs‡ are being violated. The agents of railroads and express companies having knowledge

*See No. 184.

†See Nos. 185-186.

‡See Nos. 160-161.

or record of any consignment of imitation butter shall inform the commissioner or his deputy of such consignment and the name of the consignee when requested by said commissioner or his deputy. On the tender of the market price of good butter, good eggs, good vinegar or good molasses, the commissioner or his deputy may take from any person, firm or corporation samples of any such article which he suspects is sold, offered for sale, kept with intent to sell, made or manufactured as the case may be, contrary to any provisions of this chapter; he may analyze such samples or have them analyzed by a State chemist or by an experiment station, and a sworn or affirmed certificate by such analyst shall be prima facie evidence of the ingredients and constituents of the sample analyzed; and if such analysis shall show that such sample does not conform to the requirements of law and shall give the commissioner or his deputy reasonable grounds for believing that any provision of this chapter has been violated, he shall cause such violator to be prosecuted. The commissioner or his deputy shall make an examination of the premises of any farm or dairy, or any place where cattle, dairy stock or other domestic animals are kept within this State, where any unsanitary condition liable to affect the products of such farm or dairy exists, or is reported or suspected to exist. When any such condition shall be found by him he shall notify the owner or occupant of the premises upon which such condition exists to remove or abate the same at the expense of such owner or occupant, within such time as the commissioner or his deputy shall direct; and he may by notice in writing to the owner or occupant, prohibit the sale of any milk or milk products produced on any farm or in any dairy, the owner or occupant of which neglects or refuses to comply with any order of the commissioner or his deputy to remove or abate any unsanitary condition existing on such premises which is liable to affect the products of such farm or dairy, until such unsanitary condition is removed or abated to the satisfaction of the said commissioner or his deputy and such prohibition is terminated by him in writing. The commissioner may employ such assistants as shall be necessary to enforce the provisions of this chapter and he and his deputy and assistants shall have free access at all reasonable hours to all such premises and places for the purpose of making the examination provided herein. Every person who refuses such access or who sells any milk or milk products of any farm or dairy, the sale of which has been prohibited as herein provided, shall be fined not more than twenty-five dollars or imprisoned not more than thirty days or both. A biennial report shall be made to the Governor by the Dairy and Food Commissioner. (Id. § 2504.)

96. Obstructing Dairy and Food Commissioner; Penalty.—Every person refusing the Dairy and Food Commissioner or his deputy reasonable access for said purpose of examination, or refusing to sell samples as provided in section 2504, shall be fined not more than seven dollars or imprisoned not more than thirty days or both. Evidence of any violation of this section shall be prima facie evidence of willful violation. (Id. § 2505.)

97. "Filled Milk" Defined; Penalty For Manufacture and Sale of Filled Milk.—The term "filled milk" for the purpose of this act shall mean any milk or cream to which has been added any fat or oil other than milk fat, whether or not such milk is condensed, evaporated, concentrated, powdered, dried or desiccated. No person shall manufacture, sell, offer or expose for sale any filled milk. Any person violating any provision of this act shall be fined not less than seven nor more than two hundred dollars or imprisoned not more than sixty days or both. (P. A. 1923, c. 188.)

98. Babcock Milk-test Bottles Not to be Used Unless Stamped by the Connecticut Agricultural Experiment Station; Penalty.—No person or corporation buying milk or cream and making payments therefor based on the results of the Babcock test shall use any bottle or pipette for the purpose of determining the relative or proportional amount of butter fat of any milk or cream, unless such bottle or pipette shall have been tested and stamped as accurate by the Connecticut Agricultural Experiment Station at New Haven. Any person violating any provision of this act shall be fined not less than seven nor more than two hundred dollars or imprisoned not more than six months or both. The Dairy and Food Commissioner shall be charged with the enforcement of this act. (G. S. 1918, § 4788, as amended P. A. 1923, c. 128.)

99. License to be Procured by Dealers in Dairy Products.—No person, firm, association or corporation shall engage in the purchase from producing dairymen of milk or cream to be resold either to dealers engaged in the sale of such products, or at retail to consumers without having obtained from the Dairy and Food Commissioner a license to be issued by him under the provisions of this act. Application for such license shall be made in writing upon forms provided by the Dairy and Food Commissioner. Each license shall run to the first day of July following

the date of issue, and the fee for such license shall be fifty cents per month. Such license may be revoked by the commissioner for cause and on reasonable notice stated in writing to the licensee, but the licensee may appeal to the Court of Common Pleas or the Superior Court for Hartford county, and on such appeal the court may restore such license, upon such terms and conditions as may be equitable. All license fees received under this section shall be accounted for to the State Comptroller and paid to the State Treasurer, and added to the regular appropriation for the expense of the Dairy and Food Commissioner. (P. A. 1919, c. 194, § 1.)

100. Applicant to Furnish Proof of Financial Responsibility or Bond.—Each applicant shall furnish to the commissioner proof of his financial responsibility to meet such obligations as he may contract in the purchase of such milk and cream, or he shall furnish a bond, sufficient in amount and satisfactory to the commissioner, running to the State, to be filed with the commissioner, conditioned upon the faithful fulfillment of his obligations to producing dairymen for milk and cream purchased by him in the conduct of such business. Suit for forfeiture of such bond may be brought by the Attorney-General in the name of the State in the Court of Common Pleas or the Superior Court for Hartford county and the avails thereof shall be used by the Dairy and Food Commissioner to satisfy, pro rata, the claims of producing dairymen against such licensee. Claims may be proved at a hearing before the Dairy and Food Commissioner, or his deputy, provided notice of such hearing shall have been given to all known parties in interest at least fifteen days prior to such hearing, and by newspaper publication. (Id. § 2.)

101. Commissioner to Furnish License; License to be Shown Proper Officer.—The commissioner shall furnish to each such licensee a certificate showing his name and address, the character of the business for which such license is issued, his principal place of business and the dates of issue and termination of such license. Any person licensed under the provisions of this act shall, upon request of the commissioner, his deputy or other duly authorized representative, show his license certificate, and, upon request, shall file with the commissioner a statement, under oath, showing the amount of milk and cream purchased by him from producing dairymen during the month next preceding, and the commissioner may thereupon order the filing of a bond or an increase or decrease in the amount of the existing bond. (Id. § 3.)

102. Penalty.—Any person who shall engage in the purchase of milk or cream from producing dairymen without having procured a license or who shall fail to exhibit his certificate on request, or who shall fail to file a statement under oath upon request of the commissioner as required by the provisions of this act shall be fined not more than one hundred dollars or imprisoned not more than sixty days, or both, and, upon a subsequent violation, shall be subject to a like fine and imprisonment of not less than thirty days. (Id. § 4.)

102a. Repayment of License Fees Paid by Dealers in Dairy Products Provided for.—The comptroller is authorized and directed to draw his order on the treasurer for the sum of three thousand one hundred fourteen dollars and fifty cents in favor of the Dairy and Food Commissioner for the repayment of license fees paid under the provisions of chapter 194 of the public acts of 1919* as hereinafter provided. Any person who paid a license fee under the provisions of said chapter, who shall present a claim, together with his license certificate, to said commissioner on or before October 1, 1921, shall receive the amount of such fee. Any claim not so presented shall be forever barred. (P. A. 1921, c. 103, § 1.)

102b. Appropriation.—Any money herein appropriated remaining in the hands of said commissioner after said date shall be paid into the State treasury. (Id. § 2.)

103. Sale of Adulterated Ice Cream Prohibited.—No person shall sell, expose for sale or have in possession with intent to sell any ice cream misbranded or adulterated as hereinafter defined. (P. A. 1925, c. 127, § 1.)

104. Terms Defined.—Ice cream, within the meaning of this act, shall be the frozen product made from cream with the addition of milk or milk products and sugar, with or without natural flavoring, and such ice cream shall be manufactured, stored, distributed and dispensed in a sanitary manner and shall contain not less than 8 per centum of milk fat. Fruit ice cream, within the meaning of this act, shall be the frozen product made from cream with the addition of milk or milk products and sugar, and sound, clean and matured fruits, and shall contain not less than 6 per centum of milk fat. Nut ice cream, within the meaning of this act, shall be the frozen product made from cream with the addition of milk or milk

*See Nos. 99-102.

products and sugar and sound, non-rancid nuts, and shall contain not less than 6 per centum of milk fat. (Id. § 2.)

105. When Ice Cream Shall be Deemed Adulterated.—Ice cream shall be deemed adulterated within the meaning of this act if in substance and quality it shall fail to meet the provisions and standards required for standard ice cream, or, if it shall contain boric acid, salicylic acid, formaldehyde, saccharin or any substance deleterious to health, or if it shall contain salts of copper, iron oxide, ochres or any coloring substance or compound or flavoring matter deleterious to health, provided nothing in this section shall be construed to prohibit the use of harmless colors permitted to be used in foods or of harmless imitation flavors, if the presence of the same shall be made known to the purchaser thereof. (Id. § 3.)

106. Certain Substitutes Permitted.—Nothing in this act shall be construed to prohibit, in the manufacture of ice cream, the use of fresh eggs, pure gelatin or harmless vegetable gums; and nothing in this act shall be construed to prohibit the manufacture and sale of ice cream containing less than the amounts of milk fat required by section 2 of this act, provided the true fat content of such ice cream shall be plainly and conspicuously stated on the container in which it shall be sold, or, in the case of ice cream sold in bulk, the true fat content shall be made known to purchasers thereof by means of a suitable sign displayed at the time and place of sale. (Id. § 4.)

107. Ice Cream Not to be Manufactured Without Permit.—No person, firm or corporation shall engage in the manufacture of ice cream for sale until a permit shall have been issued by the Dairy and Food Commissioner. Such permit shall be renewed annually during the month of April, and may be suspended or revoked at any time for cause. (Id. § 5.)

108. Sanitary Condition of Plants.—All buildings or rooms used for the manufacture of ice cream shall be well lighted, ventilated and drained, and the plumbing trapped and constructed in accordance with well established sanitary principles. Ceilings and walls shall be painted a light color. Windows, doors or other openings shall be screened. Floors of workrooms shall be constructed of cement or other waterproof material and shall be connected with trapped sewer drains and so graded as to discharge all surplus drainage into such drains. Floor openings shall be covered by suitable metal strainers. When sewers are not available, drains shall discharge into cesspools or septic tanks. (Id. § 6.)

109. Tubs to be Used.—All tubs used for washing purposes shall be constructed of nonabsorbent material and connected by trapped drains with sewers, cesspools or septic tanks. (Id. § 7.)

110. Equipment.—All ice cream plants shall be equipped with adequate facilities for producing boiling water or steam. All utensils, implements and equipment used in the preparation and manufacture of ice cream shall be sterilized at the close of each day's operation with live steam or a clean hot water bath of not less than two hundred and twelve degrees Fahrenheit. (Id. § 8.)

111. Toilet and Washing Facilities For Employees.—Toilet and washing facilities, to the approval of the Dairy and Food Commissioner, shall be provided for the use of employees. Locker rooms or toilets shall not open directly into any room in which ice cream materials or utensils are being handled. (Id. § 9.)

112. Clothing of Employees; Spitting and Tobacco Chewing Prohibited.—All persons, while handling materials for the manufacture of ice cream, shall wear clean and washable outer garments. Spitting and the use of tobacco shall be prohibited in any part of an ice cream plant. (Id. § 10.)

113. Employment of Certain Persons Prohibited.—No person suffering from tuberculosis or a venereal or any other communicable disease shall have access to, or be employed in or about, any part of an ice cream plant. (Id. § 11.)

114. Ice Cream Cans to be Used For No Other Purpose.—No person, firm or corporation who shall receive cans or other vessels used as containers for milk, cream or ice cream shall permit to be placed therein any offal, swill, kerosene, vegetable matter or any other offensive material, and each such container shall be thoroughly washed by such person, firm or corporation, immediately after its contents shall have been removed. (Id. § 12.)

115. Water From Public Supply to be Used For Cleansing Purposes.—No water other than a public supply shall be used in the cleansing of ice cream utensils unless samples shall have been procured by an agent of the Dairy and Food Commissioner and delivered to a laboratory approved by the State Department of Health for analysis and found to be free from contamination. (Id. § 13.)

116. Milk Products Used in Manufacture of Ice Cream to be Pasteurized.—All milk products which shall enter into the manufacture of ice cream shall be pasteurized by heating to a minimum temperature of one hundred and forty-two degrees

Fahrenheit and maintained at that temperature for at least thirty minutes, or shall be brought to the boiling point, or shall be of the grade A or certified standard for milk or cream as provided by the rules and regulations of the milk regulation board for such products. (Id. § 14.)

117. Cans to be Airtight.—All cans or receptacles used in the delivery of milk, cream or ice cream shall have tight covers without holes or vents in the top. Any such cans found to be in an unfit condition to be used by reason of being worn out or badly rusted or with a rusted inside surface, or in such condition that washing shall be insufficient to render them sanitary, shall be condemned by the Dairy and Food Commissioner or his agents for use as receptacles for milk, cream or ice cream. (Id. § 15.)

118. Sanitary Condition of Storeroom.—All storage rooms, cabinets, boxes or any other containers used for the storage of ice cream shall be maintained in a clean and sanitary condition and the inside of the same shall not be exposed to wind or dust. (Id. § 16.)

119. Penalties.—Any person who shall violate any provision of this act shall be fined not less than ten nor more than two hundred dollars for the first offense and for any subsequent offense shall be fined not less than ten nor more than two hundred dollars and imprisoned not more than thirty days, but no dealer shall be prosecuted under the provisions of this act if he shall present a statement in writing from the manufacturer, wholesaler or jobber from whom such ice cream was purchased, containing a guarantee as to the quality of such ice cream. (Id. § 17.)

120. Enforcement.—The Dairy and Food Commissioner shall enforce the provisions of this act. (Id. § 18.)

NOTE.—For other statutory provisions applying to ice cream factories, see No. 38.

121. Dairies to be Registered.—Any person, firm or corporation engaged in the production of milk, which milk or the products thereof are to be used or disposed of elsewhere than on the premises where such milk is to be produced, shall register with the Dairy and Food Commissioner. Such registration shall include the address of the producer and the location of the premises on which the milk is to be produced, the number of cows kept and the locality where such milk or the products thereof are to be sold if disposed of at retail, or the names and addresses of the purchasers if sold at wholesale. Such registration shall be made during the month of May, 1926, and renewed annually thereafter during the month of May. (P. A. 1925, c. 225, § 1.)

122. Milk and Cream Dealers to be Registered.—Each person, firm or corporation engaged in the sale, handling or distribution of milk or cream shall register with the Dairy and Food Commissioner and shall state the address, the place of business, the quarts of milk or cream handled and the names and addresses of producers supplying the same. Such list of producers shall be promptly revised when changes shall occur therein. Such registration shall be made during the month of May, 1926, and renewed annually thereafter during the month of May. (Id. § 2.)

123. No Sales of Milk or Cream or Dairy Products to be Made Unless Same is Registered.—No person, firm or corporation shall sell or distribute milk or cream until registered with the Dairy and Food Commissioner or sell or distribute milk or cream purchased from producers unless such producers shall exhibit a receipt from the Dairy and Food Commissioner showing that registration has been made for the current period, or sell or distribute any such products from any dairy located beyond the boundaries of this State unless such dairy shall have been registered with and approved by the Dairy and Food Commissioner. (Id. § 3.)

124. Persons Having or Caring For Persons With Communicable Disease Not to be Employed.—No person having a communicable or infectious disease, or who shall care for any person having any such disease, shall be allowed to handle milk or milk utensils. In case of an outbreak of any communicable disease on the premises where milk is being produced, handled or sold, the person in charge of the premises shall immediately notify the local health officer. (Id. § 4.)

125. Inspection.—All places where milk is being produced, handled or sold shall be open to inspection by the Dairy and Food Commissioner or his agents, at all reasonable hours. (Id. § 5.)

126. Premises to be Clean and Orderly.—All stables, buildings and premises where milk, cream, skim milk or buttermilk is being produced, handled or sold shall be maintained at all times in a clean and orderly manner. (Id. § 6.)

127. Cows to be Free From Disease.—The cows shall be healthy and free from disease, as determined by physical examination, and be kept clean and be housed in suitable quarters, well lighted and ventilated. (Id. § 7.)

128. Water to be Free From Pollution.—The water used on premises where milk is being produced or handled shall be free from pollution or organisms which cause or are liable to cause disease. (Id. § 8.)

129. Location of Privies and Cesspools.—All privies, cesspools and sink-drains on dairy premises shall be so located, constructed and maintained that the contents will not be a menace to dairy products or the public health. (Id. § 9.)

130. Care of Utensils.—All utensils and containers used in handling milk shall be thoroughly washed immediately after using and be effectually sterilized, preferably by steam. (Id. § 10.)

131. Equipment.—A milk house or room shall be provided with concrete or other floor, approved by the Dairy and Food Commissioner, and graded, drained and trapped to the approval of said commissioner, devoted exclusively to the care, cooling, handling or storing of milk, and effectually screened to exclude flies. (Id. § 11.)

132. Milk is to be Removed From Stable Immediately.—Milk shall be removed from the stable immediately after milking and strained in a suitable milk room. Milk delivered within two hours to a milk-receiving, milk-pasteurizing or milk-distributing plant approved by the Dairy and Food Commissioner, shall not be required to be cooled at the farm where milk is being produced. Milk not so delivered shall be cooled to fifty-five degrees Fahrenheit or below, within one hour after milking, and shall be maintained thereafter at a temperature not exceeding sixty degrees Fahrenheit until delivery. If aerators shall be used they shall be placed in a sanitary milk room. Milk shall not be cooled in any well or cistern without the written permission of the Dairy and Food Commissioner. (Id. § 12.)

133. Sale of Milk From Tuberculin-tested Cows Regulated.—No person, firm or corporation shall sell or advertise milk or cream as coming from tuberculin-tested cows or herds unless all raw milk sold or offered for sale by such person, firm or corporation shall be produced from tuberculin-tested cows or herds officially tested by the Commissioner on Domestic Animals, or unless such person, firm or corporation shall have an accredited herd certificate issued within twelve months. (Id. § 13.)

134. Sales Regulated.—No milk or cream shall be sold or advertised under any special name, other than the name of the farm or its owner, the breed of cattle or an indication of the tuberculin test, unless the milk or cream so sold or advertised shall have been produced according to the specifications for grades established by the Connecticut Milk Regulation Board. (Id. § 14.)

135. Sale of Milk on Streets, Regulated.—No person shall bottle, pour, dip or measure any milk, cream, skim milk or buttermilk for sale at retail in any vehicle upon any street, or in any other place than a milk room or place approved by the Dairy and Food Commissioner. (Id. § 15.)

136. Not to Engage in Process Known as "Pasteurization of Milk or Cream" Without Permit.—No person, firm or corporation shall engage in the process known as "pasteurization of milk or cream" for public sale until a permit shall have been issued by the Dairy and Food Commissioner. Such permits shall be issued for a period ending December thirty-first of each year, and may be suspended or revoked at any time for cause by the Dairy and Food Commissioner. No milk or cream shall be sold in this State as "pasteurized" milk or cream unless produced in accordance with the provisions hereinafter specified. (Id. § 16.)

137. "Pasteurization of Milk" Defined; "Pasteurization of Cream" Defined.—Pasteurization of milk is defined as a process by which milk is rapidly heated to a temperature of one hundred and forty-five degrees Fahrenheit, maintained between one hundred and forty-two degrees Fahrenheit and one hundred and forty-eight degrees Fahrenheit for thirty minutes, then cooled immediately to a temperature of fifty degrees Fahrenheit, placed in the final container at once and held at this temperature until delivery. Pasteurization of cream is defined as a process by which cream is rapidly heated to a temperature of at least one hundred and forty-two degrees Fahrenheit, maintained at or above such temperature for thirty minutes, then cooled immediately to a temperature of fifty degrees Fahrenheit and held at that temperature until delivery. (Id. § 17.)

138. Raw Milk Not to be Pasteurized.—No raw milk shall be bottled in a pasteurizing plant unless by special permission of the Dairy and Food Commissioner. Milk shall not be repasteurized. All milk sold in the State as "pasteurized" milk shall be pasteurized within the State, unless a special permit shall have been issued by the Dairy and Food Commissioner covering an emergency. (Id. § 18.)

139. Milk and Cream Before Pasteurization.—Milk before pasteurization shall contain less than one million bacteria per cubic centimeter, and after pasteurization and until delivery not more than seventy-five thousand bacteria per cubic centi-

meter. Cream shall not contain more than five hundred thousand bacteria per cubic centimeter after pasteurization. (Id. § 19.)

140. Equipment of Pasteurization Plants.—Each pasteurization plant, except such plants as shall use the single batch system, shall be equipped with an automatic controller and an automatic recording thermometer which shall regulate and register on a chart the temperature of the milk or cream as it shall be pasteurized. An automatic controller and a duplicate automatic recording thermometer shall be kept in reserve in good repair at all times. Plants pasteurizing with the "batch" system, with one tank, shall be equipped with an automatic recording thermometer which shall register on a chart the temperature of the milk or cream as it shall be pasteurized, and a duplicate automatic recording thermometer shall be kept in reserve in good repair at all times. Each chart for recording shall be certified to by the Dairy and Food Commissioner before being used, while in use shall be kept in a locked chamber and after use shall be preserved for at least six months subject to inspection by the Dairy and Food Commissioner. (Id. § 20.)

141. Construction of Pasteurization Plants.—All pasteurization plants shall be constructed so that all rooms in which milk shall be handled or in which milk apparatus and milk utensils shall be washed shall have dustproof walls and ceilings. Unless constructed of concrete, smooth brick or tile, walls and ceilings shall be kept sufficiently painted a light color. The floors shall be watertight and so graded that all drainage will flow to one or more points of drainage. (Id. § 21.)

142. Drainage.—All drains in pasteurization plants shall be trapped and drained to the approval of the Dairy and Food Commissioner. When not discharged into city sewers, drainage shall be drained into cesspools or septic tanks at least fifty feet from the building. (Id. § 22.)

143. Ventilation.—All rooms in which milk shall be handled and in which milk apparatus and utensils shall be washed shall be lighted and ventilated to the approval of the Dairy and Food Commissioner. (Id. § 23.)

144. Screens.—Doors, windows and ventilators shall be screened from May first to November first. Screen doors shall be provided with self-closing devices, and all screens shall be maintained in good working condition. (Id. § 24.)

145. Toilets and Washing Facilities.—Toilet and washing facilities, to the approval of the Dairy and Food Commissioner, shall be provided for the use of employees. Locker rooms or toilets shall not open directly into any room in which milk or milk utensils shall be handled. (Id. § 25.)

146. Animals Prohibited.—No cats, dogs or other animals shall be permitted in rooms where milk shall be handled or stored. (Id. § 26.)

147. Use of Rooms For Other Purposes Forbidden.—Rooms for pasteurization, cooling, bottling and storing milk shall not be used for other than dairy purposes. (Id. § 27.)

148. Water Supply.—An adequate supply of pure water shall be provided. (Id. § 28.)

149. Containers.—All weigh cans, storage vats, mixing vats and other apparatus shall be constructed of tinned copper or other material approved by the Dairy and Food Commissioner and shall be provided with smoothly fitting metal covers and all angle joints shall be smoothly soldered. (Id. § 29.)

150. Construction of Pipes and Pumps.—All milk pipes and pumps shall be of sanitary construction and so arranged as to be easily opened or taken apart for cleaning after each use, and after cleaning, shall not be reassembled until again needed for the purpose of pasteurization. The use of tightly closed elbow joints is prohibited. Water and steam pipes shall be kept clean and free from dirt and loose rust. (Id. § 30.)

151. Surface Coolers.—Surface coolers unless located in a room used only for cooling milk shall be protected by suitable metal or glass covers. (Id. § 31.)

152. Caps For Bottles.—Caps for bottles shall be secured in sterilized containers and be protected from contamination until used, unless milk shall be pasteurized in bottles. (Id. § 32.)

153. Apparatus or Device For Bottling.—The apparatus or device used in bottling milk or capping milk bottles shall be so constructed that the milk and caps used in the process will not come into contact with human hands. Such apparatus or device shall be subject to the approval of the Dairy and Food Commissioner. (Id. § 33.)

154. Sanitary Condition of Buildings.—The building in which milk shall be handled and the surrounding premises shall be maintained in a clean and sanitary condition. (Id. § 34.)

155. Facilities For Cleaning Equipment.—Suitable facilities shall be provided for washing, sterilizing and storing all apparatus, bottles, cans and utensils, and

they shall be cleaned and sterilized immediately after use. All pasteurizing apparatus shall be resterilized immediately before the pasteurizing process shall be commenced. (Id. § 35.)

156. Clothing For Employees.—All persons while handling milk shall wear clean, washable outer garments. The use of tobacco and spitting are prohibited in any part of the pasteurizing plant. (Id. § 36.)

157. Physical Examination.—Before employment, and at least once a year thereafter, the proprietor or manager of a pasteurization plant shall require every person employed in the plant who shall handle milk or milk utensils to secure from a physician approved by the State Commissioner of Health a certificate stating that he is not suffering from any communicable disease, and a copy of such certificate shall be forwarded to the Dairy and Food Commissioner on blanks provided for that purpose by said commissioner. In case of an outbreak of any communicable disease among employees of any pasteurization plant, the person in charge shall immediately notify the local health officer. No such employee who shall have suffered from typhoid fever, tuberculosis, diphtheria, scarlet fever or streptococcus sore throat shall return to work until it shall have been determined by physical examination and by laboratory tests of body discharges designated by the State Department of Health that he is not a danger to the public health. (Id. § 37.)

158. Enforcement.—The Dairy and Food Commissioner shall enforce the provisions of this act. (Id. § 38.)

159. Penalty.—Any person who shall violate any provision of this act, for a first offense, shall be fined not more than twenty-five dollars, and, for a subsequent offense, shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (Id. § 39.)

159a. Agent or Employee of Transportation Company Authorized to Return Unclaimed Goods Bearing Marks Identifying Owner.—The agent or other responsible employee of any railroad, express or other transportation company or agency who shall find upon the railroad property any untagged or unclaimed empty milk can, ice cream tub or can, or other form of package used for transporting food products which bears a permanent mark identifying the owner thereof or the place at which it belongs, may ship the same to the owner as a returned empty package. If the mark thereon does not clearly identify the owner or place of shipment, any interested person may file in writing with such agent or employee a sworn statement of identification of any such mark, and said agent or employee shall file such statement with his employer and may ship such untagged or unclaimed property as a returned empty package. (P. A. 1919, c. 67.)

NOTE: See also the trade-mark law, No. 270 et seq.

Eggs.

160. Package Containing Cold Storage, Preserved or Incubated Eggs to be Labeled.—Every person, firm or corporation who shall sell, or offer for sale any eggs which have been preserved by any artificial process, or which have been kept in storage for more than fifteen days, in any place where the temperature is reduced by means of artificial refrigeration, or which have been incubated for twenty-four hours or more, shall affix on two sides of the crate or receptacle containing such eggs, in black Roman letters on a light-colored ground, two inches high and one inch wide, the words "cold storage eggs," "preserved eggs" or "incubated eggs," as the case may be. The package or receptacle in which such eggs are displayed for sale shall bear a sign in black Roman letters on a light-colored ground, one and one-half inches high and three-quarters of an inch wide, having on it the words "cold storage eggs," "preserved eggs" or "incubated eggs," as the case may be. The bags or containers used for delivering such eggs shall have printed thereon, on two sides, in black Roman letters one inch high and one-half inch wide, the words "cold storage eggs," "preserved eggs" or "incubated eggs," as the case may be. Wholesalers shall declare on their invoices whether the eggs sold are "cold storage," "preserved," "incubated" or "fresh eggs." No eggs shall be brought into this State that have been held in cold storage or preserved by any process or incubated, unless the package containing such eggs shall be marked or labeled in accordance with the provisions of this act. (G. S. 1918, § 2461, as amended P. A. 1921, c. 140.)

161. Penalty.—Any person who shall fail to comply with the provisions of the preceding section, or who shall knowingly misrepresent the condition or quality of any eggs which have been kept in cold storage, preserved or incubated, shall be fined not more than twenty-five dollars. (G. S. 1918, § 2462.)

NOTE: See also No. 95.

Feeding Stuffs.

162. Term "Concentrated Commercial Feeding Stuffs" Defined.—The term "concentrated commercial feeding stuffs" within the meaning of this act shall include linseed meals, cottonseed meals, pea meals, bean meals, cocoanut meals, gluten meals, gluten feeds, dried brewers' grains, dried distillers' grains, malt sprouts, dried beet pulp, hominy feeds, cerealine feeds, rice meals, alfalfa meals, oat feeds, corn and oat chops, corn and oat feeds, scratch feeds, digester tankage, ground meat scraps, ground fish scraps, mixed feeds, provenders, bran, middlings and mixed feeds made wholly or in part from wheat, rye or buckwheat, and all materials of a similar nature intended for the feeding of domestic animals, including poultry; but shall not include hays, straws, corn, stover, ensilage, whole grains or the unmixed meals made directly from the whole grains of wheat, rye, barley, oats, Indian corn, broom corn, rice, buckwheat and flaxseed, or feed ground from whole grain and sold directly from the manufacturer to the consumer. (P. A. 1925, c. 196, § 1.)

163. Certificate of Weight and Quality.—Each lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale shall have conspicuously affixed thereto a plainly printed statement certifying (1) the number of net pounds of feeding stuff contained therein, (2) the name, brand or trade-mark under which the article is sold, (3) the name and address of the manufacturer or importer, (4) a statement of the minimum percentages of (a) crude protein, and (b) crude fat, and (c) the maximum percentage of crude fiber contained in the feeding stuff, all constituents to be determined by the methods adopted by the Association of Official Agricultural Chemists of the United States and in force at the time, and (5) in the case of feeds composed of two or more ingredients, the name of each ingredient contained therein; provided such statement shall not be affixed by wire or other metallic device, and provided, in the case of cottonseed meal, which shall be sold for fertilizer, or in the case of any concentrated feeding stuff sold in bulk, the dealer may issue, in lieu of the printed statement herein described, a certificate which shall contain the information required by this section. (Id. § 2.)

164. Statements to be Filed With Connecticut Agricultural Experiment Station; Fee; Registration Refused and Canceled, When.—Before any concentrated commercial feeding stuff shall be sold or offered or exposed for sale in this State the person who shall cause it to be sold or offered or exposed for sale shall file with the Connecticut Agricultural Experiment Station, on or before September 1, 1925, and annually thereafter, two certified copies of the statement prescribed in section 2 of this act, on forms supplied by the Connecticut Agricultural Experiment Station, and shall pay a registration fee of fifteen dollars for each brand to be sold or offered or exposed for sale in this State. When any feeding stuff shall have been registered and the fee paid thereon, the director of said station shall issue a certificate of registration for such feed, and a list of the brands so registered shall be published annually in the station report. Fees so paid to said station shall be used toward defraying the expense of inspection. Whenever registration and payment as prescribed herein shall have been made on any brand of feeding stuff by any person, no other person shall be required to register such brand or to pay a registration fee thereon. The director may refuse registration of any feeding stuff, or may cancel any registration which shall have been made, if it shall appear or shall be found that all the provisions of this act have not been fulfilled, or if the feeding stuff shall bear any statement, design or device which shall be false or misleading as regards the materials of which it is composed. No feeding stuff on which registration shall have been refused or canceled shall be permitted to be sold or offered or exposed for sale in this State. (Id. § 3.)

165. Penalty.—Every manufacturer, importer, agent or person selling or offering or exposing for sale any concentrated commercial feeding stuff in relation to which all the provisions of sections 2 and 3 of this act shall not have been complied with, shall be fined not more than one hundred dollars for the first offense and not more than two hundred dollars for each subsequent offense. (Id. § 4.)

166. Samples For Analysis.—The Connecticut Agricultural Experiment Station may collect a sample, not exceeding two pounds in weight, for analysis, from any lot, parcel or package of concentrated commercial feeding stuff or unmixed meals, brans or middlings, which may be in the possession of any manufacturer, importer, agent or dealer, but such sample shall be taken in the presence of the parties in interest or their representatives, and taken from a number of parcels or packages which shall not be less than 5 per centum of the whole lot inspected, and shall be thoroughly mixed, divided into two samples, placed in glass vessels or other suitable containers, carefully sealed and a label placed on each, stating the

name or brand of the feeding stuff or material sampled, the name of the party from whose stock the sample was taken and the time and place of taking the same. Such label shall be signed by the station chemist or his deputy and one of such samples shall be retained by such chemist or his deputy and the other by the party whose stock shall have been sampled. Said station shall cause at least one sample of each brand of feeding stuff so collected to be analyzed annually by or under the direction of such chemist. Such analysis shall include a determination of crude fat, crude protein and crude fiber and any such other determination as may be advisable. Said station shall cause the analysis so made to be published in station bulletins, together with such additional information in relation to the character, composition and use thereof as may be of importance and shall issue the same annually or more frequently if advisable. (Id. § 5.)

167. Rules and Regulations.—The Dairy and Food Commissioner and the director of the Connecticut Agricultural Experiment Station may make rules and regulations for carrying out the provisions of this act. (Id. § 6.)

168. Enforcement of Provisions of Act.—The Dairy and Food Commissioner shall enforce the provisions of this act and when evidence shall be submitted by the Connecticut Agricultural Experiment Station that any provision of this act shall have been violated, he shall make complaint to the prosecuting officer having jurisdiction thereof. (Id. § 7.)

169. Term "Importer" Defined.—The term "importer" shall include such persons as shall bring into or offer for sale within this State concentrated commercial feeding stuffs manufactured without this State. (Id. § 8.)

Fish.

170. Supervision of Oyster Growing and Shipment.—The State Department of Health may inspect oyster beds and areas in this State where oysters are grown for market; all boats, tools and appliances used in the production and preparation of oysters for market; and all wharves, oyster houses or buildings where oysters are opened, packed and prepared for shipment. It may prescribe rules and regulations for the sanitary growth, production and preparation of oysters for market, and may issue to any producer, dealer or shipper of oysters a certificate stating that oysters produced or shipped by the holder thereof have been produced and prepared for shipment under sanitary conditions and in compliance with the rules and regulations of said department. Any grower, dealer or shipper of oysters to whom such certificate has been granted may attach a certified copy of the same to each package of oysters packed, shipped or sold by him; and such grower, dealer or shipper of oysters shall be entitled to hold such certificate as long as he shall comply with the rules, regulations and requirements of said department. Any certificate granted under the authority of this section may be revoked by said department at its discretion. (G. S. 1918, § 2694.)

171. Appointment of Inspectors of Fish.—The superior court in each county may appoint, in each town therein, not exceeding fifteen inspectors and packers of fish, and shall take a bond of every person so appointed, for the faithful discharge of his duty, in the sum of one hundred dollars, payable to the county treasurer. The clerk of said court shall give a certificate of his appointment to each inspector, who may exercise the duties of his office in any town in such county. (Id. § 4754.)

172. Shad Intended For Market.—All pickled shad, intended for market, shall be split and well cleansed, pickled in strong brine, and shall remain in such brine at least fifteen days before they shall be put up for market, and shall be put in barrels or half barrels, the barrels containing two hundred pounds each and the half barrels one hundred pounds each of fish well packed, with a sufficient quantity of salt and filled with strong brine; shad so put up shall be of three classes, to wit: Class number one, to consist wholly of shad well saved, free from rust or any defect, with the head and tail cut off, and backbone taken out, each barrel to contain not more than eighty shad, and each half barrel not more than forty; class number two, to consist wholly of those well saved, trimmed, pickled and prepared for packing, in the same manner as class number one, each barrel to contain not more than ninety shad, and each half barrel not more than forty-five; class number three, to consist of such as will not answer for either of the former classes, well saved, with the heads taken off. Every inspector, who shall inspect and brand the same, shall designate by each brand the quality, weight and kind of fish contained in each barrel and half barrel branded by him, the year in figures when it shall have been inspected, the word "Conn.," his own name and the name of the town where said fish was put up. Every inspector of fish, who shall inspect or brand any package of shad imported into this State, shall be fined five dollars. (Id. § 4755.)

173. Regulations Concerning Barrels For Fish.—All barrels and half barrels, containing fish, shall be well made of seasoned red oak, white oak or chestnut timber; each tierce shall be made with twelve hoops; each barrel shall be of the capacity of from twenty-eight to thirty gallons, and each half barrel of the capacity of fifteen gallons and a half. (Id. § 4756.)

174. Violation of Inspection Laws; Penalty.—Every legally appointed inspector or packer of fish, who shall be guilty of fraud or neglect, for which no other penalty is specially prescribed, shall be fined six dollars; and every inspector or packer, who shall mark or brand a cask containing fish, which has not been actually inspected by him or shall put a false brand upon a cask inspected by him, shall be fined ten dollars. (Id. § 4757.)

175. Fraudulent Altering of Contents of Cask; Penalty.—Every person who, after the inspection and branding of a cask containing fish shall fraudulently take out or change any part of the contents thereof or put into it any fish not inspected, shall be fined twenty dollars. (Id. § 4758.)

176. Exporting Fish Without Inspection; Penalties.—Every person who shall export or ship for exportation, to a foreign port, any fish not put up, inspected and branded according to law, and the master of every vessel, knowingly having on board his vessel any such fish not so put up, inspected and branded, shall be fined the following sums: The owner, exporter or shipper shall be fined six dollars for every cask containing fish; every master of a vessel shall be fined for every such cask on board, three dollars; but fish brought from another State, and inspected and branded in the State in which they were put up for market conformably to its laws and accompanied with such evidence thereof as such laws require, may be exported from this State without any re-inspection. (Id. § 4759.)

Flour.

See No. 288.

Fruits, Vegetables, Etc.

176a. Establishment of Standards of Brands for Farm and Horticultural Crops Authorized.—The State Board of Agriculture is authorized to investigate marketing conditions, to establish and maintain standard grades, classification and State brands for farm and horticultural crops, to obtain and dispense information concerning marketing, prices, supply and demand. (P. A. 1921, c. 380, § 1.)

176b. Standards of Packages, Classifications, Grades and Brands May Be Established.—Said board shall from time to time establish standards of packages, classifications, grades and brands that may be used by producers and distributors of such products, and such standards shall, so far as possible, be identical with similar standards established under authority of the Congress of the United States. (Id. § 4.)

176c. Penalty.—Any person who shall violate any provision of this act shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (Id. § 6.)

NOTE: See also No. 3; the apple law, No. 19 et seq.; the weights and measures law, No. 288 et seq.

Ice.

177. Ice; From Outside This State; Examination.—Whenever ice shall be brought into this State to be sold for domestic use or for use as an article of merchandise, the person, firm or corporation receiving and offering the same for sale shall notify the Commissioner of Health of such shipment into the State and of the place where such ice was harvested, and the State Department of Health, or any officer thereof, may take samples of such ice for examination and analysis, and, if such ice shall be found unfit for domestic use, said Department of Health shall give the person, firm or corporation receiving the same written notice of its findings, and such ice shall not be sold or distributed for domestic use. (G. S. 1918, § 2526.)

178. Penalties.—Violations of the provisions of section * * * 2526 shall be punishable by a fine of not more than one hundred dollars or imprisonment of not more than thirty days or both. (Id. § 2527.)

179. Sale of Ice Regulated.—Every person who shall sell or offer to sell for family, hotel, boarding-house, restaurant or saloon use, ice cut or taken from a pond, lake, or stream other than a river, into which any sewer empties, or from such part of a river as is below and within two miles of the point where the discharge from any sewer enters such river, or ice cut from a body or stream of water within two hundred

feet from where any house drain enters such body or stream of water, or ice cut from any body of water or stream the water or ice from which has been condemned as unfit for use or dangerous to public health by the local health officer of the town, city or borough where such body of water or stream is located, or ice which has been placed in a yard, building or cart, with ice taken from any of the foregoing sources, shall be fined fifty dollars or imprisoned not more than sixty days or both. Every person aggrieved by an order issued or made by a health officer under the provisions of this section may appeal, within two weeks from the date of such order, in the manner provided for appeals from the orders of town health officers. (Id. § 2538.)

180. Combination to Increase Price of Necessities.—Any person who, for himself or as a member of any firm or an officer or agent of any corporation, conspires with or enters into any combination or agreement with any other person or any firm or corporation for the purpose of fixing or maintaining a higher price, at wholesale or retail, for ice, coal or any other necessity of life, than would prevail except for such conspiracy, combination or agreement, or of limiting or restraining the production, manufacture, shipment or sale of any such commodity for the purpose of increasing the price thereof, shall be fined not more than one thousand dollars or imprisoned not more than five years or both. (Id. § 6503.)

Meat—Meat Products.

181. Sale or Shipment of Diseased Flesh Prohibited; Penalty.—Every person who shall sell or offer for sale, or ship out of this State or from one town to another within the State, or keep with intent to sell or ship out of the State or from one town to another within the State, the flesh of any animal or fowl which died or was killed when diseased, or the flesh of any calf which was less than four weeks old when killed, or weighed fifty-five pounds or less when dressed by the removal of the hide, head, heart, lungs, liver and entrails, shall be fined not more than one hundred dollars or imprisoned not more than six months. The possession of any such flesh dressed in a manner suitable for sale or use shall be deemed prima facie evidence of an intent to sell, and a violation of the provisions of this act. (G. S. 1918, § 6420, as amended P. A. 1923, c. 142.)

182. Fraudulent Sale of Kosher.—Any person who shall sell, or offer or expose for sale, or serve or have in his possession with intent to sell, or serve any article of food as kosher which is not kosher, shall be fined not more than one hundred dollars or imprisoned not more than six months or both. (G. S. 1918, § 6504.)

183. Transportation of Diseased and Unclean Poultry Prohibited; Care of Live Poultry While Being Transported or Offered For Sale; Penalty.—No person shall transport, ship, sell or offer or expose for sale any live poultry which shall be in a diseased or unclean condition. Any crate, coop or other container used for the purpose of transporting, shipping or holding for sale any such poultry shall be constructed so as to provide sufficient ventilation, and, after July 1, 1926, shall not be less than fourteen inches in height by inside measurement, provided baby chicks may be placed in any crate, coop or other container which shall be constructed so as to afford sufficient ventilation and warmth and such chicks shall receive such other reasonable care as may be required to prevent unnecessary suffering. Any person who shall violate any provision of this act shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (P. A. 1925, c. 133.)

183a. Maintenance of Slaughter Houses; Regulations; Penalty.—No slaughter house or place where the business of slaughtering beef, poultry or swine or preparing the same for market shall be carried on shall be maintained in any town, city or borough except upon written permission of the health officer or board of health of the town, city or borough within which the same shall be located, which permission may be revoked at any time. Such board of health or health officer may prescribe such rules and regulations as such board or officer may judge necessary for the control and management of such houses or places and for the inspection of the food products slaughtered or prepared for market therein, and may enter into such houses or places for the purpose of inspection. Any person who shall violate any rule or regulation made by any board of health or health officer under authority of this section or who shall conduct a slaughterhouse without having such written permission shall be fined not more than one hundred dollars or imprisoned not more

than thirty days or both. Any town, city or borough may establish and maintain a slaughterhouse or slaughterhouses within its territorial limits. (P. A. 1925, c. 71, § 1.)

NOTE: See also No. 3.

Molasses.

184. Adulteration of Molasses.—Any person who shall adulterate molasses or who shall sell, offer or expose for sale, or solicit or receive an order for the sale or delivery within this State or for delivery without this State for shipment into this State, of any molasses adulterated with salts of tin, terra alba, glucose, dextrose, starch, sugar, corn syrup or other preparation of or from starch, shall be fined not more than five hundred dollars or imprisoned not more than one year or both. The delivery of any of the above mentioned preparations, upon an order solicited or received within this State, shall be conclusive evidence that the order upon which such delivery was made was for such articles and shall render the person soliciting or receiving such order liable to the penalty above prescribed. (G. S. 1918, § 2458.)

NOTE: See also No. 95.

Vinegar.

185. Sale of Impure Vinegar Forbidden.—No person shall make, sell, offer or expose for sale or exchange, solicit or receive any order for the sale or delivery within the State, or for delivery without the State for shipment into the State, of: (1) Any vinegar, as cider vinegar, not wholly produced from the juice of apples; (2) any vinegar or article sold or to be sold as vinegar, to which has been added any drug, or any hurtful or foreign substance, or any coloring matter, or any acid; or (3) any vinegar not having an acetic acidity equivalent therein of not less than four per centum by weight of absolute acetic acid and in case of cider vinegar not less than one and six-tenths per centum by weight of cider vinegar solids upon full evaporation over boiling water. Every person violating any provision of this section shall be fined not more than fifty dollars for a first offense and for a subsequent offense not more than one hundred dollars or imprisoned thirty days or both. The delivery of any of the above-mentioned articles upon an order solicited or received within the State shall be conclusive evidence that the order upon which such delivery was made was for such articles. (G. S. 1918, § 2459.)

186. Sale of Vinegar Regulated.—No person shall make and sell, or make and offer for sale, any vinegar without conspicuously branding, stenciling or painting, upon the head of the barrel, cask, keg or package containing the same, the name of the maker, his residence, place of manufacture and the true name of the kind of vinegar contained therein, as "cider vinegar," "wine vinegar," "malt vinegar" or "wood acid vinegar"; provided, this section shall not apply to retail sales at the place of manufacture in quantities of less than five gallons, and in open packages. Every person violating any provision of this section shall be fined not more than fifty dollars for the first offense and for each subsequent offense not more than one hundred dollars. (Id. § 2460.)

NOTE: See also No. 95.

Sanitation.

See the bakery products law, No. 33 et seq.; the beverage law, No. 44 et seq.; the dairy law, No. 55 et seq.; the fish law, No. 170 et seq.; the meat law, No. 183 et seq.

PART III.

Special Drug Laws.

Abortifacients.

187. Encouraging the Commission of Abortion.—Every person who shall, by publication, lecture or otherwise, or by advertisement, or the sale or circulation of any publication, encourage or prompt to the commission of the offenses described in sections 6200 and 6201,* or who shall sell or advertise medicines for the commission of them, or who shall advertise any so-called monthly regulator for women, shall be fined not more than five hundred dollars. (G. S. 1918, § 6202.)

187a. Obscene Literature and Pictures.—Every person who shall buy, sell, advertise, lend, give, offer or show, or have in his possession with intent to sell, lend, give, offer or show, any book, pamphlet, paper or other thing containing obscene, indecent or impure language, or any picture, print, drawing, figure, image or other engraved, printed or written matter of like character, or any article or instrument of indecent or immoral use or purpose, unless with intent to aid in their suppression or in enforcing the provisions hereof, or shall design, copy, draw, photograph, print, etch, engrave, cut, carve, make, utter, publish or otherwise prepare, or assist in preparing, anything herein named, shall be imprisoned not more than two years or be fined not more than one thousand dollars or both. (Id. § 6397.)

Disinfectants.

188. Testing and Labeling Disinfectants.—The receptacle containing any disinfectant for external use the phenol coefficient of which can be determined by bactericidal test, manufactured, sold or offered for sale within the State shall bear a label showing the carbolic acid coefficient or relative germicidal value of such preparation as compared with pure carbolic acid. The relative germicidal value of a disinfectant shall be determined by the application of either the Rideal-Walker or the hygienic laboratory method. Any such disinfectant shall be misbranded if the statement contained on the label is false. Any person who shall misbrand any disinfectant within the meaning of this section or shall sell or offer the same for sale shall be fined not more than one hundred dollars or imprisoned not more than sixty days or both. (G. S. 1918, § 2517.)

Distribution of Samples.

189. Distribution of Drugs and Poisons.—Every person who shall by himself, his servant or agent, distribute or give away, in any street or highway or from house to house, any bottle, box, envelope or package containing any liquid medicine, or any pill, powder, tablet or other article which contains any drug or poison shall be fined not more than fifty dollars or imprisoned not more than one year or both. (G. S. 1918, § 2500.)

Embalming Fluid.

190. Use of Arsenic in Embalming.—Any person who shall inject into the body of any deceased person, for the purpose of embalming the same, any fluid or substance containing arsenic in any form shall be fined not less than one hundred nor more than five hundred dollars. (G. S. 1918, § 6501.)

Insecticides and Fungicides.

191. Manufacture, Sale or Transportation of Adulterated and Misbranded Insecticides and Fungicides Prohibited.—No person shall manufacture, sell, offer or expose for sale any Paris green, lead arsenate or other insecticide or any fungicide which is adulterated or misbranded within the meaning of this act. (P. A. 1923, c. 258, § 1.)

*Sections relate to attempts to procure abortion or miscarriage.

192. Terms "Insecticide," "Paris Green," "Lead Arsenate" and "Fungicide" Defined.—The term "insecticide" shall include any substance or mixture of substances intended to destroy or repel insects. The term "Paris green" shall include the product commercially known as Paris green and chemically known as aceto-arsenite of copper. The term "lead arsenate" shall include the products commercially known as lead arsenate consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. The term "fungicide" shall include any substance or mixture of substances intended to lessen the growth of or destroy fungi. (Id. § 2.)

193. Paris Green, Lead Arsenate, Not Dry or Powdered, Dry or Powdered Lead Arsenate, Insecticides and Fungicides Deemed Adulterated, When.—Paris green shall be deemed adulterated: (a) when it shall not contain at least fifty per centum of arsenious oxide (As_2O_3); (b) when it shall contain arsenic in water-soluble forms equivalent to more than three and one-half per centum arsenious oxide (As_2O_3); or (c) when any substance shall have been mixed and packed with it so as to reduce, lower or injuriously affect its quality or strength. Lead arsenate, not dry or powdered, shall be deemed adulterated: (a) When it shall contain more than fifty per centum of water; (b) when it shall contain total arsenic equivalent to less than twelve and one-half per centum arsenic oxide (As_2O_5); (c) when it shall contain arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum arsenic oxide (As_2O_5); or (d) when any substance shall have been mixed and packed with it so as to reduce, lower or injuriously affect its quality or strength; provided lead arsenate and water shall not be deemed to be adulterated when such mixture shall contain more than fifty per centum of water if such mixture shall be labeled lead arsenate and water and the percentage of water shall be plainly and correctly stated on the label. Dry or powdered lead arsenate shall be deemed adulterated when it shall contain total arsenic equivalent to less than twenty-five per centum of arsenic oxide (As_2O_5) and arsenic in water-soluble forms equivalent to more than one and one-half per centum of arsenic oxide (As_2O_5). Insecticides and fungicides other than Paris green and lead arsenate shall be deemed adulterated: (a) When the strength or purity shall fall below the standard or quality under which it shall be sold; (b) when any substance shall have been substituted wholly or in part for the article described; (c) when any valuable constituent of the article shall have been wholly or in part abstracted; or (d) when it shall be intended for use on vegetation and shall contain any substance which, although destroying or repelling insects or lessening the growth of or destroying fungi, shall be injurious to vegetation upon which it may be used. (Id. § 3.)

194. Articles Are Misbranded, When.—The term "misbranded," as used in this act, shall apply to any insecticide or fungicide, or any article which shall enter into the composition of any insecticide or fungicide, the package or label of which shall bear any statement, design or device regarding such article or any ingredient or substance contained therein which shall be false or misleading in any particular, including any statement, design or device which shall be false or misleading as to the place of manufacture thereof. Any insecticide, other than Paris green or lead arsenate, and any fungicide shall be deemed misbranded: (a) When it shall contain arsenic in any of its combinations or in the elemental form and the amount of arsenic present shall not be stated on the label as the per centum of metallic arsenic; (b) when it shall contain arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms shall not be stated on the label as the per centum of metallic arsenic; (c) when it shall consist partially or completely of any inert ingredient which shall not destroy or repel insects or lessen the growth of or destroy fungi and shall not have the name and percentage amount of each of such inert ingredients plainly and correctly stated on the label; provided, in lieu of naming and stating the percentage amount of each inert ingredient, the producer may, at his discretion, state plainly on the label the correct name and percentage amount of each ingredient of the insecticide or fungicide having insecticidal or fungicidal properties and make no mention of the inert ingredients except to state the total percentage thereof. (Id. § 4.)

195. Dairy and Food Commissioner and the Director of the Connecticut Agricultural Experiment Station Authorized to Make Rules and Regulations for the Enforcement of This Act.—The Dairy and Food Commissioner and the director of the Connecticut Agricultural Experiment Station, acting jointly, shall make all necessary rules and regulations for carrying out the provisions of this act, such rules and regulations to conform, where possible, to the rules and regulations of the government of the United States authorized by the Federal in-

secticide act of 1910. Upon complaint or information of a violation of any provision of this act, submitted by the Connecticut Agricultural Experiment Station, said commissioner and said director shall hold a hearing thereon, giving reasonable notice and opportunity to any person accused of any violation hereof to be present and be heard. If said commissioner and said director shall be of the opinion that any person shall have committed a violation of any provision of this act, they shall place all evidence thereof which they shall have secured with any prosecuting authority having jurisdiction; but no person shall be penalized under the provisions of this act for selling or offering for sale any article of insecticide or fungicide in the original unbroken package in which it was received by him, provided he shall establish a guaranty by the wholesaler, jobber, manufacturer or other person residing in the United States, from whom any such article shall have been purchased, that such article is not adulterated or misbranded within the meaning of this act, which guaranty shall contain the name and address of the guarantor, but such guarantor shall be amenable to prosecution and penalties. (Id. § 5.)

196. Penalty.—Any person manufacturing, selling, offering or exposing for sale any insecticide or fungicide in violation of any provision of this act shall be fined not more than two hundred dollars for the first offense and not more than three hundred dollars for each subsequent offense. (Id. § 6.)

197. Connecticut Agricultural Experiment Station or the Dairy and Food Commissioner or Their Deputies to Purchase at Cost Articles For Purposes of Analyzing the Same.—The Connecticut Agricultural Experiment Station or the Dairy and Food Commissioner, or both, or their deputies, may, upon tendering the market price thereof, take duplicate samples from any lot, parcel or package of insecticide or fungicide which may be in the possession of any person. Each such sample shall be taken in the presence of the owner or his representative, and shall be sealed and properly marked for identification. One of such samples shall be left with the person from whom taken and the other shall be retained by the official taking the same. The Connecticut Agricultural Experiment Station shall annually analyze at least one sample of each brand of insecticide or fungicide so collected and such analysis shall include determinations of the active ingredients which the article contains, with such other determinations as may be deemed advisable. Results of such analyses shall be published in the bulletins of said Connecticut Agricultural Experiment Station, with such information regarding the character, composition and use thereof as may be of interest or importance. Such bulletins shall be issued annually or at such other intervals as may be deemed advisable. (Id. § 7.)

NOTE: See also No. 200.

Jamaica Ginger.

See No. 245 et seq.

Pharmacy, Poisons and Narcotics.

198. Appointment and term of Commissioners of Pharmacy.—There shall be a Commission of Pharmacy consisting of five persons, each of whom shall be a licensed or registered pharmacist of at least ten years' practical experience in the practice of pharmacy and, at the time of his appointment, shall be actively engaged in the practice of pharmacy in this State. The Governor shall, annually, on or before the first day of June, appoint one commissioner from a list of six persons nominated by the Connecticut Pharmaceutical Association, who shall hold office for five years from the first day of June in the year of his appointment. Any vacancy shall be filled by the Governor by appointment, on nomination by said association as hereinbefore provided. (G. S. 1918, § 2915.)

199. Powers and Duties of Pharmacy Commission.—The Comptroller shall designate a room in the Capitol for the use of the Commissioner of Pharmacy. Said commissioner may adopt rules for the performance of its duties and for the conduct of the business of retailing or dispensing drugs, medicines and poisons and provide for the publication and distribution of the same, and may employ an attorney upon the recommendation of the Attorney-General to conduct any prosecution for the violation of any of the provisions of chapter 154* of the General Statutes as amended. Members of said commission may compel attendance of witnesses by sub-

*Entitled, "Pharmacy," included in Nos. 198-217 and 243.

poena and may administer oaths in any matter within their jurisdiction. Said commission shall organize annually on the first Tuesday of June by the election of one of its members as president and one as secretary and treasurer. The latter shall give bond to the State in the sum of three thousand dollars, the premium on which shall be paid as an expense from the receipts of the commission. Said commission shall, annually, on or before the first day of July, present to the Governor and to the State Pharmaceutical Association a report of its doings, including a statement of its receipts and expenditures during the preceding year. Said commission shall keep a record of its proceedings and a copy of any such record, certified by its secretary, shall be admitted as evidence in any civil or criminal action in lieu of such record. (Id. § 2916, as amended P. A. 1925, c. 230, § 1.)

200. Pharmacists to be Licensed; Sale by Store Without a Registered Pharmacist Restricted.—No drug, medicine, poison or chemical used in compounding any medicine shall be sold at retail except in a store or department thereof under the supervision of a licensed pharmacist and in a licensed pharmacy; but, in stores not under the immediate supervision of such licensed pharmacist or licensed as pharmacies, proprietary medicinal compounds or preparations put up separately in sealed packages and labeled and accompanied with directions for use and with the name and address of the manufacturer or distributor thereof, may be sold in the original unbroken container in which the article shall be offered to the public for consumption, provided such proprietary medicinal compounds or preparations, if intended for internal use, shall not contain alcohol in excess of the amount necessary to be used as a solvent or preservative and shall be incapable of being used as intoxicating beverages, and provided such preparations and compounds shall contain not more than two grains of opium nor more than one-fourth of a grain of morphine, one-eighth of a grain of heroin or one grain of codeine or any salt or derivative of any such drug in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce. No provision of this section shall be construed to permit the sale of any proprietary compound or preparation, either for external or internal use, containing cocaine, or eucaïne, or any salt thereof, or any synthetic substitute therefor. Any store, not under the supervision of a licensed pharmacist or licensed as a pharmacy, may sell, in original packages put up by a licensed pharmacist whose name and business address shall be displayed upon the package, any drugs, chemicals or medicinal compounds or preparations, when a permit to do so shall have been obtained from said commission. Such permit shall specify the additional drugs, preparations, compounds and chemicals which may be sold. Said commission shall, in accordance with its rules and regulations, grant such permit for a period of one year to any competent person of good moral character who is a citizen of the United States, upon payment of a license fee of three dollars. No provision of chapter 154* of the General Statutes or any amendment thereto shall be construed to prohibit the compounding of prescriptions or the dispensing of medicine by any physician in the course of his practice or to prohibit the sale of hellebore, Paris green, arsenate of lead or other spraying materials sold under registered trade-marks elsewhere than in stores licensed as pharmacies and under the supervision of licensed pharmacists. (G. S. 1918, § 2917, as amended P. A. 1925, c. 230, § 3.)

201. Certificate of Registration Required.—The manager or proprietor of a shop, store or place from which it is desired to retail drugs, medicines, poisons or such chemicals as are used in compounding medicines, and where it is desired to compound and dispense prescriptions of a physician at retail, shall apply to the Commission of Pharmacy for registration of such shop, store or place, and shall secure registration thereof as such pharmacy for one year following the date of certificate of registry on payment of a registration fee of one dollar, and on evidence satisfactory to the commission that such place is, in respect to its location and appointments, proper, and will be conducted in full compliance with the law and with the rules and regulations of said commission. Such certificate of registry shall be conspicuously posted within such registered pharmacy. (G. S. 1918, § 2918.)

202. Pharmacy to be in Charge of Registered Pharmacist.—Every such registered pharmacy shall be in the direct charge and management of a pharmacist or, in case of his temporary absence, an assistant pharmacist, duly licensed in accordance with the provisions of this chapter. (Id. § 2919.)

203. Granting of License.—A license to practice pharmacy as a pharmacist or assistant pharmacist shall be issued by the Commission of Pharmacy annually on application of any citizen. Such application shall be in writing, on forms to be approved by the commission, but no such license as pharmacist shall be issued, except a renewal of a previous license, until the applicant shall have made written

*Entitled, "Pharmacy," included in Nos. 198-217 and 243.

application, which application shall be under oath, to the Commission of Pharmacy, setting forth that he is a citizen of the age of twenty-one years or more, that he has had at least four years' practical experience in a place or places where drugs, medicines and poisons were dispensed and retailed and physicians' prescriptions compounded, of which experience one year at least within four years last preceding the date of such application shall have been had in a pharmacy or store in the United States and under the personal supervision of a licensed pharmacist. If any applicant shall prove that he has received a diploma issued by any reputable college of pharmacy, the time spent by such applicant in such college of pharmacy shall be equivalent to time spent in a pharmacy under the supervision of a licensed pharmacist. (Id. § 2920, as amended P. A. 1925, c. 230, § 4.)

204. Application For License as Assistant; Fees.—The application of any person to be licensed as an assistant pharmacist shall be under oath of such applicant and shall include a statement that he has had not less than three years' practical experience where drugs, medicines and poisons were dispensed and prescriptions were compounded, and that at least two years of such three years' experience were within the five years last preceding the date of his application. No license shall be issued, except a renewal license, to any pharmacist or assistant pharmacist unless the applicant therefor shall have shown to the satisfaction of the Commission of Pharmacy that he is of good moral character and shall have passed an examination satisfactory to said commission. Application fees shall be paid to the treasurer of the commission at the date of application, as follows: For pharmacists, the sum of ten dollars; for assistant pharmacists, the sum of five dollars; for annual renewal of any license, whether as pharmacist or assistant pharmacist, the sum of two dollars. The Commission of Pharmacy may accept the certificate of the Board or Commission of Pharmacy of any other State issued to any applicant upon examination equivalent in standing to the standard of requirements of this State in lieu of an examination and, on payment of an application fee of ten dollars, a license may be issued to such applicant to practice pharmacy as a licensed pharmacist in this State for the period of one year from the date of such license. If an applicant for examination, either as pharmacist or assistant pharmacist, shall fail to pass the examination required by said Commission of Pharmacy, said commission shall grant a second examination to such applicant without the payment of an additional fee, if applied for within six months from the date of such original examination. (G. S. 1918, § 2921, as amended P. A. 1925, c. 230, § 5.)

205. Meetings of Commission.—Meetings of said commission for the purpose of receiving and passing upon applications for licenses to practice pharmacy as a pharmacist or assistant pharmacist in this State shall be held at the office of said commission on the first Tuesdays of January, April, July and October, and at such other times and places in each year as it shall deem necessary. (G. S. 1918, § 2922.)

206. When the Title of "Pharmacist" and "Assistant Pharmacist" May be Used.—Any licensed pharmacist or assistant pharmacist, who shall conform to the rules and regulations of the Commission of Pharmacy, may take, use and exhibit the title "pharmacist" or "assistant pharmacist," as the case may be, in the practice of pharmacy. Any licensed pharmacist may have charge of, engage in or carry on, for himself or another, the dispensing, compounding or sale of drugs, medicines or poisons during the period of one year following the date of his license, but no pharmacist shall have personal supervision of more than one pharmacy or drug store at the same time. An assistant pharmacist may be employed for the purpose of dispensing, compounding or retailing drugs, medicines or poisons in a registered pharmacy under the management and direction of a licensed pharmacist or during his temporary absence. (Id. § 2923.)

207. License to be Conspicuously Displayed.—Every person practicing as a licensed pharmacist or assistant pharmacist shall at all times conspicuously display his certificate of license in the place in which he practices under such license. (Id. § 2924.)

208. Certificate Not to be Used by Other Than Licensed Person.—Every pharmacist or assistant pharmacist licensed under the provisions of this chapter who shall rent, loan or allow the use of his certificate of license to an unlicensed person for unlawful use shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of one hundred dollars and shall forfeit his license as pharmacist or assistant pharmacist. (Id. § 2925.)

209. Commission May Prosecute and Revoke License.—Said commission shall have power to investigate all alleged violations of the pharmacy law and all laws relating to the dispensing or sale of drugs, medicines, intoxicating liquors under a druggist's license, or poisons, or the practice of pharmacy, which may come to its notice, and when there appears reasonable cause therefor, and on reasonable notice

to the person accused of such violation, to take and hear testimony with reference thereto; to bring the same to the notice of the proper prosecuting authorities; or said commission may further examine into all cases of alleged abuse, fraud, incompetence, or violations of the laws relating to the sale of intoxicating liquors, and may suspend the license of any licensed pharmacist or assistant pharmacist, and may revoke the license of any person convicted of violating any provision of this chapter. (Id. § 2926.)

210. Certificate Required Where Intoxicating Liquors are to be Sold.—All applicants for license to sell spirituous and intoxicating liquors under any form of a druggist's license shall, before making application for such license to sell such liquors, secure from the Commission of Pharmacy a certificate stating that the applicant is a pharmacist in good standing and is also a proper person to sell, under all forms of a druggist's license, liquors not to be drunk on the premises. Said commission may, upon giving reasonable notice and hearing thereon, revoke or suspend any license issued by it to a pharmacist, on his conviction of the violation of any law relative to the sale of intoxicating liquors, and it may refuse, after due notice and hearing, to grant to any pharmacist a certificate of fitness to sell spirituous and intoxicating liquors, in the store or location where such conviction occurred, for the period of one year after such conviction. (Id. § 2927.)

211. Commission May Employ Inspectors.—The commission may, from time to time, employ an inspector or inspectors whose duty it shall be to inspect, under the general direction of the commissioners and during usual business hours, all registered pharmacies and other places in which drugs, medicines or poisons are or may be compounded, dispensed or retailed, and to report to said commission any irregularities in regard to registration of places, licenses or [of] pharmacists or assistant pharmacists, supervision of junior clerks and methods of keeping or selling poisons and the registration of the same. (Id. § 2928.)

212. Commission to Make Account of License Fees to State Treasurer.—The Commission of Pharmacy shall, except as provided in section 2516,* semi-annually, on the first Tuesdays of June and December, account to the Treasurer of the State for sums received by it for examinations, licenses and registrations of pharmacists and assistant pharmacists, less the amounts paid by it for stationery, printing, the services of inspectors, purchases of necessary apparatus and material for the examination of applicants in practical laboratory work, clerical services and compensation to members of such commission, such compensation being limited to the sum of four hundred dollars per annum for each commissioner, together with his necessary traveling expenses. All moneys received by said commission in excess of the total salaries and expenditures as hereinbefore authorized shall be covered into the treasury of the State. (Id. § 2929.)

213. Practicing Physicians Excepted; Sale of Certain Drugs Restricted.—Nothing herein shall prevent a practicing physician from compounding or dispensing his own prescriptions; or prevent the sale of insecticides; or prevent the sale of patent or proprietary medicines which does not conflict with the chapter concerning the sale of narcotic drugs,† or prevent the sale of any drugs, medicines or poisons at wholesale; or prevent any person from becoming a partner in or the owner of a pharmacy conducted by a licensed pharmacist; or prevent any keeper of a country store from keeping for sale and selling such domestic remedies as are usually kept and sold in such stores, except the following: Opium, morphine and all other derivatives of opium, preparations containing opium in excess of two grains per ounce or morphine in excess of one-fourth grain per ounce, carbolic acid stronger than ten per centum solution, prussic acid, oxalic acid, strychnine, arsenic, cyanide of potassium, chloral hydrate, chloroform, cobalt, sugar of lead, mercury in any form, belladonna and its preparations for internal use, and nux vomica and its preparations; but such keeper shall not compound medicines, and when sold in such stores all medical preparations recognized by the United States Pharmacopœia and National Formulary shall be of standard strength, and shall be prepared by a licensed pharmacist, and shall be sold only in original packages bearing the label of a licensed pharmacist. (Id. § 2930.)

214. Penalty.—Every person who shall violate any provision of the preceding sections of this chapter, except section 2925, shall be fined not more than one hundred dollars or imprisoned not more than sixty days or both. (Id. § 2931.)

215. Rule as to Sale of Certain Poisons.—Each licensed pharmacist who shall sell arsenic, strychnine, corrosive sublimate, prussic acid or cyanide of potassium shall affix to the package sold by him a label plainly marked with the name of the proprietor and address of the store in which such sale is made, date of sale, the word

*See No. 236.

†See Nos. 226-235.

"Poison" and the name of the poison sold and shall enter at the time of such sale, in a book to be kept for that purpose and furnished by the Commission of Pharmacy, the name and residence of the purchaser, the date of sale, the name of the poison and the quantity sold; and the person making such sale shall sign his name to the entry. Such book shall be kept for public inspection and carefully preserved, and, when such proprietor shall close his business or remove from the town in which such business shall have been carried on or when such book shall be filled with such entries, it shall be deposited by him in the office of the town clerk of the town in which such business shall have been conducted. Any person who shall violate any provision of this section or who, when purchasing any of the articles named herein, shall give a fictitious name to the vendor thereof, shall be fined not less than ten nor more than one hundred dollars, provided the provisions of this section shall not apply to sales on prescriptions of regular physicians and veterinaries or to sales at wholesale by jobbers, wholesale dealers or manufacturers, to licensed pharmacists or to sales by any of them to each other or to sales to hospitals, colleges or scientific or public institutions or to sales by a licensed pharmacist of preparations for medicinal use only containing strychnine and arsenic, a single dose of which shall contain one-thirtieth grain or less. (Id. § 2932, as amended P. A. 1925, c. 230, § 6.)

216. Certain Drugs to be Marked "Poison"; Penalty.—Each licensed pharmacist who shall sell any carbolic acid, ammoniated mercury, muriatic acid, chloroform, nitric acid, tincture of aconite, sulphuric acid, tincture of belladonna, oxalic acid, tincture of digitalis, creosote, tincture of opium, extract of belladonna, tincture of veratrum viride, sugar of lead, morphine, croton oil, nux vomica, cobalt, extract nux vomica, oil of bitter almonds, opium, oil of tansy, cocculus indicus, aqua ammonia, red oxide mercury, gelsemium, rat dynamite, rough on rats or any article similar to the last three, wood or methylic alcohol under any name or in any mixture, except when prescribed by a practicing physician or sold wholesale to licensed pharmacists or for use in manufacturing or the arts, shall label the bottle, box or wrapper containing any such article, with a label upon which shall be plainly written or printed the word "Poison," and any person violating any provision of this section shall be fined not less than twenty-five dollars nor more than one hundred dollars. (G. S. 1918, § 2934, as amended P. A. 1925, c. 230, § 9.)

217. Jurisdiction of Prosecutions.—Police courts, and city courts having criminal jurisdiction where established, and justices of the peace in towns where such courts do not exist, shall hear and determine prosecutions for violations of the foregoing provisions of this chapter. (G. S. 1918, § 2935.)

218. Applications For and Issue of Licenses to Practice Pharmacy.—On and after January 1, 1923, a license to practice pharmacy as a pharmacist shall be issued by the Commission of Pharmacy annually upon the written application of any person therefor. Such application shall be on a form to be approved by the commission, but no such license to practice pharmacy as a licensed pharmacist, except a renewal of a previous license, shall be issued except to any person actually engaged in the practice of pharmacy in this State as a licensed pharmacist prior to January 1, 1923, or who, prior to the passage of this act was actually engaged in the study of pharmacy under the personal supervision of a licensed pharmacist in this State or in a college of pharmacy approved by said commission, until such person shall have passed the examination required by said commission, and no person shall be admitted to take such examination until he shall have first satisfied the commission that he is a person of good moral character, a citizen of the United States, and that he is twenty-one years of age or more and has had at least four years of educational training in a high school or other college preparatory school approved by said commission, or that he possesses a literary or scholastic training equal to that required for graduation in such school. On and after January 1, 1925, [1923?] no person, except as aforesaid, shall be admitted to take such examination until he shall, in addition, have satisfied said commission that he is a graduate of a school of pharmacy approved by said commission or that he has received an education and training in pharmacy under the supervision of the United States government equivalent to that required for graduation in a college of pharmacy, provided any person who is or may be a duly licensed pharmacist in any other State may be licensed to practice pharmacy as a pharmacist in this State in accordance with such rules and regulations as may be prescribed by said commission. (P. A. 1921, c. 295, § 1.)

219. Issue of Licenses on or After January 1, 1923.—On and after January 1, 1923, any license to practice pharmacy as a pharmacist to be issued to any person engaged in the practice of pharmacy in this State prior to said date, or to such person who, prior to January 1, 1921, was engaged in the practice of pharmacy in this State as assistant pharmacist, or who was, on or before the passage of this act, a student in the college of pharmacy approved by said commission or who was

studying pharmacy in this State under the supervision of a licensed pharmacist, shall be granted under the provisions of section 2920 of the general statutes [as amended].* (Id. § 2.)

220. Commission of Pharmacy Authorized to Make Rules and Regulations Concerning Licenses.—Said commission shall have authority to make rules and regulations concerning the licensing of any pharmacist or pharmacy and the suspension or revocation of any such license, or with reference to the conduct of such licensed pharmacist and the manner in which any such licensed pharmacy is conducted. Any license to practice pharmacy or to conduct any pharmacy may be suspended or revoked or reissued by said commission, and any act involving moral turpitude or lack of professional integrity of any licensed pharmacist or any violation of any regulation concerning any pharmacy, shall be sufficient cause for such suspension or revocation. (Id. § 3.)

221. Application For and Issue of Pharmacy License.—Any licensed pharmacist, or any person, firm or corporation employing a licensed pharmacist for the supervision of any pharmacy or pharmacy department in any store of such person, firm or corporation may apply to said commission for a license to sell at retail drugs, medicines and poisons to be used in compounding medicines and to dispense at retail medicines compounded from prescriptions of physicians, in a shop or store owned or managed by such pharmacist or owned or operated by any such person, firm or corporation, provided the pharmacy department thereof shall be under the supervision of a licensed pharmacist. Said commission shall grant such pharmacy license for a period not to exceed one year, upon the payment of a fee of one dollar and upon satisfactory evidence to said commission that such shop or store is being conducted in accordance with the rules and regulations of said commission. Such license shall be conspicuously posted within such pharmacy. Pharmacy licenses shall expire on September first of each year. (Id. § 4, as amended P. A. 1925, c. 230, § 2.)

222. Suspensions and Revocations of Licenses.—Any person whose license to practice pharmacy as a licensed pharmacist has been revoked or suspended by said commission or who has been refused a pharmacy license or whose pharmacy license has been revoked or suspended may, within ten days after such action by said commission, appeal from its decision to the Superior Court. Such appeals shall be taken to the next return day or the next return day but one after such decision, and in the case of the suspension or revocation of a license to practice pharmacy as a pharmacist shall be taken to the Superior Court for the county in which the person whose license is revoked or suspended resides, or in which he is engaged in the practice of pharmacy. In the case of such decisions affecting a pharmacy license sought, suspended or revoked, it shall be taken to the Superior Court for the county in which the building or store is located for which such license was sought or in which it was suspended or revoked. No such appeal shall be allowed by said commission until the appellant shall file with it a bond in such amount and with surety approved by said commission, which bond shall be conditioned that the appellant shall pay all taxable costs in the event that he fails to prevail in such appeal. In such appeals costs shall be taxed as in civil actions, but no costs shall be taxed against said commission. In the event that the Superior Court on such appeal shall fail to sustain the action of said commission, the commission shall, upon the rendition of judgment by said court, grant or reinstate such license in accordance with the terms of such judgment. (P. A. 1921, c. 295, § 6.)

223. Appeals From Commission to be Privileged.—All appeals under the provisions of this act shall be treated as privileged and shall be assigned for trial and tried as soon as may be. (Id. § 7.)

224. Penalty.—Any person violating any of the provisions of this act shall be subject to the penalties provided in section 2931 of the general statutes.† (Id. § 8.)

225. Penalty For Displaying Emblems Denoting Drug Store Where Not Under Supervision of Licensed Pharmacist.—Any person, firm or corporation owning, managing or conducting any store, shop or place of business not being a licensed pharmacist or not having in his or its employ a licensed pharmacist for the supervision of the pharmacy department of such store, shop or place of business, exhibiting within or upon the outside of such store, shop or place of business the words "drug store," "pharmacy," "apothecary" or any combination of such terms or exhibiting within or without such store, shop or place of business or in connection therewith any show bottle or globe of colored glass, or filled with colored liquid,

*See No. 203.

†See No. 214.

shall be fined not more than two hundred dollars or imprisoned not more than thirty days or both. (P. A. 1925, c. 230, § 7.)

226. Sales Only in Registered Pharmacies; Records.—No person, firm or corporation shall sell, furnish, give away or deliver coca leaves, cocaine, alpha or beta eucaine, any synthetic substitute for them, or any salt, compound or derivative thereof, except decocainized coca leaves and preparations thereof, or any opium, morphine, heroin, codeine, or any preparation thereof, or any salt, compound or derivative of the same, except upon the written order of a manufacturer of or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist, veterinarian registered under the laws of the State in which he resides, or an incorporated hospital, college or scientific institution through its superintendent or official in immediate charge, or upon the written prescription of a physician, dentist or veterinarian, registered under the laws of the State in which he resides, bearing the date when signed, his office address, the registry number given him under the provisions of public act two hundred and twenty-three of the sixty-third Congress, approved December 17, 1914, the signature of the physician, dentist or veterinarian giving it, the name and address of the patient for whom prescribed, which prescription when filled shall show the date of filling and shall be retained on file by the druggist filling it for a period of at least two years. Such prescription shall not be filled a second time, nor shall a copy of the same be made except for the purpose of record by the druggist filling the same, and shall be open to inspection by the officers of the State Department of Health, the Commissioners of Pharmacy, the county health officers in their respective counties, the authorized agents of such officials and the police authorities and police officers in their respective jurisdictions; provided, this chapter shall not apply to any prescription, nor to the sale, distribution, giving away, dispensing or possession of any preparation or remedy when such prescription does not prescribe an article, or such preparation or remedy does not contain more than two grains of opium or more than one-quarter of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt, compound or derivative of any such preparation or remedy in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce; nor to any liniment, ointment, or other preparation which is prepared for external use only, except a liniment, ointment or other preparation which contains cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts or derivatives, or any synthetic substitute for them; provided, any such preparation or remedy is sold, distributed, given away, or dispensed, or in possession in good faith as medicine or any such prescription is delivered or held in good faith and not for the purpose of evading the provisions of this chapter; provided, the possession of any prescription or drug mentioned in this chapter, except a prescription, preparation, or remedy exempted in this section, by any one other than a manufacturer of or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist or veterinarian, registered under the laws of the State in which he resides, or superintendent or official in charge of an incorporated hospital, college or scientific institution, shall be presumptive evidence that such possession is in violation of the provisions of this chapter. The provisions of this section shall not apply to any person having in possession any such drug who secured the same upon a legal prescription therefor, nor shall the provisions of this chapter apply to decocainized coca leaves or any preparation made therefrom, or to any other preparation of coca leaves which do not contain cocaine. (G. S. 1918, § 2506.)

227. Veterinarian's Prescriptions; Habitual Users of Drugs.—No practitioner of veterinary medicine or surgery shall prescribe any drug mentioned in section 2506 for the use of any human being, and no physician or dentist shall prescribe, sell, give away or deliver any coca leaves, or any cocaine, or any alpha or beta eucaine, or any compound, derivative, or synthetic substitute for any such article, or opium, morphine, heroin, codeine, or any preparation thereof, or any salt, compound, or derivative of any such substance to any person known to such physician or dentist to be an habitual user of any such drug, except when such drug is obviously needed for therapeutic purposes. (Id. § 2507.)

228. Physician's Prescriptions; Record Books.—The provisions of this chapter shall not be construed to prevent any authorized practitioner of medicine, dentistry or veterinary medicine from prescribing, administering, dispensing or distributing any drug mentioned in this chapter that may be indicated for any patient under his care; provided, such prescribing, administering, dispensing or distributing is not for the purpose of evading any provision of this chapter; and provided, every physician, dentist or veterinarian shall make a record in a book kept by him for such

purpose, of the date, name and address of the patient to whom administered, dispensed or distributed, and the quantity and kind of drug administered, dispensed or distributed, except such quantities as are exempted by the provisions of section 2506; provided, such record shall not be required where the physician, dentist, or veterinarian administers, dispenses, or distributes any drug mentioned in this chapter to a patient whom he personally attends. Each page of such book shall be ruled and kept in substantially the following form:

Name of Physician or Dentist (Sign in full on each page).

Date.	Name of Person to Whom Dispensed.	Address.	Drugs Dispensed.	Amount Dispensed.

However, any form of record approved or required by the Commissioner of Internal Revenue under the provisions of public act two hundred and twenty-three of the sixty-third Congress, approved December 17, 1914, shall be a sufficient record to comply with the requirements of this chapter. Such record shall be open to inspection by the State Department of Health, the county health officers in their respective counties, the authorized agents of such officials, and the police authorities and police officers in their respective jurisdictions. (Id. § 2508.)

229. Sales by Wholesalers; to Whom and How Made.—Any manufacturer of or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist, or veterinarian registered under the laws of the State in which he resides, may sell coca leaves, cocaine, or any alpha or beta eucaine, or any synthetic substitute for any such article, or any preparation containing the same, or any salt, compound, or derivative thereof, or any opium, morphine, codeine, heroin, or any preparation thereof, or any salt, compound, or derivative of any such substance to any manufacturer of or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist, or veterinarian registered under the laws of the State in which he resides, or to any incorporated hospital, college or scientific institution, but any such substance or preparation, except such preparations as are included within the exemptions set forth in section 2506, shall be sold only upon a written order of an incorporated hospital, college or scientific institution, signed by its superintendent or official in immediate charge, or upon a written order signed by such manufacturer of or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist, or veterinarian registered under the laws of the State in which he resides, which order shall state the article or articles ordered, the quantity ordered, and the date. Such orders shall be kept on file in the laboratory, warehouse, pharmacy, or store in which the same are filled by the proprietor thereof or his successors for a period of not less than two years after the date of delivery, and shall be open to inspection by the State Department of Health, the Commissioners of Pharmacy, the county health officers in their respective counties, the authorized agents of such officials, and the police authorities and police officers in their respective jurisdictions. (Id. § 2509.)

230. Duplicate Orders to be Kept Two Years.—Any manufacturer of or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist, or veterinarian registered under the laws of the State in which he resides, and any incorporated hospital, college or scientific institution through its superintendent or official in immediate charge, that shall give an order for any such drug in accordance with the provisions of this chapter, shall preserve a duplicate thereof for a period of two years after the date of giving the same, which shall be open to inspection by the State Department of Health, the Commissioners of Pharmacy, the county health officers in their respective counties, the authorized agents of such officials, and the police authorities and police officers in their respective jurisdictions. Any order required by the regulations of the Commissioner of Internal Revenue under the provisions of public act two hundred and

twenty-three of the sixty-third Congress, approved December 17, 1914, shall be a sufficient order to comply with the provisions of this and the preceding section. (Id. § 2510.)

231. Evasions of This Chapter.—No person shall, for the purpose of evading or assisting in the evasion of any provision of this chapter, falsely represent that he is a physician, dentist or veterinarian, or that he is a manufacturer of or jobber in drugs, wholesale druggist, or pharmacist actively engaged in business as such, or that he is superintendent or an official in immediate charge of an incorporated hospital, college or scientific institution, or a person registered under the provisions of public act two hundred and twenty-three of the sixty-third Congress, approved December 17, 1914, or, not being an authorized physician, dentist or veterinarian, make or alter a prescription for any of said drugs. No person shall use or utter any paper purporting to be an original prescription or order of a physician, dentist or veterinarian, or use a copy of any prescription for the purpose of obtaining any of said drugs. (Id. § 2511.)

232. Federal Certificate; Prima Facie Evidence.—The possession of a Federal certificate issued under the provisions of public act two hundred and twenty-three of the sixty-third Congress, approved December 17, 1914, by any person shall be prima facie evidence of an intent to sell, furnish, give away or deliver any of said drugs (Id. § 2512.)

233. Exemptions.—No provision in this chapter shall apply to common carriers transporting any such drug or to any employee thereof acting within the scope of his employment, nor to any person who shall deliver any such drug which has been prescribed or dispensed by any physician, dentist, or veterinarian registered under the laws of the State in which he resides who has been employed to prescribe for the patient receiving such drug, nor to a nurse under the supervision of a physician, dentist or veterinarian having possession or access to any such drug in the course of his employment or occupation and not on his own account, or to the possession of any such drug which has been prescribed in good faith by a physician, dentist or veterinarian, nor to any United States, State, county, municipal or district official who has possession of any such drug by reason of his official duties or who, as an officer or agent of any incorporated society for the suppression of vice, has the same in his possession for the purpose of assisting in the prosecution of violation of the provisions of this chapter. (Id. § 2513.)

234. Penalty.—Any person violating any of the preceding provisions of this chapter shall be fined not more than one thousand dollars or imprisoned not more than one year or both. (Id. § 2514.)

235. Possession of Narcotics Prohibited.—Any person, other than a legally licensed physician, pharmacist, veterinary surgeon or dentist engaged in the lawful practice of his profession or business, who has in his possession any opium, morphine, codeine, heroin, cocaine, euaine, or any derivative thereof, except under the direction or prescription of a physician licensed to administer or prescribe the same, shall be fined not more than one hundred dollars or imprisoned not more than sixty days or both; but the provisions of this section shall not apply to institutions nor to the exemptions under the preceding sections of this chapter. (Id. § 2515.)

236. Expenses of Commissioners.—The Commissioners of Pharmacy, in making payment to the Treasurer of the State as provided in section 2929,* are authorized to retain a sum not exceeding five hundred dollars as a reserve fund for the purpose of defraying expenses. (Id. § 2516.)

237. Keeping or Frequenting Opium Joints; Sale of Opium.—Every person who shall keep or maintain a house which is, or is reputed to be, an opium joint or den for the purpose of opium smoking, or which is resorted to, or is reputed to be resorted to, by persons for the purpose of opium smoking, or who shall reside in or frequent any such house for such purpose, or who shall sell opium for such purpose or have in his possession opium for the purpose of selling the same to be used for opium smoking, shall be fined not more than two hundred dollars or imprisoned not more than six months or both, for the first offense, and shall be fined not more than five hundred dollars or imprisoned in jail not more than one year or both for the second offense. (Id. § 6491.)

238. Keeper or Frequenter; Bonds For Good Behavior.—Every person frequenting, residing in, keeping or maintaining a house used for opium smoking may, by any judge of a city, borough or town court, or justice of the peace, upon complaint of a proper informing officer, be required to become bound in a recognizance with surety to the town or city in which such house is situated, for his good

*See No. 212.

behavior; and if he shall neglect to become so bound and pay the costs of prosecution shall be committed to the workhouse in the town, or jail of the county, where the offense was committed, not more than thirty days, and until such costs are paid, and he may appeal from the order of said judge or justice as in other criminal cases; and if he shall, within six months thereafter, be again convicted of the same offense, such recognizance shall be forfeited. (Id. § 6492.)

239. Permitting Use of Property For Opium Joint.—Every owner, mortgagee in possession, lessee or person in charge, as agent or otherwise, of any room or tenement, who shall neglect to use all proper means to eject therefrom any person using or permitting the same to be used for opium smoking or for gaming in connection therewith, as soon as he lawfully can after he has knowledge of such use; or any such owner, mortgagee in possession, lessee or person in charge, as agent or otherwise, who shall knowingly let any room or tenement to another for such purpose, or who shall knowingly permit the same or any part thereof while under his control to be used for such purpose, shall be fined not more than five hundred dollars or imprisoned not more than six months. (Id. § 6493.)

239a. Powers and Duties.—The county health officer shall cause the execution of the laws relating to public health and the prevention and abatement of nuisances dangerous to public health, and of the laws relating to the registration of vital statistics, and co-operate with and supervise the doings of town, city and borough health officers and boards of health, within his county. He shall have all the powers of a grand juror in each of the several towns within his county, and all the powers of the prosecuting officer of each city, borough, town or police court within his county in prosecutions for violations of the laws concerning contagious diseases and public health, nuisances injurious to health or life, for violation of by-laws or ordinances relating to public health and contagious diseases adopted by a city or borough, for the violation of the orders of town, city or borough health officers, for the prevention or removal of nuisances dangerous to public health, for violations of the laws relating to the registration of vital statistics, to the practice of medicine, surgery or midwifery, and of the laws relating to the sale of poisons and antitoxin. County health officers may sign complaints in any town, city or borough in the county, to run into the same or any other town, city or borough in the county. (Id. § 2391.)

239b. Commitment of Narcotic Addicts.—The first selectman of any town, or the official of any city or borough having charge of the poor, wherein any person resides, if such person has a legal residence, or may be found if such person has no such residence, who is addicted to the use of any narcotic drug, shall, or any person interested in any such person may, apply to the court of probate for the district containing such town, city or borough for the commitment of such person to the Norwich State Hospital for the Insane, and said court shall thereupon appoint two skilled physicians, who shall make an examination of such alleged addict and an investigation to determine the advisability of such commitment, and shall report the results of such examination and investigation to said court at such time as said court shall designate for a hearing upon such application. If said court shall find such person is addicted to the use of any narcotic drug and it is for the welfare of such person, it may order his commitment to said hospital until cured or discharged, as provided by law. (Id. § 1697.)

239c. Support of Persons so Committed.—If such alleged addict is a public charge, said court shall also require the first selectman or the official having charge of the poor of the town, city or borough where such alleged addict has a legal residence, or is found, to investigate and discover the estate, if any, of such addict and the persons responsible for the support of such addict and report thereon to said court at such hearing. If said court finds such addict is a pauper, the municipality wherein such addict has a legal residence shall pay the costs of such commitment and shall pay said hospital five dollars each week for the support of such addict during such commitment. If such addict is an indigent, such persons as are legally chargeable for his support shall pay the costs of such commitment and shall pay said hospital five dollars each week for the support of such addict during his commitment, or so much thereof as said court may determine, and the balance shall be paid by the municipality of which such addict is a legal resident. If such addict has no legal residence in this state, the costs of such commitment and his support during such commitment shall be paid by the state. (Id. § 1698.)

239d. Form of Commitment.—Commitments under the provisions of the foregoing sections shall be upon forms provided in accordance with section 1696, and shall be executed by any proper officer or person designated by the court. (Id. § 1699.)

239e. Admissions Without Commitment.—The superintendent of said hospital may receive therein as a patient any person desirous of submitting himself to treatment for such drug habit upon written application therefor, and such person shall pay said hospital the reasonable expenses for his support and treatment. No such patient shall be detained in said hospital more than five days after having given notice in writing to the superintendent of said hospital of his intention to depart. (Id. § 1700.)

239f. Only Curable Cases Treated.—Whenever said superintendent is of the opinion that any person committed under the provisions of the foregoing sections is suffering from a curable disease, or such drug habit is curable, such person shall be confined in said hospital until cured; and whenever said superintendent is of the opinion that any person committed under the provisions aforesaid is suffering from an incurable disease and requires the administration of any narcotic drug, such person may be discharged and notice of such discharge shall be given by said superintendent to the Court of Probate committing such person. Upon the discharge of any such person, the superintendent of said hospital shall deliver to such person a certificate signed by said superintendent, stating that such person is suffering from an incurable disease and requires the administration of a narcotic drug, which certificate shall be filed with a druggist, approved by the State Department of Health, whose place of business may be convenient to the residence of such person, and such druggist may fill the prescription of any skilled physician prescribing a narcotic drug for such addict, which prescription may show an increased dosage of such drug over the dosage provided for in the prescription next preceding given to such addict. (Id. § 1701.)

239g. Conveying Articles to Inmates; Aiding Escape; Penalty.—Any person not authorized by law, who shall convey or pass, or cause to be conveyed or passed into said farm, or the grounds or any building thereof, any opium, cocaine, chloral, chloroform or other narcotic, or any intoxicating liquors, or any firearms, weapons or explosives of any kind, or any rope, ladder or instrument or device which may be used in escaping, attempting to escape, or aiding any person to escape therefrom, shall be fined not more than one thousand dollars or imprisoned not more than five years or both. (Id. § 1745.)

239h. Inebriates and Dipsomaniacs May Be Committed.—When any person shall have become an habitual drunkard, a dipsomaniac, or so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control, the court of probate for the district in which he resides, or is domiciled, shall on application of the selectmen of the town where he resides or is domiciled, or of any of his relatives, and after such reasonable notice to him as it may prescribe, make due inquiry, and if it shall find him to be an habitual drunkard, or so far addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control, shall order him to be taken to some inebriate asylum in this state, for treatment, care and custody, or committed to the care, custody and control of some suitable individual, for not less than four nor more than twelve months, but if it shall find him to be a dipsomaniac shall commit him to such asylum or individual for three years. The court shall not in either case make such order without the certificate, under oath, of at least two respectable practicing physicians, given after a personal examination, made within one week before the time of said application or commitment, that, in their opinion, such person has become a dipsomaniac or an habitual drunkard, or has, from the intemperate use of narcotics or stimulants, lost the power of self-control, and ought to be placed in care of some inebriate asylum, or of some suitable individual. (Id. § 1748.)

239i. Release of Dipsomaniacs on Probation.—Any person so committed as a dipsomaniac to any inebriate asylum in this State except to the State Farm for Inebriates may, after one year of treatment therein, be permitted by its managers to go at large on probation and without custody or restraint, for such time and under such conditions as they shall judge best. (Id. § 1749.)

239j. Voluntary Patients at Inebriate Asylums.—The managers, trustees or directors of any inebriate asylum, established by the laws of this State, may receive any inebriate or dipsomaniac who shall apply to be received into such asylum, retain him one year, and treat and restrain him in the same manner as if committed by the court of probate. (Id. § 1750.)

239k. Officers to Assist Managers of Inebriate Asylums.—Sheriffs, constables and city police officers shall assist the managers, trustees and directors of any inebriate asylum established by law in the exercise of the powers and discharge of the duties vested by law in such managers, trustees and directors. (Id. § 1751.)

239l. Discharge of Patients.—Persons placed in an inebriate asylum, under any provision of this chapter, may be discharged by its managers, pursuant to its regulations. (Id. § 1752.)

239m. Estate of Inebriate Liable for His Support at Asylum.—The estate of any inebriate or dipsomaniac, received by or committed to any inebriate asylum, shall be liable for his support therein; and the expenses of any proceedings herein provided for shall be paid in the manner and by and to the person that the court or judge before whom the case shall be heard shall order and direct, and such court or judge is authorized to issue execution for such costs accordingly. (Id. § 1753.)

239n. Inmates; Unlawful Conveyance or Articles to.—Any person, not authorized by law, who shall convey or pass, or cause to be conveyed or passed into said reformatory or the grounds or buildings thereof any opium, cocaine, chloral, chloroform or other narcotic, or any intoxicating liquors, or any firearm, weapon, or explosive of any kind, or any rope, ladder, or other instrument or device for use in making, attempting or aiding an escape, shall be punished by imprisonment not exceeding five years or by a fine not exceeding one thousand dollars or both. The unauthorized conveying or passing of any rope, ladder, or other instrument or device adapted for use in making or aiding an escape, into said reformatory or the grounds or buildings thereof, shall be presumptive evidence that it was so conveyed or passed for such use. Any unauthorized person who conveys into said reformatory any letter or missive which is intended for any inmate, or who conveys from within the enclosure to the outside of said reformatory any letter or other missive written or given by any inmate shall be punished by imprisonment of not more than one year or by a fine not exceeding one hundred dollars or both. Any attempt to do any of the acts prohibited by this section shall be subject to the same penalty as the completed act. (Id. § 1849.)

239o. Conveying Certain Articles into State Prison Prohibited.—Any person not authorized by law, who shall convey or pass, or cause to be conveyed or passed, into the State Prison or the grounds or buildings thereof any opium, cocaine, chloral, chloroform or other narcotic, or any intoxicating liquors, or any firearm, weapon or explosive of any kind, or any rope, ladder or other instrument or device for use in making, attempting or aiding an escape, shall be punished by imprisonment not exceeding five years or by a fine not exceeding one thousand dollars or both. The unauthorized conveying or passing of any rope, ladder, or other instrument or device adapted for use in making or aiding an escape, into said prison or the grounds or buildings thereof, shall be presumptive evidence that it was so conveyed or passed for such use; and any person, not authorized by law, who conveys into said prison any letter or other missive which is intended for any prisoner, or who conveys from within the inclosure to the outside of said prison any letter or other missive written or given by any prisoner, shall be punished by imprisonment not exceeding one year or by a fine not exceeding one hundred dollars or both; and any attempt to do any of the acts prohibited by this section shall subject the offender to the same penalty as the completed act. (Id. § 1938.)

239p. License to Be Revoked for Excessive Use of Drugs.—The authority authorized to grant any license or certificate of registration to any physician, dentist, veterinarian, pharmacist or registered nurse, after giving ten days' written notice in such manner as it may determine to any person holding such license or certificate of registration, and upon proof that such licensee or holder of such certificate is addicted to the use of any drug to such an extent as to render him incapable of performing his duties, may revoke such license or certificate of registration. After one year from the date of revocation of such license or certificate of registration, such authority may grant a new license or certificate of registration to such person upon finding that he has recovered from such habit. (Id. § 2862.)

239q. Appeals from Revocation of Medical Licenses.—Any person aggrieved by the action of the authority revoking any license or certificate of registration, under the provisions of section 2862 of the general statutes, may bring a petition to the superior court in the county in which he resides, praying that such license or certificate of registration be restored. Such court may restore such license or certificate of registration upon finding any irregularity in the revocation of the same. Such petition shall be brought to the next return day, or the next but one, of such court, and costs in such proceedings shall be taxed in favor of the prevailing party as in civil actions, but no costs shall be taxed against the authority revoking such license or certificate. (Id. § 2863, as amended, P. A. 1921, c. 322.)

Serum, Antitoxin, Tuberculin, Etc.

240. Commissioner of Domestic Animals to Make Regulations For Prevention of Hog Cholera; Commissioner to Procure and Inoculate Serum.—The Commissioner on Domestic Animals shall make, subject to the approval of the Governor, regulations for the examination, quarantine, disinfection, preventive treatment and disposition of animals affected with hog cholera, hemorrhagic septicæmia and kindred diseases. The Commissioner on Domestic Animals shall, at once, cause an investigation of all cases of such diseases coming to his knowledge, and shall use all proper means to exterminate and prevent the spread of the same. The commissioner or his assistant may direct the manner in which any animal exhibiting symptoms of such diseases shall be disposed of. Instructions shall be issued in writing by the commissioner or his assistant which shall contain directions for quarantine and disinfection of the premises where either of such diseases shall exist, and the cost of disinfectants, chemicals and expert supervision shall be paid by the State. The commissioner shall procure a sufficient supply of serum and virus for the vaccination and inoculation of animals, to carry out the purposes of this act, and shall upon the written request of the owner of any animal, inoculate or vaccinate such animal, and all serum and virus used shall be furnished by the commissioner at cost. The commissioner is authorized to employ assistants, who shall have the same power as the commissioner in enforcing the provisions of this act. No person, firm or corporation, nor the agent or employee of any corporation, shall have in his possession any anti-hog cholera serum, virulent blood or virus, or any preparation or similar composition for either [any] of said diseases, unless permission in writing has been obtained from the commissioner. No person other than the commissioner or his assistant shall administer any such serum, blood, virus or similar preparation without permission in writing from the commissioner. Any person who shall violate any provision of this act shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (G. S. 1918, § 2098, as amended P. A. 1919, c. 119.)

241. Manufacture and Sale of Tuberculin to be By Permit From Commissioner of Domestic Animals; Animal Reacting Under Test to be Quarantined; Penalty.—The Commissioner on Domestic Animals may, in writing, permit any person to make, produce, keep, use or sell tuberculin, and no person without such written permit shall make, produce, keep, use or sell tuberculin. Any person making any sale of tuberculin shall, within twenty-four hours after such sale, report in writing to said commissioner the quantity of tuberculin sold and the name and address of the purchaser, and any person using tuberculin for the purpose of making any test of any animal, shall, within twenty-four hours after such test, report to said commissioner in writing the result of each such test, which report shall include the name and address of the owner or the keeper of such animal, and the test chart and data sufficient for the identification of any animal so tested. Any animal reacting to any such test shall be immediately segregated from all other animals by the owner thereof, and shall be quarantined by said commissioner and, when in his opinion advisable, killed under the direction of the commissioner subject to the provisions of this act. No milk or other dairy product from any animal having reacted shall be sold or used until properly pasteurized. Any animal having reacted to the tuberculin test shall be tagged in the left ear by the person making such test with a numbered metal ear tag, which tag shall have stamped or impressed thereon the following: "Ct. Reacted, Number (—)," including the number of such tag. Such tags shall be furnished by said commissioner, and shall be numbered consecutively beginning with the number one. No person shall sell, trade or otherwise dispose of any animal having reacted without first having secured from said commissioner a written permit for such sale upon application therefor in writing, which application shall include the name and residence of the proposed purchaser, and a description of such animal sufficient for the identification thereof. No such animal shall be killed, sold or used for food, except under the direction of said commissioner, and the expense of any examination considered necessary by him shall be paid by the person owning, killing, selling or using such animal for such purpose. Any person violating any provision of this act shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both. (P. A. 1921, c. 149, § 1.)

242. State Department of Health to Procure Antitoxins For Distribution.—The State Department of Health is authorized to procure diphtheria antitoxin, tetanus antitoxin, vaccine lymph or other biologic products for the free use of people of the State upon whom the purchase thereof would impose a financial hardship, and to distribute the same to town, city and borough health officers who

shall furnish the same to such persons upon recommendation of attending physicians. (G. S. 1918, § 2388, as amended P. A. 1919, c. 342.)

243. Sale of Antitoxin; Powers of State Department of Health.—No person shall sell, offer or expose for sale or shall receive or solicit any order for the sale or delivery, within this State, of any article known as diphtheria antitoxin, or any article prepared from the blood serum of any animal and intended to be used for a medicine, unless the receptacle containing such preparation bears a label on which is placed the name and address of the producer, and upon such label or upon a circular accompanying such receptacle and enclosed with it in a sealed package shall be printed or written the date of production and the value of the contents in antitoxin as measured by some generally recognized standard. Every person violating any provision of this section shall be fined not more than five hundred dollars or imprisoned not more than one year or both. The State Department of Health may procure from any dealer in antitoxin or other blood serum medicine samples of such articles and cause the same to be tested, and if by such test it shall be found that the article tested is not such as it is represented to be on the package, but of inferior quality, then the seller of such inferior article shall be fined not more than five hundred dollars or imprisoned not more than one year or both. (G. S. 1918, § 2936.)

NOTE: See also No. 239a.

Wood Alcohol.

244. Sale and Use of Articles Containing Wood Alcohol.—Any person who shall sell, exchange or offer for sale or exchange, or deliver to another any wood alcohol, known as methyl alcohol, shall affix to the vessel or container holding the same a label bearing the words "wood alcohol, poison," printed or written thereon in letters not less than one-fourth of an inch in height. No person shall sell, exchange, offer for sale or exchange or deliver or have in his possession with intent to sell, exchange or deliver, any article of food or drink, or any drug, intended for external or internal use, on or within the human body, or any perfume or toilet article containing any wood alcohol, known as methyl alcohol. Any person violating any provision of this section shall be fined not more than five hundred dollars or imprisoned not more than six months or both. The Dairy and Food Commissioner shall prosecute or cause to be prosecuted any violation of the provisions of this section in the manner provided by section 2446.* (G. S. 1918, § 2679.)

Intoxicating Liquors.

245. "Spirituous and Intoxicating Liquor" Defined.—The term "spirituous and intoxicating liquors" shall be held to include all spirituous and intoxicating liquors, all mixed liquors, all mixed liquor of which a part is spirituous and intoxicating, all distilled spirits, all Jamaica ginger, all wines, ale and porter, all beer manufactured from hops and malt or from hops and barley, which are declared by the laws of the United States to be intoxicating liquor, and all fermented cider sold or kept for sale, except for sale to a person holding a permit from the United States government to manufacture vinegar. (G. S. 1918, § 2724, as amended P. A. 1921, c. 291.)

246. Sale or Exchange of Liquor Except Upon Federal Permit.—Any person who shall, by sample, by soliciting or procuring orders, or otherwise, sell or exchange, or shall offer or expose for sale or exchange, or shall own or keep with intent to sell or exchange, or shall manufacture or transport for the purpose of sale or exchange, any spirituous and intoxicating liquors, shall be subject to the penalties provided in section 10† of this act; provided nothing in this act shall prohibit the manufacture, transportation or sale of spirituous and intoxicating liquors by any person, firm or corporation when manufactured, transported or sold strictly in accordance with a permit issued by authority of the United States. (Id. § 2790.)

247. Sale or Prescribing by Druggists or Physicians Restricted.—Every physician or druggist holding a permit from the United States government to prescribe or sell spirituous and intoxicating liquors who, by himself, his servant or agent, shall violate any of the provisions of this act, except such as are expressly made inapplicable to physicians or druggists, shall be subject to the penalties provided in section 10† of this act. (Id. § 2803.)

*See No. 11.

†See No. 255.

248. Manufacture, Transportation or Sale of Denatured Alcohol or Adulterated Liquors For Beverage Purposes Forbidden; Penalty.—Every person who shall transport, manufacture, possess, sell, keep for sale or exchange or distill, for beverage purposes, any denatured alcohol or other spirituous and intoxicating liquors, or any liquors made and compounded in imitation thereof, which are adulterated with any deleterious or poisonous substance, shall be fined not more than one thousand dollars or imprisoned not more than two years. (G. S. 1918, § 2809, as amended P. A. 1925, c. 207.)

249. Forfeiture of Pharmacist's License.—Every pharmacist who shall sell spirituous and intoxicating liquors, except as provided in section 2* of this act, shall upon conviction, forfeit his pharmacy license, and be subject to the penalties provided in section 10† of this act. (G. S. 1918, § 2811, as amended P. A. 1921, c. 291, § 5.)

250. Contracts and Actions Based on Illegal Sales.—All contracts, conveyances, liens, attachments and securities, any part of the consideration of which has been the illegal sale of spirituous and intoxicating liquors, shall be void; and no action of any kind shall be maintained for the price of any such liquors sold in any other State or country contrary to its laws, or sold anywhere with the intent to enable any person to violate any law of this State relating to the sale of such liquors, nor shall any action be maintained for the recovery of the possession of any such liquors held by the owner or possessor thereof contrary to law, or for damages for the seizure of the same; but the provisions of this section shall not affect the holder of any property or chose in action, who may have taken the same in good faith and without notice of any defect in the inception or transfer of its title. (G. S. 1918, § 2824.)

251. Court May Order Analysis of Liquor.—When any prosecution shall be pending for manufacturing, selling or keeping with intent to sell, any spirituous and intoxicating liquors, and a sample of such liquor shall be presented in court, it may order such sample to be conveyed to a State chemist for analysis, and may adjourn the trial of such prosecution a reasonable time for such analysis. (Id. § 2825.)

252. Analysis of Liquor by State Chemist; Copies to be Evidence.—Each State chemist shall analyze all samples of spirituous and intoxicating liquors presented to him for that purpose, by any legal officer; keep a record of all such samples, stating the kind of liquor, the name and address of the person from whom he received it, and the result of his analysis; and furnish attested copies of said record for publication, at least four times a year. Copies of records of any analysis of liquors, made by a State chemist, certified by him, shall be legal evidence of the facts stated in such records. (Id. § 2826.)

253. Penalty For the Transportation of Liquors.—Every person who, for the purpose of sale or exchange, without a United States government permit, shall transport spirituous and intoxicating liquors by means of a vehicle or boat, shall be fined not more than two thousand dollars or imprisoned not more than two years or both, and every person accompanying any such vehicle or boat in which such spirituous and intoxicating liquors are so transported, without such permit, may be prosecuted and punished as an accessory. (P. A. 1921, c. 291, § 8.)

254. Prima Facie Evidence That Liquor is For Transportation.—The possession in transportation, except under the provisions of section 2* of this act, of five gallons or more of spirituous and intoxicating liquors at any one time shall be deemed prima facie evidence that the same are being kept or transported for sale or exchange in violation of the provisions of this act. (Id. § 9.)

255. Penalties.—Any person who violates any of the provisions of this act shall, except as herein otherwise provided, for a first offense be fined not more than two hundred dollars or imprisoned not more than thirty days or both; for a second offense shall be fined not more than one thousand dollars or imprisoned not more than six months or both, and for any subsequent offense shall be fined not more than two thousand dollars or imprisoned not more than two years or both. In all complaints for a violation of any provision of this act, any justice of the peace before whom the same may be tried shall have authority to render judgment and issue process of execution and mittimus thereon when the fine or penalty imposed shall not exceed two hundred dollars or imprisonment for thirty days or both, but the defendant shall have the right of appeal as in other cases. Town, city, borough and police courts shall have the same jurisdiction in cases of violation of this act as is conferred by the act creating such court, and in all cases where such prosecution shall come to any Superior Court or criminal Court of Common Pleas or District Court, either of such courts may impose the penalties provided in this act without regard

*See No. 246.

†See No. 255.

to the extent of the jurisdiction of the court or justice before whom such prosecution was originally brought. In all cases of violation of the provisions of this act an original information may be filed in the Superior Court by the State's attorney, and in the criminal Court of Common Pleas or District Court by the prosecuting attorney. (Id. § 10.)

NOTE: See also Nos. 54, 209-210.

PART IV.

Miscellaneous Laws.

False Advertising.

256. Penalty For Untrue and Misleading Advertisements.—Any person, firm, corporation or association, or agent or employee thereof, who, with intent to sell or dispose of merchandise, real estate, securities or service, or to induce the public to enter into any obligations relating thereto, shall make, publish, circulate or place before the public in a newspaper, magazine or other publication, or in form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, any advertisement or statement regarding merchandise, real estate, securities or service, which advertisement or statement contains anything untrue, deceptive or misleading, shall be fined not more than one thousand dollars. (P. A. 1923, c. 265, § 1.)

Flag Desecration.

257. Attachment of Device, Sign or Advertisement to United States or State Flag Prohibited.—Any person who in any manner for exhibition or display, puts or causes to be placed any inscription, picture, design, device, symbol, name, advertisement, word, character, mark or notice upon any flag, standard, color or ensign of the United States or State flag of this State, or ensign evidently purporting to be either of said flags, standards, colors or ensigns, or who in any manner appends, annexes or affixes to any such flag, standard, color or ensign, any inscription, picture, design, device, symbol, name, advertisement, word, mark, notice or token, or who displays or exhibits or causes to be placed or exhibited any flag, standard, color or ensign of the United States or flag of this State or flag, standard, color or ensign evidently purporting to be either of said flags, standards, colors or ensigns upon which shall in any manner be put, attached, annexed or affixed any inscription, picture, design, device, symbol, name, advertisement, word, mark, notice or token or who publicly misuses, mutilates, tramples upon or otherwise defaces or defiles or puts indignity upon any of said flags, standards, colors or ensigns, whether any of said flags, standards, colors or ensigns are public or private property, shall be fined not more than one hundred dollars or imprisoned not more than six months or both, for each offense. (P. A. 1919, c. 175, § 1.)

258. Articles of Merchandise Not to Have Representation of United States Flag or State Flag Thereon.—No person shall expose for sale or to public view or give away or have in possession for sale or to be given away or for use for any purpose any article or substance being an article of merchandise or a receptacle for merchandise or article or thing for carrying or transporting merchandise upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, colors or ensign to advertise, call attention to, mark or distinguish the article or substance on which so placed. Any person who shall violate any provision of this section shall be fined not more than one hundred dollars or imprisoned not more than six months or both. (Id. § 2.)

259. Permitted Uses of United States and State Flag.—Flags, standards, colors or ensigns the property of or used in the service of the United States or of this State may have inscriptions, names of actions, words, marks or symbols which are placed thereon pursuant to law or authorized regulations. The provisions of this act shall not apply to any newspaper, periodical, book, pamphlet, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry or stationery for use in correspondence on any of which shall be printed, painted or placed the flag of the United States disconnected from any advertisement. (Id. § 3.)

Tobacco—Tobacco Products.

260. Sale of Tobacco to Minors Under Sixteen.—Every person who shall sell, give or deliver to any minor under sixteen years of age, tobacco in any form, shall be fined not more than twenty-five dollars for the first offense, and not less than twenty-five dollars nor more than one hundred dollars for each subsequent offense. (G. S. 1918, § 6436.)

261. Use of Tobacco by Minors Under Sixteen.—Every person under sixteen years of age who shall smoke or in any way use, in any public street, place or resort, tobacco in any form whatsoever, shall be fined not more than seven dollars for each offense. (Id. § 6437.)

NOTE: See also Nos. 14-15, 38.

Trade-Marks, Etc.

262. Record of Certificate.—Every person entitled to the exclusive use of any trade-mark or who intends to adopt and use any trade-mark not previously adopted or used by another may file for record in the office of the Secretary of State a certificate setting forth: his name, residence and place of business, the class of merchandise and the particular description of goods comprised in such class to which such trade-mark has been or is to be appropriated, a description of such trade-mark and of the mode in which it is to be applied and used, the date when such trade-mark was first used or adopted, that he has a right to the use of it and that no other person has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive. A facsimile of such trade-mark shall be incorporated in or annexed to such certificate and a duplicate shall be filed therewith to be pasted or bound into the record-book, if practicable. Such certificate shall be signed by the person in whose behalf it is filed or by his agent and the person so signing it shall make oath or affirm that all the statements therein contained are true to the best of his knowledge and belief. (G. S. 1918, § 4807.)

263. Liability For False Swearing.—Every person who shall willfully swear or affirm falsely in any such affirmation or affidavit as to any matter therein required to be set forth shall be guilty of perjury and shall pay treble damages to every party injured thereby. (Id. § 4808.)

264. Mandamus to Compel Record.—If the Secretary of the State has reason to apprehend, on the filing of any such certificate, that the statements therein contained, or any of them, are untrue, he may decline to record the same unless the party filing it shall obtain a writ of mandamus to compel such recording. Such writ may be granted, but without costs to the Secretary, by any proper court, on due proof that all the statements in such certificate are true, but no final hearing on the application therefor shall be had until such notice thereof as said court may order has been advertised in one or more newspapers published in the county where the party filing such certificate resides. Any persons who desire may appear and intervene as defendants and oppose the granting of such writ and shall be liable to judgment for any costs occasioned by such intervention. (Id. § 4809.)

265. Effect of Recording.—Every person having the right to make and file such certificate and affidavit, upon the recording of the same in said office, shall be entitled to the exclusive use of the trade-mark therein described for so long as he or his assigns shall continue to be engaged in the manufacture or sale of the merchandise or description of goods to which it is appropriated; and such right shall be assignable in writing, but all assignments thereof shall be good only against the assignor and his personal representatives until lodged for record in said office. (Id. § 4810.)

266. Copies Prima Facie Evidence.—The Secretary shall retain all such certificates on file and cause the same and all assignments of trade-mark rights to be recorded at length in his office. Copies of the record of any such certificate, attested by him under the seal of the State, shall be prima facie evidence of the right of the party filing such certificate to the exclusive use of the trade-mark therein described for the periods limited in section 4810. (Id. § 4811.)

267. Counterfeit or Imitation.—Every person who shall reproduce, copy, counterfeit or imitate any such recorded trade-mark, knowing the same to have been recorded, and affix such reproduction, copy, counterfeit or imitation to goods resembling or designed to resemble those to which such trade-mark is so appropriated shall pay to the owner of such trade-mark double damages and also such sum, not more than five hundred dollars, as the court before which the action is

brought may order to be added to the damages found by the verdict or judgment. (Id. § 4812.)

268. Existing Rights Not Affected.—The provisions of this chapter shall not abridge any rights to any trade-marks existing on April 22, 1880, whether the same shall be recorded or not, nor any remedies or rights of action otherwise or theretofore existing in favor of owners of trade-marks. (Id. § 4813.)

269. Use With Intent to Deceive.—Every person who fraudulently and with intent to deceive affixes any trade-mark recorded under this chapter, or any such imitation thereof as is calculated to deceive, to any goods, receptacle or package similar in descriptive properties to those to which such trade-mark is appropriated, or who fraudulently and with intent to deceive places in any receptacle or package to which is lawfully affixed a recorded trade-mark goods other than those which said trade-mark is designed and appropriated to protect, or who fraudulently and with intent to deceive deals in or keeps for sale any goods with a trade-mark fraudulently affixed as above described in this section, or any goods contained in any package or receptacle having a lawful trade-mark which are not such goods as such trade-mark was designed and appropriated to protect, shall be fined not more than five hundred dollars or imprisoned not more than thirty days or both. (Id. § 4814.)

270. Description of Name, Names, Marks or Devices May be Filed.—Any person or corporation engaged in manufacturing, bottling or selling soda waters, mineral waters or aerated waters, near beer, cider, ginger ale, milk, cream or other beverages or medicines, medicinal preparations, perfumery, oils, compounds or mixtures in bottles, cans, jars or siphons, with his or its name or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles, cans, jars or siphons or the boxes or cases used by him or it, or any person or corporation engaged in the business of supplying towels, coats, aprons or toilet cabinets to others, for hire or compensation, with his or its name or other marks or devices branded, stamped, marked, sewed or otherwise impressed thereon, may file in the office of the clerk of the Superior Court of the county in which his or its principal place of business shall be situated, or, if such place of business shall be situated out of the State, then in any county in the State, and also in the office of the Secretary of State, a description of the name or names or marks or devices so used by him or it. (Id. § 4822, as amended P. A. 1923, c. 169.)

271. Use of Registered Name or Device, or Imitation Thereof, Without Consent of Owner Prohibited; Penalty.—No person, other than the owner of such name, mark or device, shall fill with soda water, mineral or aerated water, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer or other beverage, or with any medicine, medical preparation, perfumery, oil, compound or mixture, any bottle, can, jar, box or siphon, or shall use any towel, coat, apron or toilet cabinet, which is so marked or distinguished with or by any name, mark or device, a description of which shall have been filed and published as provided in section 4822 of the General Statutes, [as amended] by supplying, furnishing or renting the same to others for hire or compensation, or shall deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device thereon, or shall sell, buy, give, take or otherwise dispose of or traffic in the same, without the written consent of the person whose mark or device shall be or shall have been in or upon the bottle, can, jar, box or siphon so filled, trafficked in, used or handled, or whose name, mark or device shall be or shall have been upon the towel, coat, apron or toilet cabinet so unlawfully used; provided, the use of such towels, coats, aprons and toilet cabinets, at the places where the same are supplied or delivered by the owner, under an agreement with or lease or license from such owner, shall not be unlawful. Every person, acting for himself or as the agent of any person, firm or corporation, who shall violate any provision of this section shall, for the first offense, be fined not more than five dollars or imprisoned not more than thirty days or both, for each such bottle, jar, siphon or towel, and not more than ten dollars for each such can, box, coat, apron or toilet cabinet so filled, sold, used, supplied, disposed of, bought or trafficked in, and for each subsequent offense shall be fined not more than ten dollars or imprisoned not more than one year or both, for each such bottle, can, jar, box, siphon, towel, coat, apron or toilet cabinet so filled, sold, used, supplied, disposed of, bought or trafficked in. (G. S. 1918, § 4823, as amended P. A. 1919, c. 44.)

272. Presumption of Unlawful Use.—The use by any person other than the person whose device, name or mark shall be or shall have been upon the same, without such written consent or purchase, of any such marked or distinguished bottle, can, jar, box or siphon, a description of the name, mark or device whereon shall have been filed and published as provided in section 4822 [as amended] for the

sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer or other beverage, or any article of merchandise, medicine, medical preparation, perfumery, oil compound, mixture, or preparation, or for the furnishing of such or similar beverages to customers, or the use, by any person other than the owner whose name, mark or device shall have been upon the same and those exempt by the proviso of section 4823 [as amended], of any such marked or distinguished towel, coat, apron or toilet cabinet, a description of the name, mark or device whereon shall have been filed and published as provided in said section 4822 [as amended] or the buying, selling, disposing of or trafficking in any such bottles, cans, jars, boxes, siphons, towels, coats, aprons or toilet cabinets by any person other than the person having a name, mark or device as such owner, thereon, without such written consent, or the possession, by any junk dealer or dealer in rags or second-hand articles or person engaged in the business of supplying or renting towels, aprons, coats or toilet cabinets, of any such bottles, cans, jars, boxes or siphons, whether whole or broken, or any such marked or distinguished towel, coat, apron or toilet cabinet, a description of the marks, names, or devices whereon shall have been so filed and published, without such written consent, shall be presumptive evidence of such unlawful use, purchase and traffic in such bottles, cans, jars, boxes, siphons, towels, coats, aprons or toilet cabinets. (G. S. 1918, § 4824.)

273. Issue of Search Warrants.—Whenever any person mentioned in section 4822 [as amended] or his agent, shall make oath before any justice of the peace or the judge of any city, borough, town or police court within the town, that he has reason to believe and does believe that any of his bottles, cans, jars, boxes or siphons, a description of the names, marks or devices whereon has been so filed and published, are being unlawfully used or filled or had within the jurisdiction of such justice of the peace, or such court, by any person manufacturing or selling soda, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverage, or medical preparations, perfumery, oils, compounds or mixtures, or that any junk dealer or dealer in second-hand articles, vendor of bottles, cans, jars or siphons, or other person has, within such jurisdiction, any such bottles, cans, jars, boxes or siphons in his possession, or secreted in any place, or that any of his towels, coats, aprons or toilet cabinets, a description of the names, marks or devices whereon has been filed and published as aforesaid, are being unlawfully used or held within the jurisdiction of such justice of the peace or such court, said justice of the peace or court shall, if sufficient reason be shown therefor, issue forthwith a search warrant, directed to any police officer or other proper officer, to discover and obtain the same; and said justice of the peace or court shall issue a warrant for and cause to be brought before him the person in whose possession such bottles, cans, jars, boxes, siphons, towels, coats, aprons or toilet cabinets may be found, and shall inquire into the circumstances of such possession; and if such justice of the peace or court shall find that such person has been guilty of a violation of section 4823 [as amended] he shall award the property taken upon such warrant to the owner thereof, together with his costs for such search warrant and officer's fees thereon. (Id. § 4825.)

274. Deposits For Security.—The requiring, taking or accepting of any sum of money as a deposit for security for the safekeeping and return of any bottle, can, jar, box, siphon, towel, coat, apron or toilet cabinet shall not constitute a sale of such property, either optional or otherwise, in any proceeding under sections 4822, 4823 [both as amended], 4824 or 4825. (Id. § 4826.)

275. Refiling of Device Not Required.—Any person, firm or corporation that has filed in the offices mentioned in section 4822 [as amended], a description of the name or names, mark or devices upon his or its property, therein mentioned, and has caused the same to be published according to the law existing at the time of such filing and publication, shall, if no sale of any article of such property so marked has been made by such owner, not be required again to file and publish such description to be entitled to the benefits of sections 4822, 4823 [both as amended], 4824 and 4825. (Id. § 4827.)

276. Forging or Counterfeiting Stamps or Labels.—Every person who shall use, forge or counterfeit the individual stamp or label of any mechanic or manufacturer, with intent to defraud another; or who shall vend or offer to vend any goods having any such forged or counterfeited stamp or label thereon, knowing it to be forged or counterfeited, without disclosing the fact to the purchaser, shall be imprisoned not more than six months or fined not more than one hundred dollars or both. (Id. § 6510.)

NOTE: See also the dairy law, No. 55 et seq.

Trading Stamps.

277. Sale of Merchandise With Trading Stamps, Coupons or Other Similar Devices.—Every person who shall issue or deliver to his customers, in connection with the sale of merchandise, any trading stamps, coupons or similar devices, with the promise or representation, expressed or implied, that they have a redeemable value in money or merchandise, shall, upon demand by any such customer after such stamps, coupons or other similar devices have become redeemable according to the terms under which they were originally issued, redeem the same at their stipulated value. No person shall issue to his customers in connection with the sale of merchandise, any trading stamp, coupon or similar device which has previously been issued in such connection by any other person responsible for the redemption thereof, unless the consent of the latter has been first had and obtained. The word "person" shall, for the purposes of this section, be construed to include a firm or a corporation. (G. S. 1918, § 4753.)

278. Gift Enterprise Forbidden.—Every person who shall sell or offer for sale to any minor any box or package, the consideration of such sale being in whole or in part any distribution of or any chance at drawing or obtaining any article of value in such box or package, shall be fined not more than one hundred dollars or imprisoned not more than six months or both. (Id. § 6489.)

Weights and Measures.

279. Standard of Weights and Measures.—The weights and measures received from the United States under a resolution of Congress, approved June 14, 1836, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards, by which all county and municipal standards of weights and measures shall be tried, proved and sealed. (G. S. 1918, § 2304.)

280. State Police Superintendent to be Superintendent of Weights and Measures; Appointment of Deputy Superintendent.—The Superintendent of State Police shall be State Superintendent of Weights and Measures. There shall be a Deputy Superintendent of Weights and Measures to be appointed by said superintendent to hold office during the term of said superintendent unless removed by him or by the Commissioners of State Police. The Deputy Superintendent of Weights and Measures is empowered to act as Assistant Superintendent of State Police, with all the powers of the superintendent when directed so to act by the superintendent or by the Commissioners of State Police. Any State policeman shall act as inspector of weights and measures, with all the powers incident to that office, when directed so to act by the Superintendent or Deputy Superintendent of Weights and Measures. Neither the deputy superintendent nor any State policeman shall receive any salary other than that incident to his office of deputy or policeman while acting as such assistant or as such inspector. The State Superintendent of Weights and Measures and his deputy shall be under the direction of the Commissioners of State Police, and all appointments made by said superintendent shall be subject to the approval of said commissioners. (Id. § 2305.)

281. Duties of Superintendent of Weights and Measures.—The Superintendent of Weights and Measures shall take charge of the standards adopted under the provisions of this chapter as the standards of the State, and cause them to be kept in a fireproof building belonging to the State, or in a suitable place in his office, from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safe-keeping. He shall maintain the State standards in good order and shall submit them at least once in ten years, to the National Bureau of Standards for certification. He shall, at least once in two years, test by the State standards all standard weights, measures and other apparatus which belong to any county, city or borough and shall seal such apparatus as is found to be accurate, by stamping thereon, with seals kept for that purpose, the letter "C" and the last two figures of the year of certification. He shall have general supervision of the weights, measures and weighing and measuring devices sold, offered for sale or used in the State. He, or his deputy or inspectors by his direction, shall, at least once in each year, test all scales, weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the General Assembly, and

he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned, and at the request of such board or executive officer, the Superintendent of Weights and Measures shall appoint in writing, one or more employees, in the service of each institution, who shall act as special deputies for the purpose of checking the receipt or disbursement of supplies. He shall keep a complete record of the standards, balances and other apparatus belonging to the State, and take a receipt for the same from his successor in office. The State Superintendent or his deputy or inspectors at his direction shall, at least once in two years, inspect the work of the local sealers throughout the State and shall have power to inspect and ascertain the correctness of all weights, scales, beams, measures, instruments or mechanical devices for measuring, and tools, appliances or accessories connected with any such instruments or measures kept, offered or exposed for sale, sold, used or employed by any proprietor, agent, lessee or employee, in proving the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, offered or submitted by such person or persons for sale, hire or reward; and shall, from time to time, weigh or measure packages or amounts of commodities of any kind kept for the purpose of sale, offered for sale or sold, or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be offered for sale or sold in accordance with law. They may, for such purpose, and in the general performance of their official duties, enter, without warrant, into or upon any stand, place, building or premises, or stop any vendor, peddler, junk dealer, driver of any coal wagon, ice wagon or delivery wagon, or any dealer, and require him, if necessary, to proceed to some place which they may specify, for the purpose of making the proper tests. The State Superintendent or his deputy or inspectors may seal such weighing or measuring instruments or apparatus as is [are] found to be correct and may seize and destroy incorrect weights, measures or weighing or measuring instruments. The superintendent shall issue, from time to time, regulations for the guidance of county, city and borough sealers, and such regulations shall govern the procedure to be followed by said officers in the discharge of their duties. The State Superintendent of Weights and Measures shall, forthwith upon his appointment, give a bond in the penal sum of five thousand dollars, with sureties approved by the Attorney-General, for the faithful performance of the duties of his office, and for the safety of the standards intrusted in his care and for the surrender thereof immediately to his successor in office, or to the person appointed by the Governor to receive the same. The Deputy Superintendent of Weights and Measures shall, forthwith upon his appointment, give a bond in the penal sum of one thousand dollars, with sureties approved by the Attorney-General, for the faithful performance of the duties of his office and for the safety of any apparatus intrusted to his care. (Id. § 2306.)

281a. County Commissioners and Common Council of Cities to Procure Complete Set of Standards.—The County Commissioners of each county and the Common Council of each city required to appoint a Sealer under the provisions of this chapter shall procure, at the expense of the county or city, and shall keep, at all times, a complete set of weights and measures and other apparatus, of such materials and construction as said Superintendent of Weights and Measures may direct. All such weights, measures and other apparatus, having been tried and accurately proven by him, shall be sealed and certified to by the State superintendent as hereinbefore provided, and shall then be deposited with and preserved by the county or city sealer as public standards for such county or city. Whenever the County Commissioners of any county or the Common Council of any such city shall neglect, for six months, so to do, the Treasurer of the county, or the City Clerk or Comptroller of said city, as the case may be, on notification and request by the Superintendent of Weights and Measures, shall provide such standards and cause the same to be tried, sealed and deposited, at the expense of the county or city. (Id. § 2307.)

281b. Appointment, Powers, and Duties of County Sealers of Weights and Measures.—There shall be in each county a County Sealer of Weights and Measures who shall be appointed by the County Commissioners for a term of five years. He shall be paid such compensation as shall be fixed by the senators and representatives resident in the same county at their biennial meeting, and no fee shall be charged by him, or by the county, for the inspection, testing or sealing of weights, measures or weighing or measuring devices. Unless otherwise provided by law, the county sealer shall have power, within his county, to inspect, test, try and ascertain the correctness of all weights, scales beams, measures, instruments or mechanical devices for measuring, and tools, appliances or accessories connected with any such instruments or measures kept, offered or exposed for sale, sold or used

or employed within the county by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area or measurement of quantities, things, produce or articles for distribution or consumption, offered or submitted by such person or persons for sale, hire, or reward; and he shall have power to, and shall, from time to time, weigh or measure packages or amounts of commodities of any kind kept for the purpose of sale, offered for sale or sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they are offered for sale or sold in a manner in accordance with law. He shall, at least twice each year, and as much oftener as he may deem necessary, see that the weights, measures and all apparatus used in the county, including those under the care of city and town sealers of weights and measures, are correct. He may, for such purpose, and in the general performance of his official duties, enter, without warrant, into or upon any stand, place, building or premises, or stop any vendor, peddler, junk dealer, driver of any coal wagon, ice wagon or delivery wagon or any dealer and require him, if necessary, to proceed to some place which said sealer may specify, for the purpose of making the proper tests. The county sealer of weights and measures shall cause any person violating any of the provisions of this chapter relating to weights and measures to be prosecuted. Whenever said sealer compares weights, measures or weighing or measuring instruments and finds that they correspond, or causes them to correspond, with the standards in his possession, he shall seal or mark such weights, measures or weighing or measuring instruments with appropriate devices, to be approved by the State Superintendent of Weights and Measures. He shall condemn and seize, and may destroy, incorrect weights, measures or weighing or measuring instruments which, in his judgment, are not susceptible of satisfactory repair; but he shall mark or tag such as are incorrect and yet may be repaired, as "condemned for repairs" in a manner prescribed by the State Superintendent of Weights and Measures. The owner or user of any weights, measures or weighing or measuring instruments which are so marked shall have the same repaired or corrected within ten days, and until so repaired or corrected such owner or user shall neither use nor dispose of the same in any way, but shall hold the same at the disposal of the sealer. Any apparatus which has been so condemned for repairs and has not been repaired as hereinbefore required shall be confiscated by the sealer. The County Sealer shall keep a complete record of all of his official acts and shall make an annual report to the County Commissioners, and on or before October first in each year shall make a report, duly sworn to, to the State Superintendent of Weights and Measures, on blanks to be furnished by the superintendent. The County Sealer of Weights and Measures shall, forthwith upon his appointment, give a bond in the penal sum of one thousand dollars, with sureties to be approved by the county treasurer, for the faithful performance of the duties of his office. Nothing in the foregoing provisions shall be construed to prevent two or more counties from combining the whole or any part of their respective counties, as may be agreed upon by the County Commissioners, with one set of standards and one sealer, upon the written consent of the State Superintendent of Weights and Measures. A County Sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction and duties as if he had been appointed by each of the authorities who are parties to the agreement. (Id. § 2308.)

281c. Powers and Duties of City Sealers of Weights and Measures.—There shall be a City Sealer of Weights and Measures in each city of not less than twenty-five thousand population, according to the last preceding official State or United States census, to be appointed by the mayor, subject to the approval of the Common Council. He shall, in said city, perform the same duties and have the same powers as the County Sealer in the county. In those cities in which no sealer is required by this section, the County Sealer of the county shall perform the same duties and have the same powers as in the county. Nothing in the foregoing provision shall be so construed as to prevent any county and any of the cities situated therein from combining the whole or any part of their respective territories, as may be agreed upon, with one sealer, subject to the written approval of the State Superintendent of Weights and Measures. A sealer appointed in pursuance of any agreement for such combination shall, subject to the terms of his appointment, have the same jurisdiction and duties as if he had been appointed by each of the authorities who are parties to the agreement. (Id. § 2309.)

282. Penalty For Using False Weighing and Measuring Devices in the Purchase or Sale of Commodities.—Any person, who, by himself or by his servant or agent or as the servant or agent of another, shall offer or expose for sale, sell or use in the buying or selling of any commodity or thing or for hire or reward or shall retain in his possession a false weight or measure or weighing or

measuring device or any weight or measure or weighing or measuring device which shall not have been sealed by the sealer of weights and measures within one year, or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to the provisions of the General Statutes or shall remove any tag placed thereon by a sealer of weights and measures; or who shall sell or offer or expose for sale less than the quantity he shall represent; or who shall buy and receive any commodity the weight or measure of which is determined by weights or measures of the purchaser and shall give credit or pay for a quantity of such commodity less than that received by him; or who shall sell or offer or expose for sale any commodity in a manner contrary to the provisions of the General Statutes; or who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall, upon a first conviction, be fined not less than twenty nor more than two hundred dollars or imprisoned not more than three months or both. Upon any subsequent conviction any such person shall be fined not less than fifty nor more than five hundred dollars or imprisoned in the county jail not more than one year or both. (Id. § 2310, as amended P. A. 1925, c. 256.)

283. Arrest May be Without Warrant.—The Superintendent of Weights and Measures, his deputy and inspectors, and the county and city sealers of weight and measures shall each have power to arrest, without warrant, any violator of the laws in relation to weights and measures, and to seize, without warrant, for use as evidence, any false or unsealed weight, measure or weighing or measuring device, or package or amount of any commodity, found to be used, retained, offered or exposed for sale or sold in violation of law. (G. S. 1918, § 2311.)

284. Penalty For Interference With Officials.—Any person who shall hinder or obstruct the Superintendent of Weights and Measures, his deputy, or any inspector, or any county or city sealer, in the performance of his official duties, shall be fined not less than two nor more than two hundred dollars or imprisoned for not more than ninety days or both. (Id. § 2312.)

285. Penalty For Impersonating Officials.—Any person who shall impersonate the Superintendent of Weights and Measures, his deputy, or any inspector, or any county or city sealer, by use of his seal or a counterfeit of his seal, or otherwise, shall be fined not less than one hundred nor more than five hundred dollars or imprisoned for not more than one year or both. (Id. § 2313.)

286. Penalty For Using Unstamped Weights and Measures.—Every person who shall, for the purpose of buying or selling, use any weight or measure not legally stamped shall forfeit two dollars, half to the town in which such offense shall be committed, and half to the sealer of weights and measures for said town who shall prosecute for such offense. (Id. § 2317.)

287. Pound, Hundredweight and Ton; Barrel and Gallon.—The avoirdupois pound shall bear to the troy pound the relation of seven thousand to five thousand seven hundred and sixty. The hundredweight shall contain one hundred avoirdupois pounds; and the ton, twenty hundredweight. The barrel shall contain thirty-one and one-half gallons; and the hogshead, two barrels. The dry gallon shall contain two hundred and eighty-two cubic inches; and the liquid gallon, two hundred and thirty-one cubic inches. (Id. § 4782.)

288. Bushel Measurement; Charcoal, Flour, Potatoes.—The bushel in struck measure shall contain twenty-one hundred and fifty and forty-two hundredths cubic inches, and in heap measure twenty-five hundred and sixty-four cubic inches, except that every bushel of charcoal shall contain twenty-seven hundred and forty-eight cubic inches. When sold by weight, the bushel of charcoal shall weigh twenty pounds when commercially dry; the barrel of flour, one hundred and ninety-six pounds; and the barrel of potatoes, one hundred and seventy-two pounds. (Id. § 4783.)

289. Weight of Bushel in Various Articles; Penalty.—The bushel of apples shall contain forty-eight pounds; of dried apples, twenty-five pounds; of barley, forty-eight pounds; of dried beans, sixty pounds; of lima beans in pod, thirty-four pounds; of string beans, twenty-four pounds; of beets, table size, fifty pounds; of beet greens, twelve pounds; of bran or shorts, twenty pounds; of buckwheat, forty-eight pounds; of carrots, fifty pounds; of clover seed, sixty pounds; of hard coal, eighty pounds; of Indian corn, fifty-six pounds; of corn meal, fifty pounds; of sea island cotton seed, forty-four pounds; of upland cotton seed, thirty pounds; of cranberries, thirty-two pounds; of cucumbers, forty-eight pounds; of dandelions, twelve pounds; of flaxseed, fifty-five pounds; of grass seed, timothy or herdsgrass, forty-five pounds; of hickory nuts, fifty pounds; of horseradish, fifty pounds; of kale, commercially dry, twelve pounds; of lime, seventy pounds; of mangel-

wurzel, sixty pounds; of oats, thirty-two pounds; of onions, fifty-two pounds; of parsley, eight pounds; of parsnips, forty-five pounds; of peaches, fifty-two pounds; of dried peaches, thirty-three pounds; of pears, fifty-two pounds; of dried peas, sixty pounds; of peas in pod, twenty-six pounds; of peppers, twenty-four pounds; of plums, forty-eight pounds; of potatoes, sixty pounds; of sweet potatoes, fifty-four pounds; of quinces, forty-eight pounds; of rough rice, forty-five pounds; of rye, fifty-six pounds; of rye meal, fifty pounds; of fine salt, seventy pounds; of coarse salt, seventy pounds; of spinach, commercially dry, twelve pounds; of tomatoes, fiftysix pounds; of English turnips, fifty pounds; of rutabaga turnips, sixty pounds; of wheat, sixty pounds. Any person who, himself or by his servant or agent, or as the servant or agent of another, shall sell or offer for sale any of the above-mentioned commodities at a less weight per bushel than herein specified shall be fined or imprisoned or both as provided in section 2310 of the General Statutes [as amended].* (Id. § 4784, as amended P. A. 1923, c. 185.)

290. Sale of Food in Package Form; Weight; Marking.—Every person who shall sell or offer for sale food in package form, unless the net quantity of the contents be plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count, shall be subject to the penalties provided in section 2446;† provided, reasonable variations shall be permitted, and allowances shall be established by rules and regulations made from time to time by the Dairy and Food Commissioner and the Director of the Connecticut Agricultural Experiment Station. The definitions of the terms “food” and “person” as given in sections 2437 and 2448 respectively‡ shall apply to the provisions of this section, provided the term “food” as used herein, shall not include confectionery and shelled nuts when offered for sale in packages at a price not exceeding ten cents each. (G. S. 1918, § 4794.)

291. Standard Weights and Measures for Towns.—The selectmen of each town shall provide standard weights and measures of various kinds, as may be recommended and approved by the State Superintendent of Weights and Measures, and cause them to be tried and compared with the State standards. (P. A. 1925, c. 55, § 1.)

292. Duties and Fees of Sealers of Weights and Measures.—The board of selectmen in any town may appoint an inspector of weights and measures and fix his salary to be paid by the town. The inspector of weights and measures in each town shall have the custody of its weights and measures. He shall annually try, by the town standards, the weights and measures used in trade in such town; destroy such as he shall be unable to make correspond with the standards and stamp such as shall be found or made true, with the capital initial letter or letters of the name of the town, and the year of such inspection. (Id. § 2.)

NOTE: See also No. 4; the apple law, No. 19 et seq.; the bread law, No. 40 et seq.; the dairy law, No. 55 et seq.; the feeding stuffs law, No. 162 et seq.; the fish law, Nos. 172-173.

PART V.

Cases.

1. Special Food Laws.

Beverages—Adulteration: State v. Stanton, 37 Conn. 421 (1870); *State v. Annicelli, 96 Conn. 102, 113 Atl. 154 (1921).

Meat—Veal: State v. Nussenholtz, 76 Conn. 92, 55 Atl. 589 (1903).

Milk—Sale in Sealed Bottles: *State v. Stokes, 91 Conn. 67, 98 Atl. 294 (1916).

Milk—Dairymen—License: *State v. Smith, 67 Conn. 541, 35 Atl. 506, 52 Am. St. Rep. 301 (1896); *State v. Porter, 94 Conn. 639, 110 Atl. 59 (1920); State v. Tyrrell, 100 Conn. 101, 122 Atl. 924 (1923).

*See No. 282.

†See No. 11.

‡See Nos. 2 and 13.

2. Special Drug Laws.

Wood Alcohol: *State v. Annicelli, 96 Conn. 102, 113 Atl. 154 (1921).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Food: Askam v. Platt et al., 85 Conn. 448, 83 Atl. 529 (1912); Merrill v. Hodson et al., 88 Conn. 314, 91 Atl. 533, L. R. A. 1915 B, 481, Ann. Cas. 1916 D, 917 (1914).

Drugs: Tombari v. Connors, 85 Conn. 231, 82 Atl. 640, 39 L. R. A. (N. S.) 274 (1912).

Stove Polish—Explosion: Wolcho v. Arthur J. Rosenbluth & Co., 81 Conn. 358, 71 Atl. 566, 21 L. R. A. (N. S.) 571 (1908).

4. Miscellaneous.

Trade-Marks: Bradley v. Norton, 33 Conn. 157, 87 Am. Dec. 200 (1865); Boardman et al. v. Meriden Britannia Co., 35 Conn. 402 (1868); Same, 36 Conn. 207 (1869); William Rogers Manufacturing Co. v. William Rogers et al., 38 Conn. 121 (1871); Meriden Britannia Co. v. Parker, 39 Conn. 450, 12 Am. Rep. 401n (1872); Williams et al. v. Brooks et al., 50 Conn. 278, 47 Am. Rep. 642 (1882); New Haven Patent Rolling Spring Bed Co. v. Farren et al., 51 Conn. 324 (1883); Rogers & Brother v. Rogers et al., 53 Conn. 121, 1 Atl. 807, 5 Atl. 675, 55 Am. Rep. 78 (1885); William Rogers Manufacturing Co. v. Simpson, Hall, Miller & Co., 54 Conn. 527, 9 Atl. 395 (1887); Hygeia Distilled Water Co. v. Hygeia Ice Co., 72 Conn. 646, 45 Atl. 957, 49 L. R. A. 147 (1900). See also: Holmes, Booth & Haydens v. Holmes, Booth & Atwood Manufacturing Co., 37 Conn. 278, 9 Am. Rep. 324 (1870); Cottrell et al. v. Babcock Printing Press Manufacturing Co., 54 Conn. 122, 6 Atl. 791 (1886); Lawlor v. Merritt et al., 78 Conn. 630, 63 Atl. 639 (1906); Same, 79 Conn. 399, 65 Atl. 295 (1906); Daughters of Isabella, No. 1, et al. v. National Order of the Daughters of Isabella et al., 83 Conn. 679, 78 Atl. 333, Ann. Cas. 1912 A, 822 (1910); Kimball v. Hall, 87 Conn. 563, 89 Atl. 166, L. R. A. 1916 E, 632 (1913).

Weights and Measures: State v. McGee, 88 Conn. 353, 91 Atl. 270 (1914).

DELAWARE.*

PART I.

General Food and Drug Law.

1. **Manufacture or Sale of Adulterated Food or Drugs, Unlawful.**—It shall be unlawful for any person to manufacture, sell or trade in, within the State of Delaware, any article of food or drugs which is adulterated, misbranded, poisonous or deleterious, within the meaning of this act. (L. 1921, c. 190, § 1.)

2. **Food and Drug Defined.**—The term "food," as used in this act, shall include all articles used for food, drink, confectionery or condiment by man or other animal, whether simple, mixed or compound; and the term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals. (Id. § 2.)

3. **Adulteration Defined.**—For the purposes of this act, an article shall be deemed to be adulterated:

In case of drugs:

1. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of investigation: Provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

2. If its strength or purity fall below the professed standard or quality under which it is sold.

In case of confectionery:

If it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug.

In case of other food:

1. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

2. If any substance has been substituted wholly or in part for the article.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

5. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: Provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering or the package, the provisions of this act shall be construed as applying only when said products are ready for consumption.

6. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. (Id. § 3.)

4. **Misbranded Defined.**—The term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device

*CITATIONS: "R. C. 1915" refers to the Revised Code or Statutes of Delaware, 1915, published by authority of the General Assembly (October 19, 1914). "L." refers to the session laws for the year cited.

regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, territory, or country in which it is manufactured or produced.

For the purposes of this act an article shall also be deemed to be misbranded:

In case of drugs:

1. If it be an imitation of or offered for sale under the name of another article.

2. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substances contained therein.

In the case of food:

1. If it be an imitation of or offered for sale under the distinctive name of another article.

2. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any of such substances contained therein.

3. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count.

4. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular. Provided, that an article of food which does not contain any added poisonous or deteterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

1. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

2. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale. Provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only. And provided further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 4.)

5. Dealer Protected by Guaranty of Wholesaler, Manufacturer, &c., When; Guaranty to Contain What; Guarantor Liable.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this act. (Id. § 5.)

6. Violations of Act, a Misdemeanor; Penalty.—Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed five hundred dollars, or shall be sentenced to not more than one year's imprisonment, or both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and upon conviction thereof shall be fined not more than one thousand dollars, or sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court. (Id. § 6.)

Miscellaneous General Provisions.

6a. State Board of Agriculture, Powers.—The State Board of Agriculture shall have power to collect samples of foods, dairy and other feeds and insecticides and have them analyzed by the State Chemist, and to co-operate with the United States Department of Agriculture in enforcing the laws on these subjects as prescribed by the Congress of the United States. (R. C. 1915, § 708H, as added L. 1919, c. 51.)

NOTE: See also No. 113.

6b. Same.—The State Board of Agriculture shall establish a bureau of markets and marketing and it shall be the duty of said bureau to investigate the cost of production and marketing in all its phases.

To gather and disseminate information concerning supply, demand, prevailing prices, and commercial movements, including common and cold storage of food products.

To promote, assist and encourage the organization and operation of co-operative and other associations and organizations, for improving the relations and services among producers, distributors and consumers of food products.

To have power to make rules and regulations for the grading, packing, handling, storage and sale of all food products within the State, not contrary to law and to enforce such rules and regulations by actions or proceedings in any court of competent jurisdiction. To have power to provide official inspection upon request, to fix according to established trade custom, and collect fees for such inspection of farm products, such fees to be paid into the State Treasury, and to issue certificates showing the grade or other classification of such product at the time of inspection, which certificates shall be accepted in any court in this State as evidence of the true grade or other classification at the time inspected.

To investigate the practice and methods and any specific transaction of commission merchants and others who receive, solicit, buy, handle on commission, or otherwise, food products.

To act as mediator or arbitrator, when invited, in any controversy or issue that may arise between producers and distributors and which affect the interest of the consumer.

To act on behalf of the consumer in conserving and protecting their interests in every practicable way against excessive prices.

To act as market adviser for producers and distributors, assisting them in economical and efficient distribution of food products at fair prices.

To encourage the establishment of retail municipal markets and to develop direct dealing between producers and consumers.

To encourage the consumption of Delaware grown products within the state; to inspect and determine the grade and condition of farm produce both at collecting and receiving centers; and all expenses incurred pursuant to this act shall be paid from funds appropriated for the use of the State Board of Agriculture.

To take such means and use such powers, relative to shipment, transportation and storage of foodstuffs of any kind, as may be necessary and as it may deem advisable or desirable in case of emergency creating or threatening to create a scarcity of food within the State. (R. C. 1915, § 697I, as added L. 1921, c. 33, and amended L. 1923, c. 50.)

PART II.

Special Food Laws.

Apples.

7. Grades and Classes.—The standard grades or classes of apples grown in the State of Delaware when packed in closed packages shall be designated:

Delaware Fancy,
Delaware A,
Delaware B, and
Delaware Unclassified.

1. Delaware Fancy shall consist of apples of one variety which are well grown specimens, hand-picked, properly packed, all specimens of good color for the

variety, normal in shape, uniform in size, not less than average in size, free from dirt, insect injury, fungus diseases, bruises and other defects except such as are necessarily caused in the operation of packing.

2. Delaware A shall consist of apples of one variety which are well grown specimens, hand-picked, properly packed, each specimen having not less than fifty per centum of good color for the variety, which are normal in shape, uniform in size, practically free from dirt, insect injury or fungus diseases, bruises and other defects except such as are necessarily caused in the operation of packing.

3. Delaware B shall consist of apples of one variety, which are well grown, properly packed, uniform in size, and which are practically free from insect injury and fungus diseases; provided, that apples having healed over insect punctures, small scab or blotch infections, fruit spots, or other defects which, taken singly or collectively, do not materially deform or discolor the fruit, or injure its keeping quality, shall be admitted to this grade.

4. Delaware Unclassified shall consist of apples which do not conform to the foregoing specifications of grade, or which, though conforming, are not branded in accordance therewith. (R. C. 1915, § 672A, as added L. 1915, c. 52, amended L. 1917, c. 46.)

8. **Size.**—In Delaware Fancy, Delaware A and Delaware B grades, Uniform in Size shall be construed to mean that apples contained in any one package shall not vary in size more than one-half inch in diameter. (Id. § 672B.)

9. **Color.**—In Delaware Fancy and Delaware A grades, Good Color shall be construed to mean: that the varieties Jonathan, Winesap, King David, Paragon, Williams, Arkansas Black, Arkansas, Nero and Nickajack shall have 90 per centum of their entire surface covered with some shade of red, that the varieties York Imperial, Ben Davis, Delicious, Baldwin, Gano, Lawver, Limbertwig, Missouri, Rome, Smith, Cide, Stayman and Wealthy shall have 75 per centum of their surface covered with some shade of red; that the variety Lankford shall have 50 per centum of the surface covered with some shade of red; that the varieties Lilly of Kent, Stark, Smokehouse and Winter Banana shall have 15 per centum of their entire surface covered with some shade of red, and that varieties that usually show no red color shall be typically colored for the variety. The definition of good color for any variety of apples not mentioned in this section of the act shall be defined by the State Board of Agriculture. (Id. § 672C.)

10. **Standards.**—In the interpretation of this act, a tolerance of five per centum below standard shall be allowed in Delaware Fancy grade, ten per centum in the Delaware A grade, and fifteen per centum in the Delaware B grade; provided, that not more than half the foregoing tolerance values shall be allowed on any single grade specification or defect. Such tolerance shall apply to size, color and other grade specifications, and shall be computed by counting and measuring the specimens which are judged to be below the standard for the grade in any respect. (Id. § 672D.)

11. **Classes or Grades Specified in Act to be Representative.**—In all the classes or grades specified in this act, the apples included in the face or shown surface shall be truly representative of the size, color and quality of the apples in the package. (Id. § 672E.)

12. **Marking of Boxes.**—Every closed package containing apples grown in the State of Delaware, which is sold, offered or exposed for sale, packed for sale, or shipped for sale, by any person shall bear upon the outside of one end in plain letters or figures, or both, the name and address of the person by whose authority the apples were packed, the true name of the variety, the grade or class of the apples therein contained when packed or re-packed, and the minimum size of the fruit in the package. If the true name of the variety is not known to the packer or the person by whose authority the apples are packed or branded, then such variety shall be designated as "unknown." Every package of apples which is re-packed shall bear the name and address of the person by whose authority it is re-packed. The letters and figures used in marking or branding under the provisions of this act, shall be block letters or figures, or both, of a size not less than one-half inch. (Id. § 672F.)

13. **Brand.**—The marks indicating grade, as afore-prescribed, may be accompanied by other designation or grade or brand, if that designation or brand is not inconsistent with, or marked more conspicuously than, the one of the said four marks which is used on the said packages. Apples packed and branded in accordance with the United States law shall be exempt from the provisions of this act. (Id. § 672G.)

14. **How Minimum Size Determined.**—The minimum size of the fruit in all classes or grades shall be determined by taking the transverse diameter of the smallest fruit in the package. Minimum sizes shall be stated in variations of one-

quarter of an inch, as two inches, two and one-quarter inches, two and one-half inches, two and three-quarter inches, three inches, three and one-quarter inches, and so on, in accordance with the facts. Minimum sizes may be designated by either figures or words. The word "minimum" may be designated by the use of the abbreviation "min." (Id. § 672H.)

15. Adulterated or Misbranded Apples.—It shall be unlawful for any person within the State to pack, sell, distribute, transport, offer or expose for sale, distribution or transportation apples which are adulterated or misbranded within the meaning of this act. (Id. § 672I.)

16. Penalties.—Any person who misbrands or adulterates apples within the meaning of this act, or who violates any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished for the first offense by a fine not exceeding twenty-five dollars, and not less than ten dollars; for the second offense, by a fine not exceeding fifty dollars, and not less than twenty-five dollars; and for the third and each subsequent offense by a fine not exceeding two hundred dollars, and not less than fifty dollars, together in all cases with the cost of prosecution. Whenever any violation is with respect to a lot of [or] shipment consisting of fifty or more closed packages, there may be imposed, in addition to the above penalties, twenty-five cents for the first offense, fifty cents for the second offense, and one dollar for each subsequent offense for each package in excess of fifty, with respect to which such violation is committed. (Id. § 672J.)

17. Guarantor Liable.—No person shall be prosecuted under the provisions of this act when he can establish a guarantee signed by the person from whom he receives such articles to the effect that the same is not adulterated or misbranded within the meaning of this act, said guarantee to be valid shall contain the true name and address of the person or persons making the sale, and in such case the guarantor shall be liable to the penalties of this act; nor shall any common carrier be prosecuted under this act. (Id. § 672K.)

18. Exemptions.—This act shall not apply to unpacked apples, actually transported in barrels to storage within this State, until the same are removed from storage for the purpose of marketing, sale, transportation or distribution. (Id. § 672L.)

19. "Person" and "Closed Package" Defined.—The word "person" as used herein shall be construed to include individuals, corporations, partnership and associations. The act, omission or failure of any official or employee of any person, when such official or employee is acting within the scope of his employment or office, shall, in every case, be deemed also the act, omission or failure of the person as well as of the official or employee. The words "closed package" shall mean a box or barrel, the contents of which cannot be seen or inspected when such package is closed. Apples in open head barrels or boxes, covered with burlap or slats that can be readily removed and replaced are not closed packages within the meaning of this act. (Id. § 672M.)

20. Enforcement Vested In.—The enforcement of this act shall be vested in the State Board of Agriculture and its officers, employees, agents and servants, are authorized to enter upon the land and premises of any person or persons, firm or firms, corporation or corporations, within this State, for the purpose of inspecting packages of apples and securing evidence of the violation of this act. The State Board of Agriculture shall promulgate such rules and regulations as may be necessary for the proper enforcement of this act. (Id. § 672N.)

Beverages.

21. Licenses; Fees.—No person, firm or corporation shall manufacture for sale in bottles or jugs any soft drink or other non-alcoholic beverage (except apple cider) within this State without having first applied for and having received a license from the State Board of Health. Said application shall contain the name of the applicant, his address, and the location of his manufacturing plant or plants, the name of the beverage or beverages manufactured, and such other pertinent information as shall be prescribed by the State Board of Health in pursuance of the provisions of this act. The application shall be accompanied by a fee of twenty-five dollars (\$25.00), upon receipt of which application and fee the State Board of Health shall issue to said applicant a license for the manufacture of the beverages mentioned in this section. Said license shall be for the calendar year or any portion thereof, ending on December 31 of the year in which the said license shall be issued. A license may be denied at the time of application if the establishment of the applicant is known to be in an

unsanitary condition or if the water supply is known to be dangerously polluted. No soft drink or other non-alcoholic beverage (except apple cider) not manufactured in this State shall be sold or offered for sale in the State of Delaware, unless same is first inspected and registered with the State Board of Health, and an inspection fee of five dollars (\$5.00) for each such drink or other non-alcoholic beverage bearing a distinguishing flavor or name shall be paid by said manufacturer, his agent or dealer, to the State Board of Health, same to be renewed annually. (R. C. 1915, § 780A, as added L. 1923, c. 55, and amended L. 1925, c. 63.)

22. Manufacturers of Non-Alcoholic Beverages Must Comply With Certain Requirements.—Persons, firms, or corporations granted a license to manufacture soft drinks or other non-alcoholic beverages must comply with the following requirements: (a) Every building, room, basement or cellar occupied or used for the preparation for sale, manufacture, packing, storage, sale or distribution of any drink products shall be properly lighted, drained, plumbed and ventilated and conducted with due regard for the purity and wholesomeness of the products therein produced, and with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks or other persons therein employed. The term "Drink Products" as used herein shall include all waters, beverages, soft drinks and like products, whether simple mixed or compound, and all substances or ingredients used in the preparation thereof. (b) The floors, side walls, ceilings, furniture, receptacles, implements and machinery of every establishment where drink products are manufactured, packed, stored, sold or distributed shall at all times be kept in a clean, healthful and sanitary condition. (c) Drink products in the process of manufacture, preparation, packing, storing, sale or distribution must be securely protected from flies, dust, dirt, and, as far as may be necessary, from all other foreign or injurious contamination. (d) All refuse, dirt and waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling and distribution of drink products must be removed from the premises daily. (e) All bottles, jugs, barrels and other containers used in the packing, storage, distribution and sale of drink products must be cleansed with water containing a detergent or cleansing mixture, and before filling with food product must be sterilized with boiling water, live steam or a solution or [of] sodium hypochlorite, or by some other effective system which meets with the approval of the Board of Health. It is provided, however, that when bottles are washed by machine with the water at a temperature of at least 125° F. and containing a cleansing mixture of a strength equivalent to at least 2½% caustic soda, and are rinsed with clean, pure water, sterilization with steam, hot water or sodium hypochlorite may be dispensed with. All water used for rinsing must be potable and of good sanitary quality. The cleansing solution must be changed frequently so as to prevent its becoming foul and insanitary. (f) The clothing of operatives, employees, clerks or other persons must be clean. (g) The side walls and ceilings in that part of bottling establishments in which the beverages or syrups are manufactured shall be kept oil painted or well lime-washed, and all interior woodwork in every bottling establishment shall be kept washed and cleansed with soap and water, and every building, room, basement or cellar occupied for use in the preparation, manufacture, packing, storage, sale or distribution of drink products shall have an impermeable floor made of cement or tile, laid in cement, brick, wood, or other suitable non-absorbent material which can be flushed and washed clean with water. (h) The floors, windows and other openings of syrup rooms or any part of a bottling establishment used in the manufacture or mixing of syrups and extracts, etc., shall be fitted with self-closing screen doors and wire window screens made with wire of not less than fourteen meshes to the inch. (i) No employer shall knowingly permit, require or suffer any person to work in a bottling establishment who is afflicted with any contagious or infectious disease, or with any skin disease. (j) Every bottling establishment shall be provided with or have available for use a convenient washroom and toilet of sanitary construction, but such toilet shall be entirely separate and apart from any room used for the manufacture or storage of drink products. (R. C. 1915, § 780C, as added L. 1923, c. 55.)

23. Licenses to be Numbered and Displayed.—All licenses granted shall be numbered and bear the name of the town or city and the street address where the establishment is located, and all permits so granted shall be displayed in a conspicuous place on the premises so covered. All delivery trucks and wagons maintained by persons holding permits shall be kept clean and shall bear the permit number and the name of the town or city where the establishment is located. (Id. § 780D.)

24. Power of Board to Revoke Licenses, When.—The State Board of Health shall have the power to revoke any license issued under the provisions of this act whenever it is determined by itself or the Pathologist and Bacteriologist, Chemist or other properly qualified officials that any of the provisions of this act have been violated. Any person, firm or corporation whose license has been so revoked, shall discontinue the manufacture or sale within this State of soft drinks, syrups, or other non-alcoholic beverages until the provisions of this act have been complied with and a new license issued. The State Board of Health may revoke such license temporarily until there is a compliance with such conditions as it may prescribe or permanently for the unexpired period of such license. (Id. § 780E.)

25. Board to Give Written Notice Before Revocation; Hearings; Evidence.—Before revoking any license the State Board of Health shall give written notice to the licensee affected, stating that it contemplated [contemplates] the revocation of the same and giving its reason therefor. Said notice shall appoint a time of hearing before said board or its deputies, and shall be mailed by registered mail to the licensee. On the day of hearing the licensee may present such evidence to the State Board of Health as he deems fit, and after hearing all the testimony, the State Board of Health shall decide the question in such a manner as to it appears just and right. (Id. § 780F.)

26. Appeal From Decision of Board.—Any licensee who feels aggrieved at the State Board of Health may appeal from said decision within ten days by writ of certiorari to the Supreme Court of the county where licensee resides, and issue shall be framed in said court and a trial had, and its decision shall be final. (Id. § 780G.)

27. Certain Sweeteners Prohibited.—The use of saccharine, dulcin, glucin and other artificial sweeteners is prohibited. (Id. § 780H.)

28. Pure Flavoring Material to be Used and Approved by Federal Government.—For the purpose of this act all soft drinks or other non-alcoholic beverages, except non-alcoholic fruit juices, shall consist of a beverage made from pure cane or beet sugar syrup or such other sweetening liquids or substances as shall be permitted by the regulations of the State Board of Health, containing pure flavoring material with or without added fruit acid, with or without added color, provided that nothing in this act shall prohibit the use of any other harmless ingredient in the manufacture of soft drinks or other non-alcoholic beverages. The provisions of this section shall not apply to non-alcoholic beverages, made in imitation of beer, bitter drinks and other similar drinks. It is provided further that when artificial coal tar colors are used nothing but the certified colors as approved by the Federal Government are permissible. (Id. § 780I.)

29. Penalty.—Any person, firm or corporation violating this act shall be deemed guilty of a misdemeanor and shall be fined not less than fifty or more than one hundred dollars. (R. C. 1915, § 780-I, as added L. 1925, c. 63.)

30. Exemptions.—Nothing in this act shall apply to persons, firms or corporations operating a soda fountain, provided the soft drinks there manufactured shall be used on the premises. (R. C. 1915, § 780K, as added L. 1923, c. 55.)

NOTE: See also No. 136 et seq.; No. 169 et seq.

Bread.

See the weights and measures law, No. 177 and No. 181 et seq.

Canned Tomatoes.

31. Unlawful to Use Any Liquid Substance Other Than Juice of Tomatoes in Canning Same.—On and after June 1, 1920, it shall be unlawful for any person, firm or corporation to can or prepare in any way at any factory or plant of any kind in this State any tomatoes or tomatoes with puree with which there is used or introduced into the can any liquid substance of any kind whatever except the juice or juices arising from the said tomatoes themselves after they have been properly peeled, trimmed, cored and prepared for canning as food. (L. 1920, Special Session, c. 62. § 1.)

32. False Labeling of Cans Unlawful.—It shall be unlawful for any person, firm or corporation to can or prepare in any way any goods or vegetable product purporting to be canned tomatoes or canned tomatoes with puree, or having any-

thing on the label or advertised in any way likely to deceive prospective customers into believing that they are canned tomatoes or canned tomatoes with puree except in accordance with the provisions of the preceding section. (Id. § 2.)

33. Sale of Tomatoes Canned Contrary to Provisions of This Act Prohibited.—On and after January 1, 1921, it shall be unlawful for any person, firm or corporation to sell or offer for sale within this State, either by retail or wholesale, any canned tomatoes or canned tomatoes with puree, or goods purporting in any way to be canned tomatoes or canned tomatoes with puree, or having anything on the label or advertised in any way likely to deceive prospective customers into believing that they are canned tomatoes or canned tomatoes with puree, if such canned tomatoes or canned tomatoes with puree have had at any time any liquid substance of any kind whatever introduced into the cans except the juice or juices arising from the tomatoes themselves after they have been properly peeled, trimmed, cored and prepared for canning as food. (Id. § 3.)

34. Penalty for Violation of Act Relative to Manufacture or Sale of Canned Tomatoes With Puree.—Any person, firm or corporation, or the agent of any person, firm or corporation violating the provisions of this act relative to the manufacture of canning of tomatoes or tomatoes with puree, or the selling or offering for sale by wholesale of canned tomatoes or canned tomatoes with puree shall, upon conviction, be guilty of a misdemeanor and be fined not less than one thousand (\$1,000) dollars for the first offense and not less than five thousand (\$5,000) dollars for each succeeding offense. (Id. § 4.)

35. Penalty for Sale of Same, or Goods Purporting to be Same.—Any person, firm or corporation, or the agent of any person, firm or corporation violating the provisions of this act relative to the sale or offering for sale at retail of canned tomatoes or goods purporting to be canned tomatoes or canned tomatoes with puree, shall, upon conviction, be fined not less than one hundred (\$100) dollars for each and every offense. (Id. § 5.)

NOTE: See also the sanitation law, No. 81 et seq.

Cold Storage.

36. "Food," as Used in This Article, Defined.—The term "food," as used in sections 36 to 46 [771 to 781], inclusive, of this chapter, shall include any article used for food or drink by man or animal, excepting fruits and fish. Nothing in said sections shall be held to affect or apply to the storing or refrigerating of fruits or fish. (R. C. 1915, § 771.)

37. Storage Date; Marked on Food Stored or Refrigerated.—No person or persons, corporation or corporations, engaged in the business of cold storage warehousemen, or in the business of refrigerating, shall receive any kind of food, with the exception of fruits, or fish, unless the said food or the package containing the same is branded, stamped or marked, in some conspicuous place, with the day, month and year when the same is received for storage or refrigerating. (Id. § 772.)

38. Removal of Food Without Date of Storage Marked Thereon, Prohibited.—No person or persons, corporation or corporations, engaged in the business of cold storage warehousemen or in the business of refrigerating within the State of Delaware, shall permit any article of any kind whatsoever, used for food, in the possession of any person or persons, corporation or corporations engaged in the business of cold storage warehousemen or refrigerating, to be taken from their possession without first having branded, stamped or marked on the said stuffs or the package containing the same, in a conspicuous place, the day, month and year when said foodstuffs or package was received by any person or persons, corporation or corporations engaged in the business aforesaid. (Id. § 773.)

39. Storage Longer Than Six Months Forbidden, Except Upon Consent of Board of Health.—No person or persons, corporation or corporations, engaged in the business of cold storage warehousemen or refrigerating within the State of Delaware shall keep in storage for preservation or otherwise any kind of food or any article used for food for a longer period than six calendar months without the consent granted as hereinafter provided by the board of health having jurisdiction, or its duly authorized agents or officers, or except as hereinafter otherwise provided. (Id. § 774.)

40. Inspection and Supervision by Health Boards; Rules and Regulations; Access; Agents.—The State Board of Health or the local board of health within the limits of any municipal corporation having such local board, is vested with full power and authority to inspect and supervise all places in the State of Delaware now used or hereafter to be used for cold storage or refrigerating purposes;

the members of the board of health having jurisdiction as aforesaid, or the duly authorized agents or employees of said board, shall be permitted access to such place or places and all parts thereof at all times for the purpose of seeing that said place or places are kept and maintained in a clean and sanitary manner, and for the purpose of determining whether or not the provisions of the laws of this State relating to foodstuffs are being complied with. The power or supervision hereby granted shall enable the State Board of Health as aforesaid to adopt such reasonable rules and regulations as may be determined upon from time to time as essential to the proper protection of the consumer of the commodities kept and preserved in such place or places, and the board of health having jurisdiction as aforesaid may appoint and designate from time to time such person or persons as they deem fit for the purpose of making such inspection. (Id. § 775.)

41. Quarterly Report to Health Board by Warehousemen.—All persons or corporations engaged in the business of cold storage warehousemen or in the business of refrigerating in the State of Delaware shall submit a quarterly report to the board of health having jurisdiction as aforesaid upon printed forms to be provided by said board of health, setting forth in itemized particulars the quantity of each and every foodstuff in storage or in the control of said person or persons, corporation or corporations; said quarterly report shall be filed on or before the twenty-fifth day of January, April, July and October, of each year, and reports so rendered shall show conditions existing upon the first day of the month in which said report is filed. (Id. § 776.)

42. Food Kept Longer Than Six Months; Report of; Delivery Without Health Board Certificate Forbidden; Time Extended; Time Limit.—In the event of any food or any article used for food being kept or maintained in refrigerating or cold storage places for a longer period than six months, report of such fact shall be filed by the person or persons, corporation or corporations operating such cold storage or refrigerating place with the board of health having jurisdiction as aforesaid, upon blanks so provided by said board of health upon application, and no such food or article used for food shall, after the expiration of said period of six months, be delivered to any person or persons, corporation or corporations, without a certificate from the board of health having jurisdiction as aforesaid first had and obtained authorizing such delivery. Power is given to said board of health, or its proper agents, to extend the time when any particular foodstuff or article used for food may be kept, maintained or preserved in such place or places, but in no event shall permission be given to keep or maintain or preserve any foodstuff for a longer term than eight months from the date of its reception in such place or places. (Id. § 777.)

43. Transfer From One Refrigerating Warehouse to Another, Forbidden; When.—The transfer of any food from one cold storage or refrigerating warehouse to another for the purpose of evading any provision of this article is prohibited. (Id. § 778.)

44. Food Kept Longer Than Prescribed Time; How Disposed of.—Any food kept or preserved in any cold storage warehouse or refrigerating place for a longer period than herein provided for shall be sold at public auction by the person or persons, corporation or corporations having the custody of the same, and at the place where the same is kept or preserved, within sixty days after the time limited for the keeping or preserving thereof, unless said food has been condemned as unfit for use by the board of health having jurisdiction as aforesaid, in which case it shall be destroyed or otherwise disposed of under such conditions as the said board of health may prescribe. (Id. § 779.)

45. Undrawn Poultry, &c.; Storage Prohibited; Cold Storage Eggs; Regulations for Selling.—No person or persons, corporation or corporations, firm or agent shall dispose of poultry or game within the State of Delaware, that has not been drawn before being placed in cold storage. No person or persons, corporation or corporations, firm or agent shall dispose of any eggs that have been kept in cold storage except from the original crate or package, said crate to be marked with the date when said eggs were placed in said cold storage or refrigerator. (Id. § 780.)

46. Violations of This Article; Misdemeanors; Penalty.—Any person or persons, corporation or corporations, or officer or officers thereof, violating any of the provisions of sections 36 to 46 [771 to 781], inclusive of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than one hundred dollars or more than one thousand dollars, or shall be imprisoned for a term not less than sixty days or more than one year, or shall be sentenced with a fine or imprisonment or both in the discretion of the court. (Id. § 781.)

NOTE: See also No. 6b.

Confectionery.

See No. 3.

Dairy Products—Substitutes for Dairy Products.

47. Milk Receptacles; Use of, Regulated; Violation a Misdemeanor; Penalty.—No person, other than the owner or owners thereof, shall hereafter use milk bottles, milk cans, or any other receptacles used in the sale and delivery of milk, cream and other dairy products, without the express permission of the owners of the same.

Glass bottles used in the sale and delivery of milk, cream and other dairy products shall be sterilized before each and every filling, and shall not be used by the owner or owners thereof, or by any other person or persons, for any other purposes whatsoever.

Whoever shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding ten dollars for each offense. (R. C. 1915, § 3594.)

48. Creameries, &c., to Hold Permit; Term; Exceptions.—Every creamery, shipping station, milk factory, cheese factory, ice cream factory, or milk condensary, or person, receiving, buying, paying for, and selling milk or cream, on the basis of, or with reference to, the amount of butterfat contained therein, shall be required to hold a permit. The permit shall be issued to such creamery, shipping station, milk factory, cheese factory, ice cream factory, condensary, or person, by the State Board of Agriculture. The permit shall be valid for a term of one calendar year, and shall be revoked by the State Board of Agriculture for violation of the provisions of this act. This provision shall not apply to individuals buying milk or cream for private use, or to hotels, restaurants, boarding houses, railroad dining cars, or drug stores. (L. 1921, c. 36, § 1.)

49. Unlawful to Fraudulently Manipulate the "Babcock Test."—It shall be unlawful for any person, association, co-partnership, or corporation, their agents or servants, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount or percentage of butterfat contained therein, to underread, overread, or otherwise fraudulently manipulate the test, commonly known as the "Babcock test," used for determining the percentage of such fat in said milk or cream, or to falsify the record thereof, or to make the "Babcock" reading except when the fat has a temperature of one hundred thirty degrees to one hundred forty-five degrees Fahrenheit, or to use for such test quantities other than seventeen and six-tenths (17.6) cubic centimeters in the case of milk, and nine (9) grams or eighteen (18) grams in the case of cream. In all tests of cream, the cream shall be weighed and not measured into the test bottle. (Id. § 2.)

50. If Standard "Babcock Test Glassware" is Not Used, Other Methods to Be Inspected and Approved by the State Board of Agriculture.—No person, association, co-partnership, or corporation, purchasing milk or cream, and paying for the same, on the basis of the percentage of butterfat contained therein, shall, if the percentage of butterfat is ascertained by the said "Babcock test," use any test glassware except standard Babcock test glassware. If the proportion of butterfat is determined by any method other than the "Babcock test," no utensil or instrument shall be used in such determination until the same has been inspected and approved by the State Board of Agriculture. (Id. § 3.)

51. Samples Taken; Tests Made; By Certified Tester Only.—Every person, association, co-partnership, corporation, or agent or servant thereof, engaged in the business of receiving or buying milk or cream on the basis of, or in any way with reference to, the amount of butterfat contained therein, as determined by the "Babcock test," shall have the samples taken and said test or tests made only by a certified tester who shall supervise and be responsible for the same. For the purpose of this act, a "certified tester" is any person who, having furnished satisfactory evidence of good character, and having passed a satisfactory examination in milk and cream testing conducted by the Agricultural Department of Delaware College, shall have received a certificate of proficiency from the said department. Each applicant for such certificate shall pay a fee of three dollars (\$3.00) to said department, in such manner as its regulations may prescribe, to defray the cost of the required examination and of the certificate. The said department shall issue such certificate of proficiency in the name of the approved applicant and under serial number, and shall maintain a correspondingly numbered register of all such certificates issued under this act. This certificate shall be forwarded by the said department to the State Board of Agriculture, who shall issue a license to said applicant, good for one calendar year, on the payment of a fee of two dollars (\$2.00) to the

State Board of Agriculture. This license shall be renewed annually, without further examination, at the discretion of the State Board of Agriculture, upon the payment of two dollars. All moneys so collected shall be used to meet the expenses of the Department of Agriculture. Each certified tester shall post his license in plain view in the testing room in which he is employed. The State Board of Agriculture shall revoke said license for failure to post it as above required or for any other just cause. (Id. § 4.)

52. State Board of Agriculture to Make Check Tests.—Any person, association, co-partnership or corporation, engaged in the business of buying milk or cream on the basis of, or in any way with reference to, the amount or percentage of butterfat contained therein, as determined by the "Babcock test," shall make such test of milk or cream bought from each person at least once every sixteen days. The milk or cream purchased from each person shall be represented by a composite sample, taken from each of the several lots of milk or cream bought from said person, and shall cover a period of not more than sixteen days. The composite samples, to which a suitable preservative has been added, shall be made up of aliquot parts taken from each of the several lots of milk or cream bought from each person concerned, and composite samples of all persons concerned shall cover the same period of time. Each composite sample shall be plainly labeled with the name of the person whose milk or cream the composite sample represents, and with the date of the first and last day of the period of time covered by the said composite sample. After such samples have been tested, their residues shall be kept intact on the premises for a further period of not less than ten days, in order to make possible a check test. The State Board of Agriculture is hereby authorized to make check tests whenever in its judgment such tests are for the public welfare. (Id. § 5.)

53. Inaccurate Tests Not Basis for Payment.—No percentage of fat ascertained from a sample, containing milk or cream, that has been so treated as to cause it to test lower or higher than the test of the milk or cream from which it was taken, shall be used as a basis of payment for milk or cream purchased or sold. No composite sample shall be tested for use as a basis for payment of milk, which has been kept more than fifteen days after such composite sample has been completely taken. (Id. § 6.)

54. Milk and Cream to be Sold Only by True Weight.—No person, association, co-partnership, or corporation, purchasing or selling milk or cream, or both, by weight, and no agent or servant of any such person, association, co-partnership, or corporation, shall fraudulently use, as the basis of payment for such purchase, any weight other than the true weight of the milk or cream so purchased or sold. (Id. § 7.)

55. State Board of Agriculture; Right to Enter Premises, Examine Books, &c.—The State Board of Agriculture and its agents are hereby authorized to enter the premises, and to examine the books and records and testing apparatus, of any person, association, co-partnership, or corporation, for the purpose of carrying out the provisions of this act. (Id. § 8.)

56. Same; Charged With Enforcement of Act.—The State Board of Agriculture shall be charged with the enforcement of the provisions of this act. Nothing contained in this section shall be construed to prevent any individual from prosecuting any one violating any of the provisions of this act. (Id. § 9.)

57. Penalties.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars (\$100.00), or imprisonment in the county jail for not more than thirty days, or both, in the discretion of the court. (Id. § 10.)

58. Babcock Bottles, &c., to be Used for Babcock Test of Milk and Cream.—Upon the approval of this act every person, firm, company, association, corporation, or agent thereof, engaged in the business of buying milk or cream on the basis of, or in any manner with reference to, the amount of percentage of butterfat contained therein, as determined by the "Babcock test," shall use standard "Babcock" bottles, pipettes and weights, as defined in section 2 of this act. All such Babcock test bottles, pipettes and weights so used shall have been inspected for accuracy by the State Board of Agriculture, or its proper officer or agent, and shall be legibly and indelibly marked by the said State Board of Agriculture, or its inspectors of weights and measures, with the letters "S. G. D." (Standard Glassware Delaware), and no Babcock bottle, pipette or weight shall be used for such test unless so examined and marked by the said inspectors of weights and measures. It shall be unlawful for any person, persons, firm or company, association, corporation, or any agents, to use any other than standard test bottles, pipettes and weights which have been examined and marked as provided in this

section, to determine the amount of fat in milk or cream bought on the butterfat basis as determined by the Babcock test. (L. 1921, c. 37, § 1.)

59. "Standard Babcock Testing Glassware" Defined.—The term "Standard Babcock Testing Glassware" shall apply to glassware and weights complying with the following specifications:

(a) Standard Milk Test Bottles.

Graduation. The total per centum graduation shall be eight. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduation shall represent whole per centum, five-tenths per centum and tenths per centum. The tenths per centum graduation shall not be less than three millimeters in length; the five-tenths per centum graduations shall be one millimeter longer than the tenths per centum graduations, projecting one millimeter to the left; the whole per centum graduations shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per centum graduations. Each per centum graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per centum.

Neck. The neck shall be cylindrical, and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical, or conical with the smallest diameter at the bottom. If cylindrical the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be eighteen grams.

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five millimeters (five and seven-eighths and six and one-half inches).

(b) Standard Cream Test Bottles.

Three types of bottles shall be accepted as standard cream test bottles: a fifty per centum, nine gram, short-neck bottle; a fifty per centum, nine gram, long-neck bottle; and a fifty per centum, eighteen gram, long-neck bottle.

Fifty per centum, nine gram, short-neck bottles:

Graduation. The total per centum graduation shall be fifty. The graduated portion of the neck shall have a length of not less than sixty-three and five-tenths millimeters (two and one-half inches). The graduation shall represent five per centum, one per centum, and five-tenths per centum. The five per centum graduations shall extend at least half way around the neck to the right. The five-tenths per centum graduation shall be at least three millimeters in length, and the one per centum graduation shall have a length intermediate between the five per centum and the five-tenths per centum graduations. Each five per centum graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per centum.

Neck. The neck shall be cylindrical, and the cylindrical shape shall extend at least nine millimeters below the lowest and nine millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical, or conical, with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be nine grams. All bottles shall bear on top of the neck, above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (nine grams).

The total height of the bottle shall be between one hundred and fifty and one hundred and sixty-five millimeters (five and seven-eighths and six and one-half inches), same as standard milk test bottles.

Fifty per centum, nine gram, long-neck bottles:

The same specifications in every detail as specified for the fifty per centum, nine gram, short-neck bottle, shall apply for the long-neck bottle, with the exception, however, [that] the total height of this bottle shall be between two hundred and ten and two hundred and thirty-five millimeters (eight and one-fourth and eight and seven-eighths inches), and that the total length of the graduations shall not be less than one hundred and twenty millimeters.

Fifty per centum, eighteen gram, long-neck bottles:

The same specifications in every detail as specified for the fifty per centum, nine gram, long-neck bottles, except that the charge of the bottle shall be eighteen grams. All bottles shall bear, on the top of the neck, above the graduation, in plainly legible characters, a mark defining the weight of the charge to be used (eighteen grams).

(c) The Standard Babcock Pipette.

Total length of pipette, not more than three hundred and thirty millimeters (thirteen and one-fourth inches). Outside diameter of suction tube, six to eight millimeters. Length of suction tube, one hundred and thirty millimeters. Outside diameter of delivery tube, four and five-tenths to five and five-tenths millimeters. Length of delivery tube, one hundred to one hundred and twenty millimeters. Distance of graduation mark above bulb, thirty to sixty millimeters. Nozzle, straight. Delivery, seventeen and six-tenths cubic centimeters of water at twenty degrees centigrade in five to eight seconds.

(d) Standard Weights.

The standard weights shall be of nine (9) grams and eighteen (18) grams denominations. (Id. § 2.)

60. Penalties.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50), and pay the costs of prosecution. (Id. § 3.)

61. Who to Enforce Act.—The State Board of Agriculture of the State of Delaware, through its inspectors of weights and measures, shall be charged with the enforcement of the provisions of this act. (Id. § 4.)

62. Condensed Milk Products for Commercial Purposes; Ratio of Fat.—For the purpose of this act condensed, evaporated and concentrated milk is defined as the product resulting from the evaporation of a considerable portion of the water from the fresh clean lacteal secretion, colostrum free, obtained by the complete milking of cows properly fed and kept, said product to contain when made from whole milk or from milk with adjustment, if necessary, of the ratio of fat to non-fat solids by the addition or by the abstraction of cream without added sugars all tolerances allowed at least twenty-five and five-tenths per centum (25.5%) of milk solids and not less than seven and eight-tenths per centum (7.8%) of milk fat, provided, however, that the sum of the percentage of milk fat and total milk solids be not less than thirty-three and seven-tenths per centum (33.7%) when made from whole milk with added sugars all tolerances allowed at least eight per centum (8%) of milk fat and when made from skimmed milk to contain all tolerances allowed at least twenty per centum (20%) of milk solids. (L. 1923, c. 52, § 1.)

63. Unlawful to Sell Unless Stamp of Manufacturer Appears on Cans.—It shall be unlawful for any person, firm or body corporate by himself, herself, itself or themselves or by his, her, its or their agents, servants or employees to manufacture, sell or exchange or have in possession with intent to sell or exchange any condensed, evaporated or concentrated milk which shall not conform at least to the minimum standards set forth respectively in section 1 hereof and when contained in hermetically sealed cans does not bear stamped or labeled thereon the name and address of the manufacturer thereof. (Id. § 2.)

64. Unlawful to Sell Under Fictitious, Coined or Trade Names.—It shall be unlawful for any person, firm or body corporate by himself, herself, itself or themselves or by his, her, or its or their agents, servants or employees to manufacture, sell or exchange or have in possession with intent to sell or exchange any milk, cream or skimmed milk whether or not condensed, evaporated, concentrated, powdered, dried or dessicated to or with which has been added, blended or compounded any fats or oils other than milk fats either under the name of said products or articles or the derivatives thereof if labeled or sold under any fictitious, coined or trade names whatsoever. (Id. § 3.)

65. Misdemeanor; Penalty.—Any violation of the provisions of this act is hereby declared to be a misdemeanor and any person whether individually or as a member of a partnership or as a responsible agent or officer of an incorporate body who shall be convicted of such violation either on his own behalf or in the interest of a corporate body shall be sentenced to undergo an imprisonment of not less than thirty (30) days nor more than sixty (60) days or to pay a fine of not less than fifty (\$50) dollars nor more than one hundred (\$100) dollars or both. (Id. § 4.)

66. Oleomargarine; Manufacture or Sale of Imitations of Butter Unlawful; Regulations; Violation a Misdemeanor; Penalty.—No person, by himself or his agents or servants, shall render or manufacture, sell, offer for sale, expose for sale

or have in his possession with intent to sell, any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure unadulterated milk or cream of the same; provided, that nothing in sections 92 to 94 [3527 to 3529], inclusive, of this chapter, shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form and in such manner as will advise the consumer of its real character, free from coloration or ingredient that causes it to look like yellow butter. But when any person exposes for sale in this State oleomargarine, butterine, or any substance made in imitation or semblance of pure butter, such person shall have conspicuously upon or across the surface of the exposed contents of every open tub, package or parcel thereof a placard with the words "oleomargarine," "butterine" or whatever the name of the contents of the package may be, printed thereon in plain, uncondensed Gothic letters, not less than one inch long. And no person exposing for sale or advertising any oleomargarine, butterine or any other substance made in imitation of butter shall use in such advertisement the picture of a cow or the name of any dairy breed of cattle or any dairy term whatsoever. If any person shall violate any of the provisions of this section, he shall be deemed guilty of a misdemeanor and be punishable in the Court of General Sessions as hereinafter provided. (R. C. 1915, § 3527, as amended L. 1923, c. 216.)

67. Complaint, How Made; Search Warrant; Analysis by State Chemist; Return of Process; Costs Upon; Report by State Chemist to Attorney-General.—If any person shall make complaint in writing, verified by oath or affirmation, before any justice of the peace, alleging that the complainant has probable cause to suspect, and does suspect and believe that any other person by himself, or his agents or servants, has rendered or manufactured, sold, offered or exposed for sale, or has in his possession with intent to sell, any article, product or compound made as aforesaid, in imitation of yellow butter produced as aforesaid, and shall in said complaint describe such article, product or compound as particularly as may be, and designate the house or place where complainant suspects and believes such article, product or compound is, and the name of the person suspected as aforesaid, thereupon such justice of the peace may, within the limits of his jurisdiction, issue his warrant to search such house or place. Such warrant shall be directed to any officer or to any other person by name for service, and shall recite the essential facts alleged in the complaint, and the officer or other person to whom it shall be directed for service as aforesaid shall proceed thereunder as follows:

He may enter the house or place designated and if he shall find therein what he believes to be any article, produce [product] or compound made as aforesaid in imitation of yellow butter produced as aforesaid, he shall take therefrom a sample or samples thereof for the purpose of having the same analyzed or tested as hereinafter provided; and to obtain such sample or samples, such officer or other person to whom such warrant shall be directed as aforesaid may open any can, vessel or package by him believed to contain such imitation article, product or compound and take therefrom the sample or samples for the purpose aforesaid. The said officer or other person to whom such warrant shall be directed, as aforesaid, when so taking a sample or samples of such alleged imitation article, product or compound, as aforesaid, shall then and there divide said sample into two parts as nearly equal as may be, wrap said parts in separate packages, then and there seal the same and offer one of said parts to the person in whose custody the said article was when taken, with a written notice of the time, place and date, when and where said sample was so taken and that it was taken for the purpose of analyzing or testing it. The other part of said sample shall, together with a copy of the written notice last above mentioned, be delivered by said officer, or other person to whom said warrant shall be directed as aforesaid, to the State Chemist, who shall cause the same to be analyzed, or otherwise satisfactorily tested, the result of which analysis or test he shall record and preserve as evidence.

The said officer or other person to whom said warrant shall be directed, as aforesaid, shall, within one week next ensuing such delivery to the State Chemist, as aforesaid, return said warrant with his proceedings thereunder and his costs and actual expenses endorsed thereon to the said justice of the peace, the said costs to correspond in amount as nearly as may be with the costs to which an officer serving a search warrant would thereby be entitled to.

The said sample having been delivered to the State Chemist as aforesaid, he shall with all convenient speed analyze or test the same, and upon the completion thereof shall forward to the Attorney General a certificate of the result thereof, duly verified by oath or affirmation, and such certificate so verified shall be admitted as evidence before the Grand or Petit Juries in any prosecutions under sections 92 to 94 [3527 to 3529], inclusive, of this chapter. (R. C. 1915, § 3528.)

68. Violation of Section 92 [3527]; Penalty; Costs, How Paid; Fee of State Chemist; Limit of Costs Payable by County in Any Year.—If any person shall be convicted of a violation of any of the provisions of section 92 [3527] of this chapter, he shall forfeit and pay to the State of Delaware a fine of not less than fifty dollars nor more than two hundred and fifty dollars, or be imprisoned for a term not exceeding one year, and shall pay the costs of prosecution, among which shall be taxed the costs of the said justice of the peace and the costs and actual expenses endorsed upon said warrant and the charge of the State Chemist, whose charge shall not in any one case exceed the sum of twenty dollars. In case of failure to convict, the charge of the State Chemist and the costs of said justice of the peace and the costs and actual expenses endorsed upon said warrant as aforesaid shall be paid by the county in which the prosecution is conducted; provided, that the amount of money so to be paid by any county shall not exceed in any year the sum of two hundred dollars. (Id. § 3529.)

68a. Imitations of Butter.—The State Chemist shall perform the duties relative to the analysis and test of imitations of butter, as provided by sections 93 and 94 [§§ 3528 and 3529] of chapter one hundred. (Id. § 713.)

69. Ice Cream Defined; Unlawful to Sell, etc., if Adulterated or Misbranded.—No person, firm or corporation shall sell or distribute, or have in possession for selling or distribution any ice cream or ice cream mixture or compound which is adulterated or misbranded. Ice cream is hereby defined as the frozen product made from cream with the addition of milk or milk products, or eggs, fruit juices or nuts, with or without sugar or artificial flavoring or coloring. It shall contain not less than twelve per cent. (12%) of milk fats, except when the ingredients include fruits, nuts or eggs, in which case it shall contain not less than ten per cent. (10%) of milk fats. (L. 1925, c. 204, § 1.)

70. Quality of Ingredients.—All ingredients used in ice cream or ice cream mixtures or preparations shall be of good quality and free from rancid or harmful preparations and no coloring shall be used except those certified by the United States Department of Agriculture. (Id. § 2.)

71. Adulterated Ice Cream Defined; Exception.—Ice cream shall be deemed to be adulterated within the meaning of this act if in purity or quality it fails to meet the standards herein set forth, or if it shall contain boric acid, salicylic acid, formaldehyde, saccharine or any other substances or compounds known or likely to be harmful to health.

But nothing herein contained shall be construed to prohibit the use of condensed or evaporated milk, milk powder, homogenized milk fats, gelatine or vegetable gums. (Id. § 3.)

72. Misbranded Ice Cream.—Any mixtures enumerated in section 2 of this act made of substances or material other than those enumerated in said section 2, or which do not conform to the standards hereinbefore set forth, shall be deemed to be misbranded if marked or labelled "Ice Cream" and sold and represented to be ice cream. (Id. § 4.)

73. Penalties.—Any person or persons and the officers or employees of any corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and for the first offense shall forfeit and pay a fine of not less than fifty dollars (\$50) and for each subsequent offense a fine of one hundred dollars (\$100), to be collected as fines of like amount are now collected. (Id. § 5.)

74. Enforcement.—The State Board of Agriculture shall be charged with the enforcement of the provisions of this act. Nothing contained in this section shall be construed to prevent any individual from prosecuting any one violating any of the provisions of this act. (Id. § 6.)

NOTE: See also No. 6a; No. 79d; the weights and measures law, Nos. 174-176.

Eggs.

See No. 45.

Feeding Stuffs.

75. Commercial Feeding Stuffs Defined; Tags or Labels to be Affixed; To Contain Statement; Weight, &c., of Contents to Be Shown on Statement; Samples; Fees; Analysis of Samples to Be Made Annually; Violations of Act; Penalties.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs, together with all condimental and patented proprietary feeds used for feeding live stock and poultry, except unmixed whole seeds or grains; the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats,

buckwheat, flaxseed, kafir and milo; corn and oats feed made by grinding together the pure grains of corn and oats; wheat, rye and buckwheat brans or middlings when unmixed with other materials; whole hays, straws, ensilage and corn stover when unmixed with other materials, and all other materials containing sixty per cent or more of water.

Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale, or distributed within this State, shall have affixed thereto a tag or label in a conspicuous place on the outside, containing a legible and plainly written statement in the English language, clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel; (b) The name, brand or trade-mark; (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market; (d) The minimum percentage of crude protein, allowing one per cent of nitrogen to equal six and one-quarter per cent of protein; (e) The minimum percentage of crude fat; (f) The maximum percentage of crude fibre; (g) The specific name of each ingredient used in its manufacture.

Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs, he shall file with the State Board of Agriculture a certified copy of the statement specified in this act for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the State Board of Agriculture shall so request, by a sealed package containing at least one pound of the commercial feeding stuffs, to be sold, offered or exposed for sale or distributed in this State, and the company or persons furnishing said sample shall thereupon make an affidavit that the said sample is representative of the commercial feeding stuffs, offered for registration.

The manufacturer, importer, agent or seller of any brand of commercial feeding stuffs as defined in this act shall pay to the Secretary of the State Board of Agriculture at the time he files the sworn statement as required by this act, a registration fee of one dollar per annum for each brand of commercial feeding stuffs sold, offered or exposed for sale in this State.

On or before the fifth day of January of each year every manufacturer or vendor of feeding stuffs shall file under oath with the State Treasurer a statement showing the number of tons of feeding stuffs that he has sold in this State during the preceding year, and shall pay to the said State Treasurer for the use of the State the sum of ten cents for every ton of feeds so sold. Whenever the manufacturer, importer, agent or seller of any commercial feeding stuffs shall have complied with the requirements of this section the State Board of Agriculture shall issue or cause to be issued a license permitting the sale of said feeding stuffs, which license shall terminate on December 31, following the date of issue. Whenever any commercial feeding stuffs as defined in this act is [are] offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provision of this act, and when such feeding stuffs is [are] sold at retail, in bulk or in packages belonging to the purchaser, [the] manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser, upon request, with a card or cards upon which appears a statement required by the provisions of this act.

The State Board of Agriculture shall have the power to refuse to license any commercial feeding stuffs under a name, brand or trade-mark which should [would] be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed or when the specific name of each and all ingredients used in its manufacture is not stated. It shall also have the power to refuse to license more than one commercial feeding stuff under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be licensed in this State and it is afterwards discovered that such license is in violation of any of the provisions of this act, the said board shall have the power to cancel such license. The State Board of Agriculture shall have the power to refuse to allow a manufacturer, importer, jobber, firm, association, corporation, or person to lower the guaranteed analysis or change the ingredient of any brand of his or their commercial feeding stuffs during the term for which licensed, unless reasons satisfactory to the said board are presented for making such change or changes.

Whenever a manufacturer, importer, jobber, firm, association, corporation, or person manufacturing or selling a brand of commercial feeding stuffs, shall have filed the statement required by this act and pay [paid] the license fee, as required by this act, no other agent, importer, jobber, firm, association, corporation or person shall be required to file such statement or pay such fee upon such brand.

Any authorized agent or agents of the State Board of Agriculture shall have free access, during reasonable business hours, to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, sale or storage of any commercial feeding stuffs and shall have the power and authority to open any parcel containing or supposed to contain any commercial feedings stuffs, and upon tender and full payment of the selling price of said sample, for the purpose of procuring a sample of suitable size for analysis, from each and every lot or parcel of commercial feeding stuffs being sold, offered or exposed for sale: Provided, That said sample shall be taken in the presence of the person or agent having the feeding stuff in charge and said sample shall be taken from not less than five separate original packages in the lot, in which case a portion shall be taken from each original package; if the commercial feeding stuffs is [are] in bulk, portions shall be taken from not less than five different places in the lot unless the manner in which the commercial feeding stuffs is [are] stored prohibits, in which case, portions shall be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains.

At least one sample of each brand of commercial feeding stuffs sold, offered or exposed for sale in the State, secured in the manner described in this act shall be analyzed annually under the direction of the State Board of Agriculture and the results of such analysis shall be promptly submitted to the manufacturers or persons responsible for placing the commodities on the market, and shall be published in reports or bulletins from time to time together with such additional information as the said board may deem advisable. The manufacturers or persons responsible for the placing of any commodity on the market shall, upon request to the State Board of Agriculture, be furnished with a portion of the official sample of that commodity. The methods of analysis shall be those enforced at the time by the Association of Official Agricultural Chemists of North America.

If it appears that any of the provisions of this act have been violated, the State Board of Agriculture shall certify the facts to the prosecuting officer of the county in which the violation has occurred, together with a copy of the results of the analysis or the examination of such feeding stuffs duly authenticated by the analyst or other officer making the determinations under oath of said officer: Provided, that in such case, said board shall first cause notice of such apparent violation to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the State Board of Agriculture before the facts shall be certified to the prosecuting officer. In all prosecutions arising under the provision of this act certificates of the analyst or other officer making the examinations or analysis, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified.

Any manufacturer, importer, jobber, firm, association, corporation or persons who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any duly authorized agent of the State Board of Agriculture in the performance of his duty in connection with the provisions of this act, or who shall sell, offer or expose for sale, or distribute in this State any commercial feeding stuffs as defined in this act without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs which contain a smaller percentage of crude protein or crude fat, or a larger percentage of crude fibre than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars for the first offense, and not less than two hundred dollars for each subsequent offense. Any manufacturer, importer, jobber, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of live stock or poultry, shall be deemed guilty of a misdemeanor, and in addition to the penalty provided in this section the lot of feeding stuffs shall be liable to seizure, condemnation and sale, as the court may direct; the proceeds from such sale to be covered into the State treasury. The court may, in its discretion, release the feeding stuffs so seized when the requirements of the provisions of this act have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure.

The State Board of Agriculture is hereby empowered to enforce the provisions of this act and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as may be deemed necessary to carry into effect the full intent and meaning of this act. (R. C. 1915, § 697 J, as added L. 1921, c. 33.)

NOTE: See also No. 6a.

Flour, Meal.

See the weights and measures law, No. 171c et seq.

Fruits, Vegetables, Etc.

76. Packages of Fruit for Shipment; How Marked; Rules; Misdemeanor; Penalty.—The said Board of Agriculture shall have power to compel all growers of fruit to stamp or mark the baskets, boxes, packages, crates, parcels or other receptacle used by them for the shipment of any fruit or fruits with his or her or their name or names, initial or initials, or with some distinguishing device or mark which may be readily and easily read and seen on the same, and said board may adopt rules and regulations to carry this into effect.

If any grower of any fruit or fruits shall neglect or fail, after ten days' notice by said board, to comply with the provisions of this section, he or she or they shall be guilty of a misdemeanor and upon conviction thereof shall forfeit and pay a fine of five dollars. (R. C. 1915, § 668.)

NOTE: See also No. 6b; the apple law, No. 7 et seq.; the sanitation law, No. 81 et seq.; the weights and measures law, No. 178 et seq.

Meat—Meat Products.

77. Meats; Treatment with Preservatives, &c., Detrimental to Health, a Misdemeanor.—It shall be unlawful for any person, company, firm or corporation to sell or offer to sell by himself or itself, or by his or its servants or agents, or as the servant or agent of any other person, company, firm or corporation, any meat or flesh of any animal used for food after the same has been butchered, which contains any drug or preparation of whatever kind or nature, deleterious or detrimental to the health of persons who may eat the same, or which has been treated with, either externally or internally, or to which has been applied in any manner, any drug or preparation of whatsoever kind or nature, deleterious or detrimental to the health of persons who may eat the same, whether for the purpose of preserving said meat or flesh used for food or for any other purpose. If any person, firm, company or corporation shall violate any of the provisions of this section he shall be deemed guilty of a misdemeanor and be punishable in the Court of General Sessions as hereinafter provided. (R. C. 1915, § 3524.)

78. Complaint; Search Warrant; Analysis by State Chemist; Return of Process; Costs Upon; Report by State Chemist to Attorney-General.—If any person shall make complaint in writing, verified by oath or affirmation, before any justice of the peace, alleging that the complainant has probable cause to suspect, and does suspect and believe that any person, firm, company or corporation, by himself or itself, or by his or its servants or agents, has sold or offered or exposed for sale, or has in his or its possession, with intent to sell, any meat or flesh of any animal to be used for food which has been treated with, or which contains any drug or preparation as mentioned in section 89 [3524], and shall in said complaint describe such meat as particularly as may be, and designate the house or place where complainant suspects and believes such meat or flesh is kept or sold as aforesaid, and the name of the persons suspected as aforesaid, thereupon such justice of the peace may, within the limits of his jurisdiction, issue his warrant to search such house or place; such warrant shall be directed to any officer or to any other person by name for service, and shall recite the essential parts alleged in the complaint, and the officer, or other person to whom it shall be directed for service as aforesaid, shall proceed thereunder as follows: He may enter the house or place designated and if he shall find therein what he believes to be any meat or flesh such as is described in section 89 [3524], he shall take thereupon a sample or samples for the purpose of having the same analyzed or tested as hereinafter provided, and to obtain such sample or samples such officer or other person to whom such warrant shall be directed as aforesaid may cut pieces for the purpose aforesaid from any such meat or flesh as aforesaid by him believed to be treated with or containing any drug or preparation within the meaning of section 89 [3524] of this chapter. The said officer or other person to whom such warrant shall be directed as aforesaid, when so taking a sample or samples of such meat or flesh, shall then and there divide said samples into two parts as nearly equal as may be, wrap said parts in separate packages, then and there seal the same, and offer one of said parts to the person in whose custody

the said meat was when taken, with a written notice of the time, place and date, when and where said sample was so taken, and that it was taken for the purpose of analyzing or testing it. The other part of said sample shall, together with a written copy of the written notice last above mentioned, be delivered by said officer, or other person to whom said warrant shall be directed as aforesaid, to the State Chemist, who shall cause the same to be analyzed or otherwise satisfactorily tested, the result of which analysis or test he shall record and preserve as evidence.

The said officer or other person to whom said warrant shall be directed as aforesaid shall, within one week next ensuing such delivery to the State Chemist as aforesaid, return said warrant with his proceedings thereunder and his costs and actual expenses endorsed thereon to the said justice of the peace, the said costs to correspond in amount as nearly as may be with the costs to which an officer serving a search warrant would thereby be entitled to.

The said sample having been delivered to the State Chemist as aforesaid, he shall, with all convenient speed analyze or test the same, and upon the completion thereof shall forward to the Attorney General a certificate of the result thereof, duly verified by oath or affirmation, and such certificate so verified shall be admitted as evidence before the grand and petit juries in any prosecutions under sections 89 to 91 [3524 to 3526], inclusive, of this chapter. (Id. § 3525.)

79. Violation of Section 89 [3524]; Penalty; Costs How Paid; Fee of State Chemist; Limit of Costs Payable by County in Any Year; Jurisdiction of Justice of the Peace.—If any person shall be convicted of a violation of any of the provisions of section 89 [3524] of this chapter, he shall forfeit and pay a fine of not less than fifty dollars nor more than one hundred dollars, or be imprisoned for a term not exceeding three months, and pay the costs of prosecution, among which shall be taxed the costs of the said justice of the peace and the costs and actual expenses endorsed upon said warrant and the charge of the State Chemist, whose charge shall not in any case exceed the sum of ten dollars. In case of failure to convict, the charge of the State Chemist and the costs of said justice and the costs and actual expenses endorsed upon said warrant as aforesaid shall be paid by the county in which the prosecution is conducted; provided that the amount of money so to be paid by any county shall not exceed in any one year the sum of two hundred dollars. (Id. § 3526.)

79a. Meats.—The State Chemist shall perform the duties relative to the analysis and test of meats, as provided by sections 90 and 91 [§§ 3525 and 3526] of chapter one hundred. (Id. § 712.)

79b. Duties of; Regulations.—It shall be the duty of the State Board of Agriculture to protect the health of the domestic animals of the State, to determine and employ the most efficient and practical means for the prevention, suppression, control or eradication of dangerous, contagious or infectious diseases among the domestic animals, and for these purposes it is authorized and empowered to establish, maintain, enforce and regulate such quarantine and other measures relating to the movements and care of animals and their products, the disinfection of suspected localities and articles and the destruction of animals, as it may deem necessary, and to adopt from time to time all such regulations as may be necessary and proper for carrying out the purposes of sections 35 to 41 [§§ 684 to 690], inclusive, of this chapter; provided, however, in the case of any slowly contagious diseases only suspected or diseased animals shall be quarantined. (R. C. 1915, § 684, as amended L. 1921, c. 33, § 4.)

79c. Violation of Regulations or Interference With Officers; Misdemeanor; Penalty.—Any person or persons wilfully violating any of the provisions of sections 35 to 39, [684-688] inclusive of this chapter, or any regulations of the State Board of Agriculture, or wilfully interfering with officers appointed under sections 34 to 39 [683-688] inclusive of this chapter, shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding one month, or both, at the discretion of the court. (R. C. 1915, § 687 as amended L. 1921, c. 33, § 5.)

79d. Assistants or Agents; Supplies; Oaths of Appraisers; Examination as to Contagious Diseases; Milk; Meat.—The State Board of Agriculture is empowered to appoint and employ such assistants and agents, and to purchase such supplies and materials as may be necessary in carrying out the provisions of sections 34 to 39 [683-688] inclusive of this chapter. The Board and the members thereof are empowered to administer oaths or affirmations to the appraisers appointed under section 36 [685] of this chapter. They may order and conduct such examinations into the conditions of the live stock of the State in relation to contagious diseases, including the milk and meat supplies of cities, towns, boroughs and villages, as

may seem necessary, and take proper measures to protect such milk and meat supplies from contamination. (R. C. 1915, § 688, as amended L. 1921, c. 33, § 6.)

NOTE: See also No. 45.

Oysters.

80. Measure for Oysters Sold in Shell; Violation; Misdemeanor; Penalty.—All oysters sold in the shell by the bushel measure in this State shall be measured in a circular bushel tub with straight sides and straight solid bottom, and said tub shall have the following dimensions, viz: fifteen inches in diameter across the top from inside to inside, and thirteen inches and three-quarters across the bottom from inside to inside, and twenty inches diagonal from inside chime to top. Any person or persons engaged in buying or selling oysters in this State and measuring the same in any measure contrary to the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined ten dollars and costs. The person or persons, upon failure to pay said fine, shall be imprisoned for a term of not less than twenty days nor more than thirty days in the county jail. The proceeds to go one-half to the informer and one-half to be paid over to the collector of oyster revenue, for the use of the State. Any justice of the peace in any county of this State shall have jurisdiction to hear and determine all violations of this section with the power to enforce its provisions. (R. C. 1915, § 2486.)

NOTE: See also No. 179.

Sanitation.

81. Supervision by Cannery Inspector.—From and after the approval of this act all matters and things hereinafter set forth relating to the sanitation of factories or establishment within this State in which fruits, vegetables, or by-products thereof, are packed and preserved in tin or glass cans or jars, or other containers, to be sold as food, shall be under the supervision of a "cannery inspector," and said "cannery inspector" is hereby vested with power and authority to carry into effect the provisions hereof. (L. 1915, c. 228, § 1.)

82. Governor Shall Appoint, When; Term of Office.—On or before the first day of June, A. D. 1915, and on or before the first day of June biennially thereafter, the Governor shall appoint and assign an efficient person, who shall be a citizen of this State, and one who has a thorough knowledge of the canning business, who shall be known and designated by the official title of "cannery inspector." He shall hold office for one year from the first day of June, or he may be dismissed and his commission revoked at any time, for cause, by the Governor. (Id. § 2.)

83. Duties of Cannery Inspector.—It shall be the duty of the "cannery inspector" to visit and inspect, at reasonable hours, and as often as practicable, all factories and establishments in this State in which fruits, vegetables, or by-products thereof, are packed and preserved in tin or glass cans or jars, or other containers, to be sold as food, and to enforce the correction of all unsanitary conditions and practices found therein; and it shall be his special duty to enforce the laws, rules and regulations provided in this act.

The "cannery inspector" shall make a written report to the Governor of each and every violation of this law immediately upon such violation being made, and he shall also make an annual report to the Governor on or before the first day of January in each and every year. The annual report shall set forth the condition of each factory as to sanitation, whether the provisions of this act are being complied with, and such other matters and things as may be relevant thereto, and he shall furnish such other information concerning this act, from time to time, as may be required by the Governor. (Id. § 3.)

84. Shall Furnish Annually a Certificate of Inspection; To Whom.—The "cannery inspector" shall, on the first day of October in each year, furnish to each person, firm or corporation operating a factory affected by this act, that shall have complied with the provisions hereof during the year immediately preceding said first day of October, a certificate of inspection under the hand of the "cannery inspector," setting forth that such factory has been inspected and all laws, rules and regulations for the year immediately preceding the date of the certificate have been fully complied with. (Id. § 4.)

85. Rules and Regulations Governing the Office of Cannery Inspector.—The "cannery inspector," in the discharge of his duties under the provisions hereof, shall be governed by the following rules and regulations, which are hereby made the law of this State:

All persons, firms or corporations, operating factories affected by this act, shall be subject to the following rules, regulations and requirements.

All rooms in which fruits, vegetables, or by-products thereof, are packed and preserved, and in which manufacturing is actually carried on, shall be provided with smooth, water-tight floors which can be properly cleansed.

Adequately equipped wash stations and places where employees may change their clothing and hang the clothes not in use, shall be provided for male and female employees. These wash stations shall be provided with sufficient water, soap and sanitary towels.

Separate toilet rooms shall be maintained for male and female employees.

Living quarters, if provided by the canner, shall have water-proof roofs and tight board floors, and shall be provided with ample light and ventilation, and provision shall be made therein for the proper separation and privacy of sexes.

Adequate drainage shall be provided to lead all waste liquids outside and away from the buildings.

All machinery used shall be kept in a clean and sanitary condition by the use of steam or water, and also all floors and toilet rooms shall be kept in a sanitary condition.

No litter, drainage or waste matter of any kind shall be allowed to collect in or around the buildings, and the surroundings shall be kept in a clean and sanitary condition. Occupants of living quarters provided by the canner shall be required to keep the same in a clean and sanitary condition.

Employees in factories affected by the provisions of this act shall be subject to the following rules, regulations and requirements:

Employees are prohibited from smoking or spitting in any room in the cannery where foods are being prepared for canning.

Female employees who work where foods are being prepared for canning shall wear clean aprons or dresses made of washable fabrics and shall also wear clean, washable caps over the hair.

Employees with infected wounds in the hands or arms are prohibited from handling food products, or the containers in which they are placed, before such containers are sealed or capped. Clean cuts, which are not infected shall be covered with rubber cots securely fastened. (Id. § 5.)

86. Cannery Inspector to Furnish Printed Abstracts of the Law; to Be Printed in Different Languages; Posted in Factory.—The "cannery inspector" shall have prepared and printed, abstracts of this law, and shall furnish every person, firm or corporation in this State, effected [affected] by this act with a reasonable number of printed abstracts, and such printed abstracts shall be posted in at least five conspicuous places in each factory affected by this act, and they shall be kept posted in plain view so that they can be easily read by the employees. If persons are employed who do not understand the English language, suitable translations, or so much of the law as affects the employees, shall also be posted in languages with which they are familiar, and such translations shall be furnished by the said "cannery inspector" upon application by the owner. (Id. § 6.)

87. Prosecutions for Offenses, &c.—Whenever any person, firm, [or] corporation shall violate any of the provisions of this act the said "cannery inspector" shall cause the person, firm or corporation so violating to be prosecuted in the Court of General Sessions of the county where the offense is committed.

Provided, however, that in any such case, the "cannery inspector," in his discretion, may, instead of prosecuting such person, firm or corporation, close the factory in which such violation occurs, and may cause all work therein to be discontinued, until such violations are discontinued or until such changes as may be necessary to make the factory sanitary are made, as directed by the "cannery inspector."

The "cannery inspector" is hereby authorized and empowered to enforce this provision, and if necessary, to call to his assistance the sheriff of any county or any constable within the State of Delaware.

Should any person, firm or corporation engaged in the canning business, whose factory should be ordered closed by the "cannery inspector," under the provisions hereof, resist the authority of the said "cannery inspector" or sheriff or constable deputized by him, such person, firm or corporation shall be deemed guilty of a misdemeanor, and upon conviction thereof, in the Court of General Sessions of the State of Delaware, be fined in a sum not less than fifty dollars or more than one hundred dollars, and imprisoned for a term not exceeding thirty days.

It shall be the duty of the sheriffs and constables of the respective counties of the State to assist the "cannery inspector" in enforcing this provision whenever they shall be called upon by him. (Id. § 7.)

88. Penalties.—Any person, firm or corporation who violates any of the provisions of this act, or refuses, neglects or fails to comply with the provisions and requirements hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof in the Court of General Sessions of the State of Delaware, shall for the first offense be fined not less than twenty-five dollars nor more than one hundred dollars; for the second offense not less than one hundred dollars nor more than one hundred and fifty dollars.

If any person, firm or corporation engaged in the canning business within the provisions of this act, shall be convicted a third time for any violation of this act, the Court of General Sessions is hereby authorized and empowered to close the factory in which such third offense is committed, and the person, firm or corporation convicted as aforesaid, may be prohibited from engaging in the canning business within the provisions of this act until further order of the said Court of General Sessions. (Id. § 8.)

89. Cannery Inspector Authorized to Inspect Premises and Enforce Provisions of Act; Penalty for Interfering with Officers.—The "cannery inspector" provided for in this act, Be, and is hereby authorized and empowered to enter upon the premises of any factory in this State engaged in the business herein set forth, for the purpose of inspecting and enforcing the provisions of this act, and any person, firm or corporation engaged in the business aforesaid, refusing access to the said officer, or in any way interfering with said officer in the exercise of his duties, when over [other] penalties are not provided in this act, shall be guilty of a misdemeanor and upon conviction thereof in the Court of General Sessions, shall be fined in a sum not exceeding one hundred dollars for each offense. In default of the payment of any fine that may be imposed under the provisions of this act, imprisonment may be imposed, for a term, in the discretion of the court, in lieu thereof. (Id. § 9.)

90. Salary; Contingent Fund.—The annual salary of the "cannery inspector" shall be one thousand dollars, payable in quarterly installments of two hundred and fifty dollars each. There shall also be allowed to the "cannery inspector" for contingent expenses the sum of five hundred dollars to be paid to him in like quarterly installments. The salary and contingent expenses aforesaid shall be paid by the State Treasurer out of the moneys in the treasury, not otherwise appropriated. (Id. § 10.)

91. Annual Appropriation.—The sum of fifteen hundred dollars be, and the same is hereby appropriated annually out of any moneys in the State treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act. (Id. § 11.)

NOTE: See also the beverage law, No. 21 et seq.; the cold storage law, No. 36 et seq.; the dairy law, No. 47 et seq.; the meat law, No. 77 et seq.

PART III.

Special Drug Laws.

Abortifacients.

92. Abortion; Advertising Means for Procuring; Penalty.—Whoever shall advertise, print, publish, distribute or circulate, or shall cause to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper, notice, advertisement, or reference, containing words or language, giving or conveying any notice, hint or reference to any person, or to the real or fictitious name of any person from whom, or to any place, house, shop, or office where anything whatsoever, or any instrument or means whatsoever, or any advice, direction, information or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any pregnant woman, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than two hundred dollars and be imprisoned for a term not exceeding one year. (R. C. 1915, § 4710.)

Dangerous Caustic or Corrosive Substances.

92a. Definitions.—In this act, unless the context or subject-matter otherwise requires:

A—The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCL) in a concentration of ten per centum or more; (b) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of ten per centum or more; (c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five per centum or more; (d) Carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five per centum or more; (e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of ten per centum or more; (f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of ten per centum or more; (g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of twenty per centum or more; (h) Hypochlorous acid, either free or combined, and any preparation containing the same in concentration so as to yield ten per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten per centum or more; (j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including casutic soda and lye, in a concentration of ten per centum or more; (k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of five per centum or more, and (l) Ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn," in a concentration of five per centum or more.

B—The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller, or distributor; (c) the word "POISON," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance. (Act of Feb. 23, 1927, § 1.)

92b. Sale of Misbranded Packages Prohibited; Proviso.—It shall be unlawful for any person to sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter or exchange, in the State of Delaware, any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container being designed for household use, provided, that household products for cleaning and washing purposes, subject to this act and labeled in accordance therewith, may be sold, offered for sale, held for sale and distributed in this State by any dealer, wholesale or retail. (Id. § 2.)

92c. Penalty.—Any person violating the provisions of this act shall upon conviction thereof be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 3.)

92d. Registration of Brands and Labels.—The State Board of Health be and it is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this act as may be submitted to it for that purpose and as may in its judgment conform to the requirements of this statute; Provided, however, that in any prosecution under this act the fact that any brand or label involved in said prosecution has not been submitted to said State Board of Health, for approval, or if submitted, has not been approved by it, shall be immaterial. (Id. § 4.)

92e. Title of Act.—This act may be cited as the "Delaware Caustic Alkali or Acid Act of 1927." (Id. § 5.)

92f. When Act Effective.—This act shall take effect six months after the date of its enactment and approval of the Governor. (Id. § 6.)

92g. Inconsistent Acts Repealed.—From and after the date when this act takes effect, all acts and parts of acts contrary to and inconsistent with the provisions of this act be and the same hereby are repealed. (Id. § 7.)

Insecticides.

See No. 6a.

Pharmacy, Poisons and Narcotics.

93. Board Established; Appointment; Qualifications; Terms of Office; Vacancies; Oaths.—The State Board of Pharmacy is established, consisting of five persons licensed as pharmacists and actively engaged in the practice of pharmacy within this State, appointed by the Governor for terms of five years from the date of their appointment, and until their successors shall have been appointed. The terms of office of the members of said board shall be so arranged that the term of office of one of said members shall expire on the first day of July of each year. Annually, on or before the first day of June, the Delaware Pharmaceutical Society shall submit to the Governor the names of five persons licensed as pharmacists, within this State, and from this number the Governor shall appoint one member to fill the vacancy annually occurring in said board; vacancies occurring from any other cause shall be filled in like manner. The person so appointed to fill a vacancy in said board, other than upon the expiration of a term, shall be appointed to hold office during the remainder of the term for which his predecessor was appointed. Before entering upon the discharge of their official duties, the members of said board shall take and subscribe the oath as provided in Article XIV of the Constitution. (R. C. 1915, § 856.)

94. Organization; Secretary's Bond; Meetings.—Annually the State Board of Pharmacy shall organize by the election of a president and secretary, both of whom shall be members of the board, and shall hold their offices for one year, and until their successors shall have been elected and qualified.

The secretary shall give a bond in such sum as may be prescribed by the board, conditioned upon the discharge of the duties of his office according to law.

The board shall hold four meetings each year, at such times and places as it may provide by rule, for the examination of candidates, and for the discharge of such other business as may legally come before it, and such additional meetings as may be necessary. (Id. § 857.)

95. Seal; Powers; Record; Reports; Quorum; Oaths.—The State Board of Pharmacy shall have a common seal, and shall have power to adopt such rules and by-laws, not inconsistent with law, as may be necessary for the regulation of its proceedings, and for the discharge of the duties imposed under this statute, or any law of this State, and to employ an attorney to conduct prosecutions or to assist in the conduct of prosecutions under this chapter.

The board shall keep a record of its proceedings, and a register of all persons to whom certificates of license as pharmacists and assistant pharmacists have been issued, and of all renewals thereof; the books and register of the board, or a copy of any part thereof certified by the secretary, attested by the seal of the board, shall be accepted as competent evidence in all courts of this State.

The board shall make annually to the Governor, and to the Delaware Pharmaceutical Society, a written report of its proceedings, and of its receipts and disbursements under this chapter, and of all persons licensed to practice as pharmacist and assistant pharmacist in this State.

A majority of the board shall constitute a quorum for the transaction of business.

The president and secretary shall have the power to administer oaths in all matters pertaining to the examination and registration of pharmacists and assistant pharmacists. (Id. § 858.)

96. Compensation of Secretary and Members; Fees and Fines, How Disposed of; Annual Appropriation; Compensation, How Paid.—The secretary shall receive such salary, not exceeding one hundred and fifty dollars per annum, as may be prescribed by the board, and his necessary expenses while engaged in the performance of his official duties. The other members shall receive the sum of five dollars for each day actually employed in the discharge of their official duties, and their necessary expenses while engaged therein, provided that no member shall receive in any event more than three hundred dollars per annum.

All fees collected by the secretary for the examination of pharmacists and assistant pharmacists and for the renewal of certificates of registration, and all fines collected under prosecutions, begun or caused to be begun by the Board of Pharmacy, and all other funds collected under this chapter, shall by him be conveyed into the State treasury monthly, and shall be placed to the credit of a fund which is appropriated for the use of the Board of Pharmacy.

There is hereby appropriated annually hereafter, from money in the treasury of this State, the sum of two hundred and fifty dollars, to be placed to the credit of the Board of Pharmacy, and to be used as herein provided.

The compensation and expenses of the secretary and members of the Board of Pharmacy, and all expenses incurred by the board in carrying into execution the provisions of this chapter, shall be paid out of said fund upon the warrant signed by the president and secretary of the board, in accordance with the provisions of section 20 of chapter 15 [R. C. 1915, § 474]. (Id. § 859.)

97. Prosecutions; Duty of Attorney-General; Fines, How Disposed of.—Upon receiving information that any provisions of this chapter have been or are being violated, the secretary of the board shall investigate the matter, and upon probable cause appearing, shall, under the direction of the board, file a complaint and prosecute the offender therefor.

It shall be the duty of the Attorney-General, upon request of the secretary, to take charge of and conduct such prosecutions. (Id. § 860.)

98. Powers of the Delaware Board of Pharmacy; Applicants Shall Produce Satisfactory Evidence; Shall Pay Registration Fee; State Board of Pharmacy to Become Member National Association of Boards of Pharmacy.—It shall be within the power of the Delaware Board of Pharmacy to enter into reciprocal relations with the Boards of Pharmacy of such other States as do likewise, and whose requirements are satisfactory as regards the awards and interchanging of certificates for registration of registered pharmacists; applicants for registration under this clause shall produce satisfactory documents bearing upon their previous examinations from the secretary of said board and shall pay the secretary of the Delaware Board of Pharmacists the registration fee required by this chapter; applicants, in addition, shall furnish satisfactory evidence as to their morality, sobriety and close observance of the more important laws touching the life of a pharmacist.

The State Board of Pharmacy is authorized to become a member of the National Association of Boards of Pharmacy, and to pay out of any money coming into its hands, such an amount thereof as will be necessary to pay the annual membership fee to the said National Association of the Boards of Pharmacy. (Id. § 861, as amended L. 1917, c. 55.)

99. Licensed Pharmacist or Assistant Pharmacist Only Permitted to Compound or Dispense Drugs, &c.; Exceptions.—It shall be unlawful for any person, not licensed as a pharmacist within the meaning of this chapter, to conduct or manage any pharmacy, drug or chemical store, apothecary shop, or other place of business, for the retailing, compounding or dispensing of any drugs, chemicals or poisons, or for the compounding of physicians' prescriptions, or to keep exposed for sale at retail any drugs, chemicals or poisons, except as in this chapter provided, or for any person not licensed as a pharmacist, or assistant pharmacist, within the meaning of this chapter, to compound, dispense, or sell at retail, any drug, chemicals, poison or pharmaceutical preparation upon the prescription of a physician or otherwise, or to compound physicians' prescriptions, except as an aid to or under the supervision of a person licensed as a pharmacist under this chapter. And it shall be unlawful for any owner or manager of a pharmacy, or drug store, or other place of business, to cause or permit any other than a person licensed as a pharmacist or assistant pharmacist to compound, dispense or sell, at retail, any drug, medicine or poison, except as an aid to or under the supervision of a person licensed as a pharmacist or assistant pharmacist.

Provided, however, that nothing in this section shall be construed to interfere with any legally registered practitioner of medicine or dentistry in the compounding of his own prescriptions, or to prevent him supplying to his patients such medicines as he may deem proper, nor with the exclusively wholesale business of any dealer who shall be licensed as a pharmacist, or who shall keep in his employ at least one person who is licensed as a pharmacist, nor with the selling at retail of non-poisonous domestic remedies, nor with the sale of patent or proprietary preparations, nor with the sale of poisonous substances which are sold exclusively for use in the arts, or for use as insecticides, when such substances are sold in unbroken packages bearing a label having plainly printed upon it the name of the contents and the word poison. (R. C. 1915, § 862.)

100. Application for License; Examination.—Every person who shall desire to be licensed as a pharmacist or assistant pharmacist, shall file with the Secretary of the Board of Pharmacy an application, duly verified under oath, setting forth the name and age of the applicant, the place or places at which, and the time spent in the study of the science and art of pharmacy, the experience in the compounding of physicians' prescriptions which the applicant has had under the direction of a

legally licensed pharmacist, and shall appear at a time and place designated by the Board of Pharmacy and submit to an examination as to his qualifications for registration as a licensed pharmacist or assistant pharmacist. (Id. § 863.)

101. Qualifications of Applicants for License as Pharmacist and Assistant Pharmacist.—An applicant to be licensed as a pharmacist shall be not less than twenty-one years of age, and shall have been licensed as an assistant pharmacist for not less than two years prior to his application for license as a pharmacist, and shall present to the Board satisfactory evidence that he is a graduate of a reputable school or college of pharmacy, or that he has had four years' experience in pharmacy under the instruction of a licensed pharmacist, and shall also pass a satisfactory examination by or under the direction of the Board of Pharmacy.

An applicant to be licensed as an assistant pharmacist shall be not less than eighteen years of age, shall have a general education sufficient in the judgment of the Board of Pharmacy, shall have not less than two years' experience in pharmacy under the instruction of a licensed pharmacist, and shall pass a satisfactory examination by or under the direction of the Board of Pharmacy.

Provided, however, that in the case of persons who have attended a reputable school or college of pharmacy the actual time of attendance at such school or college may, in the discretion of the Board of Pharmacy, be deducted from the time of experience required by pharmacists and assistant pharmacists, but in no case shall less than two years' experience be required for registration as a licensed pharmacist. (Id. § 864.)

102. Applicants, When Entitled to License; Refusal to Grant and Revocation of License; When; Appeal.—If the applicant for license as a pharmacist or assistant pharmacist has complied with all the requirements of the two preceding sections, the Board of Pharmacy shall enroll his name upon the register of pharmacists or assistant pharmacists, and issue to him a license which shall entitle him to practice as pharmacist or assistant pharmacist for the remainder of that calendar year.

All licenses heretofore issued shall expire at the end of thirty days after the passage of this act and within the said thirty days all pharmacists and assistant pharmacists shall make application to the Secretary of the Board of Pharmacy for a renewal of license, which renewal shall expire on the first day of January, 1922.

On or before the first day of January, 1922, and each year thereafter, all pharmacists and assistant pharmacists shall make application to the Secretary of the State Board of Pharmacy for a renewal of license. The Board of Pharmacy may refuse to grant a license to any person guilty of felony, misdemeanor or gross immorality, or who is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to render him unfit to practice pharmacy; the Board of Pharmacy may, after due notice and hearing, revoke a license for like cause, or any license which has been procured by fraud.

An appeal from the action of the board in refusing to grant, or in revoking a license for such cause may be taken to the Governor and Attorney-General, the decision of which officers, either affirming or overruling the action of the board shall be final. (Id. § 865, as amended L. 1921, c. 45.)

103. Foreign Pharmacists; License Without Examination; When; Fee.—The Board of Pharmacy may issue licenses to practice as pharmacists or assistant pharmacists in this State, without examination, to such persons as have been legally registered or licensed as pharmacists or assistant pharmacists in other States or foreign countries, provided that the applicant for such license shall present satisfactory evidence of qualifications equal to those required from licentiates in this State, and that he was registered or licensed by examination in such other State or foreign country, and that the standard of competence required in such other State or foreign country is not lower than that required in this State, and provided also that the board is satisfied that such other State or foreign country accords similar recognition to the licentiates of this State.

Applicants for license under this section shall, with their application, forward to the Secretary of the Board of Pharmacy the same fees as are required of other candidates for license. (R. C. 1915, § 866.)

104. License to be Exposed; Renewal of License; Name of Responsible Manager to Be Exposed.—Every certificate of license to practice as a pharmacist or assistant pharmacist, and every renewal of such license shall be conspicuously exposed in the pharmacy or drug store or place of business at which the pharmacist or assistant pharmacist or other person to whom it is issued is the owner or manager, or in which he is employed.

Every licensed pharmacist or assistant pharmacist who desires to continue in the practice of his profession shall, within thirty days next preceding the expiration of his license, file with the board an application for the renewal thereof, which

application shall be accompanied by the fee hereinafter prescribed. If the board shall find that the applicant has been legally licensed in this State and is entitled to a renewal of license, it shall issue to him a certificate attesting that fact.

If any pharmacist or assistant pharmacist shall fail, for a period of sixty days after the expiration of his license, to make application to the board for its renewal, his name shall be erased from the register of licensed pharmacists or assistant pharmacists and such person in order to again become registered as a licensed pharmacist or assistant pharmacist shall be required to pay the same fee as in the case of the original registration. The name of the responsible manager of every pharmacy, drug store or apothecary shop shall be conspicuously displayed upon the outside of such place of business. (Id. § 867.)

105. Fees; When Payable.—The Board of Pharmacy shall charge and collect the following fees: For the examination of an applicant for license as a pharmacist, ten dollars; for the examination of an applicant for license as an assistant pharmacist, five dollars; for renewing the license of a pharmacist, one dollar; for renewing the license of an assistant pharmacist, one dollar. All fees shall be paid before any applicant may be admitted to examination or his name placed upon the register of pharmacist or assistant pharmacist, or before any license, or any renewal thereof, may be issued by the board. (Id. § 868.)

106. Sale of Certain Drugs Prohibited Except Under Certain Conditions; Exceptions.—It shall be unlawful for any person in this State to sell or deliver to any minor under sixteen years, except upon the written order of an adult, any of the following substances, and it shall likewise be unlawful to sell or deliver to any person any of the following described substances, or any poisonous compound, combination or preparation thereof, to wit: strychnia, arsenic or corrosive sublimate, except in the manner following:

It shall first be learned by due inquiry that the person to whom delivery is made is aware of the poisonous character of the substance, and that it is desired for a lawful purpose, and the box, bottle or other package shall be plainly labeled with the name of the substance, the word poison and the name of the person or firm dispensing the substance. Before a delivery shall be made of any of the foregoing substances there shall be recorded in a book kept for the purpose the name of the article, the quantity delivered, the purpose for which it is alleged to be used, the date of delivery, the name and address of the purchaser, and the name of the dispenser, which book shall be preserved for at least five years, and shall at all times be open to inspection by the proper officers of the law.

Provided, however, that the foregoing provisions shall not apply to articles dispensed upon the order of persons believed by the dispenser to be lawfully authorized practitioners of medicine or dentistry; and provided also, that the record of sale and delivery above mentioned shall not be required of manufacturers and wholesalers who shall sell any of the foregoing substances at wholesale, but the box, bottle, or other package containing such substance when sold at wholesale shall be properly labeled with the name of the substance, the word poison and the name and address of the manufacturer or wholesaler. (Id. § 869.)

107. Prescriptions Filed for Five Years.—Every proprietor or manager of a drug store or pharmacy shall keep in his place of business a suitable book or file, in which shall be preserved for a period of not less than five years the original of every prescription compounded or dispensed at such store or pharmacy, and said book or file of original prescriptions shall at all times be open to inspection by duly authorized officers of the law. Nothing in this section shall be construed to relate to or affect section 142 of chapter 6 [R. C. 1915, § 179], relating to the sale of intoxicating liquors. (Id. § 870.)

108. Peddling, &c., of Drugs, &c., Prohibited.—It shall be unlawful for any person to sell or offer for sale by peddling or offering for sale from house to house, or by public outcry or by vending in the street, any drug, medicine, chemical, or any composition or combination thereof, or any implement or appliance or other agency for the treatment of disease, injury or deformity. (Id. § 871.)

109. Title of Pharmacist, Assistant Pharmacist, Druggist and Apothecary, Pharmacy or Medicine Store; Use of Regulated.—It shall be unlawful for any person not legally licensed as a pharmacist to take, use or exhibit the title of pharmacist or licensed or registered pharmacist, or the title druggist, or apothecary, or pharmacy or medicine store, or any other title or description of like import; and it shall be unlawful for any person not legally licensed as an assistant pharmacist to take, use or exhibit the title of assistant pharmacist, or any other title or description of like import. Provided that nothing in this chapter shall be construed to prohibit the use of the phrase "proprietary medicine store," or the use of the phrase "patent medicine store." (Id. § 872, as amended L. 1921, c. 45.)

110. Exemption From Jury Duty.—All persons licensed under this chapter as pharmacist or assistant pharmacist, and actively engaged in the practice of their profession, shall be free and exempt from jury duty in all the courts of the State. (R. C. 1915, § 873.)

111. Violation of Sections 7, 12, 14, 16 and 17 [862, 867, 869, 871 and 872]; Procuring License or a Renewal of License by Fraud; Penalties.—Whoever, not being licensed as a pharmacist, shall conduct or manage any drug store, pharmacy, or other place of business for the compounding, dispensing or sale at retail of any drugs, medicines or poisons, or for the compounding of physicians' prescriptions, contrary to the provisions of section 7 [862] of this chapter, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars, nor more than one hundred dollars, and each week such drug store or pharmacy, or other place of business is so unlawfully conducted, shall be held to constitute a separate and distinct offense.

Whoever, not being licensed as a pharmacist or assistant pharmacist, shall compound, dispense or sell at retail any drug, medicine, poison or pharmaceutical preparation, either upon a physicians' prescription or otherwise, and whoever being the owner or manager of a drug store, pharmacy or other place of business, shall cause or permit anyone not licensed as a pharmacist or assistant pharmacist, to dispense, sell at retail, or compound any drug, medicine, poison or physicians' prescriptions contrary to the provisions of section 7 [862] of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars.

Any license or renewal thereof obtained through fraud or by any false or fraudulent representation shall be void and of no effect in law. Any person who shall make any false or fraudulent representation for the purpose of procuring a license, or renewal thereof, either for himself or for another, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars; and any person who shall willfully make a false affidavit for the purpose of procuring a license, or renewal thereof, either for himself or for another, shall be deemed guilty of perjury, and upon conviction thereof, shall be subject to like punishment as in other cases of perjury.

Whoever, being the holder of any license granted under this chapter, shall fail to expose such license, or any renewal thereof, in a conspicuous position in the place of business to which such license relates, or in which the holder thereof is employed, contrary to the provisions of section 12 [867] of this chapter, shall, upon conviction thereof, be fined not less than five dollars, nor more than twenty-five dollars, and each week that such license, or renewal, shall not be exposed, shall be held to constitute a separate and distinct offense. Whoever, being the holder of any license granted under this chapter, shall, after the expiration of such license, and without renewing the same, continue to carry on the business for which such license was granted, contrary to the provisions of section 12 [867] of this chapter, shall, upon conviction thereof, be fined not less than five dollars, nor more than twenty-five dollars.

Whoever shall sell or deliver to any person any poisonous substance specified in section 14 [869] of this chapter, without labeling the same and recording the delivery thereof in the manner prescribed in section 14 [869], shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars, nor more than one hundred dollars.

Whoever shall sell or offer for sale by peddling from house to house, or offer for sale by public outcry or by vending in the street, any drug, medicine, chemical or combination thereof, or any implement or appliance for the treatment of disease, injury or deformity, contrary to the provisions of section 16 [871] of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than two hundred dollars.

Whoever, not being legally licensed as a pharmacist, shall take, use, or exhibit the title of pharmacist, licensed or registered pharmacist, druggist, apothecary, or any other title of similar import, contrary to the provisions of section 17 [872] of this chapter, and whoever, not being legally licensed as an assistant pharmacist, shall take, use, or exhibit the title of assistant pharmacist, or any other title of similar import, contrary to the provisions of said section 17 [872], shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars, nor more than fifty dollars. (Id. § 874.)

112. Jurisdiction of Offenses.—Any justice of the peace of the State of Delaware or the Municipal Court of the city of Wilmington, shall have jurisdiction of any offense arising under section 19 [R. C. 1915, § 874] of this chapter; any person, firm or corporation convicted of such offense, before any such justice of

the peace or the municipal court, shall have the right to appeal to the Court of General Sessions in and for the county in which said conviction was had, upon giving bond in the sum of two hundred dollars (\$200.00) to the State of Delaware, with surety, satisfactory to the said justice of the peace or judge of the municipal court, by whom said person was convicted, provided such appeal shall be taken and bond given within three days from the time of said conviction. (Id. § 874A, as added L. 1925, c. 71.)

113. Pure Drug Law.—The State Board of Pharmacy shall enforce the provisions of, and promulgate rules and regulations to carry out, the law relating to pure drugs, as provided by section 85 of chapter 100* [R. C. 1915, § 3520]. (R. C. 1915, § 875.)

114. Morphine, Opium, Cocaine, Chloral-Hydrate, and Compounds, &c.; Unlawful to Sell, or Dispose of in Other Ways, Except on Prescription.—It shall be unlawful for any person to sell, barter, exchange, distribute, give away, or in any manner dispose of, at retail or to a consumer, opium or coca leaves, morphine, cocaine, chloral-hydrate, alpha or beta eucaine, heroin, codeine, or any compound, manufacture, salt, derivative, or preparation thereof, or any synthetic substitute therefor, (hereinafter called narcotic drugs) within this State except upon the original written prescription of a duly licensed physician, dentist, or veterinary surgeon, and pursuant to all the requirements of this act. (Id. § 3595, as amended L. 1919, c. 214.)

115. Exemptions.—The provisions of this act shall not be construed to apply to the sale, barter, exchange, distribution, giving away, dispensing or the disposition in any manner, or the possession, within this State, of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce; or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for and can be used for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine, or any of their salts or any synthetic substitute for them: Provided, that such remedies and preparations are sold, distributed, given away, dispensed, or possessed in good faith as medicines and not for the purpose of evading the intent and provisions of this act. The provisions of this act shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine. (R. C. 1915, § 3595A, as added L. 1919, c. 214.)

116. Prescriptions.—The original written prescription required by the provisions of section 160 [3595] of this act shall be signed in full by the duly licensed physician, dentist or veterinary surgeon issuing it and dated as of the day on which so signed, and shall also indicate the office address, office hours, and telephone number of such duly licensed physician, dentist or veterinary surgeon, the name, age, and address of the person to whom such written prescription is issued, and when given by a duly licensed veterinary surgeon, shall indicate, in addition, the kind of animal for the treatment of which such written prescription is issued. No written prescription containing more than four grains of morphine, thirty grains of opium, two grains of heroin, four grains of codeine, or two grains of cocaine, shall be filled unless the due issuance and correctness thereof be first verified. No written prescription shall be filled without sufficient verification, if, for any reason, the proper issuance and presentation thereof appears questionable. Such verification may be made by telephone, or by some other sufficient method. Such written prescription shall be exactly filled as soon as received, or as soon thereafter as practicable, but no such written prescription shall be filled more than ten days subsequent to the date on which it was signed. The person filling such written prescription shall write or indicate thereon the date of filling and the date when, and the name, age and address of the person to whom he delivers the drugs so prescribed, and there shall be annexed to such prescription after filling a certificate signed by the person receiving such drugs, stating that such have been received by him. Such written prescription shall be filled but once, and shall not be copied, except for the purpose of record by the duly licensed physician, dentist or veterinary surgeon issuing it, or by the person filling it, and shall be preserved on file, receiving a consecutive file number, by the person filling it, for a period of two years from the day on which such prescription is filled, in such a way as to be readily

*Section 85 of chapter 100 is impliedly repealed by chapter 190 of the Laws of 1921. See No. 1 et seq.

accessible to inspection by the officers, agents, employees, and officials mentioned in section 160H [3595H] of this act. (Id. § 3595B.)

117. Containers, How Labeled.—No person shall sell, barter, exchange, distribute, give away, or in any manner dispose of any narcotic drug mentioned in section 160 [3595] of this act without affixing to the bottle, package, vessel, box or container a label containing the name of the article and the word "poison" distinctly shown, and the name and address of the seller printed in red ink, together with the date of filling, the name, age, and address of the person to whom delivered or sold, the name and address of the physician, dentist or veterinary surgeon issuing the prescription written plainly thereon; a narcotic drug so delivered or sold shall always be kept in such original container until actually used. (Id. § 3595C.)

118. Prescriptions Unlawful, When.—It shall be unlawful for any duly licensed physician, dentist or veterinary surgeon to issue the written prescription required by section 160 [3595] of this act except in good faith, and in the course of his professional practice for medicinal purposes only. It shall be unlawful for any duly licensed veterinary surgeon to prescribe any of the drugs mentioned in this act for the treatment of or consumption by a human being. No person shall issue a prescription for a narcotic drug to a minor. (Id. § 3595D.)

119. Licensed Physicians, and Others Who May Dispense Drugs Mentioned in This Act, In Course of Professional Practice, and For Medicinal Purposes, Only; Record Kept for Two Years from Date of Dispensing, &c.—A duly licensed physician, dentist or veterinary surgeon may dispense, distribute or in any manner give, within this State to his patient any of the drugs mentioned in this act, provided such dispensing, distribution or giving is made in good faith, and in the course of his professional practice for medicinal purposes only: Provided, further, that such duly licensed physician, dentist, or veterinary surgeon shall keep a record of all such drugs so dispensed, distributed or given, the date when, and the name and address of the patient to whom such drugs are so dispensed, distributed or given, except such drugs as may be dispensed, distributed or given to a patient upon whom such duly licensed physician, dentist or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing, distributing or giving such drugs, subject to the inspection provided for in section 160H [3595H] of this act. It shall be unlawful for any duly licensed veterinary surgeon to dispense, distribute or give away any of the drugs mentioned in this act for the treatment of or consumption by a human being. (Id. § 3595E.)

120. Sale or Disposal of Same, Except as Provided in Preceding Sections, Unlawful, Without Written Order; Order to Be in Duplicate, and Open for Inspection; Order to Be Preserved for Period of Two Years; Exceptions as to Order Forms.—Except as provided in the preceding sections of this act, it shall be unlawful for any person to sell, barter, exchange, distribute, give away, or in any manner dispose of within this State the drugs mentioned in this act, except in pursuance of a written order in the form defined in this section of the person to whom any such drug is sold, bartered, exchanged, distributed, given away, or in any manner disposed of. Every person who shall accept any such order, and in pursuance thereof, shall sell, barter, exchange, distribute, give away or in any manner dispose of any of the aforesaid drugs, shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees and officials mentioned in section 8 [3595H] of this act. Every person who shall give an order, as in this section provided, to any other person for any of the aforesaid drugs, shall, at or before the time of giving such order, make or cause to be made in duplicate thereof in the form defined in this section, and in the case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees and officials mentioned in section 8 [3595H] of this act. The official order forms and the duplicate copies thereof, issued by the Commissioner of Internal Revenue of the United States Treasury Department under the act of Congress, approved December 17th, 1914, entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute or give away opium or coca leaves, their salts, derivatives or preparations, and for other purposes," shall be the official order forms and duplicate copies thereof required by this section. It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession, pursuant to the intentment of this act. The provisions of this section requiring official order forms shall not apply.

(a) To the sale, exportation, shipment or delivery of any of the aforesaid drugs by any person within this State to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by the said country, pursuant to such regulations as are promulgated from time to time by the Secretary of State of the United States.

(b) To the sale, barter, exchange, or giving away of any of the aforesaid drugs to any officer of the United States government or of any State, territorial, district, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the army and navy, the public health service and for government, State, territorial, district, county, or municipal or insular hospitals or prisons. (Id. § 3595F.)

121. Record of Receipts.—Any person who produces, manufactures, compounds, deals in, dispenses, sells, distributes, gives away, or in any manner disposes of within this State any of the drugs mentioned in this act shall, whenever required so to do by the State Board of Health, or any peace officer, render to said State Board of Health, or any peace officer, a true and correct statement or return verified by affidavit setting forth the quantity of the aforesaid drugs received by him in this State during such period immediately preceding the demand of the said State Board of Health, or any peace officer, not exceeding three months, as the said State Board of Health, or any peace officer may fix and determine; the names of the persons from whom said drugs were received; the quantity in each instance received from each of such persons and the date when received. (Id. § 3595G.)

122. Order Forms May be Inspected by Whom; Misdemeanor to Use or Disclose Information, Except for Purpose of Enforcing Law.—The order forms and duplicate copies thereof, the prescriptions and other records required to be preserved under the provisions of sections 160B, 160E and 160F [3595B, 3595E and 3595F] of this act, and the statements or returns under the provisions of section 160G [3595G] of this act, shall be open to inspection by the officers, agents and employees of the United States Treasury Department duly authorized to make similar inspection under the act of Congress, approved December 17th, 1914, hereinbefore mentioned. Any such officer, agent or employe who shall disclose or use the information contained in said statements or returns, or in said order forms or duplicate copies thereof, or in the other records mentioned in this section, except as herein expressly provided, and except for the purpose of enforcing the provisions of this act or the act of Congress, approved December 17th, 1914, hereinbefore mentioned, and except for the purpose of enforcing any ordinance of any organized town or municipality within this State regulating the sale, prescribing, dispensing, dealing in or distribution of the aforesaid drugs, and except in the public interest, unless directed by a court, shall, on conviction, be fined or imprisoned as provided in section 160P [3595P] of this act. (Id. § 3595H.)

123. Complaints; Hearing.—Whenever a complaint shall be made to any justice of the peace that any person is addicted to the use of the drugs mentioned in this act in a manner contrary to the public welfare, and such use is not prescribed, directed or approved by a duly licensed physician acting in the course of his professional practice, and such justice of the peace, after a fair hearing held upon a reasonable notice, is satisfied that the complaint is sufficiently founded he may commit such person to a State, county or city hospital or institution. Whenever it shall appear to any justice of the peace that such person is no longer addicted to the use of the aforesaid drugs in a manner contrary to the public welfare, or in his discretion, he may order a discharge from such commitment. The provisions of this section shall not be construed to prohibit any person committed to any institution under its provisions from appealing to any court having jurisdiction. for a review of the sufficiency of the evidence upon which the commitment was made. (Id. § 3595 I.)

124. Licenses May be Revoked; When and by Whom.—The board or officers of this State, duly empowered to issue a license to a physician, dentist, veterinary surgeon, pharmacist or nurse, authorizing the practice of such professions in this State may, at any time, and after a fair hearing held upon a reasonable notice, revoke such license upon the production of sufficient evidence that the licensee is addicted to the use of the drugs mentioned in this act in a manner contrary to the public welfare. Whenever it shall appear to such board or officers that such physician, dentist, veterinary surgeon, pharmacist or nurse is no longer addicted to the use of the aforesaid drugs in a manner contrary to the public welfare they may reissue said license. (Id. § 3595 J.)

125. Re-Issue of License.—A duly licensed physician, dentist, veterinary surgeon, pharmacist, or nurse duly convicted of a substantial violation of this act shall be liable to a revocation of his license by the board or officers of this State duly

empowered to issue such license, after a fair hearing upon a reasonable notice, provided such revocation shall be in the public interest. Such board or officers may in their discretion reissue such license. (Id. § 3595 K.)

126. Unlawful Transportation.—It shall be unlawful for any person to send, ship, carry or deliver any of the aforesaid drugs within this State in a manner contrary to the provisions of this act; provided, that nothing contained in this section shall be construed to apply to the delivery of the aforesaid drugs to common carriers or warehousemen, provided the requirements of this act are in all other respects complied with; or to the handling of the aforesaid drugs by any employee or agent, acting within the scope of his employment or agency, of any person dealing in such drugs pursuant to all requirements of this act; or to the delivery of the aforesaid drugs by a duly licensed physician, dentist, or veterinary surgeon, to a nurse for administration to his patient under the direction and supervision of such duly licensed physician, dentist or veterinary surgeon in the course of his professional practice. (Id. § 3595 L.)

127. Unlawful Possession Defined.—It shall be unlawful for any person to have in his possession or under his control any of the drugs mentioned in this act, if such possession or control is obtained in a manner contrary to the provisions of this act; and such possession or control shall be presumptive evidence of a violation of this act; provided, that this section shall not apply to the possession or control of the aforesaid drugs by any employee or agent acting within the scope of his employment or agency, of any person dealing in such drugs pursuant to all the requirements of this act, and such possession or control does not operate to evade any of the provisions or the intentment of this act; or to the possession or control by a nurse for medicinal treatment only, and not on his own account, acting under the supervision and direction of a duly licensed physician, dentist or veterinary surgeon engaged in the legitimate practice of his profession; or to the possession or control of the aforesaid drugs by any United States, State, county, municipal or other duly authorized public officer or official who has such possession or control by reason of his official duties; or to the possession or control of the aforesaid drugs by a warehouseman or a common carrier holding such possession or control under the direction of a person who has received such drugs pursuant to the requirements of this act; provided, further, that it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information or indictment, or other writ or proceeding laid or brought under this act; and the burden of proof of any such exemption shall be upon the defendant. (Id. § 3595 M.)

128. Regulations as to Instruments Adapted for Use of Narcotic Drugs.—It is unlawful for any person to sell at retail or to furnish to any person other than a duly licensed physician, dentist or veterinary surgeon, an instrument commonly known as a hypodermic syringe or an instrument commonly known as a hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection, without a written order of a duly licensed physician, dentist, or veterinary surgeon. Every person who disposes of or sells at retail, or furnishes or gives away to any person the above instruments, upon the written order of a duly licensed physician, dentist or veterinary surgeon, shall before delivering the same, enter in a book kept for that purpose the day of the sale, the name, age and address of the purchaser, and a description of the instrument, sold, disposed of, furnished or given away. It shall be unlawful for any person or persons, except a licensed pharmacist, licensed druggist, licensed physician, licensed dentist, licensed veterinary surgeon, hospital or regular dealer in medical or surgical supplies, to possess such instrument, without having in their possession a certificate from a physician certifying that the possession of such instrument is necessary for the treatment of injury, deformity or disease then suffered by the person possessing the same, of [or] if possessed by a nurse, a certificate from a duly licensed physician that such possession is for professional purposes. Any person or persons who sell, dispose of or give away any instrument commonly known as a hypodermic syringe, or an instrument commonly known as a hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection, except in the manner prescribed in this section, shall be guilty of a misdemeanor, provided, however, that any person owning or having in his possession any such hypodermic syringe or hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection at the time this section takes effect, may lawfully keep or retain the same upon obtaining from a duly licensed and registered physician, dentist or veterinary surgeon within ten days after this section shall take effect, a certificate to the effect that such syringe, needle or instrument was purchased before this section took effect, and that such syringe, needle or instrument may be required for future use for treatment of an injury, deformity

or disease from which the person possessing the instrument is then suffering. (Id. § 3595 N.)

129. "Person" Defined.—The word "person" as used in this act shall be construed to mean and including [include] a partnership, association, company or corporation, as well as a natural person. (Id. § 3595 O.)

130. Penalty for Sale of Narcotic Drugs.—Any person who violates or fails to comply with any of the requirements of this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than three thousand dollars (\$3,000.00) or by imprisonment for not more than ten years, or by both, in the discretion of the court. (Id. § 3595 P, as amended L. 1923, c. 217.)

131. Not Necessary to Negative Any Exemption in Complaint; Burden of Proof Upon Defendant.—It shall not be necessary to negative any exemption in any complaint, information or indictment, or other writ or proceeding laid or brought under this act, and the burden of proof of any such exemption shall be upon the defendant. (R. C. 1915, § 3595 Q, as added L. 1919, c. 214.)

Serum, Antitoxin, Etc.

132. Diphtheria Antitoxin; How Distributed and Paid For; State Board of Health May Regulate; False Certification; Penalty; Appropriation.—The State Board of Health of Delaware is hereby authorized to procure and distribute diphtheria antitoxin free to any physician for use in the State of Delaware, provided that no such antitoxin shall be furnished until after certification by the physician of the name and address of the person for whom the antitoxin is desired. The State Board of Health of Delaware is hereby authorized to procure and distribute all necessary material for immunizing persons against diphtheria free to any physician for use in the State of Delaware, provided that the name and address of all persons immunized shall be filed with the State Board of Health by the physician who performs the immunization. The State Board of Health of Delaware may make such rules and regulations as it deems necessary for the carrying into effect of this section and such rules shall have the force of law. Any person who makes false certification in order to procure any of the above-mentioned antitoxin or any person who sells or attempts to sell such antitoxin or immunizing materials shall, upon conviction thereof, be liable to a fine of not less than \$5 nor more than \$50, the same to be recovered before any justice of the peace of the State of Delaware, and from whose decision there shall be no appeal. All fines recovered under this act shall be paid to the Treasurer of the State, and applied to the general fund of the State. The sum of \$5,000 is hereby annually appropriated to the State Board of Health of Delaware for the carrying into effect of the provisions of this section out of any funds in the hands of the State Treasurer not otherwise appropriated. The said appropriation shall be known as the diphtheria antitoxin appropriation, and the State Board of Health shall keep the accounting for said appropriation as a distinct and separate account from other appropriations which they receive. (R. C. 1915, § 769, as amended L. 1921, c. 40.)

133. Anti-Hog Cholera Serum; Appropriation.—The sum of fourteen thousand dollars (\$14,000) be and the same is hereby appropriated out of any money in the State Treasury to be used for the purpose of purchasing anti-hog cholera serum and virus. (L. 1925, c. 61, § 1.)

134. When Available.—Of the said sum of fourteen thousand dollars (\$14,000), two thousand five hundred dollars (\$2,500) shall be available immediately upon the passage of this act, for use prior to June 30, 1925, and of the remaining eleven thousand five hundred dollars (\$11,500) the sum of five thousand dollars (\$5,000) shall be available during the fiscal year beginning July 1, nineteen hundred twenty-five (1925) and ending June 30, nineteen hundred twenty-six (1926) and the remaining sum of six thousand five hundred dollars (\$6,500) during the fiscal year beginning July 1, nineteen hundred twenty-six (1926) and ending June 30, nineteen hundred and twenty-seven (1927). (Id. § 2.)

135. Anti-Hog Cholera Serum and Virus Distributed by State Board of Agriculture to Competent Persons; Application in Writing, Showing Amount Required.—The anti-hog cholera serum and virus purchased under the provisions of this act shall be distributed by the State Board of Agriculture, whenever from investigation and the information they can obtain there is danger of an epizootic [epidemic] of hog cholera in any part of the State, the serum and virus shall be issued to those persons deemed competent by the said board to administer it, on their application in writing stating the approximate number of animals to be treated and the amount of serum and virus to be used, for which amount he shall receipt to the said board. (Id. § 3.)

Intoxicating Liquors.

136. **Act Deemed Exercise of Power Granted by Article 18 of the Constitution of the United States and Police Power of the State.**—This entire act shall be deemed to be an exercise of the power granted by article 18 of the Constitution of the United States and the police power of the State, for the protection of the public welfare, health, peace, safety and morals of the people of the State, and all of its provisions shall be liberally construed for the accomplishment of these purposes. (L. 1919, c. 239, § 1.)

137. **"Liquor" or "Intoxicating Liquors" Defined.**—The word "liquor," or the phrase "intoxicating liquors," wherever used in this act, shall be construed to include any distilled, malt, spirituous, vinous, fermented or alcoholic liquor and all alcoholic liquids containing so much as one-half of one per centum of alcohol by volume, and compounds whether proprietary, patented or not, which are potable or capable of being used as a beverage. (Id. § 2.)

138. **Manufacture, Sale, or Furnishing Same in Any Way, Unlawful.**—It shall be unlawful for any person, directly or indirectly, himself, or by his clerk, agent, or employee, to manufacture, sell, barter, or furnish any intoxicating liquors within the limits of the State of Delaware on or after the time that the eighteenth amendment to the Constitution of the United States of America shall become valid and effective as a part of the said Constitution, and shall continue in force and effect so long as the said eighteenth amendment shall be valid and effective as a part of the Constitution of the United States of America and no longer, except as herein provided. (Id. § 3.)

139. **Alcohol for Medicinal Purposes Must Have Copy of Prescription Posted or Attached to Container; for Mechanical or Other Permitted Uses, to Have Copy of Affidavit Pasted or Affixed to Container.**—Whoever has in his possession alcohol for medicinal purposes, shall have, pasted or permanently attached to the container, a true copy of the prescription upon which such alcohol was purchased. Any person having in his possession alcohol for mechanical, scientific, industrial or other permitted purposes, shall have pasted or permanently attached to the container, a copy of the affidavit upon which authority it was purchased and received. (Id. § 4.)

140. **Sale, Where Deemed Made; Prosecution, Where Held.**—In case of a sale where a shipment or delivery of such intoxicating liquor is made by a common or other carrier, the sale thereof shall be deemed to be made in the county or city wherein the delivery is made by such carrier to the consignee, his agent or employee. A prosecution for such sale may likewise be held in the county or city wherein the seller resides or from which the shipment is made or in any county or district through which the shipment is made. (Id. § 5.)

141. **Pure Grain or Ethyl Alcohol for Medicinal and Other Uses Not Herein Prohibited, and Wine for Sacramental Purposes, May Be Possessed or Sold by Whom.**—Nothing in this act shall prevent a retail druggist, or pharmacist licensed by the State Board of Pharmacy from possessing or selling pure grain or ethyl alcohol for medicinal, scientific, mechanical or industrial purposes, or wine for sacramental purposes as provided herein; nor to prevent a wholesale druggist from selling pure grain or ethyl alcohol to a retail druggist or pharmacist, or in wholesale quantities to manufacturers, superintendents of hospitals, State institutions, colleges and laboratories as provided herein for purposes not herein prohibited. (Id. § 6.)

142. **Permit; Affidavit of Purchaser; Doctor's Prescription.**—A retail or wholesale druggist shall not sell any intoxicating liquor, except pure grain or ethyl alcohol and wine for sacramental purposes solely and then only after he shall first have secured a permit from the officer as herein provided; nor shall such retail druggist sell alcohol for medicinal purposes, except on a doctor's prescription; nor shall such druggist sell ethyl alcohol for scientific, mechanical or industrial purposes, except on affidavit of the purchaser as herein provided. (Id. § 7.)

143. **Registered Pharmacist or Druggist Having Permit, to Sell Alcohol Only as Herein Provided.**—Every registered pharmacist or druggist who has a permit, as hereinafter provided, may by himself, or his clerk, if he is a registered pharmacist and has a permit as hereinafter provided, sell pure grain or ethyl alcohol as herein provided, or wine for sacramental purposes, in the following cases:

(a) Alcohol upon the written prescription of a reputable physician who is lawfully and regularly engaged in the practice of his profession where the sale is made and as herein provided.

(b) Alcohol for chemical, mechanical and scientific purposes on the affidavit of the superintendent of any hospital, medical laboratory, manufactory or educa-

tional institution where such alcohol is needed and used only for medicinal, mechanical, industrial, chemical or scientific purposes.

(c) Alcohol to any dentist who is lawfully and regularly engaged in the practice of his profession upon the affidavit of such dentist personally presented.

(d) Wine for sacramental purposes to any clergyman having charge of a church or upon the written, signed and dated statement of such clergyman or recognized officer of such church presented personally.

(e) Alcohol for industrial, art, scientific, mechanical or pharmaceutical purposes, upon the affidavit of the purchaser as herein provided. (Id. § 8.)

144. Druggist Filing Application for Permit to Sell Alcohol, to Meet Certain Requirements.—Any druggist before selling such alcohol, shall file his application for a permit with the Attorney General of this State. Such application shall be signed by applicant under oath and shall be substantially as follows:

That the applicant is a regular registered pharmacist, qualified under the laws of this State. That he has been in the business of a druggist for..... last past.

If such applicant has not been in the business heretofore he shall set forth his qualifications as he deems best.

That he has not been convicted of violating any of the laws of the State relating to the sale of intoxicating liquors.

That he is of good moral character and in good standing as a pharmacist and will conduct his place of business in conformity with the law.

That he will not keep pure grain or ethyl alcohol in such place of business in any amount that represents more than three (3) per cent. of the value of the stock of goods on hand in the drug store.

That he is of temperate habits and not addicted to the use of intoxicating liquors or drugs.

That he will not sell any alcohol to a person who is in the habit of using intoxicating liquors as a beverage.

That he will keep a true record of all receipts, sales and purchases of alcohol or liquor used and sold, and report the same as required by law. (Id. § 9.)

145. Attorney-General May Issue Permit to Whom; Requirements.—The Attorney General may issue a permit to a wholesale druggist to sell ethyl alcohol or wine to retail druggists for purposes not prohibited herein (who have a permit to sell such liquors) and to manufacturers of preparations, hospital laboratories and State institutions. Such wholesale druggists must qualify in all respects the same as a retail druggist, except that he may not be a registered pharmacist, or employ such pharmacist for selling such liquors at retail. (Id. § 10.)

146. Bond.—Every druggist shall, on or before the first day of January in each year, or before he shall sell any of the liquors mentioned in this act under any circumstances, execute and file with the Attorney General a bond, the sufficiency of which shall be determined by the Attorney General, to the State of Delaware in the sum of five hundred dollars (\$500) with sufficient sureties, which bond shall be substantially as follows:

Know all men by these presents: That we..... as principal, and..... and..... as sureties are held and firmly bound unto the people of the State of Delaware in the sum of five hundred dollars (\$500) and to the payment whereof well and truly to be made we bind ourselves, our heirs, assigns, executors and administrators firmly by these presents.

Whereas, the said principal has covenanted and agreed, and does hereby covenant and agree as follows: That he will not directly or indirectly, by himself, his clerk, agent or servant, at any time, sell, furnish, give or deliver any intoxicating liquor or any mixed liquor a part of which is intoxicating, to any person whomsoever except alcohol for chemical, scientific, medicinal, mechanical, and wine for sacramental purposes only, and then only upon the conditions and under the restrictions provided in this act, and the laws of this State regulating the sale of such liquors by druggists, nor to any minor except upon written prescription of a physician, nor to any person who is intoxicated, nor to any person who is in the habit of getting intoxicated, nor to any person forbidden in writing by the husband, wife, parent, child, or guardian of such person, and that he will pay all damages, actual and exemplary or punitive, that may be adjudged to any person for injuries inflicted upon him or them, either in person or property or means of support or otherwise, by means of his selling, furnishing, giving, or delivering any such liquor. Now the conditions of this obligation are such that if such principal shall well and truly keep and perform all and singular the foregoing covenants and agreements, and shall pay any judgment for actual and exemplary or punitive

damages, which may be recovered against him in any court of competent jurisdiction, and all fines and costs that may be imposed upon him for violation of the laws of this State or the United States, then this obligation shall be void and of no effect, otherwise the same shall remain in full force and effect.

..... (L. S.)
 (L. S.)
 (L. S.)

Signed, sealed in the presence of

.....

 (Id. § 11.)

147. Pharmacist to Keep Public Record; Form, &c.—Each pharmacist shall keep a public record of all sales of liquors mentioned herein as follows:

Name of doctor issuing prescription. Kind of liquor. Sales on previous prescription on affidavit of such person for liquor within six months. Purchaser. Signature of purchaser. Prescription.

Affidavit of person receiving pure grain or ethyl alcohol:
 State of Delaware, }
 County of..... } ss.

Be it remembered that on this.....day of
A. D. 19....., came.....
 who being by me duly sworn according to law doth depose and say that he is more than 21 years of age and not of intemperate habits, and has not been convicted of violating any law relating to the sale or possession of intoxicating liquor within years.

That he needs.....amount of alcohol for
purposes and will not use any part of said alcohol for any other purpose or allow others to so use it. That he has not received or possessed any alcohol within the last thirty days except.....
and he has no alcohol in his possession or control except.....

Sworn to and subscribed before me the day and year aforesaid.

[SEAL]

Any druggist may administer the oath provided herein and the affidavit must be permanently attached, or pasted in at the end of the record of each sale. Every druggist shall affix to the container of such liquors a label bearing his name, place of business, the name of the person issuing prescription and the number of such prescription. (Id. § 12.)

148. Provisions of Act, How Construed.—The provisions of this act shall not be construed to prevent the manufacture of cider for the purpose of making vinegar or non-intoxicating cider for sale containing not more than one-half of one per cent. of alcohol by volume, or to prevent the sale, keeping and storing for sale by druggists, as herein provided, of pure grain or ethyl alcohol for mechanical, industrial, medicinal and scientific purposes and wine for sacramental purposes. Nothing in this act shall prevent the possession or sale of denatured alcohol or denatured rum intended for use only in the industrial or mechanical arts, or to prevent the sale and keeping and storing for sale by druggists and general merchants or others duly licensed by existing laws of any medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia and National Formulary, or to prevent the manufacture and sale of toilet, medicinal or antiseptic preparations and solutions and upon the outside of each bottle, or box, or package of which is printed in English conspicuously and legibly and clearly the quantity by volume of alcohol in such preparations; or to prevent the manufacturing or keeping for sale of food products known as flavoring extracts. (Id. § 13.)

149. Prescriptions, When Issued; Misdemeanor to Prescribe Improperly.—A physician who issues prescriptions for intoxicating liquors, as defined in this act, must be in active practice, in good standing in his profession and not addicted to the use of intoxicating liquors or drugs. Such physician, before issuing any prescription, must personally make a careful examination of the person for whom the alcohol is prescribed, and in no case issue such prescription to any person whom he has reason to believe will use such alcohol for beverage purposes. [For] any shift or device by which intoxicating liquors may be improperly prescribed, or for any violation of this section, such physician shall be guilty of a misdemeanor. (Id. § 14.)

150. Any evasion of Act, Unlawful.—Any shift, or device whatever, to evade the provisions of this act, shall be deemed unlawful within the provisions of this act. (Id. § 15.)

151. Unlawful to Advertise, Sell, &c., Preparations for Making Intoxicating Liquors As a Beverage.—It shall be unlawful to advertise, sell, deliver or possess any preparations, compounds or tablets, from which beer or intoxicating liquor is made for beverage use. (Id. § 16.)

152. Carrier to be Notified of Nature of Shipment, When Transporting Liquors.—It shall be unlawful for any person, firm, [or] corporation to cause, or induce any railroad company, express company, or any other carrier, or any servant, agent or employee thereof, or any person or persons, to carry, transport, or ship any package, trunk or valise containing any liquors mentioned in this act, or any other liquors, liquids or beverages prohibited by law, without notifying the carrier, his servant or agent, or any person who carries the same, of the true nature and character of the shipment, but failure to notify such carrier shall not be a defense for illegal transportation of such liquor. (Id. § 17.)

153. Unlawful to Solicit, Take or Receive, Orders for Intoxicating Liquors; Or, Give Information How Received; Violation, a Misdemeanor.—It shall be unlawful for any person to solicit, take or receive from any person for the purpose of forwarding for the person from whom received, any orders for intoxicating liquors from any person in this State or to give any information how such prohibited liquors may be received, or where such liquors are, or to send for such liquors, and any persons violating the provisions of this section shall be deemed guilty of a misdemeanor. (Id. § 18.)

154. Additional Penalties for Violations of Act.—In addition to the penalties imposed by this act for the violation of any of its provisions, the court may, in its discretion, after conviction is had, for the first offense, and shall for every subsequent conviction, require the defendant to execute bond with approved security, in a penalty of not less than one hundred (\$100) dollars nor more than two thousand (\$2,000) dollars, conditioned that the said defendant will not violate any of the provisions of this act for the term of one year. And if said bond shall not be given, the defendant shall be committed to jail until it is given or until he is discharged by the court, provided that he shall not be confined a longer period than six months. (Id. § 22.)

155. Penalties Where No Other Specific Penalty is Provided.—Anyone found guilty of the violation of any provision of this act wherein no specific penalty is provided, shall be deemed guilty of a misdemeanor and shall be fined not less than fifty dollars, nor more than five hundred dollars and imprisoned in jail or the New Castle County Workhouse for a period of not less than thirty days nor more than one year. Judgment for fine and costs imposed by the court for violation of any of the provisions of this act shall be a lien upon the premises where a breach of the law takes place, if such breach was committed by the owner or by another with the owner's knowledge, assent or acquiescence. (Id. § 25.)

156. Validity of Act.—If any provision of this act shall be held to be invalid it is hereby provided that all other portions of this act, which are not expressly held to be invalid, shall continue in full force and effect. (Id. § 26.)

157. Inconsistent Acts; How Affected.—Any and all laws inconsistent with the provisions of this act are hereby repealed to the extent of such inconsistency only. (Id. § 27.)

PART IV.

Miscellaneous Laws.

False Advertising.

157a. False advertisement or Representation, a Misdemeanor; Penalty.—No person, association of persons, firm or corporation engaged or about to be engaged, in the sale of any goods, wares or merchandise within the State of Delaware, shall falsely, with intent to deceive the buying public, advertise or otherwise falsely represent that any sale engaged in or to be engaged in by such person, association of persons, firm or corporation, is or will be an insolvent's, bankrupt's, assignee's or manufacturer's sale, or the sale of any agent, or representative of any insolvent, bankrupt, assignee, or manufacturer, or that any goods, wares or merchandise

offered or exposed, or to be offered or exposed for sale, or exhibited, are or were in whole or in part the property of any insolvent, bankrupt, assignee or manufacturer, or any person, association of persons, firm or corporation, induced or compelled by any means whatsoever, to sell or dispose of any such goods, wares or merchandise for any purpose or with any intent whatever, or that such goods, wares or merchandise were in whole or in part damaged by fire, water, or through the happening of any accident, or were purchased or obtained at any sale, held under or by virtue of any execution process, or of any order issued by or under the authority of any court, or shall make or issue, or shall cause to be made or issued, any false advertisement or representation, pertaining, concerning or relating to any goods, wares or merchandise which are or are to be offered or exposed for sale or exhibited in the said State by such persons, association of persons, firm or corporation. If any person, association of persons, firm or corporation shall falsely advertise, or otherwise falsely represent, in any manner as aforesaid, he, she or they and the individuals composing such association of persons, or firm, and each of them, and the president and directors, and each of them, of such corporation, for every such offense shall be deemed guilty of a misdemeanor, and upon conviction thereof by indictment shall pay a fine of not less than one hundred nor more than one thousand dollars, and in default of the payment of such fine shall be imprisoned for not less than one month nor more than one year at the discretion of the court; and upon the trial of any person for the violation of the provisions of this section, the intent to deceive the buying public shall be presumed, where proof is made of a public or false advertisement or representation. (R. C. 1915, § 201.)

157b. Violations of Sections 162, 163 and 164; Agents to Be Proceeded Against as Principals.—In case of the violation of any of the provisions of sections 162, 163 and 164 [§§ 199, 200 and 201] of this chapter by any person, association of persons, firm, or corporation, any person or persons acting as agent or agents of such person, association of persons, firm, or corporation, may be proceeded against as principals, and, if found violating said sections, shall be punished in accordance with the provisions thereof. (Id. § 202.)

Flag Desecration.

158. Flags of the United States; Disfigurement; Use of For Advertising, &c.; Desecration of, &c.; Misdemeanors; Penalty.—Whoever in any manner, for exhibition or display, shall place, or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color, or ensign of the United States of America, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign upon which shall be printed, painted, or otherwise placed, or to which shall be attached, appended, affixed or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or whoever shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose, any article, or substance, being an article of merchandise, or a receptacle of merchandise, upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color, or ensign to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or whoever shall publicly mutilate, deface, defile, or defy, trample upon, or cast contempt, either by word or act, upon any such flag, standard, color or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment for not more than thirty days, or both, in the discretion of the court. (R. C. 1915, § 3469.)

159. Flag, Standard, Color or Ensign, Defined.—The words flag, standard, color or ensign, as used in this chapter shall include any flag, standard, color, ensign, or any picture or representation, of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of said flag, standard, color or ensign, of the United States of America, or a picture, or representation, of either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard, or ensign of the United States of America. (Id. § 3470.)

160. Exemptions From Operation of Sections 34 and 35 [3469 and 3470].—Sections 34 and 35 [3469 and 3470] of this chapter shall not apply to any act permitted by the statutes of the United States of America or by the United States Army and Navy Regulations, nor in case where the government of the United States has granted the use of such flag, standard, color, or ensign as a trade-mark, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate,

diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence, on any of which shall be printed, painted or placed, said flag, disconnected from any advertisement. (Id. § 3471.)

160a. Unlawful for the Public to Use Great Seal or Coat of Arms as an Advertisement.—It shall be unlawful for any person or persons, firm, corporation or association to use a facsimile of the Great Seal of the State of Delaware or a facsimile of the Coat of Arms of the State of Delaware as for an advertisement or upon the stationery, letterheads, checks or other papers of said person or persons, firm, corporation or association. (R. C. 1915, § 4805A, as added L. 1915, c. 245.)

160b. Penalty Upon Conviction, How Recovered.—Any person or persons, firm, corporation or association who shall violate the provisions of 4805A, section 12A shall, on conviction, pay a penalty of not less than twenty-five dollars for each violation thereof and such penalty shall be recovered by an action of debt in the name of the State of Delaware, which shall sue for it against any person or persons, firm, corporation or association violating 4805 A, section 12A, said suit to be instituted in any court of this State having competent jurisdiction. (Id. § 4805B.)

Tobacco—Tobacco Products.

161. Sale or Furnishing to Minors Under Seventeen a Misdemeanor; Penalty.—No person or persons shall, within this State, sell or give to, or purchase or procure for, or furnish, or in any way assist any minor, under the age of seventeen years, in obtaining cigarettes or papers specially prepared and intended to be used for the purpose of making cigarettes.

Any person or persons violating the provisions of this section shall for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof by indictment, shall be fined not more than one hundred dollars, or imprisoned for a term of not more than three months, or both, at the discretion of the court. (R. C. 1915, § 3511.)

Trade-Marks, Etc.

162. Label, Trade-mark, Advertisement; Unlawful to Counterfeit; Penalty.—Whenever any person, association or union of working men have adopted, or shall adopt for their protection, any label, trade-mark, or form of advertisement announcing that goods to which such label, trade-mark, or form of advertisement shall be attached were manufactured by such person, or by a member or members of such association or union, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trade-mark, or form of advertisement. Every person violating this section shall, upon conviction, be punished by imprisonment in the county jail or workhouse for not less than three months nor more than one year, or by a fine of not less than fifty nor more than one hundred dollars or both. (R. C. 1915, § 3477.)

163. Use of Counterfeit Label, &c., a Misdemeanor; Penalty.—Every person who shall use any counterfeit or imitation of any label, trade-mark, or form of advertisement of any such person, union or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor, and shall be punished by imprisonment in the county jail or workhouse for not less than three months nor more than one year, or by a fine of not less than fifty nor more than one hundred dollars or both. (Id. § 3478.)

164. Registry of Label, &c., with Secretary of State; Certificate.—Every person, association or union, that has heretofore adopted, or shall hereafter adopt, a label, trade-mark, or form of advertisement as aforesaid, may file the same in the office of the Secretary of State, by leaving two copies, counterparts or facsimiles thereof with the Secretary of State; said Secretary shall deliver to such person, association or union so filing the same a duly attested certificate, for which he shall receive one dollar. Such certificate of filing shall in all suits and prosecutions under sections 42 to 48 [3477 to 3483], inclusive of this chapter, be sufficient proof of the adoption of such label, trade-mark or form of advertisement, and of the right of such person, association or union to adopt the same. No label shall be received and filed by the Secretary of State that probably would be mistaken for a label already filed. (Id. § 3479.)

165. Remedies for Protection of Trade-marks, &c.—Every such person, association or union adopting a label, trade-mark or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeits or imitations; and all courts having jurisdiction thereof

shall grant injunctions to restrain such manufacture, use, display, or sale, and shall award the complainant in such suit such damages, resulting from such wrongful manufacture, use, display or sale as may by said court be deemed just and reasonable, and shall require the defendants to pay to such person, association or union the profits derived from such wrongful manufacture, use, display or sale; and said court shall also order that all such counterfeits or imitations in the possession, or under the control, of any defendant in such case be delivered to an officer of the court or to the complainant, to be destroyed. (Id. § 3480.)

166. Unauthorized Use of Genuine Trade-marks, &c., a Misdemeanor; Who May Prosecute; Penalty.—Every person who shall use or display the genuine label, trade-mark, or form of advertisement of any such person, association, or union in any manner not authorized by such person, union, or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail or workhouse not less than three months nor more than one year, or by a fine of not less than fifty nor more than one hundred dollars, or both. In all cases where such association or union is not incorporated, suits under sections 42 to 48 [3477 to 3483], inclusive, of this chapter, may be commenced and prosecuted by any member or officer of such association or union on behalf of and for the use of such association or union. (Id. § 3481.)

167. Unauthorized Use of Name or Seal a Misdemeanor; Penalty.—Any person or persons who shall in any way use the name or seal of any such person, association, or union, or officer thereof, in and about the sale of goods, or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail or workhouse of not less than three months nor more than one year, or by a fine of not less than fifty nor more than one hundred dollars, or both. (Id. § 3482.)

168. Fines, How Enforced; Jurisdiction of Justice of the Peace.—The fines provided for in sections 42, 43, 46 and 47 [3477, 3478, 3481 and 3482] of this chapter may be enforced before a justice of the peace in all cases where the party complainant shall so elect, and in case of conviction before such justice of the peace the offender shall stand committed to the county jail or workhouse until the fine and costs are fully paid. (Id. § 3483.)

169. Manufacturers and Vendors of Mineral Waters, &c.; Registry of Names and Marks on Bottles.—All manufacturers and vendors of mineral waters, porter, beer, ale and other beverages in bottles, upon which their names or their mark or marks shall be respectively impressed, may file in the office of the Secretary of State description of such bottles and of the name and mark thereon, and shall cause the same to be published for six weeks successively in a public newspaper in the county wherein the same shall be manufactured or sold. (Id. § 3484.)

170. Use of Registered Bottles Without Permission of Owner, Unlawful; Penalty; Jurisdiction.—It is hereby declared to be unlawful for any person or persons hereafter, without the permission of the owner thereof, to fill with mineral waters, porter, beer, ale, or other beverages, any such bottles so marked, or to sell, dispose of, or to buy, or to traffic in any such bottles so marked and not bought by him or her of such owner thereof; and any person so offending shall be liable to a penalty of fifty cents for every bottle so filled, or sold, or used, or disposed of, or bought or trafficked in, for the first offense, and of five dollars for every subsequent offense, to be recovered before the Municipal Court of Wilmington or any justice of the peace as fines and penalties are by law recovered for the use of the State. (Id. § 3485.)

171. Search Warrant; How Obtained; Form of.—The fact of any person other than the rightful owner thereof, using any such bottles for the sale therein of any beverages, shall be prima facie proofs of the unlawful use or purchase of such bottles as aforesaid; if any such owner or agent of the owner shall make oath or affirmation before the Municipal Court of Wilmington or any justice of the peace that he has reason to believe; and does believe that any of his bottles stamped and registered as aforesaid, are being unlawfully used and concealed by any person or persons selling and manufacturing mineral waters, porter, ale, or other beverages, the said Municipal Court of Wilmington or justice of the peace shall issue a process in the nature of a search warrant directed to any constable commanding him to search the premises, wagons, carts, or other places of the offender or offenders where said bottles are alleged to be, and if, upon such search, any bottles so marked shall be found, to bring the same together with the body of the person in whose possession they may be found, before the Municipal Court of Wilmington or justice of the peace, there to be dealt with according to law.

The following form shall constitute the warrant mentioned in this section:
 ".....County, ss.

The State of Delaware.

To any constable of the said.....greeting:

Whereas, due proof has this day been made before me,.....judge of the Municipal Court of Wilmington, or justice of the peace for....., on oath of.....of said....., that one.....is unlawfully using and now has concealed on his (or her) premises, or in his (or her) wagons, the bottles of said deponent, obtained by purchase, traffic or gift from others than the rightful owner thereof. These are therefore, in the name and by the authority of the State of Delaware, and in virtue of the powers and duties attaching to me under the act of the General Assembly in such case made and provided, to authorize you, the said constable, with necessary and proper assistance, diligently to search for the said bottles on the premises of the said.....and if the same be found, upon search, you do bring the same before me to be dealt with according to law.

Witness the said.....who hath hereunto set his hand and seal, the.....day of.....A. D., 19....." (Id. § 3486.)

171a. Labels; Seals; Trademarks; Filing Fees.—Upon the filing of a label, trade-mark or form of advertisement in the office of the Secretary of State and the delivery of attested certificate, under the provisions of sections 42 to 48 [§§ 3477 to 3483] of chapter one hundred of this Code, every person, association or union so filing shall pay to the Secretary of State the sum of one dollar.

Upon the filing with the Secretary of State of copies of any label or seal, the official recording thereof and the issuance of certificate of such recording, under the provisions of Section 41 [§ 3476] of chapter one hundred of this Code, every labor organization, association or society, person, firm or corporation so filing, shall pay to the Secretary of State the sum of five dollars. (Id. § 255.)

171b. Labels, Seals and Trade-Marks.—The Secretary of State shall perform the duties relative to labels, seals and trade-marks, as provided by article 15 of chapter one hundred. (Id. § 445.)

Weights and Measures.

171c. Standard Weights and Measures; State Chemist, Custodian of.—The State Chemist is the custodian of the standard weights and measures and is required to perform such duties relating thereto as provided in section 1 of chapter eighty-two [§ 2914]. (R. C. 1915, § 711.)

172. Standard Weights and Measures; State Chemist; Custodian of; Duties As To.—The State Chemist is made the custodian of the standard weights and measures of the United States, belonging to this State, together with balances for adjusting duplicate standards. The State Chemist is required to keep the same in good order, and shall, upon demand, try and prove the duplicate standards of weights and measures belonging to the several counties, by and with the originals in his custody, and shall cause them to be made uniform and correct. (Id. § 2914.)

173. Standard Weights and Measures; Of What Consist for This State.—The standard weights and measures of the United States, now deposited in the custody and office of the State Chemist, are the true and legal standards for this State; and the duplicate thereof, deposited with the several prothonotaries, are true duplicate standards by which all weights and measures, used within this State, shall be tried and regulated. (Id. § 2915.)

173a. County Regulators of Weights and Measures; Appointment; Terms of Office; Oath; Bond.—A Regulator of Weights and Measures for each County shall be appointed by the Governor for the term of four years.

The said Regulator shall be sworn, or affirmed, to perform the duties of his office faithfully and impartially.

He shall, within thirty days from his appointment, give bond to the State, with sufficient surety, to be approved by the Governor, in the sum of one thousand dollars, conditioned for the faithful performance of the duties of his office; and if such bond be not filed in the secretary's office within the time aforesaid, his commission shall be void. (Id. § 2916.)

173b. Kent and Sussex Counties; Duties of Regulator In.—In Kent and Sussex Counties he shall visit, at least once during the year, every incorporated town in his county, for the purpose of regulating, by and with the duplicate standards aforesaid, without charge, any weights and measures, scales, balances, or other

weighing apparatus, that may be in use; and shall stamp the same plainly with the letter "S", and the initial of his county should the same be correct. (Id. § 2917, as amended L. 1915, c. 216.)

173c. General Duties of Regulator; Duty of Inquiry.—He shall, in like manner, at all other times, regulate such weights and measures, scales, or balances, as may be brought to him, or of which he may have knowledge. And he shall diligently inquire for all unstamped weights and measures, scales and balances, which are used within his county for buying or selling.

Each Regulator shall have power, within his respective jurisdiction, to test all instruments and devices used in weighing or measuring anything sold or to be sold. Such tests shall include all appliances connected or used with such instruments or devices. For the purpose of making such test, each regulator, at any reasonable time and without formal warrant, may enter upon any premises; and may, on any public highway, stop any vendor or dealer, or the agent or servant of such vendor or dealer, or stop any vehicle used in delivering any commodity which is weighed or measured as delivered. He may condemn and mark as condemned, or may seize, any false or illegal instrument or device used, or intended to be used, in weighing or measuring. If he shall seize any such instrument or device, he shall retain possession thereof until it shall have been used as evidence in any prosecution under the laws of this Commonwealth relating to weights and measures. After the determination of such prosecution the false or illegal instrument or device shall be destroyed, unless otherwise ordered by the proper court. (Id. § 2918.)

173d. Using Unregulated Weights or Measures; Using False Stamp or Brand; In Kent and Sussex Counties; Misdemeanors; Penalty.—If any person in Kent or Sussex counties shall buy, sell, or barter, by any weight or measure, scale, balance, or other weighing apparatus, that has not been duly regulated and stamped, or if any person shall make, or use, a false stamp, or brand, for stamping weights, or measures, he or she shall be fined twenty-five dollars and pay in addition thereto the costs in the case. One-half of said fine when recovered shall be paid to the informer. (Id. § 2919.)

173e. Compensation of Regulators in Each County.—The regulators shall be paid for their services, annually, six hundred dollars in New Castle county and fees as hereinafter provided, six hundred dollars in Kent and Sussex counties, said stated salaries to be allowed by the Levy Court of the respective counties and paid as other county charges. (Id. § 2920.)

173f. New Castle County; Duties of Regulator In.—He shall, as often as he may deem necessary, go to all stores, offices, booths, stalls or other places of business in his county, where any beams, scale, weights and measures are used for the purpose of buying or selling any goods, chattels or other things, and test and adjust or cause to be tested and adjusted (if possible) all such beams, scales, weights and measures, and stamp the same plainly with the letter "S" and the initial of his county and the current year. He shall also, in like manner, at all other times, test and adjust such beams, scales, weights and measures as may be brought to him for that purpose. The said regulator shall have the same powers prescribed in 2918, section 5 of this chapter. (Id. § 2921.)

173g. New Castle County; Fees of Regulator In; How Collected.—For which trial and adjustment the said regulator for New Castle county, in addition to the salary already allowed by law, shall demand and receive from the proprietors or owners of all such weights, and beams, and scales, and measures, the following fees, to wit: for the trial and balancing of every set of scales, eight cents; for every patent balance, fifteen cents for every set of coal or hay scales, one dollar each; for every set of platform scales which draws five hundred pounds or under, fifty cents, and an additional sum of five cents for every one hundred pounds not exceeding two thousand pounds, and any platform scales drawing over two thousand pounds shall be classed as coal or hay scales; for every yard measure, two cents; for every bushel measure, ten cents; for every half-bushel measure, seven cents; for every peck and half-peck measure, five cents; for every quarter-peck measure, three cents; for every gallon, half-gallon and quart measure, three cents each; for every pint measure or less, two cents; for every weight of twenty-eight pounds or more, eight cents; for every weight less than twenty-eight pounds, two cents, and an additional charge or fee for labor or materials furnished for adjusting said beams, scales, weights and measures to be fixed by agreement between the Regulator and the owner and user thereof; provided, always, that the said Regulator shall only be entitled to one-half of the above fees for stamping such beams, scales, weights and measures as he shall find to be correct after testing the same. The said Regulator may collect by suit, before any justice of the peace, all fees prescribed

by this section from the proprietor or owners of such beams, scales, weights or measures, which he has adjusted. (R. C. 1915, § 2922.)

173h. Fees; Receipt to Be Given; to Be Collected Only Once Annually.—For every fee collected under the provisions of 2922, section 9 of this chapter the said Regulator shall give a receipt therefor, and no person, co-partnership, firm or company shall be required to pay more than one fee in any one year; provided, however, the provisions of this section shall in no way be deemed to restrict the number of visits which the said Regulator shall deem necessary to make during any one year. (Id. § 2922a, as added L. 1915, c. 216, § 6.)

173i. New Castle County; Seizure of False Weights and Measures; Delivery to Attorney General; Weights and Measures for Purposes of Freight, Tonnage, Transportation, Commission, etc.—The said Regulator of Weights and Measures for New Castle county is required to immediately seize and deliver to the Attorney-General all false beams, scales, weights and measures that he may find within the county, which he is unable to adjust, together with a written report giving such information in regard thereto as may be required of him by the Attorney-General; and the Regulator of Weights and Measures shall be paid one-half of the fee for such services as is provided for in the trial and adjustment of beams, scales, weights and measures by section 9 [§ 2922] of this chapter; and all the provisions of this chapter relating to the inspection of beams, scales, weights and measures in New Castle county used for the purpose of buying or selling shall also extend to all such beams, scales, weights and measures as are or may be used in said county for ascertaining weights and measures for the purpose of charging for freight, tonnage, transportation, commission and all other charges, when such charges are regulated by weight or measure. (R. C. 1915, § 2923.)

173j. New Castle County; Violations of Chapter, Misdemeanors; Penalty; Disposition of Fines.—In case any user or owner of such beams, scales, weights and measures within the county of New Castle, in this State, shall refuse or neglect to comply with any of the requisitions which the said Regulator is by this chapter authorized or directed to make or shall knowingly sell or buy any false beams, scale, weight, or measure; or shall purposely alter any beam, scale, weight, or measure, so that the capacity is diminished or increased after the same shall have been adjusted and stamped; or shall, in buying or selling, knowingly use any beam, scale, weight, or measure, so altered, or shall purposely alter any beam, scale, weight, or measure so as to impair the adjustment thereof after the same shall have been adjusted and stamped; or shall knowingly have in his possession any beam, scale, weight, or measure so altered as aforesaid; or shall knowingly buy, sell, use, or barter by any beam, scale, weight, or measure, or other weighing or measuring apparatus that has not been duly adjusted and stamped as aforesaid; or shall knowingly make, use, or have in possession any false stamp or brand for stamping any beams, scales, weights, or measures, he or they shall be guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be fined not less than ten or more than twenty dollars, or imprisoned for a term not exceeding ten days, and, for every subsequent offense, be fined not less than twenty or more than fifty dollars or imprisoned for a term not exceeding thirty days. One-half of all fines recovered for violations of any of the provisions of sections 8 to 13, inclusive, [2921-2926] of this chapter, shall be paid by the officer receiving the same to the informer, and the other half to the Treasurer of New Castle county. (Id. § 2924.)

173k. New Castle County; Weights and Measures in Public Markets and Market Houses; How Tested; Penalty if False.—All beams, scales, weights and measures tested, adjusted and stamped under the provisions of sections 8 to 13, inclusive [2921-2926] of this chapter, which shall be used in the public markets and market houses of any city or incorporated town in said county, shall be liable to be tested and adjusted by the Regulator of Weights and Measures of such city or town, but no fee shall be charged therefor; provided, however, that if, upon such testing and adjustment, such beams, scales, weights, or measures shall be found to be false, the person or persons in whose possession the same shall be found shall, in addition to the fees prescribed by section 9 of this chapter, [2922] pay to the Regulator of Weights and Measures of such city or town the fees allowed to such Regulator for like services under the ordinances and regulations of said city or town. (Id. § 2925.)

173l. New Castle County; Regulator Authorized to Administer Oaths.—The said Regulator of Weights and Measures for New Castle county is authorized and empowered to administer an oath or affirmation to any or all proprietors or owners of any beams, scales, weights or measures, named in sections 8 to 12,

inclusive, [2921-2925] of this chapter, to ascertain whether they are used for the purpose of buying or selling, as is contemplated by said sections. (Id. § 2926.)

174. Regulator; Duty to Stamp and Inspect Milk Cans; Fee For.—It shall be the duty of the regulator of weights and measures in each county to inspect all bottles or cans used for the shipment of milk or cream, and to stamp or mark each bottle or can so inspected by him, with a stamp of inspection showing that the same has been inspected and that the capacity is correct, according to the standard measure for milk and cream in this State at the time of such inspection. For inspecting each can and stamping, as provided in this section, the said regulator of weights and measures shall be paid by the owner or owners thereof at the time of such inspection, the sum of ten cents, provided however, the provisions of 2922A, section 9a, of this chapter, shall extend to the inspection provided by this section. (Id. § 2927, as amended L. 1915, c. 216.)

175. Regulators Generally; Keeping Duplicate Standards and Balances in Good Order; Attending State Chemist for Regulating Same.—Each regulator of weights and measures shall preserve and keep, in good order, the duplicate standards belonging to the county, and the balances furnished him for regulating weights; and he shall attend, with said duplicate standards, at the office of the State Chemist, when required by him in writing so to do, for the purpose of having them regulated by the originals. (R. C. 1915, § 2928.)

176. Standard Milk and Cream Measure; Sale Also by Weight of Butter Fat; Sale by Any Other Measure a Misdemeanor; Penalty.—It shall be unlawful for any person, firm or corporation to sell or offer for sale, or to demand from any person, firm or corporation offering for sale, either wholesale or retail, any milk, skim milk or cream according to any other standard of measurement than that known as the liquid or wine measure containing two hundred and thirty-one cubic inches to the gallon. Provided, that nothing in this section will prevent the sale of milk, skim milk or cream by weight or percentage of butter fat.

Every person, firm or corporation and every officer, agent, servant or employee of such person, firm or corporation, who shall violate any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars, or shall be imprisoned for a term of not less than ten or more than thirty days, or both, at the discretion of the court. (Id. § 2929.)

177. Loaf of Bread; Standard Size; Sale of Loaf of Less Weight a Misdemeanor; Penalty.—All loaves of bread manufactured from wheat flour in whole or in part, sold or offered for sale in this State by the baker or manufacturers thereof or by any other person, whether wholesale or retail, shall weigh at least one pound avoirdupois weight.

If any baker or manufacturer of bread into loaves from wheat flour in whole or in part, or any other person shall in this State sell or offer to sell to any person any such loaf of said bread that shall weigh less than one pound avoirdupois weight he, she or they, or it shall be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the county wherein such sale or offer to sell is made, a fine of not less than five dollars, and not more than twenty-five dollars, and upon default of the payment of said fine shall be imprisoned in the county jail not exceeding thirty days. (Id. § 2932.)

178. Berry Cups; Hampers; Barrels; Peach and Summer Apple Baskets; Standards of, Use of, Measures How Marked; When Standards Not Used; As a Misdemeanor, Penalty.—The standard pint basket or cup for fruit and berries in this State shall contain a full pint. The standard quart basket or cup for fruit and berries in this State shall contain a full quart. The standard hamper in this State shall hold a full bushel. The standard barrel for fruit and produce shall hold eleven pecks. The standard peach basket shall hold one-half of a bushel. For the summer apple the standard basket shall hold one bushel. The standard basket for all potatoes, tomatoes, turnips, onions and cabbage shall hold five-eighths of a bushel. In measuring all forms of fruit and produce dry measure shall be used.

Every person or corporation in this State handling, shipping or selling fruit or produce in cups or baskets, hampers, barrels, peach baskets, summer apple baskets, and all potato, tomato, turnip, onion and cabbage baskets shall use the standard cup or basket, hamper, barrel, peach basket, summer apple basket or potato, tomato, turnip, onion or cabbage basket, or if he or it shall use a different size from that herein designated as standard for any of these fruits or produce, he shall clearly mark upon the outside of such cup or basket, hamper, barrel, peach basket, summer apple basket or potato, tomato, turnip, onion or cabbage basket, in figures not less than one inch in height the exact amount which such cup or basket, hamper, barrel,

peach basket, summer apple basket or potato, tomato, turnip, onion or cabbage basket does hold.

Whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not less than ten dollars for each offense. (Id. § 2933, as amended L. 1921, c. 180.)

179. Measure for Oysters Sold in Shell.—The measure for oysters sold in the shell by the bushel, shall be as provided by section 129 of chapter 74 [R. C. 1915, § 2486]. (R. C. 1915, § 2935.)

NOTE: See No. 80.

180. Wheat, Indian Corn and Indian Meal; Weight of Bushel.—When wheat, or Indian corn, is sold by the bushel, and there is no special agreement as to the measurement, or weight thereof, the bushel shall consist of sixty pounds of wheat and fifty-six pounds of corn. Whenever Indian cornmeal shall be sold by the bushel, and no special agreement as to the measurement or weight thereof shall be made by the parties, the bushel, if sifted, shall consist of forty-four pounds, and if unsifted the bushel shall consist of forty-eight pounds. (Id. § 2936.)

181. Casks for Exportation of Breadstuffs; How Made; Sizes; Meal, How Exported; Hogsheads, Casks, Half Barrels, Sizes of; Flour and Meal in Sacks; Regulation of; Use of Other Bread-Stuffs Casks Forbidden; Penalty.—All casks for the exportation of breadstuffs shall be made of good seasoned materials, well hooped and nailed, and shall be of the following sizes, viz.: No. 1, 27 inches long, 16½ inches diameter at the head, and to contain 196 pounds; No. 2, 22¾ inches long, 12½ inches diameter, and to contain 98 pounds; and if any person shall export from New Castle County to any foreign port, or place, beyond the United States, or shall sell for such exportation, any wheat flour, rye flour, or middlings of wheat, packed in casks made of unseasoned materials, or of other dimensions, or of less weight per cask, than these, respectively, he shall forfeit and pay to the flour inspector forty cents per cask, and shall have remedy over for damages against the miller, or cooper, who furnished the same.

Indian cornmeal, made from corn sufficiently kiln-dried, shall be packed for exportation from New Castle County, or from Middleford, or Seaford, in Sussex County, to any foreign port, or any port in the United States where there are no inspection laws, in strong tight hogsheads, made of good seasoned white, or red oak, well hooped and secured, the staves forty-one inches long, twenty-seven inches diameter at the head, and to contain eight hundred pounds net, or in casks twenty-six inches long, sixteen and one-half inches diameter, and to contain one hundred and ninety-six pounds, or in half barrels twenty-two inches long, twelve and one-half inches diameter, and to contain ninety-eight pounds, under the same penalty herein provided for flour; except that wheat flour, or kiln-dried Indian cornmeal, may be exported in sacks, or packages, if inspected and passed, and the same fees paid for inspection as in proportion for barrels. (Id. § 2937.)

182. Brands; Mark of Kind, Quality and Weight; Violation; Penalty; Marking False Weight or Tare; Penalty.—Each miller shall brand, or mark, with his own name, or some name by which it may be distinguished as his, every cask, or hogshead, of breadstuffs manufactured by him for exportation, and mark the kind and quality, and weight, tare and net, under penalty of twenty cents for each cask, or hogshead, not branded, to anyone who will sue for the same; and if any person shall mark a false weight, or wrong tare, to the disadvantage of the purchaser, he shall forfeit and pay to the inspector one dollar for each cask, or hogshead, so falsely branded. (Id. § 2938.)

183. Wheat Flour; Quality of.—All wheat flour, manufactured for sale, or exportation, shall be merchantable, and of due fineness, without mixture. (Id. § 2939.)

184. Marking Weight of Bags, &c., of Flour or Grain Meal, Offered for Sale; Sale Without Marking; False Marking; Misdemeanors; Penalty.—Each and every bag, package, parcel or box of flour or grain meal of any kind, exposed or offered for sale to consumers in this State shall have marked or printed prominently, distinctly and conspicuously thereon the correct and exact weight in avoirdupois of the flour or other grain meal contained in such bag, package, parcel or box.

It shall be unlawful for any person or persons, firm or firms, corporation or corporations, to offer or expose for sale, any bag, package, parcel or box of flour or any kind of grain meal, unless the same has printed or marked thereon as aforesaid the exact and correct weight as aforesaid. Every person or firm or firms violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine of twenty-five dollars, besides the costs of suit.

If any person or persons, firm or firms, corporation or corporations shall print or mark the weight of flour or other grain meal on any such bag, package, parcel or box as aforesaid, falsely or incorrectly, or in any way to deceive the public, such

person or persons, firm or firms, corporation or corporations, shall upon conviction thereof, forfeit and pay a fine of twenty-five dollars besides the costs of suit. (Id. § 2940.)

185. Flour Inspectors; Residences; Deputies; Oaths.—The Governor shall appoint a flour inspector, who shall reside in the city of Wilmington, and another who shall reside in or near Middleford, or Seaford, who shall appoint the necessary deputies. Each inspector or deputy shall be duly sworn, or affirmed, and shall hold his office for four years. (Id. § 2941.)

186. Inspection of Breadstuffs Before Exportation from New Castle County.—No person shall ship, or load, for exportation from New Castle County to any foreign port, or to any port in the United States where there are no inspection laws, any superfine, or common flour, or middlings, or any rye flour, or Indian cornmeal, before the same is duly inspected. (Id. § 2942.)

187. Inspection; How Conducted; If Quantity Insufficient, Miller Shall Pay Charges; Otherwise the Inspector or Purchaser; Superfine, Merchantable or Inferior Flour; How Marked; If Not Merchantable, Condemned as Unfit for Exportation; Other Breadstuffs; How Inspected, Marked or Condemned; Fees; By Whom Paid.—The inspector shall try the packing and quality, by boring and piercing; or, if necessary, by unpacking. If, on unpacking, the quantity be found insufficient, the miller shall pay all charges of unpacking and repacking, besides the penalty provided in section 2 [2937] of this chapter; otherwise the inspector shall pay such charges, or the purchaser, if done at his request.

If the flour be "superfine," he shall stamp the plug with the letters "S. D."; if inferior to superfine, but good, merchantable common flour, he shall scratch and erase the superfine brand and stamp the plug with the letters "C. D."; if below that quality, he shall condemn the same as unfit for exportation and shall mark it with a circle and cross in red chalk. "Middlings," "fine rye flour," "rye flour," and "kiln-dried cornmeal," shall be in like manner inspected and marked, or condemned and scratched, according to the quality thereof.

The fee for inspection shall be one cent for each cask or barrel and three cents for each hogshead, to be paid by the person exporting, or intending to export the same, whether approved or condemned. (Id. § 2943.)

188. In case of Dispute, Triers Appointed; Report; Fees.—In case of dispute concerning the inspection, any judge of the State shall, on application, appoint three proper triers to examine such breadstuff and report to him its quality and condition; and their report shall be final. If their report sustain the inspector, the other party shall pay the triers fifty cents each; if otherwise, the inspector shall pay them, and shall pass the breadstuff inspected as merchantable. (Id. § 2944.)

189. Inspection on Ship Board; Refusal of Inspector; Penalty; Inspector Not to Be Dealer; Exception; Penalty.—The inspector, or his deputy, shall, when required, go on board any vessel within ten miles of Wilmington, New Castle, or Port Penn, Middleford, or Seaford, to inspect more than fifty casks, under penalty of forfeiting thirty dollars to anyone who will sue for the same.

No such inspector, or deputy, shall deal in flour by buying, selling, or bartering the same, other than superfine flour, under penalty of forfeiting one hundred dollars. (Id. § 2945.)

190. False Branding; Shipping With False Brand; Branding or Marking Before Inspection; Penalties.—If any person shall falsely brand any breadstuff after inspection, with design to evade the inspection, or shall, knowingly and fraudulently, ship the same with said false brand, he shall forfeit and pay one hundred dollars; and every cask, or hogshead, so falsely and fraudulently branded shall be forfeited to the State, and may be seized by the inspector, or deputy, one-half to his own use; and if any person shall brand, or make the mark of superfine, common, or middlings, on any cask of flour after it shall have been taken from the mills, and before it shall have been inspected and allowed as such by the inspector, such person shall forfeit and pay twenty cents to any person who will sue for the same. (Id. § 2946.)

191. Adulteration of Flour Branded Superfine or Common; Forfeiture; Sale by Inspector; Notice; Proceeds, How Disposed Of.—If any flour, branded "superfine" or "common," shall be found, on inspection, to contain corn meal, or other mixture and adulteration, it shall be forfeited to the State, and may be seized as aforesaid, one-half to the inspector's use.

In case of any seizure, he shall sell the same, after ten days' notice in one or more newspapers of the State, at public vendue, and shall pay over one-half of the proceeds to the State Treasurer within thirty days thereafter. (Id. § 2947.)

192. Inspection of Breadstuffs Sold for Consumption in Wilmington; Violation; Penalty.—All superfine or common flour, middlings, rye flour, and

Indian corn meal, offered for sale and sold for consumption in the city of Wilmington, shall be first duly inspected; and any person violating the provisions of this section shall pay to the flour inspector of the city of Wilmington for the use of the State, the sum of five cents for each barrel, and ten cents for each hogshead of corn meal, middlings, or rye flour, so sold without inspection, to be recovered as like amounts are by the laws of this State recoverable. (Id. § 2948.)

NOTE: See also No. 4; the apple law, No. 7 et seq.; the dairy law, No. 47 et seq.

PART V.

Cases.

1. Special Food Laws.

Beverages—Jamaica Ginger: State v. Hastings, 25 Del. 482, 81 Atl. 403 (1911).

Bread: *State v. Huber, 27 Del. 259, 88 Atl. 453 (1913).

Cold Storage: See H. J. Keith Co. v. Booth Fisheries Co. 27 Del. 5, 86 Atl. 166 (1912); Same, 27 Del. 218, 87 Atl. 715 (1913).

Meat—Peddler's License: State v. Kumpel, 16 Del. 464 (1889).

Milk Dairymen's License: Gray v. Wilmington, 16 Del. 257 (1896).

Milk—Use of Bottle Belonging to Another: State v. Boyd, 28 Del. 508, 95 Atl. 232 (1915).

2. Special Drug Laws.

Poisons: State v. Hopkins, 27 Del. 306, 88 Atl. 473 (1913).

Narcotics: State v. Handy, 30 Del. 224, 105 Atl. 426 (1918); State v. Rothman, 30 Del. 226, 105 Atl. 427 (1918); Monastakes v. State, 127 Atl. 153 (1924).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Food: See Hall v. State, 4 Del. 132, 141 (1844); H. J. Keith Co. v. Booth Fisheries Co., 27 Del. 5, 86 Atl. 166 (1912); Same, 27 Del. 218, 87 Atl. 715 (1913); Warrington v. Reese, 30 Del. 390, 108 Atl. 33 (1919).

4. Miscellaneous.

Trade-Marks: State v. Boyd, 28 Del. 508, 95 Atl. 232 (1915). See also: Oklahoma Producing & Refining Company v. Oklahoma Consolidated Producing & Refining Company, 12 Del. Ch. 62, 106 Atl. 38 (1918).

Weights and Measures: *State v. Huber, 27 Del. 259, 88 Atl. 453 (1913).

DISTRICT OF COLUMBIA.*

PART I.

General Food and Drug Law.

1. Adulteration of Food and Drugs.—No person shall, within the District of Columbia, by himself or by his servant or agent, or as the servant or agent of any other person, sell, exchange, or deliver, or have in his custody or possession with the intent to sell or exchange, or expose or offer for sale or exchange, any article of food or drug which is adulterated within the meaning of this act. (30 Stat. 246; Act Feb. 17, 1898, c. 25, § 1.)

2. Definitions—"Drug"—"Food."—The term "drug," as used in this act shall include all medicines for external or internal use, antiseptics, disinfectants, and cosmetics. The term "food," as used herein, shall include confectionery, condiments, and all articles used for food or drink by man, and if there be more than one quality of any article of food or drug known by the same name the best quality thereof shall be furnished to the purchaser, unless he otherwise requests at the time of making such purchase, or unless he be notified at such time of the inferior quality of the article delivered. (Id. § 2.)

3. Adulteration of Drugs—Proviso—Articles Sold in Good Faith, Etc.—Adulteration of Food—Proviso—Where Inferior Brand is Ordered; Admixture of Harmless Ingredients, Etc.—An article shall be deemed to be adulterated within the meaning of this act:

(a) In the case of drugs: First, if, when sold under or by a name recognized in the United States Pharmacopœia, it differs from the standard of strength, quality, or purity laid down in the edition thereof at the time official; second, if, when sold under or by a name not recognized in the United States Pharmacopœia, but which is found in the German, French, or English Pharmacopœia, it differs from the strength, quality or purity laid down therein; third, if, when sold as a patented medicine, compounded drug, or mixture, it is not composed of all of the ingredients advertised or printed or written on the bottles, wrappers, or labels of or on or with the patented medicine, compounded drug, or mixture: Provided, that if the defendant in any prosecution under this act, in respect to the sale of any such patented medicine, compounded drug, or mixture, shall prove to the satisfaction of the court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the purchaser, and with a written warranty to that effect; that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution.

(b) In the case of food: First, if any substance or substances have been mixed with it so as to reduce or lower or injuriously affect its quality or strength; second, if an inferior or cheaper substance or substances have been substituted wholly or in part for it; third, if any valuable constituent has been wholly or in part abstracted from it; fourth, if it is an imitation of or is sold under the name of another article; fifth, if it consists wholly or in part of a deceased [diseased], decomposed, putrid, or rotten animal or vegetable substance, whether manufactured or not; sixth, if it is colored, coated, polished, or powdered whereby damage is concealed, or if it is made to appear better or of greater value than it really is; seventh, if it contains any added poisonous ingredient or any ingredient which may render it injurious to the health of a person consuming it; eighth, in the case of milk, if it contains less than three and one-half per centum of fat, less than nine per centum of solids not fat, and contains more than eighty-seven and one-half per centum of water; in the case of cream, if it contains less than twenty per centum of butter fat; ninth, in the case of butter or cheese, if it is not made exclusively from milk or cream, or both, with or without common salt; the butter, if it contains more than twelve per centum of water, more than five

*See also the federal law.

per centum of salt, and less than eighty-three per centum of fat; tenth, in the case of coffee, if it is not composed entirely of the seed of the *Coffea arabica*; eleventh, in the case of lard, if it is not made exclusively from the rendered fat of the healthy hog; twelfth, in the case of tea, if it is not composed entirely of the genuine leaf of the tea plant not exhausted; thirteenth, in the case of all kinds of vinegar, if it contains an acidity equivalent to the presence of less than four per centum of absolute acetic acid; and cider vinegar, if it is not made from the pure apple juice and contains less than one and five-tenths per centum of total solids; fourteenth, in the case of cider, if it is not made from the legitimate product of pure apple juice; in the case of wines and fruit juices, if not made from the pure fruit as represented; and, in the case of cider, wines, fruit juices, and malt liquors, if not free from salicylic acid or other preservatives; and in the case of malt liquors, if not free from picric acid, *cocculus indicus*, *colchicine*, *colocynthis*, *aloes*, and wormwood; fifteenth, in the case of glucose, if it contains more than five one-hundredths per centum of ash; sixteenth, in the case of flour, if it is not composed entirely of one single ground cereal; seventeenth, in the case of bread, if there is any addition of alum, sulphate of copper, borax, or sulphate of zinc, or other poisonous or harmful ingredient, and if it contains more than thirty-one per centum of moisture, more than two per centum of ash, and less than six and twenty-five one-hundredths per centum of albuminoids; eighteenth, in the case of olive oil, if it is not made exclusively from the olive berry (*Olea europæa*), and its specific gravity at fifteen and six-tenths degrees centigrade (sixty degrees Fahrenheit) "actual density" to be not more than nine hundred and seventeen one-thousandths not less than nine hundred and fourteen one-thousandths. Provided, that an offense shall not be deemed to be committed under this section in the following cases, that is to say, first, where the order calls for an article of food or drug inferior to such standard, or where such difference is made known by being plainly written or printed on the package; second, where the article of food or drug is mixed with any matter or ingredient not injurious to health and not intended fraudulently to increase its bulk, weight, or measure or conceal its inferior quality, if at the time such article is delivered to the purchaser it is made known to him that such article of food or drug is so mixed. (Id. § 3.)

4. Health Officer District of Columbia to Prepare Regulations, Etc.—It shall be the duty of the health officer of the District of Columbia, under the direction of the commissioners of said District, to adopt such measures as may be necessary to facilitate the enforcement hereof, and prepare rules and regulations with regard to the proper method of collecting and examining drugs and articles of food in said District. (Id. § 4.)

5. To Investigate Violations of Act.—It shall be the duty of the health officer to investigate a complaint for a violation of any of the provisions of this act on the information of any person who lays before him satisfactory evidence by which to substantiate such complaint. (Id. § 5.)

6. Samples for Analysis.—Every person offering for sale or delivering to any purchaser any drug or article of food included in the provisions of this act shall furnish to any analyst or other officer or agent of the health department, who shall apply to him for the purpose and shall tender him the value of the same, a sample sufficient for the purpose of analysis of any such drug or article of food which is in his possession. (Id. § 6.)

7. Portion of Sample to be Reserved, Etc.—In all cases where any drug or article of food shall be taken as a sample to be examined and analyzed, the person making the analysis shall reserve a portion of the sample, which shall be sealed, for a period of thirty days from the time of taking such sample, and in case of a complaint the reserved portion alleged to be adulterated shall, upon application, be delivered to the defendant or his attorney. (Id. § 7.)

8. No Interference With Officers of Health Department.—No person shall hinder, obstruct, or in any way interfere with any inspector, analyst, or other person of the Health Department in the performance of his duty in carrying out the provisions of this act. (Id. § 8.)

9. Procedure.—All prosecutions under this act shall be in the police court of said district, on information brought in the name of the District of Columbia, and on its behalf; and any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five dollars nor more than one hundred dollars, (Id. § 9.)

10. Repeal—Proviso—Oleomargarine and Filled Cheese Acts Not Affected.—All acts and parts of acts inconsistent with this act be, and the same are hereby, repealed: Provided, that nothing in this act contained shall be construed as modi-

fying or repealing any of the provisions of "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August second, eighteen hundred and eighty-six, or of "An act defining cheese, and also imposing a tax upon and regulating the manufacture, sale, importation and exportation of 'filled cheese,'" approved June sixth, eighteen hundred and ninety-six. (Id. § 10.)*

Miscellaneous General Provisions.

11. Health Department.—For contingent expenses incident to the enforcement of the provisions of an act to prevent the spread of contagious diseases in the District of Columbia, approved March 3, 1897, and an act for the prevention of scarlet fever, diphtheria, measles, whooping cough, chicken pox, epidemic cerebrospinal meningitis, and typhoid fever in the District of Columbia, approved February 9, 1907, and an act to provide for registration of all cases of tuberculosis in the District of Columbia, for free examination of sputum in suspected cases, and for preventing the spread of tuberculosis in said District of Columbia, approved May 13, 1908, under the direction of the health officer of said District, manufacture of serums, including their use in indigent cases, and for the prevention of infantile paralysis and other communicable diseases, and of an act for the prevention of venereal diseases in the District of Columbia, and for other purposes approved February 26, 1925, including salaries or compensation for personal services, when ordered in writing by the commissioners and necessary for the enforcement and execution of said acts, and for the prevention of such other communicable diseases as hereinbefore provided, purchase and maintenance of necessary horses, wagons, and harness, purchase of reference books and medical journals, and maintenance of quarantine station and smallpox hospital, \$40,000: Provided, that any bacteriologist employed under this appropriation may be assigned by the health officer to the bacteriological examination of milk and other dairy products and of the water supplies of dairy farms, and to such other sanitary work as in the judgment of the health officer will promote the public health, whether such examinations be or be not directly related to contagious diseases. * * *

For special services in connection with the detection of the adulteration of drugs and of foods, including candy and milk, \$100. * * *

For contingent expenses incident to the enforcement of an act relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898; an act to prevent the adulteration of candy in the District of Columbia, approved May 5, 1898; an act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes, approved June 30, 1906, and an act to regulate, within the District of Columbia, the sale of milk, cream, and ice cream, and for other purposes, approved February 27, 1925, \$1,000. * * * (District of Columbia appropriation act of March 2, 1927.)

11a. Health Officer.—In lieu of the Board of Health now authorized by law, the commissioners of the District of Columbia shall appoint a physician as health officer, whose duty it shall be, under the direction of the said commissioners, to execute and enforce all laws and regulations relating to the public health and vital statistics, and to perform all such duties as may be assigned to him by said commissioners; and the Board of Health now existing shall, from the date of the appointment of said health officer, be abolished. (20 Stat. 107; Act June 11, 1878, c. 180, § 8.)

11b. Health Ordinances, Etc.—The ordinances of the late Board of Health of the District of Columbia, as revised, amended, and adopted, November nineteenth, eighteen hundred and seventy-five, entitled "An ordinance to revise, consolidate, and amend the ordinances of the Board of Health, to declare what shall be deemed nuisances injurious to health, and to provide for the removal thereof," as printed in the report of said late Board of Health made for the first session of the Forty-fourth Congress, being executive document number one, part eight, be and the same are hereby, legalized; and the respective penalties therein prescribed for violations thereof may be imposed and enforced for the respective offenses therein described, excepting the sections of said ordinance following, namely: Sections seven, nine, and fourteen, which said sections are not hereby legalized. (21 Stat. 304; Joint Resolution April 24, 1880, § 1.)

*See the federal law.

11c. Same.—The ordinances, rules, and regulations of said late Board of Health contained in the report mentioned in the preceding section, and printed in the said executive document therein mentioned, namely:

First.—“An ordinance to amend an ordinance to prevent domestic animals from running at large within the cities of Washington and Georgetown, passed by the Board of Health, May nineteenth, eighteen hundred and seventy-one”;

Second.—“An ordinance to prevent the sale of unwholesome food, in the cities of Washington and Georgetown”;

Third.—“An ordinance to provide for the inspection of streets, food, live stock, fish and other marine products, in the cities of Washington and Georgetown, and to define the duties of inspectors and other officers of the Board of Health”;

Fourth.—“An ordinance to amend section ten of the code so as to read”;

Fifth.—“An ordinance to amend an ordinance passed May thirteenth, eighteen hundred and seventy-three, to read as follows”;

Sixth.—“An ordinance to prevent committing or creating nuisances in or about public urinal or urinals located within the cities of Washington and Georgetown”;

Seventh.—“Rules and regulations in regard to smallpox”;

Eighth.—“Regulations to secure a full and correct record of vital statistics, including the registration of marriages, births, and deaths, the interment, disinterment, and removal of the dead in the District of Columbia,” be, and the same are hereby, legalized and made valid; and the penalties therein provided respectively for violations thereof, may be imposed and enforced for the violations of the same respectively, as provided by section twenty-seven of the ordinances passed November nineteenth, eighteen hundred and seventy-five. (Id. § 2.)

11d. An Ordinance to Prevent the Sale of Unwholesome Food in the District of Columbia.—

SECTION 1. Be it ordained and enacted by the Board of Health of the District of Columbia, that no person shall knowingly sell, or cause to be sold, within the District of Columbia, any impure, diseased, decayed or unwholesome provisions, nor shall any person fraudulently adulterate, for the purpose of sale within said District, any bread or other material intended to be used for food with any substance of a poisonous character, or any substance injurious to health; and any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than ten nor more than fifty dollars for each and every offense.

SEC. 2. That no person shall offer for sale within the District of Columbia any liquor used for drink, whether malt, vinous, or ardent, or the milk of cows or goats, intended to be used for food or drink, which has been adulterated with any poisonous or deleterious ingredients; and any person violating the provisions of this section shall, upon conviction, be punished by a fine of not less than ten or more than fifty dollars for each and every such offense.

SEC. 3. That no person shall convey into the District of Columbia, and offer for sale in any part of said District, any animal or part of animal that may be sickly, diseased, or unwholesome, or which may have died from disease or accident, or any fish or vegetables not fresh, sound, and fit for food; and any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than five or more than twenty-five dollars for each and every such offense.

SEC. 4. That no person shall slaughter any cattle for the purpose of sale as food within the District of Columbia when such cattle are in a feverish or diseased condition; and any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than five nor more than twenty-five dollars for each and every such offense.

SEC. 5. That no person, whether owner, manager, keeper of, agent, bartender, or clerk, in any saloon, restaurant, boarding house or eating house located within the District of Columbia, shall offer for sale as food or drink anything poisonous or unwholesome; and any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than five nor more than twenty-five dollars for each and every such offense.

SEC. 6. That no person owning, renting, leasing, or occupying any stall, room, or stand where meats or vegetables are sold for food within the District of Columbia shall fail to keep said stall, room, or stand in a cleanly condition; nor shall such person allow said meats or vegetables to become poisoned or infected, or unfit for food by reason of uncleanly condition of such stall, room, or stand; and any person violating the provisions of this section shall, upon conviction, be punished by a fine of not less than ten nor more than twenty-five dollars for each and every such offense.

SEC. 6a. That any person in the District of Columbia who receives milk or cream for sale shall, immediately after emptying the receptacle in which such milk or cream has been received, thoroughly rinse such receptacle so as to free the same from all remnants of milk and of cream, or shall cause such receptacle to be so rinsed and no person in said District shall put or, having power and authority to prevent, permit to be put into any receptacle which is commonly used for the storage or delivery of milk or cream for sale anything which is filthy or offensive or any refuse matter of any kind. Any person violating the provisions of this section shall, upon conviction, thereof, be punished by a fine not exceeding twenty-five dollars for each and every such offense. (Commissioners' Regulation of April 21, 1903.)

SEC. 6b. That no occupant of any building, room, stand, stall, or other place in the District of Columbia, where cattle, sheep, hogs, poultry, or other animals are slaughtered or killed, and no occupant of any building, room, stand, stall, or other place in said District where milk, game, poultry, fish, vegetables, fruits, groceries or other articles of food are prepared, kept, sold, or offered for sale, shall permit such place or an appurtenance thereto to be unnecessarily unclean and unwholesome. No person who slaughters or kills in said District any cattle, sheep, hogs, poultry or other animals, and no person who prepares, keeps, sells, or offers for sale any meat, game, poultry, fish, vegetables, fruits, groceries, or other article of food shall permit any implement, knife, measure or utensil used in connection therewith to be unnecessarily unclean or unwholesome or in unfit condition for use in connection with the slaughtering or killing of cattle, sheep, hogs, poultry, or other animals, or for the preparation, keeping, selling, offering for sale, and delivery of meat, game, poultry, fish, vegetables, fruits, groceries, or other articles of food.

Any person who violates any of the provisions of this regulation, shall, upon conviction thereof, be punished by a fine of not more than twenty-five dollars for each and every offense. (Commissioners' Regulation of October 6, 1904.)

SEC. 6c. No person shall expose for sale on any public highway or in any uninclosed market, store, shop, stand, or stall, or in any open lot, or transport over any public highway to any place for sale there or elsewhere, in the District of Columbia, any meat, fish, plucked poultry or game bird, dressed rabbit or squirrel, butter, butterine, oleomargarine, lard, lard compound or substitute, cheese, candy, cake, bread, dates, figs, or any food whatsoever of a kind not commonly washed, peeled, shelled, or cooked, before eaten, unless the same be then and there effectually and in a cleanly manner wrapped, or covered and inclosed, so as to protect it from dust and insects.

No person shall expose for sale in any place aforesaid between April 1 and October 31, inclusive, of any year, any fresh meat or fresh fish unless said meat or fish, while thus exposed, be kept at a temperature not exceeding 55° F. (Commissioners' Regulation of December 1, 1909.)

SEC. 6d. No person selling candy, cake, bread, dates, figs, butter, or other article of food of a kind not ordinarily cooked, peeled, or washed before being eaten, shall wrap or cover the same with newspaper or with any other paper previously used for any other purpose.

SEC. 6e. No person shall expose any article of food for sale, on any public highway in the District of Columbia, within twenty-four inches from the surface of the ground, unless said article of food is covered or enclosed so as to prevent access of dogs or is constantly in the immediate presence of the owner of such article of food or of the proper representative of such owner having custody thereof.

SEC. 6f. No vendor or distributor of foods or beverages in the District of Columbia for immediate consumption on or about the place of business of such vendor or distributor shall permit any cup, glass, spoon, or fork, that has been used for or in connection with the consumption of any such food or beverage to be used again for the same purpose until after it has been thoroughly washed in clean water.

Any person violating any of the provisions of section 6c, section 6d, section 6e, or section 6f, shall be punished by a fine of not less than one dollar nor more than twenty-five dollars for every such violation. (Commissioners' Regulation of April 24, 1906.)

SEC. 7. That no person shall offer for sale within the District of Columbia any unwholesome, watered, or adulterated milk, or swill milk, or milk from cows kept up and fed on garbage, swill, or other deleterious substance; nor shall any person offer for sale within said District any butter or cheese made from such unwholesome milk, and any person violating the provisions of this section shall, upon conviction, be punished by a fine of not less than five nor more than twenty dollars for each and every such offense.

SEC. 8. That on and after the passage of this ordinance it shall be unlawful for any person or persons to sell or expose for sale within the District of Columbia

any unsound, blown, or unwholesome meat or other article of food, under a penalty of not less than five nor more than twenty-five dollars for each and every such offense.

SEC. 9. No person shall sell or offer for sale in the District of Columbia any sheep or lamb slaughtered for food until the pelt, head, and feet thereof shall have been removed; any person violating any of the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than one dollar nor more than twenty-five dollars for each and every such offense.

SEC. 12. Every manager of a store, market, cafe, lunchroom, or of any other place where a food or a beverage is manufactured or prepared for sale, stored for sale, offered for sale, or sold, which store, cafe, lunchroom, or other place is in operation at the time of the promulgation of this regulation, shall, on or before July 1, 1907, register his full name, and the location of said store, market, cafe, lunchroom, or other place, and the nature of the business transacted, in a book to be kept in the health office for that purpose; and every manager of a store, market, cafe, lunchroom, or other place where a food or beverage is manufactured or prepared for sale, stored for sale, offered for sale, or sold, that is first opened for business after the promulgation of this regulation shall, within five days after the opening of said store, market, cafe, lunchroom, or other place, register in like manner. In event of a change in the manager or in the location of any store, market, cafe, lunchroom, or other place aforesaid, the manager thereof shall call at the health office within five days after such change takes place and make a corresponding entry. Any person who violates the provisions of this regulation shall, upon conviction thereof, be punished by a fine not exceeding twenty-five dollars for each and every such offense. (Commissioners' order of April 5, 1907.)

SEC. 12a. No restaurant, oyster house, cook shop, ice cream parlor, dairy lunch, eating house by whatsoever name designated, where food, meals, or refreshments are served to transient customers, to be eaten on the premises where sold, shall be established, maintained, or continued without a certificate from the health officer, that the premises are in a proper sanitary condition in which to conduct such business. Any person who violates the provisions of this regulation shall, upon conviction thereof, be punished by a fine not exceeding \$25 for each and every such offense. (Commissioners' orders of November 24, 1909, and December 28, 1909.)

SEC. 13. Every manager of a store, market, dairy, cafe, lunchroom, or any other place in the District of Columbia, where a food, or a beverage, or confectionery, or any similar article is manufactured or prepared for sale, stored for sale, offered for sale, or sold, shall cause it to be screened effectually, or effectually protected by power-driven fan or fans, so as to prevent flies and other insects from obtaining access to such food, beverage, confectionery, or other article, and shall keep such food, beverage, confectionery, or other article free from flies and other insects at all times. Any person violating the provisions of this regulation shall, upon conviction thereof, be punished by a fine of not more than twenty-five dollars for each and every such offense. This regulation shall take effect from and after the expiration of thirty days immediately following the date of its promulgation.

SEC. 14. Every manager of a store, market, dairy, cafe, lunchroom, or of any other place in the District of Columbia where a food, or a beverage, or confectionery, or any similar article, is manufactured or prepared for sale, stored for sale, offered for sale, or sold, shall equip said store, market, dairy, cafe, lunchroom, or other place, with running water or other proper water supply if running water be not available and with facilities and material for the proper washing, and shall cause such washing to be done, of the hands of all persons employed therein, and for the proper cleansing, and shall cause such cleansing to be done, of said store, market, dairy, cafe, lunchroom, or other place, and of all apparatus, utensils and materials used in connection therewith. Any person violating the provisions of this regulation shall upon conviction thereof, be punished by a fine of not more than twenty-five dollars for each and every such offense. This regulation shall take effect from and after the expiration of thirty days immediately following the date of its promulgation. (Commissioners' order of May 31, 1907, as amended by orders of June 10, 1907, and April 11, 1908.)

SEC. 15. No person shall use any premises or any part of any premises in the District of Columbia, for the preparation, manufacture, or storage for sale, or for the offering for sale, exchange, or delivery, of any food, drink, confectionery, or condiment for man, unless such premises or part of premises be provided with running water or other proper water supply if running water be not available, and with all necessary facilities, apparatus, and material, for the proper cleansing of said premises or part of premises, and of all apparatus, utensils, and materials used in connection therewith, and for the proper cleansing of the hands of all the per-

sons employed therein. Any person violating any of the provisions thereof, shall be punished by a fine of not more than twenty-five dollars for each and every such offense, and each day's violation shall be deemed to be a separate offense. (Commissioners' order of November 17, 1908.)

NOTE: See also No. 116.

PART II.

Special Food Laws.

Beverages.

See Nos. 3, 11d and 84 et seq.

Bread.

See Nos. 3, 11d and 112.

Coffee.

See No. 3.

Confectionery.

12. Adulteration of Candy Prohibited.—No person or corporation shall, by himself, his servant, or agent, or as the servant or agent of any other person or corporation, manufacture for sale or knowingly sell or offer to sell any candy adulterated by the admixture of terra alba, barytes, talc, or any other mineral substance, by poisonous colors or flavors, or other ingredients deleterious or detrimental to health. (30 Stat. 398; Act May 5, 1898, c. 241, § 1.)

13. Penalty for Violation.—Any person or corporation convicted of violating any of the provisions of this act shall be punished by a fine not exceeding one hundred dollars. The candy so adulterated shall be forfeited and destroyed under the direction of the court. (Id. § 2.)

14. Prosecution of Complaints.—It is hereby made the duty of the prosecuting attorneys of the District of Columbia to appear for the people and to attend to the prosecution of all complaints under this act in all the courts of said District. (Id. § 3.)

NOTE: See also Nos. 11 and 11d.

Dairy Products—Substitutes for Dairy Products.

15. Milk, Cream, and Ice Cream—Sale, Etc., of, Regulated.—From and after the passage of this act none but pure, clean, and wholesome milk, cream, or ice cream conforming to the definitions hereinafter specified shall be produced in or shipped into the District of Columbia or held or offered for sale therein, and then only as hereinafter provided. (43 Stat. 1004; Act Feb. 27, 1925, c. 358, § 1.)

16. Dairy Requirements—Permits—Application Details—Certificate of Soundness of Cattle, Etc., Required—Provisos—Extension of "Person"—State, Etc., Certificate Accepted—Action on Applications.—No person shall keep or maintain a dairy or dairy farm within the District of Columbia, or produce for sale any milk or cream therein, or bring or send into said District for sale, any milk, cream, or ice cream without a permit so to do from the health officer of said District, and then only in accordance with the terms of said permit. Said permit shall be for the calendar year only in which it is issued and shall be renewable annually on the 1st day of January of each calendar year thereafter. Application for said permit shall be in writing upon a form prescribed by said health officer and shall be accompanied by such detailed description of the dairy or dairy farm or other place where said milk, cream, or ice cream are produced, handled, stored, manufactured, sold, or offered for sale as the said health officer may require, and shall be accompanied by a certificate signed by an official of the

Health Department of the District of Columbia, the United States Department of Agriculture, or some veterinarian authorized by the United States Department of Agriculture or the Health Department of the District of Columbia, detailed for the purpose, certifying that the cattle producing such milk or cream are physically sound, and in the case of milk or cream held, offered for sale, or sold as such shall in addition be accompanied by a certificate signed by one of the officials aforesaid certifying the cattle producing such milk or cream have reacted negatively to the tuberculin test as prescribed by the Bureau of Animal Industry, United States Department of Agriculture, within one year previous to the filing of the application: Provided, that the words "person" or "persons" in this act shall be taken and construed to include firms, associations, partnerships, and corporations, as well as individuals: Provided, further, that the health officer may accept the certification of a State or municipal health officer: And, provided, further, that final action on each application shall, if practicable, be taken within thirty days after the receipt of such application at the Health Department. (Id. § 2.)

17. Suspension of Permits for Cause—Proviso—Notice to Permit Holder.—The health officer is hereby authorized and empowered to suspend any permit issued under authority of this act whenever in his opinion the public health is endangered by the impurity or unwholesomeness of the milk, cream, or ice cream supplied by any person and such suspension shall remain in force until such time as the said health officer is satisfied the danger no longer continues: Provided, that whenever any permit is suspended the health officer shall furnish in writing to the holder of said permit his reasons for such suspension, and the dealer receiving such milk or cream shall also be promptly notified by the health officer of such suspension. (Id. § 3.)

18. Shipments for Ice Cream—Proviso—Health Requirements.—Nothing in this act shall be construed to prohibit interstate shipments of milk or cream into the District of Columbia for manufacturing into ice cream: Provided, that such milk or cream is produced or handled in accordance with the specifications of an authorized medical milk commission or a State Board of Health. (Id. § 4.)

19. Effect of Refusal to Permit Inspection of Dairy, Etc.—Failure or refusal on the part of any person holding a permit under authority of this act to permit the health officer of the District of Columbia, or his duly appointed representative, to inspect the dairy, dairy farm, cattle, and all appurtenances of such dairy, dairy farm, or other places where said milk, cream, or ice cream are produced, stored, manufactured, handled, offered for sale, or sold may be deemed sufficient to suspend or revoke such permit at the discretion of said health officer. (Id. § 5.)

20. Seizure of Milk, Etc., Brought Into the District in Violation Hereof—Notice to Owner, Etc.—The health officer or his duly appointed representative be, and he is hereby, authorized to seize all milk, cream, or ice cream which may, in violation of the provisions of this act, be brought into the District of Columbia. The owner of any such milk, cream, or ice cream shall be at once notified of such seizure; and if he shall fail within twenty-four hours to direct the removal of the same from the District of Columbia, the health officer may destroy or otherwise dispose of the said milk, cream, or ice cream. (Id. § 6.)

21. Regulations Authorized, Etc., to Protect Domestic Supply—Proviso—Newspaper Publication.—The health officer of the District of Columbia, under the direction of and with the approval of the commissioners of said District, is hereby authorized and empowered to make and enforce all such reasonable regulations, consistent with this act, from time to time, as he may deem proper, to protect the milk, cream, and ice cream supply of the said District of Columbia: Provided, however, that such regulations shall be published once at least thirty days in some daily newspaper in the District of Columbia of general circulation before any penalty be exacted for violation thereof. (Id. § 7.)

22. Name of Owner, Etc., on Wagons—Proviso—Trucks Bringing Milk, Etc., Into the District.—All milk wagons within the District of Columbia shall have the name of the owner, the number of the permit, and the location of the dairy from which said wagons haul milk or cream painted thereon plainly and legibly: Provided, that all trucks or wagons engaged in bringing milk, cream, or ice cream into the said District shall have the name and address of the owner painted plainly and legibly thereon. (Id. § 8.)

23. Sellers to Post Names of Persons From Whom Milk, Etc., Received—Proviso—General Distributors.—All persons within the District of Columbia, having or offering for sale, or having in their possession with intent to sell milk, cream, or ice cream, shall at all times keep the name or names of the person or persons from whom the said milk, cream, or ice cream have been obtained posted in a conspicuous place wherever such milk, cream, or ice cream are kept or offered

for sale: Provided, however, that general distributors of milk, cream, or ice cream shall only be required to keep a record of the name of all persons from whom said distributor is receiving milk, cream, or ice cream, which record shall at all times be open to inspection by the health officer or his duly authorized representative. (Id. § 9.)

24. Indicative Labels Required for "Skimmed Milk," Etc.—No person shall sell, exchange, or deliver, or have in his possession with intent to sell, exchange, or deliver, any "skimmed milk," or "reconstructed milk," or "reconstructed cream" unless every can, vessel, package, or container is plainly labeled conveying to the purchaser the exact nature of its contents. (Id. § 10.)

25. Restriction on Sales Before and After Parturition.—It shall be unlawful for any person or persons to sell, offer for sale, or have in their possession with intent to sell, within the District of Columbia, milk or cream taken from cows less than fifteen days before or seven days after parturition, nor shall any such milk or cream be used in the manufacture of ice cream. (Id. § 11.)

26. Permit Holder, to Report if Communicable Disease in Himself, Family, Etc.—Any person or persons holding a permit issued under authority of this act being afflicted, or any member of his family, hired help, or other person on said dairy farm being afflicted with a communicable disease, or if he has reason to suspect any such communicable disease, shall report the same to the health officer of the District of Columbia within twenty-four hours after becoming aware thereof. Willful violation of this section shall be deemed sufficient cause for revocation of said permit. (Id. § 12.)

27. Meaning of Words—"Milk"—"Cream"—"Pasteurized"—"Raw Milk"—Examination of Cows, by Health Official, Etc.—Proviso—Additions to Herd to be Tested—Rating of Farm, Etc.—"Pasteurized Milk"—Requirements—Rating of Farm, Etc.—"Certified Milk"—"Reconstructed Milk" or "Cream"—"Skimmed Milk"—"Ice Cream."—For the purpose and within the meaning of this act "milk" shall be held to be the lacteal secretion obtained from the complete milking of cows.

"Cream" is that portion of the milk rich in fat which rises to the surface of the milk on standing or is separated from it by centrifugal force or otherwise, and shall contain not less than 20 per centum of butter fat and shall not be offered for sale or sold unless and until it has been pasteurized under regulations prescribed by the health officer, and shall be free from pathogenic organisms and from visible dirt.

The term "pasteurized" as used in the act shall be held to mean the heating of milk or cream to a temperature of not less than one hundred and forty-two degrees Fahrenheit and maintained at such temperature for a period of not less than thirty minutes, then immediately cooled to a temperature of not more than forty-five degrees Fahrenheit and maintained at not more than that temperature.

"Raw milk" is milk produced from healthy cows as determined by physical examination and by a tuberculin test made within one year previous to the time of filing of the application; said physical examination and tuberculin test shall be made by an official of the Health Department of the District of Columbia, the United States Department of Agriculture, or some veterinarian authorized by the United States Department of Agriculture or the Health Department of the District of Columbia, to make such examination and tuberculin test; and said tuberculin test shall be repeated at least one time during each succeeding calendar year; and when reactors are found in any dairy herd licensed under this act, the tuberculin test shall be repeated semi-annually thereafter until such time as tuberculosis is eradicated from the herd [herd]: Provided, that no cow or bull shall be added to any dairy herd licensed under this act until such cow or bull has first been physically examined and tuberculin tested as hereinbefore provided. The farm on which the milk is produced shall rate not less than 80 per centum, the dairy from which such milk is sold or distributed not less than 90 per centum, and the cows producing the milk not less than 95 per centum on the rating cards in use at the time by the Health Department of the District of Columbia, and said milk shall not at any time contain less than 3.5 per centum of butter fat nor less than 11.5 per centum of total solids; nor shall it contain when delivered to the consumer more than twenty thousand bacteria per cubic centimeter total count, and no colon bacilli or other pathogenic organism shall be present in one-fiftieth cubic centimeter, and the milk shall be free from all visible dirt.

"Pasteurized milk" is milk produced from healthy cows, as determined by the physical examination and tuberculin test as hereinbefore provided for "raw" milk. Said milk shall be pasteurized under regulations prescribed by the health officer. The milk immediately after being pasteurized shall be cooled to a temperature of

not more than forty-five degrees Fahrenheit and maintained to at least such temperature. The farm on which the milk is produced must rate not less than 70 per centum, the dairy from which said milk is sold or distributed not less than 85 per centum, and the cows producing the milk not less than 90 per centum on the rating cards now in use by the Health Department of the District of Columbia. It shall not contain less than 3.5 per centum of butter fat or 11.5 per centum total solids; nor shall it contain when delivered to the consumer more than forty thousand bacteria, total count, per cubic centimeter, and be free from colon bacilli and other pathogenic organisms and all visible dirt. No such milk shall be pasteurized more than one time.

"Certified milk" is milk produced and handled in accordance with specifications of an authorized medical milk commission and must be labeled according to the specifications of the commission which certifies to the quality of the product. A copy of the necessary articles of certification must be filed in the Health Department of the District of Columbia and be approved by the health officer of said District.

"Reconstructed milk" or "cream" means milk or cream which has been concentrated or dried in any manner and subsequently restored to a liquid state.

"Skimmed milk" is that part of milk from which the fat has been partly or entirely removed and shall contain not less than 9 per centum of milk solids, inclusive of fat.

"Ice cream" means the frozen product or mixture made from pasteurized cream, milk, or product of milk sweetened with sugar, to which has been added pure, wholesome food gelatin, vegetable gum, or other thickener, with or without wholesome flavoring extract, fruits, nuts, cocoa, chocolate, eggs, cake, candy, or confections, and which contains not less than 8 per centum, by weight, of milk (butter) fat. (Id. § 13.)

28. Sales Restricted to Compliance With Definitions—Marking on Containers.—No person in the District of Columbia shall handle, sell, offer for sale, or have in his possession with intent to sell, any milk, cream, or ice cream which does not comply with the definitions hereinbefore specified, and all bottles, cans, vessels, or other containers in which said milk or cream is sold or offered for sale shall have plainly and legibly printed thereon the grade of the milk or cream which is contained therein. (Id. § 14.)

29. Regulations for Pasteurization.—The pasteurization of all milk or cream required under this act to be pasteurized shall be done under regulations to be prescribed by the health officer of the District of Columbia and open to the supervision of said health officer. (Id. § 15.)

30. Molesting Health Officer a Violation of the Act.—Any person who shall molest, hinder, or in any manner prevent said health officer or his duly appointed agent from performing any duty imposed upon him or them by the provisions of this act shall be deemed guilty of violating the provisions of said act and be liable to the penalty prescribed therefor. (Id. § 16.)

31. Record to be Kept by Shippers Into the District—Inclusion of Other Places.—Every person, or persons, receiving a permit to ship milk or cream into the District of Columbia from any creamery, or receiving station, aforesaid, shall keep posted at all times in such creamery, or receiving station, the names of all persons licensed under this act, who are delivering milk or cream at any such creamery, or receiving station, and shall keep a record of all milk and cream received, and furnish from time to time a sworn statement giving such information relative thereto as the said health officer may require. The health officer of the District of Columbia shall have power by regulation to include other places than creameries or receiving stations, under the provisions of this section, from time to time, as may be necessary in his judgment. (Id. § 17.)

32. Receiving Milk From Other Than a Licensee Forbidden.—No person in the District of Columbia licensed under this act shall receive any milk or cream from any source until he shall have first ascertained from the Health Department that the person from whom such milk is obtained holds a license from the health officer of said District to send milk or cream into the District of Columbia. (Id. § 18.)

33. Punishment for Violations—Prosecutions in Police Court.—Any person or persons violating any of the provisions of this act, or of any of the regulations promulgated hereunder, shall, on conviction, be punished for the first offense by a fine of not more than \$10; for the second offense by a fine of not more than \$50, and for any subsequent offenses within one year, a fine of not more than \$500, or by imprisonment in the workhouse for not more than thirty days, or by both such fine and imprisonment, in the discretion of the court, and

in addition any license issued under authority of this act may be revoked. Prosecutions hereunder shall be in the police court by the District of Columbia. (Id. § 19.)

34. Protection of Dairymen—Oleo-Margarine to be Marked.—Every person who shall manufacture for sale, or who shall offer or expose for sale, any article or substance in semblance of butter or cheese, not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals, not produced from milk, enters as a component part, or into which melted butter, or any oil thereof, has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon every tub, firkin, box or package of such article or substance, the word Oleo-Margarine, in plain Roman letters, not less than half an inch square placed horizontally in proper order thus:

OLEO-MARGARINE

And in case of retail sales of such article or substance in parcels the seller shall in all cases deliver therewith to the purchaser a written or printed label bearing the plainly written or printed word Oleo-Margarine, in type or letters as aforesaid; and every sale of such article or substance not so stamped, branded, marked, or labeled shall be void, and no action shall be maintained for the price thereof. (20 Stat. 264; Act Jan. 25, 1879, c. 22, § 1.)

35. Penalty for Not Marking.—Every person who shall sell, or offer to sell, or have in his or her possession with intent to sell, contrary to the provisions of this act, any of the said article or substance required by the first section of this act to be stamped, marked, or labeled as therein stated, not so stamped, marked, or labeled, or in case of retail sale without delivery of a label required by section one of this act, shall, for each such offense, forfeit and pay a fine of one hundred dollars, to be recovered by indictment in any court of the District of Columbia of competent jurisdiction for the trial of misdemeanors, and the one-half of such fine when paid to go to the informer, and the residue to be paid into the treasury of the District of Columbia. (Id. § 2.)

36. Penalty for Selling Without Label, Etc.—Every person who shall sell, or offer or expose for sale, or who shall cause or procure to be sold, or offered or exposed for sale, any article or substance required by the first section of this act to be marked, branded, stamped, or labeled, not so marked, branded, stamped, or labeled, shall be guilty of a misdemeanor, and on trial for such misdemeanor, proof of the sale or offer or exposal alleged shall be presumptive evidence of knowledge of the character of the article so sold or offered. (Id. § 3.)

NOTE: See also No. 3; No. 11; No. 11d; the milk container law, No. 86 et seq.; the weights and measures law, No. 113.

Fish.

See Nos. 11d, 54a and 118.

Flour.

37. Inspection of Flour—Inspectors.—The commissioners of the District of Columbia shall appoint for said District two inspectors of flour, who shall be competent judges of flour; said inspectors to hold said offices two years, unless sooner removed by the said commissioners. (30 Stat. 765; Act Dec. 21, 1898, c. 30, § 1.)

38. Oath of.—The said inspectors, before entering upon the duties of their office, shall make oath or affirmation before a notary public that without favor, affection, malice, partiality, or respect of person they will diligently and carefully view, examine, and inspect, to the best of their skill and knowledge, all flour required by this act to be inspected by them; that they will not pass or cause to be passed any barrels or half barrels or sacks of flour which are not in their judgment clean, sweet, and merchantable, according to the directions of this act; also that they will not charge, ask, or take or receive any other or larger fees for doing their duty as inspectors of flour than are mentioned and directed by this act; that they will diligently and carefully view and examine all barrels, half barrels, and sacks containing flour, and that they will not mark or pass, or cause to be passed, any barrel, half barrel, or sack of flour, unless such barrel, half barrel, or sack be of the size and quality required as by this act; and said oaths shall be filed in the office of said commissioners. (Id. § 2.)

39. Barrels, Dimensions of, Etc.—All barrels and half barrels containing flour, manufactured within the District of Columbia, or brought to the same

for sale, shall be well made, of good, clean material, and tightened with ten or twelve hoops, sufficiently nailed with four nails in each chime hoop, and of the following dimensions, namely: The staves of all barrels to be in length not less than twenty-seven inches; the diameter at the head to be seventeen inches; and the staves of all half-barrels to be twenty inches in length, and the diameter of the head thirteen inches. Flour barrels weighing not less than sixteen pounds tared or marked on the branded head shall be deemed merchantable. (Id. § 3.)

40. False Packing or Mixing—Penalty.—Every barrel and half barrel or sack of flour manufactured within the District of Columbia or brought to the same for sale shall, by the manufacturer, be made merchantable and of due fineness, without false packing or mixing; and if there is any false packing or mixture, the manufacturers or persons offering the same for sale or inspection shall forfeit and pay to the District of Columbia a fine of not less than one dollar nor more than five dollars for each and every such barrel and half barrel or sack, to be recovered as other fines and penalties are recovered. (Id. § 4.)

41. Quantity in Barrels and Half Barrels—Short Weight—Penalty—Ascertainment of.—Every miller or bolter of flour shall put into barrels the quantity of one hundred and ninety-six pounds, and into half barrels the quantity of ninety-eight pounds; and if any miller or bolter of flour shall pack any barrel or half-barrel with a less quantity of flour than by this act is required, he shall forfeit, if the deficiency be one pound, a sum not exceeding ten cents, and for every pound above one deficient, twenty-five cents; and said inspectors are hereby required, whenever they, or either of them, have reason to suspect that any barrel or half-barrel containing flour is falsely tared, to cause the flour to be started and the barrel or half-barrel weighed; and whenever it shall appear that the barrel and half-barrel weigh more than they are marked by the miller or owner, the said miller or owner shall forfeit and pay to the said District for each such offense at the rate of ten cents for every pound after the first that the barrel or half-barrel may weigh short, and shall moreover pay twenty-five cents for each and every barrel or half barrel, unless on examination the tare should prove correct, then in that case the cost and charges shall be paid by the inspector. (Id. § 5.)

42. Inspection by Boring, Etc.—Branding—Merchantable Flour—Grades—Compensation of Inspector—Branding Unmerchantable Flour—Penalty.—Each and every barrel and half-barrel or sack of flour manufactured in the District or brought to the same for sale, or to be manufactured into bread, shall be subject to the examination of the inspector by borings and searchings with an instrument not exceeding five-eighths of an inch in diameter for barrels and one-fourth of an inch for jute or cotton sacks, to be provided by the inspector for that purpose, or by opening the sacks, or by opening sacked flour to such an extent as the inspector may deem necessary, who shall afterwards plug up the hole in the barrel or half-barrel with a round plug, made of soft wood, so as to prevent the entrance of water; and if the inspector shall judge the same to be merchantable according to the directions of this act, he shall, at the time of the inspection, mark, brand, or stencil on the side of every barrel or half barrel, in letters one-half inch in length, the name "Washington," together with a word or words designating the degree of fineness which he shall, at the time of inspection, determine said flour entitled to, with the exception of the degree of superfine, which he shall mark or brand over the quarter; and the several degrees in quality shall be distinguished as follows: Family, extra, superfine, fine, and first middlings. And for the inspection of each barrel or half-barrel of flour the said inspector shall have and receive of the owner or agents of said flour, for each and every barrel and half-barrel, one cent and one drawing of flour, and for all sacks at the rate of one cent for one hundred and ninety-six pounds without drawings, except for sampling purposes; and every barrel or half-barrel or sack of flour which shall prove on examination thereof to be unmerchantable according to the true intent and meaning of this act, said inspector shall mark on the head with a broad arrow; and no barrel, half-barrel, or sack of flour not examined and branded by the inspector as aforesaid shall be sold within the District under fine of one dollar for each and every barrel, half-barrel, or sack, to be collected as other fines and penalties are collected. (Id. § 6; amended 31 Stat. 218, Act May 26, 1900, c. 588.)

43. Commissioners of Flour Inspection; Duties, Etc.—The Commissioners of the District of Columbia be, and they are hereby, authorized to appoint three good and competent judges of flour (practical millers, bakers, or flour merchants) as commissioners of flour inspectors, whose duty it shall be on the first day of March, eighteen hundred and ninety-nine, and monthly thereafter, to select the standard for each grade of flour named in the sixth and tenth sections of this

act; and each commissioner shall keep a standard for each grade for the examination of inspectors and for their government in inspection. (30 Stat. 765; Act Dec. 21, 1898, c. 30, § 7.)

44. Appeal From Inspector to Commissioners—Judgment—Costs.—When any person shall think himself aggrieved by the judgment of the inspector, it shall be lawful for him within six days to apply to the commissioners of inspection, who shall immediately view and carefully examine the flour in question; and if a majority of the commission declare the quality different from that adjudged by the inspector, the brand or broad arrow shall be erased, and the inspectors shall be required to put such brand as they shall adjudge and determine, the cost of such review to be paid by the inspector; but should the judgment of the inspector be confirmed, then, in that case, the owner shall pay the cost of the review; and each commissioner shall be entitled to receive the sum of five dollars for his services. (Id. § 8.)

45. Coöperage of Wet or Light Flour—Inspectors Not to Purchase.—Said inspectors be, and they are hereby, authorized to require the coöperage of any wet or light flour which they may inspect, in order to make it merchantable; and no inspector shall purchase, directly or indirectly, any flour other than for his own use, under a penalty of ten dollars for each barrel or half-barrel purchased. (Id. § 9.)

46. Rye Flour, Grades Established.—In addition to the grades of flour established by the sixth section of this act, there are hereby established two grades of rye flour, namely, first and second quality; and it shall be the duty of the inspector to brand or mark under his inspection mark the words "rye flour" on all flour made of this grade and packed in barrels or half-barrels. (Id. § 10.)

47. Penalty for Fraudulent Marking or Packing.—Any person or persons who shall alter, erase, or deface the mark or brand made on any barrel or half-barrel of flour by the inspector, or who shall mark or brand any barrel or half-barrel of flour which has not been inspected with any mark or brand similar to or in imitation of that made by the inspector, or, after the inspector shall have passed any barrel or half barrel of flour as merchantable, shall add any mark or brand designating the quality different from that determined upon and made by the inspector, or who shall pack into any barrel or half barrel flour which shall have been branded or marked with the broad arrow, or who shall in any manner pack flour into barrels or half-barrels already branded, without erasing therefrom the marks or brands, such person or persons shall be liable to a fine of one dollar for each such offense, to be collected in the name of the District of Columbia in the police court of said District. (Id. § 11.)

48. Bond of Inspectors.—Before said inspectors shall enter upon the duties of their office they shall give bond in the penalty of one thousand dollars, with security to be approved by said commissioners, conditioned for the faithful performance of their duties. (Id. § 12.)

49. Blended Flour, Branding of.—All flour blended in the District of Columbia shall not be liable to a second inspection; but the inspectors of flour shall, free of charge, brand barrels and half-barrels or sacks of such flour with a mark designating the grade or quality of the same. (Id. § 13.)

NOTE: See also No. 3.

Fruit Juices.

See No. 3.

Fruits, Vegetables, Etc.

See Nos. 11d, 54a and 114.

Glucose.

See No. 3.

Ice.

See No. 111.

Lard.

See No. 3.

Meat—Meat Products.

50. Kosher Meat—Unlawful Acts—Sale of Other Meat as—False Labeling—Without Descriptive Business Signs.—After the enactment of this act it shall be unlawful for any person—

(a) To sell or offer for sale within the District of Columbia as kosher, any meat which is not kosher;

(b) To label or brand as kosher any meat, or the package containing any meat, sold or offered for sale or prepared within the District of Columbia, which is not kosher; or

(c) To sell or offer for sale within the District of Columbia in the same place of business both kosher and nonkosher meats, (1) without displaying conspicuously in said place of business a sign in block letters at least four inches in height containing the words "kosher and nonkosher meat sold here," and (2) without displaying over such kosher meat the words "kosher meat," and over such nonkosher meat the words "nonkosher meat," in block letters at least four inches in height. (U. S. Stat. 1925-1926, p. 253; Act April 15, 1926, c. 145, § 1.)

51. Terms Construed—"Meat"—"Person."—As used in this act:

(a) The term "meat" includes raw meat and meat prepared for human consumption, whether alone or in combination with other products;

(b) The term "person" means individual, partnership, corporation, or association. (Id. § 2.)

52. Punishment for Violations—Exceptions.—Any person who violates any provision of this act shall, upon conviction thereof, be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment, but no person shall be convicted of any such violation in respect of any meat which was not kosher at the time he acquired such meat, if he acquired it in good faith as kosher from a person duly authorized in accordance with the orthodox Hebrew ritual to prepare kosher. (Id. § 3.)

NOTE: See also Nos. 3, 11d and 54a.

Olive Oil.

See No. 3.

Oysters, Etc.

See Nos. 11d and 118.

Tea.

See No. 3.

Vinegar.

See No. 3.

Wine.

See No. 3.

Sanitation.

53. Classes of Work Prohibited by Persons With Infectious Disease.—No person knowing that he is suffering from a venereal disease in a form likely to be a source of infection to others shall work as a barber, masseur, cook, baker, or other producer or handler of food or drink or in any profession, trade, or occupation in which by reason of the disease from which he is suffering the public health is endangered, nor shall any such person be employed or permitted to work in such occupation. (43 Stat. 1003; Act Feb. 26, 1925, c. 355, § 19.)

54. Punishment for Violations.—Any person who violates any of the provisions of this act shall, on conviction thereof, be punished for the first offense by a fine not exceeding \$100, and for the second or any subsequent offenses by a fine not exceeding \$300, or by imprisonment in the workhouse for not exceeding sixty days, or by both such fines and imprisonment, in the discretion of the court. (Id. § 21.)

54a. An Ordinance to Provide for the Inspection of Streets, Food, Live Stock, Fish, and Other Marine Products in the Cities of Washington and Georgetown, and to Define the Duties of Inspectors and Other Officers of the Board of Health.—

SEC. 1. There shall be appointed by the board of health a health officer and such inspectors as may be required, who shall be assigned to the several duties of inspection of streets, of food, of live stock, of fish and other marine products, or detailed for the performance of such other duties as may be necessary.

SEC. 2. That it shall be the duty of the health officer, as he may be directed by this board, to execute or cause to be executed the ordinances, resolutions, and orders of the board, and generally, according to its instructions, to exercise a practical supervision in respect to inspectors, poundmasters, and the clerical force in his office; and said health officer shall devote his services to the aforesaid purposes as the board may direct.

SEC. 3. That it shall be the duty of each inspector of streets to visit every part of his district daily, and carefully inspect all streets, alleys, yards, and inclosures, horse and cow stables, privies, slaughterhouses, wharves, and every other place where offensive or deleterious matter may exist, and to report promptly to the health officer any and all nuisances injurious to health; and the inspectors of streets shall perform such other duties and special inspections as may be directed by the health officer.

SEC. 4. That it shall be the duty of each inspector of food to attend the market or markets within his inspection district every morning, at the time when sales commence, and carefully inspect all meats, fowl, game, and vegetables offered for sale, and condemn, seize, and cause to be removed such as may be diseased or from any other cause rendered unfit for food. He shall also visit, as early as practicable each day, every green grocery or other place within his district where articles of food are kept for sale, and perform his duty of inspection, condemnation, seizure, and removal as hereinbefore prescribed. He shall report his official proceedings daily to the health officer, and in the performance of his duties shall be under the direction of said officer; and the inspectors of food shall perform such other duties and special inspections as may be directed by the health officer.

SEC. 5. That it shall be the duty of the inspector of live stock to carefully inspect all cattle, hogs, sheep, or other animals intended to be killed and sold for consumption as food in the cities of Washington and Georgetown, and to condemn all such as may be diseased, or from any other cause rendered unfit for food; and it is hereby made the duty of said inspector to brand with the letter "C" all cattle, hogs, sheep or other animals condemned as aforesaid, and said inspector shall report his official proceedings daily to the health officer.

SEC. 6. That it shall be the duty of the inspector of fish and other marine products* to examine and inspect all fish, oysters, clams, lobsters, and other marine products, landing by boat, arriving by rail, or otherwise brought by any person or persons into the cities of Washington and Georgetown; and if, upon such inspection, said inspector shall find any of the said marine products to be in an unsound, diseased, or unwholesome condition, it shall be his duty to prohibit their sale; and the said inspector of fish is hereby authorized, empowered and directed to condemn, seize, and remove any unsound, diseased, or unwholesome fish, oysters, clams, lobsters, crabs or other marine products which may be offered for sale as food within the cities of Washington and Georgetown.

SEC. 7. That in the performance of the duties herein prescribed the inspector of fish shall be, and is hereby, authorized and empowered to board all boats, vessels, steamboats, and cars, and to stop all vehicles believed by him to contain fish or other marine products, for the purpose of enforcing the provisions of this ordinance, and said inspector shall report his official proceedings daily to the health officer.

SEC. 8. That upon any cattle, meat, birds, fowls, fish or other marine products, vegetables, or other articles of food, being found by any inspector or other officer of the Board of Health in a condition which is, in his judgment, unwholesome and unfit for use as human food, or in a condition or of a quality forbidden by the ordinances of this board, but with respect to the quality and condition of which articles of food said inspector or other officer may be in doubt, he shall forbid the sale thereof, and order that the same be set aside, and shall at once notify the health officer of such action; and if, upon inspection, the health officer shall concur in the judgment of the inspector or other officer aforesaid, said health officer shall prohibit the

*The duties of the inspector of fish and other marine products were transferred to the sanitary and food inspectors by act of May 26, 1908.

sale and order the removal of said articles, according to the regulations of the Board of Health; and if the health officer shall not concur in the judgment of the inspector or other officer aforesaid, the sale of said articles shall be allowed. But if, upon inspection, the health officer is in doubt as to whether said articles should be condemned or not, then the committee on food inspections of the Board of Health shall decide whether or not said articles shall be condemned and the sale thereof forbidden: Provided, that no article of food in a decayed or offensive condition shall be allowed to remain where found, but the same shall be caused to be removed forthwith by the inspector or officer aforesaid, according to the rules and regulations of the Board of Health.

SEC. 9. That any person who shall molest, hinder, or in any manner prevent said health officer or any inspector appointed by this board from performing any duty imposed upon him or them by the provisions of this ordinance shall be punished by fine of not less than twenty nor more than one hundred dollars for each and every such offense.

NOTE: See also No. 11d and the dairy law, No. 15 et seq.

PART III.

Special Drug Laws.

Abortifacients.

55. Indecent Publications.—Whoever sells, or offers to sell, or give away, in the District, or has in his possession with intent to sell or give away or to exhibit to another, any obscene, lewd, or indecent book, pamphlet, drawing, engraving, picture, photograph, instrument, or article of indecent or immoral use, or advertises the same for sale, or writes or prints any letter, circular, handbill, book, pamphlet, or notice of any kind stating by what means any of such articles may be obtained, or advertises any drug, nostrum, or instrument intended to produce abortion, or gives or participates in, or by bill, poster, or otherwise advertises, any public exhibition, show, performance, or play containing obscene, indecent, or lascivious language, postures, or suggestions, or otherwise offending public decency, shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned not more than one year, or both. (31 Stat. 1332; *Act Mar. 3, 1901, c. 854, § 872.)

Antiseptics.

See No. 2.

Cosmetics.

See No. 2.

Disinfectants.

See No. 2.

Distribution of Samples.

56. Peddling, Etc., of Drugs Prohibited—Leaving Drugs, Etc., on Streets, Etc., Prohibited.—It shall be unlawful for any person to sell or offer for sale by peddling, or to offer for sale from house to house, or to offer for sale by public outcry, or by vending in the street, any drug, medicine, or chemical, or any compound or combination thereof, or any implement, appliance, or other agency for the treatment of disease, injury, or deformity. That, except as may be otherwise authorized by law, no person shall throw, cast, deposit, drop, scatter, or leave, or cause to be thrown, cast, deposited, dropped, scattered, or left, any drug, medicine, or chemical, or any compound or combination thereof, upon any public

*An act to establish a code of law for the District of Columbia.

highway or place, or, without the consent of the owner or occupant thereof, upon any premises in the District of Columbia. (34 Stat. 181; *Act May 7, 1906, c. 2084, § 16.)

Pharmacy, Poisons and Narcotics.

57. Pharmacy Regulations—Sale of Drugs Restricted—Licensed Pharmacists in Drug Stores, Etc.—Provisos—Physicians, Dentists, and Veterinarians—Poisons Used in the Arts, Etc.—Permits to Sell—Sales by Minors—Household Ammonia, Lye, Etc.—Patent Medicines, Etc.—It shall be unlawful for any person not licensed as a pharmacist within the meaning of this act to conduct or manage any pharmacy, drug or chemical store, apothecary shop, or other place of business for the retailing, compounding, or dispensing of any drugs, chemicals, or poisons, or for the compounding of physicians' prescriptions, or to keep exposed for sale, at retail, any drugs, chemicals or poisons, except as hereinafter provided; or, except as hereinafter provided, for any person not licensed as a pharmacist within the meaning of this act to compound, dispense, or sell, at retail, any drug, chemical, poison, or pharmaceutical preparation upon the prescription of a physician, or otherwise, or to compound physicians' prescriptions, except as an aid to and under the proper supervision of a pharmacist licensed under this act. And it shall be unlawful for any owner or manager of a pharmacy, drug store, or other place of business to cause or permit any person other than a licensed pharmacist to compound, dispense, or sell, at retail, any drug, medicine, or poison, except as an aid to and under the proper supervision of a licensed pharmacist: Provided, that nothing in this section shall be construed to interfere with any legally registered practitioner of medicine, dentistry, or veterinary surgery in the compounding of his own prescriptions, or to prevent him from supplying to his patients such medicines as he may deem proper; nor with the exclusively wholesale business of any dealer who shall be licensed as a pharmacist, or who shall keep in his employ at least one person who is so licensed, except as hereinafter provided; nor with the sale by others than pharmacists of poisonous substances sold exclusively for use in the arts, or as insecticides, when such substances are sold in unbroken packages bearing labels having plainly printed upon them the name of the contents, the word "poison," when practicable the name of at least one suitable antidote, and the name and address of the vendor: Provided, further, that such person, firm, or corporation has obtained a permit from the board of supervisors in medicine and pharmacy, which grants the right and privilege to make such sales, such permit to be issued for a period of three years, and that each sale of such substance be registered as required of a licensed pharmacist, and it shall be unlawful for any person under the age of twenty-one years to sell such substances, and in no case shall the sale be made to a person under eighteen years of age except upon the written order of a person known or believed to be an adult: And provided, further, that persons other than registered pharmacists may sell household ammonia and concentrated lye, in sealed containers plainly labeled, so as to indicate the nature of the contents, with the word "poison," and with a statement of two or more antidotes to be used in case of poisoning, and may sell bicarbonate of soda, borax, cream of tartar, olive oil, sal ammoniac, and sal soda; and persons other than registered pharmacists may, furthermore, sell in original sealed containers, properly labeled, such compounds as are commonly known as "patent" or "proprietary" medicines, except those the sale of which is regulated by the provisions of sections eleven and thirteen of this act. (34 Stat. 175; Act May 7, 1906, c. 2084, § 1.)

58. Pharmacists Registered Under Prior Act—Examination, Etc., Not Required—Rights of.—Every person now registered as a pharmacist in the District of Columbia, under an act to regulate the practice of pharmacy in the District of Columbia, approved June fifteenth, eighteen hundred and seventy-eight, shall be entitled to be licensed under this act without examination or payment of fee, provided that he make application therefor on or before the thirty-first day of December next ensuing after the passage of this act. Any person registered as aforesaid shall, until said date, by virtue of such registration be entitled to all the rights, privileges, and immunities to which pharmacists licensed under this act are entitled, and be subject to all the obligations and duties of such licentiates. (Id. § 2.)

59. License Applications; Requirements.—Every person not registered under an act to regulate the practice of pharmacy in the District of Columbia, approved

*The Pharmacy act of May 7, 1906. See No. 57 et seq.

June 15, 1878, who shall desire to be licensed as a pharmacist shall file with the Board of Pharmacy an application, duly verified under oath, setting forth the name and age of the applicant, the experience which the applicant has had in compounding physicians' prescriptions under the direction of a licensed pharmacist, and the name and location of the school or college of pharmacy of which he is a graduate, and shall submit evidence sufficient to show to the satisfaction of said board that he is of good moral character and not addicted to the use of alcoholic liquors or narcotic drugs so as to render him unfit to practice pharmacy; and said applicant shall appear at a time and place designated by the Board of Pharmacy aforesaid and submit to an examination as to his qualifications for license as a pharmacist: Provided, that applicants shall be not less than twenty-one years of age, and in order to be entitled to an examination for the determination of his fitness to be licensed as a pharmacist in the District of Columbia, must have had not less than three years' experience in the practice of pharmacy under the instruction of a regular licensed pharmacist; and must be a graduate of an accredited school or college of pharmacy: Provided, however, that the Board of Pharmacy, in its discretion, may establish, by general rules, conditions upon compliance with which by any school or college of pharmacy, and under the submission by said school or college of evidence sufficient to prove such compliance to the satisfaction of said board, applicants who have been graduated by such school or college during any specified year or years may be allowed credit for experience in the practice of pharmacy by reason of attendance at and graduation by said school or college. (Id. § 3, as amended Act Mar. 4, 1927.)*

60. Issue of License.—If the applicant for license as a pharmacist has complied with the requirements of either of the two preceding sections, the Board of Supervisors in medicine and pharmacy shall issue to him a license which shall entitle him to practice pharmacy in the District of Columbia, subject to the provisions of this act. (34 Stat. 175; Act May 7, 1906, c. 2084, § 4.)

61. Registered Pharmacists From Other States, Etc.—License May Issue Without Examination—Proviso—Qualifications, Etc.—Fee.—The Board of Supervisors in medicine and pharmacy shall issue licenses to practice pharmacy in the District of Columbia without examination or after limited examination, as said board may determine, to such persons as have been legally registered or licensed as pharmacists in States, Territories, or foreign countries: Provided, that the applicant for such license present satisfactory evidence of qualifications equal to those required of licentiates examined under this act, and that he was registered or licensed after examination in such State, Territory, or foreign country not less than one year prior to the date of application; that the standard of competency required in such State, Territory, or foreign country is not lower than that required in the District of Columbia, and that such State, Territory, or foreign country accords similar recognition to licentiates of the District of Columbia, all of which shall be determinable by the Board of Supervisors aforesaid. Applicants for license under this section shall forward with their application a fee of ten dollars. (Id. § 5.)

62. Revocation of License.—The license of any person to practice pharmacy in the District of Columbia may be revoked if such person be found to have obtained such license by fraud; or to be addicted to the use of any narcotic or stimulant, or to be suffering from physical or mental disease, in such manner and to such an extent as to render it expedient that in the interests of the public his license be canceled; or to be of an immoral character; or if such person be convicted in any court of competent jurisdiction of any offense involving moral turpitude. It shall be the duty of the major and superintendent of police of said District to investigate any case in which it is discovered by him, or made to appear to his satisfaction, that any license issued under the provisions of this act is revocable and to report the result of such investigation to the Board of Supervisors in Medicine and Pharmacy, which board shall, after full hearing, if in their judgment the facts warrant it, revoke such license. (Id. § 6.)

63. Permits to Sell Poisons Used in the Arts, Etc.—In the month of November of each year every licensed pharmacist and every licensed dealer in poisons for use in the arts or as insecticides, whose license or permit has been issued not less than three years prior to the first day of such month, shall apply to the Board of Pharmacy for the renewal of such license or permit. And said board is hereby authorized, upon the payment of such fees as are hereinafter provided, to renew such license or permit in the month of November for a period of three years from the 31st day of October immediately preceding the date thereof. And every license

*In effect Mar. 4, 1928.

or permit not renewed within the month of November as aforesaid shall be void and of no effect unless and until renewed. Any license, permit, or renewal obtained through fraud or by any false or fraudulent representation shall be void and of no effect. No person shall make any false or fraudulent representation for the purpose of procuring a license, permit, or renewal thereof either for himself or for another.

In the event the board shall fail or refuse to renew any license or permit within the month of November, for which application has been made, it shall make written record of the reasons for such non-renewal. Upon request of the person seeking renewal of his license or permit, the board shall grant a hearing, and the applicant shall have the right to be represented by counsel, introduce evidence and examine and cross-examine witnesses. The secretary of the board is hereby empowered to administer oaths.

The said board shall have power to require the attendance of persons and the production of books and papers and to require such persons to testify in any and all matters within its jurisdiction. The chairman and the secretary of the board shall have power to issue subpoenas, and upon the failure of any person to attend as a witness when duly subpoenaed or to produce documents when duly directed by said board, the board shall have power to refer the said matter to any justice of the Supreme Court of the District of Columbia, who may order the attendance of such witness or the production of such books and papers or require the said witness to testify, as the case may be; and upon the failure of the witness to attend, to testify, or to produce such books or papers, as the case may be, such witness may be punished for contempt of court as for failure to obey a subpoena issued or to testify in a case pending before said court.

The board shall make a written report of its findings after such hearing, which report, with a transcript of the entire record of the proceedings, shall be filed with the Commissioners of the District of Columbia, and, if the board's finding shall be adverse to the person seeking reissuance of his license or permit, such license or permit shall stand revoked and annulled at the expiration of thirty days from the filing of such report, unless within said period of thirty days a writ of error shall be issued as hereinafter provided, in which event said license or permit shall stand suspended until the final determination of the court of appeals upon such writ of error. If an exception is taken to any ruling of the board on matter of law, the exception shall be reduced to writing and stated in the bill of exceptions with so much of the evidence as may be material to the question or questions raised, and such bill of exceptions shall be settled by the board and signed by the secretary within such time as the rules of the board may prescribe.

Any party aggrieved by the decision of the said board may seek a review thereof in the Court of Appeals of the District of Columbia by petition under oath setting forth concisely, but clearly and distinctly, the nature of the proceeding before said board, the trial and determination thereof, and the particular ruling upon matter of law to which exception has been taken, said petition to be presented to any justice of the Court of Appeals within thirty days after the filing of the report of said board with the commissioners, with such notice to the board as may be required by the rules of the Court of Appeals. If the justices shall be of the opinion that the action of the board ought to be reviewed, a writ of error shall be issued from the Court of Appeals, within such time as may be prescribed by that court, a transcript of the record in the case sought to be reviewed, and the Court of Appeals shall review said record and affirm, reverse, or modify the judgment in accordance with law.

Every license to practice pharmacy and every permit to sell poisons for use in the arts or as insecticides and every current renewal of such permit shall be conspicuously displayed by the person to whom the same has been issued in the pharmacy, drug store, or place of business, if any, of which the said person is the owner or manager. (Id. § 7, as amended Act Mar. 4, 1927.)*

64. Board of Pharmaceutical Examiners—Appointments—Oath—Annual Election of Officers—Meetings of Board—Duties.—There shall be in and for the District of Columbia a Board of Pharmaceutical Examiners, consisting of five licensed pharmacists, appointed by the commissioners of said District, each of whom shall have been for the five years immediately preceding, and shall be during the term of his appointment, actively engaged in the practice of pharmacy in said District. All appointments shall be made in such manner that the term of office of one examiner shall expire on the thirtieth day of June of each year, but every examiner shall hold office after the expiration of the term for which he has been formally appointed until his successor has been appointed and

*In effect Mar. 4, 1928.

qualified. No appointee shall enter upon the discharge of his duties until he has taken oath fairly and impartially to perform the same. Said Commissioners may remove, after full hearing, any member of said board for neglect of duty or other just cause.

That annually the Board of Pharmaceutical Examiners shall organize by the election of a president and a secretary, both of whom shall be members of said board, who shall hold office for one year and until their successors shall have been elected and qualified. Said board shall hold meetings for the examination of candidates and for the discharge of such other business as may come before it, commencing on the second Thursdays in January, April, July, and October of each year and at such other times as the Board of Supervisors in Medicine and Pharmacy shall direct; and said Board of Pharmaceutical Examiners shall examine all applicants for license to practice pharmacy certified to it for that purpose by the Board of Supervisors in Medicine and Pharmacy, and shall report the results of such examination to said Board of Supervisors as speedily as practicable. (34 Stat. 175; Act May 7, 1906, c. 2084, § 8.)

65. Board of Supervisors in Medicine and Pharmacy—Powers, Duties, Etc.—Election of Officers—Duties—Records of Proceedings—Reports—Disposal of Records, Funds, Etc.—From and after the passage of this act the Board of Medical Supervisors of the District of Columbia shall be known as the Board of Supervisors in Medicine and Pharmacy of the District of Columbia; and the president of the Board of Pharmaceutical Examiners shall be ex officio a member of said Board of Supervisors in addition to the members now provided for by law; and said Board of Pharmaceutical examiners shall bear in all respects the same relations to the Board of Supervisors aforesaid as each of the Boards of Medical Examiners of said District now bears to the Board of Medical Supervisors thereof; and said Board of Supervisors shall have all such rights, powers, and duties with respect to the examination of applicants for license as pharmacists and with reference to the issue of licenses to practice pharmacy and of permits to sell poisons for use in the arts or as insecticides as said board now has with reference to the examination of applicants for license to practice medicine, surgery, and midwifery, and with reference to the issue of licenses to such persons, except in so far as may be inconsistent with the provisions of this act. Said board shall elect from its membership a secretary and treasurer, respectively. The treasurer of said board shall give such bond for the proper performance of his duties as the Commissioners of the District of Columbia shall deem proper and shall render to said commissioners accounts of his receipts and disbursements from time to time as said commissioners shall direct. All licenses issued by said Board of Supervisors shall be countersigned by the president of the examining board by which the candidate was examined. Said Board of Supervisors shall keep records of its proceedings, and such records shall be prima facie evidence of all matters contained therein in all courts in the District of Columbia. Said Board of Supervisors shall, in the month of July of each year, make to the Commissioners of the District of Columbia a written report of its proceedings, of its receipts and disbursements, and of all licenses and permits issued. All records, funds, and other property in the possession of the Commissioners of Pharmacy of the District of Columbia at the time of the passage of this act shall be delivered to such officer, or officers of the Board of Supervisors in Medicine and Pharmacy as may be designated by said board. And such funds may be used for the payment of such necessary expenses as said Board of Supervisors may incur in the execution of the provisions of this act during the twelve months immediately following the passage thereof, and any balance which remains on hand at the expiration of that time shall be deposited with the collector of taxes of said District and by him deposited in the Treasury of the United States to the credit of the District of Columbia. (Id. § 9.)

66. Fees.—Applicants for license to practice pharmacy and for permits to sell poisons for use in the arts or as insecticides shall pay the following fee: For examination for license as pharmacist, \$15, and for each renewal thereof \$3; for a permit for the sale of poisons for use in the arts or as insecticides, \$1, and for each renewal thereof, 50 cents.

And hereafter all fees for licenses to practice pharmacy and all fees aforesaid shall be paid to the treasurer of the Board of Pharmacy of the District of Columbia before any applicant may be admitted to examination and before any license or permit, or any renewal thereof, may be issued by the said board. And all expenses of said board incident to the execution of the provisions of this act shall be paid from the fees collected by the Board of Pharmacy aforesaid. If any balance remains on hand on the 30th day of June of any year the members of said board

appointed as such shall be paid therefrom such reasonable amounts as the Commissioners of the District of Columbia may determine. (Id. § 10, as amended Act Mar. 4, 1927.)*

67. Sale, Etc., of Cocaine, Etc., Without Prescription Prohibited—Contents of Prescriptions—Filing Prescriptions—Provisos—Exceptions—Wholesale Trade.—It shall be unlawful for any person, by himself, or by his servant or agent, or as the servant or agent of any other person, or of any firm or corporation, to sell, furnish, or give away any cocaine, salts of cocaine, or preparation containing cocaine or salts of cocaine; morphine, salts of morphine, or preparation containing morphine or salts of morphine; or any opium, or preparation containing opium; or any chloral hydrate, or preparation containing chloral hydrate, except upon the original written order or prescription of a lawfully authorized practitioner of medicine, dentistry, or veterinary medicine, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, or, if ordered by a practitioner of veterinary medicine, shall state the kind of animal for which ordered, and shall be signed by the person giving the order or prescription. Such order or prescription shall be, for a period of three years, retained on file by the person, firm, or corporation who compounds or dispenses the article ordered or prescribed, and it shall not be compounded or dispensed after the first time, except upon the written order of the original prescriber: Provided, that the above provisions shall not apply to preparations containing not more than two grains of opium, or not more than one-quarter grain of morphine, or not more than one-quarter grain of cocaine, or not more than two grains of chloral hydrate in the fluid ounce, or, if a solid preparation, in one avoirdupois ounce. The above provisions shall not apply to preparations sold in good faith for diarrhea and cholera, each bottle or package of which is accompanied by specific directions for use and caution against habitual use, nor to liniments or ointments sold in good faith as such when plainly labeled "for external use only," nor to powder of ipecac and opium, commonly known as Dover's powder, when sold in quantities not exceeding twenty grains: Provided, further, that the above provisions shall not apply to sales at wholesale by jobbers, manufacturers, and retail druggists to retail druggists, hospitals, colleges, and scientific or public institutions. (34 Stat. 175; Act May 7, 1906, c. 2084, § 11.)

68. Physicians Restricted in Prescribing Morphine, Etc.—Provisos—Use Permitted—Dentists' Prescriptions—Veterinarians' Prescriptions—Further Restrictions.—No physician in the District of Columbia, knowing, or when he might by reasonable inquiry know, that any person is addicted to the use of cocaine, morphine, opium, or chloral hydrate, shall furnish to or for the use of such person, or prescribe for such person, the drug aforesaid, to the use of which such person is addicted, or any compound thereof, or any preparation containing the same, except as it may be necessary to furnish or prescribe such drug, compound, or preparation aforesaid for the cure of drug addiction aforesaid, or for the treatment of disease, injury, or deformity: Provided, that no physician shall be convicted under the provisions of this section who shows to the satisfaction of the court before which he is tried that, having exercised due diligence and acting in good faith, he furnished or prescribed such drug, compound, or preparation aforesaid believing the same to be necessary for the cure of drug addiction aforesaid, or for the treatment of disease, injury, or deformity, and for no other purpose whatsoever. No dentist shall furnish or prescribe any drug, compound, or preparation aforesaid to, or for the use of any person not under his treatment in the regular course of his professional work, nor in any case otherwise than may be required by such work. No practitioner of veterinary medicine shall furnish or prescribe any drug, compound, or preparation aforesaid for the use of any human being, or when he has reasonable ground for believing that the drug, compound, or preparation aforesaid is desired or intended for the use of any human being: Provided, further, that nothing in this section contained shall be construed to give to dentists or to practitioners of veterinary medicine the right to furnish or prescribe any drug, compound, or preparation whatsoever otherwise than as is usual and customary in the practice of dentistry and veterinary medicine, respectively. (Id. § 12.)

69. Sale, Etc., of Poisonous Compounds Illegal—List—Sale Requirements—Record of Sale and Delivery—Exceptions—Provisos—Mode of Putting up Prescriptions—Sales by Manufacturers, Etc.—Articles Not Requiring Poison Labels—Mode of Labeling.—It shall be unlawful for any person to sell or deliver to any other person any of the following-described substances, or any poisonous

*In effect Mar. 4, 1928.

compound, combination, or preparation thereof, to wit: The compounds of and salts of antimony, arsenic, barium, chromium, copper, gold, lead, mercury, silver, and zinc; the caustic hydrates of sodium and potassium, solution or water of ammonia, methyl alcohol, paregoric, the concentrated mineral acids, oxalic and hydrocyanic acids and their salts, yellow phosphorus, Paris green, carbolic acid, the essential oils of almonds, pennyroyal, tansy, rue, and savin; croton oil, creosote, chloroform, cantharides, or aconite, belladonna, bitter almonds, colchicum, cotton root, cocculus indicus, conium, cannabis indica, digitalis, ergot, hyoscyamus, ignatia, lobelia, nux vomica, physostigma, phytolacca, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or alkaloidal salts derived from the foregoing, or any other poisonous alkaloids or their salts, or any other virulent poison, except in the manner following, and, moreover, if the applicant be less than eighteen years of age, except upon the written order of a person known or believed to be an adult.

It shall first be learned, by due inquiry, that the person to whom delivery is about to be made is aware of the poisonous character of the substance, and that it is desired for a lawful purpose, and the box, bottle, or other package shall be plainly labeled with the name of the substance, the word "poison," the name of at least one suitable antidote when practicable, and the name and address of the person, firm, or corporation dispensing the substance. And before delivery be made of any of the foregoing substances, excepting solution or water of ammonia, and sulphate of copper, there shall be recorded in a book kept for that purpose the name of the article, the quantity delivered, the purpose for which it is to be used, the date of delivery, the name and address of the person for whom it is procured and the name of the individual personally dispensing the same; and said book shall be preserved by the owner thereof for at least three years after the date of the last entry therein. The foregoing provisions shall not apply to articles dispensed upon the order of persons believed by the dispenser to be lawfully authorized practitioners of medicine, dentistry, or veterinary surgery: Provided, that when a physician writes upon his prescription a request that it be marked or labeled "poison," the pharmacist shall, in the case of liquids, place the same in a colored glass, roughened bottle, of the kind commonly known in trade as a "poison bottle," and, in the case of dry substances, he shall place a poison label upon the container. The record of sale and delivery above mentioned shall not be required of manufacturers and wholesalers who shall sell any of the foregoing substances at wholesale to licensed pharmacists, but the box, bottle, or other package containing such substance, when sold at wholesale, shall be properly labeled with the name of the substance, the word "poison," and the name and address of the manufacturer or wholesaler: Provided, further, that it shall not be necessary, in sales either at wholesale or at retail, to place a poison label upon, nor to record the delivery of, the sulphide of antimony, or the oxide or carbonate of zinc, or of colors ground in oil and intended for use as paints, or calomel, or of paregoric when sold in quantities not over two fluid ounces; nor, in the case of preparations containing any of the substances named in this section, when a single box, bottle, or other package, or when the bulk of one-half fluid ounce, or the weight of one-half avoirdupois ounce, does not contain more than an adult medicinal dose of such substance; nor in the case of liniments or ointments, sold in good faith as such, when plainly labeled "for external use only"; nor in the case of preparations put up and sold in the form of pills, tablets, or lozenges, containing any of the substances enumerated in this section and intended for internal use, when the dose recommended does not contain more than one-fourth of an adult medicinal dose of such substance.

For the purpose of this and of every other section of this act no box, bottle, or other package shall be regarded as having been labeled "poison" unless the word "poison" appears conspicuously thereon, printed in plain, uncondensed gothic letters in red ink. (Id. § 13.)

70. Fraudulent Representations.—No person seeking to procure in the District of Columbia any substance the sale of which is regulated by the provisions of this act shall make any fraudulent representations so as to evade or defeat the restrictions herein imposed. (Id. § 14.)

71. Preservation of Prescriptions—Copies—Inspection.—Every proprietor or manager of a drug store or pharmacy shall keep in his place of business a suitable book or file, in which shall be preserved, for a period of not less than three years, the original of every prescription compounded or dispensed at such store or pharmacy, or a copy of such prescription, except when the preservation of the original is required by section eleven of this act. Upon request, the proprietor or manager of such store shall furnish to the prescribing physician, or to the person for whom

such prescription was compounded or dispensed, a true and correct copy thereof. Any prescription required by section eleven of this act, and any prescription for, or register of sales of, substances mentioned in section thirteen of this act shall at all times be open to inspection by duly authorized officers of the law. No person shall, in the District of Columbia, compound or dispense any drug or drugs, or deliver the same to any other person, without marking on the container thereof the name of the drug or drugs contained therein, or directions for using the same. (Id. § 15.)

72. Exhibition of Titles Restricted.—It shall be unlawful for any person not legally licensed as a pharmacist to take, use, or exhibit the title of pharmacist, or licensed or registered pharmacist, or the title of druggist or apothecary, or any other title or description of like import. (Id. § 17.)

73. Penalty for Violations—Enforcement.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding two hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the court, and if the offense be continuing in its character, each week or part of a week during which it continues shall constitute a separate and distinct offense. And it shall be the duty of the major and superintendent of police of the District of Columbia and of the corporation counsel of said District to enforce the provisions of this act. (Id. § 19.)

74. Pharmacy Regulations—Board of Pharmacy Substituted for Board of Pharmaceutical Examiners—Supervisors of Medicine and Pharmacy—Change of Name and Duties.—The Board of Pharmaceutical Examiners of the District of Columbia, created under the provisions of an act to regulate the practice of pharmacy and the sale of poisons, and for other purposes, approved May seventh, nineteen hundred and six, be, and is hereby, vested with each and every power, right, duty, and function with respect to the issue of licenses to practice pharmacy and to the revocation of such licenses and with respect to the issue of permits for the sale of poisons as are by said act now vested in the Board of Supervisors in Medicine and Pharmacy of said District; and the name and title of said Board of Pharmaceutical Examiners is hereby changed to the Board of Pharmacy of the District of Columbia. And the Board of Supervisors aforesaid is hereby divested of every power, right, duty, and function aforesaid, and the name and title of said board is hereby changed to the Board of Medical Supervisors of the District of Columbia. From and after the taking effect of this act, the membership of the president of the Board of Pharmaceutical Examiners on the Board of Supervisors aforesaid shall cease and determine. (34 Stat. 1005; Act Feb. 27, 1907, c. 2085, § 1.)

75. Board of Pharmacy Officers—Transfer of Pharmacy Records, Etc., From Board of Medical Supervisors.—The Board of Pharmacy shall elect a president, a secretary, and a treasurer, and shall have a common seal; and said treasurer shall give such bond for the faithful performance of his duties as the Commissioners of the District of Columbia deem necessary. Immediately upon the filing of the required bond by the treasurer of the Board of Pharmacy and upon demand by said treasurer the treasurer of the Board of Medical Supervisors shall pay to said treasurer of the Board of Pharmacy, for the use of said Board of Pharmacy, all such unexpended money then in the possession of the treasurer of the Board of Medical Supervisors which came into the possession of said board from the late Commissioners of Pharmacy as the Commissioners of the District of Columbia deem equitably payable to and for the use of the Board of Pharmacy; and the Board of Medical Supervisors, and each member thereof, upon demand shall deliver to such person as may be designated by the Board of Pharmacy all records in the possession of said Board of Medical Supervisors, or in the possession of any member thereof, relating to the licensing of pharmacists and to the issue of permits for the sale of poisons, and all property in the possession of said Board of Medical Supervisors, or any member thereof, which came into the possession of said Board of Medical Supervisors, or any member of said board, from the late Commissioners of Pharmacy, or which has been purchased solely from funds received from said commissioners. (Id. § 2.)

76. Licenses for Pharmacists—Practical Experience Required—Proviso—Credit Allowed Graduates of School.—An applicant, in order to be entitled to an examination for the determination of his fitness to be licensed as a pharmacist in the District of Columbia, must have had not less than four years' experience in the practice of pharmacy under the instruction of a regularly licensed pharmacist: Provided, however, that the board of pharmacy, in its discretion, may establish, by general rules, conditions, upon compliance with which by any school

or college of pharmacy, and upon the submission by said school or college of evidence sufficient to prove such compliance to the satisfaction of said board, applicants who have been graduated by such school or college during any specified year or years may be allowed credit for not more than one year's experience in the practice of pharmacy by reason of attendance at and graduation by said school or college. (Id. § 3.)

Serum.

See No. 11.

Venereal Disease Drugs.

77. Advertising Medicines to Cure, Etc., Unlawful—Proviso, Professional Periodicals Excepted.—It shall be unlawful for any person, firm, or corporation to advertise within the District of Columbia any medicine or remedy, by means of a prescription or otherwise, for the treatment, cure, or prevention of syphilis, gonorrhea, or chancroid: Provided, this section shall not apply to advertising of drugs in medical trade periodicals or scientific, medical or dental journals, or literature mailed direct to physicians, dentists, hospitals or for those engaged in the sale of drugs and medicinal appliances. (43 Stat. 1002; Act Feb. 26, 1925, c. 355, § 11.)

78. Sales of Cures, Etc., Without a Prescription, Unlawful.—It shall be unlawful for any person, firm, or corporation to sell any drug or medicine to any person other than a dealer, druggist, hospital, or physician for the cure or alleviation of syphilis, gonorrhea, or chancroid without a written order or prescription written for the person for whom the drugs or medicine are to be delivered and signed by a physician authorized to practice medicine in the District of Columbia. (Id. § 12.)

NOTE: For penalty, see No. 54.

PART IV.

Miscellaneous Laws.

False Advertising.

79. Fraudulent Advertising Unlawful.—It shall be unlawful in the District of Columbia for any person, firm, association, corporation, or advertising agency, either directly or indirectly, to display or exhibit to the public in any manner whatever, whether by handbill, placard, poster, picture, film, or otherwise; or to insert or cause to be inserted in any newspaper, magazine, or other publication printed in the District of Columbia; or to issue, exhibit, or in any way distribute or disseminate to the public; or to deliver, exhibit, mail or send to any person, firm, association or corporation any false, untrue, or misleading statement, representation or advertisement with intent to sell, barter, or exchange any goods, wares or merchandise or anything of value or to deceive, mislead or induce any person, firm, association or corporation to purchase, discount or in any way invest in or accept as collateral security any bonds, bill, share of stock, note, warehouse receipt, or any security; or with the purpose to deceive, mislead, or induce any person, firm, association or corporation to purchase, make any loan upon or invest in any property of any kind; or use any of the aforesaid methods with the intent or purpose to deceive, mislead or induce any other person, firm, or corporation for a valuable consideration to employ the services of any person, firm, association or corporation so advertising such services. (39 Stat. 165; Act May 29, 1916, c. 130, § 1.)

80. Prosecution—Information Filed by Whom.—Prosecution hereunder shall be in the police court of the District of Columbia upon information filed by the United States District Attorney for the District of Columbia, or one of his assistants. (Id. § 2.)

81. Penalties for Violations.—Any person, firm, or association violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than \$500 or by imprisonment of not more than sixty days, or by both fine and imprisonment, in the discretion of the court. A corporation convicted of an offense under the provisions of this act shall be fined not more than \$500, and its president or such other officials as may be responsible for the conduct and management thereof shall be imprisoned not more than sixty days, in the discretion of the court. (Id. § 3.)

Flag Desecration.

82. United States Flag—Punishment for Using, as Advertisement, Etc.—Mutilation, Defacing, Etc.—Construction of Object Prohibited.—Hereafter any person who, within the District of Columbia, in any manner, for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing or any advertisement of any nature upon any flag, standard, colors or ensign of the United States of America; or shall expose or cause to be exposed to public view any such flag, standard, colors or ensign upon which shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed or substance on which so placed; or who, within the District of Columbia, shall of any nature; or who, within the District of Columbia, shall manufacture, sell, expose for sale or to public view or give away or have in possession for sale or to be given away or for use for any purpose, any article or substance being an article of merchandise, or a receptacle for merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, colors or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed; or who, within the District of Columbia, shall publicly mutilate, deface, defile or defy, trample upon or cast contempt, either by word or act, upon any such flag, standard, colors or ensign, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$100 or by imprisonment for not more than thirty days, or both, in the discretion of the court. The words "flag, standard, colors, or ensign," as used herein, shall include any flag, standard, colors, ensign or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, colors or ensign of the United States of America or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, colors, standard or ensign of the United States of America. (39 Stat. 900; Act Feb. 8, 1917, c. 34, § 1.)

Tobacco—Tobacco Products.

83. Sale, Etc., of Tobacco to Minors Under Sixteen Years, Prohibited—Penalty.—Hereafter no person in the District of Columbia shall sell, give, or furnish any cigar, cigarette, or tobacco in any of its forms to any minor under sixteen years of age; and for each and every violation of this section the offender shall, on conviction, be fined not less than two dollars nor more than ten dollars, or be imprisoned for not less than five days nor more than twenty days. (26 Stat. 736; Act Feb. 7, 1891, c. 117, § 1.)

Trade-Marks, Etc.

84. Using Bottles of Dealers in Mineral Waters.—All manufacturers and vendors of mineral waters and other beverages allowed by law to be sold in bottles, upon which their names or marks shall be respectively impressed, may file with the clerk of the Supreme Court of the District a description of such bottles and of the names or marks thereon, and shall cause the same to be published for not less than two weeks successively in a daily or weekly newspaper published in the District. (31 Stat. 1333; Act Mar. 3, 1901, c. 854, § 877.)

85. Penalty.—It shall be unlawful for any person, without the permission of the owner thereof, to fill with mineral waters or other beverages any such bottles so marked, for sale, or to traffic in any such bottles so marked and not

bought by him of such owner; and every person so offending shall be liable to a penalty of fifty cents for every bottle so filled, or sold, or used, or disposed of, or bought, or trafficked in, for the first offense, and of five dollars for every subsequent offense, to be recovered as other fines are recovered in the District. (Id. § 878.)

86. Milk Bottles, Etc.—Sworn Statement of Description of, to be Filed in the District Supreme Court by Owners of—Publication Thereof in Newspaper After Filing—Affidavit of Publication to be Filed in the Court—Certified Copies to Health Department—Name Considered Registered on Filing in Health Office.—All persons, firms, partnerships, or corporations engaged in the bottling, selling, or distributing of milk, or cream in bottles, cans, crates, or other containers within the District of Columbia, on which the name, trade-mark, or other device designating the owner is branded, blown, cut, carved, embossed, or impressed, may file with the clerk of the Supreme Court of the District of Columbia a description of the name or names, marks, or devices so used by them, the said description to be a statement under oath by the owner of said name, mark, or device. The said owner of said name, mark or device shall, after filing the description as above required, cause the same to be published at least once a week for two consecutive weeks in a newspaper of general circulation in the District of Columbia. The said owner of said name, mark, or device shall thereafter file with the clerk of the Supreme Court of the District of Columbia an affidavit made by himself or any other competent person stating that said description has been published as herein provided, and shall file in the office of the Health Department of the District of Columbia a copy of said registration and said affidavit of publication, both duly certified as true copies by the clerk of the Supreme Court of the District of Columbia. The registration of any such name, mark, or device shall be complete on the filing of said certified copies in the health office of the District of Columbia, and thereafter the name, mark, or device shall be considered as registered in accordance with this act, and any bottle, can, crate, or other container on which said name, mark, or device shall be or shall be placed shall be considered as registered in accordance with this act. (U. S. Stats. 1925-1926, p. 809; Act July 3, 1926, c. 737, § 1.)

87. Using, Etc., Registered Containers of Another, a Misdemeanor.—Whoever shall by himself or his agent fill, use, sell, offer for sale, give, buy, traffic in, or shall have in his possession with intent to fill, use, sell, offer for sale, give, buy, or traffic in any registered milk bottle or bottles, can or cans, crate or crates, or other containers on which appears the name, mark, or device, registered by another person, shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties prescribed in this act. (Id. § 2.)

88. Willfully Defacing, Etc., Name Registered by Another, a Misdemeanor.—Whoever shall by himself or his agent willfully deface, erase, alter, obliterate, cover up, or otherwise remove or conceal any registered name, mark, or device registered by another and being on any milk bottle, can, crate, or other container, or shall willfully break, destroy, or otherwise injure any registered milk bottle, can, crate, or other container which has been registered by another shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties prescribed in this act. (Id. § 3.)

89. Refusal to Surrender to Registrant a Registered Container, Prima Facie Evidence of Unlawful Use.—In any prosecution under this act, the refusal of any person having possession of any registered milk bottle, can, crate, or other container to surrender possession of the same to the registrant of the name, mark, or device appearing thereon, after notice and demand by said registrant or his agent, shall be prima facie evidence of the unlawful use of traffic in the same contrary to the provisions of this act. (Id. § 4.)

90. Proceedings in the Police Court When a Registrant Makes Oath That His Containers Are Used, Etc., by Another Without His Consent—Seizure, Etc., of the Containers.—Whenever any person who has registered milk bottles, cans, crates, or other containers in accordance with the provisions of this act shall by himself or his agent make oath before the clerk of the police court of the District of Columbia that he has reason to believe and does believe, that any of his registered milk bottles, cans, crates, or other containers, are being filled, used, bought, trafficked in, held, sold, offered for sale, broken, injured, or destroyed within the District of Columbia contrary to the provisions of this act, by any person without the written consent of the registrant the judge of the police court to whom said complaint under oath is made may forthwith issue a search warrant directed to any police officer or other proper officer to search the premises whereon or wherein said registered milk bottles, cans, crates, or other containers are unlawfully held and may issue a warrant for the arrest of the person com-

plained against; and if any one or more of such registered milk bottles, cans, crates, or other containers, or any parts of the same, shall be found upon the premises by the officer executing the said search warrant, he shall seize and take possession of all such registered milk bottles, cans, crates, or other containers, or parts thereof, and shall cause the same to be brought before the judge of the police court, who shall award the said registered milk bottles, cans, crates, and other containers to the person entitled to the same. (Id. § 5.)

91. Written Consent of Registrant for Transfer of Title to Any Mark, Etc.—No title may be acquired to any mark, name, or device, or any milk bottle, can, crate, or other container registered in accordance with this act except by the consent in writing of the person who registered the same. (Id. § 6.)

92. Former Registrants Under Existing Laws Exempted from Filing New Descriptions—Proviso—Copy of Registration to be Filed in Health Office.—All persons who have heretofore registered any milk bottles, cans, crates, or other containers in accordance with the laws existing at the time of said registration shall be exempted from filing a new description in accordance with the terms of this act and shall be entitled to the rights and benefits accruing under this act in the same manner as if said registration was made after the passage of and in accordance with this act: Provided, that a copy of said registration duly certified by the clerk of the Supreme Court of the District of Columbia is within thirty days from and after the passage of this act filed in the health office of the District of Columbia. (Id. § 7.)

93. Word "Person" Construed.—Whenever the word "person" is used herein, it shall apply equally as well to one or more persons, copartnerships, and corporations. (Id. § 8.)

94. General Application of Act to All Containers of Any Character of Milk.—The provisions of this act shall apply to all bottles, cans, crates, and other containers in which milk or cream of any grade, quality, or character is sold or offered for sale and shall include bottles, cans, crates, and other containers in which skimmed milk, buttermilk, double cream, and sour milk are sold. (Id. § 9.)

95. Punishment of Violations in the Police Court—Penalties Upon Conviction.—The violation of any of the provisions of this act shall be a misdemeanor, and prosecutions for violations of this act shall be in the police court of the District of Columbia. Upon conviction of a violation of the provisions of this act the penalty shall be a fine of not more than \$50 for the first offense and a fine of not more than \$100 for the second and each subsequent offense. (Id. § 10.)

96. Injunction Proceedings Enjoining Further Illegal Use of Containers, Etc., by Person Convicted Three Times of Violations.—Whenever any person who has registered milk bottles, cans, crates, or other containers as herein provided shall have, upon complaint under oath, prosecuted any other person for violation of the provisions of this act in the use, handling, holding, filling, selling, offering for sale, buying, trafficking in, breaking, or destroying of such registered milk bottles, cans, crates, or other containers, and said other persons shall have been convicted on three occasions at least for the said unlawful use, handling, holding, filling, selling, offering for sale, buying, trafficking in, breaking, or destroying of said registered milk bottles, cans, crates, or other containers, then the said registrant of said milk bottles, cans, crates, or other containers shall be entitled, upon making complaint to a justice of the Supreme Court of the District of Columbia, holding an equity court, to have issued an injunction directed to said violator enjoining him from further illegal use, handling, holding, filling, selling, offering for sale, buying, trafficking in, breaking, or destroying of said registered milk bottles, cans, crates, or other containers. (Id. § 11.)

97. Forging or Imitating Labels, Etc., Penalty.—Whoever willfully forges or counterfeits or makes use of any imitation calculated to deceive the public, though with colorable difference or deviation therefrom, of the private brand, wrapper, label, trade-mark, bottle, or package usually affixed or used by any person to or with the goods, wares, merchandise, preparation, or mixture of such person, with the intent to pass off any work, goods, manufacture, compound, preparation, or mixture as the manufacture or production of such person which is not really such, shall be fined not more than five hundred dollars or imprisoned not more than one year or both. (31 Stat. 1333; Act Mar. 3, 1901, c. 854, § 879.)

Trading Stamps—Gift Enterprise.

98. Certain Act of Legislative Assembly Repealed.—So much of the act of the legislative assembly of the District of Columbia entitled "An act imposing a

license on trades, business, and professions practiced or carried on in the District of Columbia," approved August twenty-third, eighteen hundred and seventy-one, as authorizes gift-enterprises therein, and licenses to be issued therefor, is disapproved and repealed, and hereafter it shall be unlawful for any person or persons to engage in said business in any manner as defined in said act or otherwise. (18 Stat. (Part 2), R. S. D. C. 136; Act June 22, 1874, § 1176.)

99. Penalty for Engaging in Gift-Enterprise Business.—Every person who shall in any manner engage in any gift-enterprise business in the District shall, on conviction thereof in the police court, on information filed for and on behalf of the District, pay a fine not exceeding one thousand dollars, or be imprisoned in the District jail not less than one nor more than six months, or both, in the discretion of the court. (Id. § 1177.)

100. Appeal and Final Judgment.—In such cases, any party deeming himself aggrieved by judgment of the police court may appeal therefrom to the Supreme Court of the District in the usual manner, and the judgment of said court shall be final. (Id. § 1178.)

Weights and Measures.

101. Department of Weights, Measures, and Markets, Created—Superintendent Appointed—Standards Established.—There is hereby created an executive department in the government of the District of Columbia which shall be known as the Department of Weights, Measures, and Markets. Such department shall be in charge of a Superintendent of Weights, Measures, and Markets, who shall be appointed by and be under the direction and control of the Commissioners of the District of Columbia, and shall receive a salary of \$2,500 per annum. He shall have the custody and control of such standard weights and measures of the United States as are now or shall hereafter be provided by the District of Columbia, which shall be the only standards for weights and measures in said District.

The commissioners are also authorized to appoint, on the recommendation of the superintendent, such assistants, inspectors, and other employees for which Congress may, from time to time, provide. (41 Stat. 1217; Act Mar. 3, 1921, c. 118, § 1.)

102. Superintendent's Bond, Oath, Etc.—The superintendent shall, before entering upon the performance of his duties, give bond to the District of Columbia in the penal sum of \$5,000, signed by two sureties or by a bonding company, to be approved by the commissioners, conditioned on the faithful discharge of the duties of his office, and shall take and subscribe an oath or affirmation before the commissioners that he will faithfully and impartially discharge the duties of his office, which bond and oath shall be deposited with the commissioners. (Id. § 2.)

103. Duties of Superintendent, Assistants, and Other Employees.—The superintendent and, under his direction, his assistants and inspectors, shall have exclusive power to perform all the duties provided in this act. They shall, at least every six months, and oftener when the superintendent thinks proper, inspect, test, try, and ascertain whether or not they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for weighing or measuring, and all tools, appliances, or accessories connected with any or all such instruments or mechanical devices for weighing or measuring used or employed in the District of Columbia by any owner, agent, lessee, or employee in determining the weight, size, quantity, extent, area, or measurement of quantities, things, produce, or articles of any kind offered for transportation, sale, barter, exchange, hire, or award, or the weight of persons for a charge or compensation, and shall approve and seal, stamp or mark, in the manner prescribed by the commissioners, such devices or appliances as conform to the standards kept in the office of the superintendent, and shall seize and destroy or mark, stamp, or tag with the word "condemned" such as do not conform to the standards, and shall also mark the date of such condemnation upon the same. Any weight, scale, beam, measure, weighing or measuring device of any kind which shall be found to be unsuitable for the purpose for which it is intended to be used or of defective construction or material shall be condemned. No person shall use or, having the same under his control, shall permit to be used for any of the purposes enumerated in this act any weight, scale, beam, measure, weighing or measuring device whatsoever unless the same has been approved in accordance with the provisions of this act within six months prior to such use, or that does not conform to the standards kept in the office of the Superintendent of Weights, Measures, and Markets, or which, having been condemned, has not thereafter been approved as provided in this act.

Any person who shall acquire or have in his possession after the passage of this act any unapproved scale, weighing instrument, or nonportable measure or

measuring device, subject to inspection or test under the provisions of this act shall notify the superintendent in writing at his office, giving a general description thereof, and the street and number of other location where same may be found, and it shall be the duty of the superintendent to cause the same to be inspected and tested within a reasonable time after receipt of such notice. Any person who shall acquire or have in his possession after the passage of this act any unapproved portable measure or measuring device subject to inspection or test shall cause the same to be taken to the office of the superintendent for inspection and test.

Every peddler, hawker, huckster, transient merchant, or other person with no fixed or established place of business shall, before using any weight, scale, measure, weighing or measuring device for any of the purposes enumerated in this act, cause the same to be taken to the office of the superintendent for inspection and test semi-annually, and shall not use for the purposes herein mentioned any weight, scale, measure, weighing or measuring device which has not been approved within six months prior to the time of such use.

Nothing herein shall be construed to require the superintendent to test any weighing or measuring device belonging to the United States. (Id. § 3.)

104. Altered or Repaired Weighing or Measuring Devices Not to be Used Unless Inspected and Approved.—No person shall use or, having the same under his control, permit to be used, any weight, scale, measure, weighing or measuring device, or any attachment or part thereof after the same has been altered or repaired without the same having been inspected and approved as provided herein after such alterations or repairs have been made, and no persons shall alter, obliterate, detach, obscure, or conceal any condemnation seal, stamp, mark, tag, or label, attached or impressed by the superintendent or any of his assistants or inspectors, without written permission of the superintendent. (Id. § 4.)

105. Superintendent or Other Employees Not to be Hindered in Performance of Their Duties.—No person shall neglect, fail, or refuse to exhibit any weight, scale, beam, measure, weighing or measuring device, subject to inspection or test under the provisions of this act, to the superintendent or any of his assistants or inspectors for the purpose of inspection and test, and no person shall in any manner obstruct, hinder, or molest the superintendent or any of his assistants, inspectors, or other employees in the performance of their duties. (Id. § 5.)

106. Superintendent to Keep Record of Weighing and Measuring Devices Inspected—Same to be Open to Public.—The superintendent shall keep in his office a record of weighing and measuring devices inspected, which record shall show the type of device, the name and address of the owner, the date of inspection, and whether the same was approved or condemned. Such record shall be open to the public during regular office hours. (Id. § 6.)

107. Weight, Measure, or Numerical Count of Commodities Not to be Greater Than Actual or True Weight, Etc.—No person shall sell, offer for sale, keep, or expose for sale anywhere in the District of Columbia any commodity of any kind as a weight, measure, or numerical count greater than the actual or true weight, measure, or numerical count thereof, and no person shall take or attempt to take more than the actual and true weight, measure, or numerical count of any commodity, when, as buyer, he is permitted by the seller to determine the weight, measure, or numerical count thereof. (Id. § 7.)

108. All commodities Sold by Net Weight.—When any commodity is sold by weight it shall be net weight. When any commodity, except coal, is sold by the ton, it shall be understood to mean two thousand pounds avoirdupois. Coal shall be sold by the long ton, consisting of two thousand two hundred and forty pounds avoirdupois. (Id. § 8.)

109. Slot Vending Machines—Regulations Governing—Name and Address of Owner, Etc.—Refunds if Service, Etc., Not Received.—No person, firm, or corporation shall erect, operate, or maintain, or cause to be erected, operated, or maintained within the District of Columbia any coin-in-the-slot machine or automatic vending device without placing in charge thereof some responsible person. No such machine shall be maintained, for use when the same is not in perfect working order, and the person in charge as well as the owner of such machine or device shall be held responsible for operating or maintaining any such machine or device, which is not in perfect working order. A sign or placard shall be placed on every such machine or device in a conspicuous place and shall contain the name and business address of the owner and of the person in charge of such machine or device, and shall state that the person in charge of such machine or device will refund to any person money deposited by him for which the commodity or service promised expressly or impliedly has not been received, and such person shall so refund such money. (Id. § 9.)

110. Sales Tickets.—Every person, firm, or corporation shall, when a sales ticket is given with a purchase, cause such sales ticket to show the correct name and address of such person, firm, or corporation and the weight, measure, or numerical count, as the case may be, of each commodity sold to the purchaser, and every such person, firm, or corporation is hereby required to deliver such sales ticket to such purchaser when requested to do so by such purchaser at the time of the sale. (Id. § 10.)

111. Ice.—It shall be unlawful to sell, within the District of Columbia, any ice in any manner other than by weight, such weight to be ascertained at the time of delivery of such ice, and every person, or in case of a firm, copartnership, or corporation, the person in charge of its business in the District of Columbia, engaged in the sale of ice shall keep on each of his or its wagons or other vehicles used in the sale or delivery of ice, while in use, a scale suitable for weighing ice which has been tested and approved in accordance with the provisions of this act. Every scale used for weighing ice in making sales in quantities of one hundred pounds or less shall have graduations of one pound or less. Scales used for weighing ice in making sales in quantities of more than one hundred pounds may have graduations of five pounds or less. (Id. § 12.)

112. Bread, Etc.—The standard loaf of bread manufactured for sale, sold, offered, or exposed for sale in the District of Columbia shall weigh one pound avoirdupois, but bread may also be manufactured for sale, sold, offered, or exposed for sale in loaves of one-half pound, one pound and a half, or multiples of one pound, but shall not be manufactured for sale, sold, offered, or exposed for sale in other than the aforesaid weights. Every loaf of bread manufactured for sale, sold, offered, or exposed for sale in the District of Columbia shall have affixed thereon, in a conspicuous place, a label at least one inch square, or, if round, at least one inch in diameter, upon which label there shall be printed in plain bold-face Gothic type, not smaller than twelve point, the weight of the loaf in pound, pounds, or fraction of a pound, as the case may be, whether the loaf be a standard loaf or not, the letters and figures of which shall be printed in black ink upon white paper. The business name and address of the maker, baker, or manufacturer of the loaf shall also be plainly printed on each such label. Every seller of bread in the District of Columbia shall keep a suitable scale which shall have been inspected and approved in accordance with the provisions of this act in a conspicuous place in his bakery, bakeshop, or store, or other place where he is engaged in the sale of bread, and shall, whenever requested by the buyer, and in the presence of the buyer, weigh the loaf or loaves of bread sold or offered for sale. Nothing herein shall apply to crackers, pretzels, buns, rolls, scones, or to loaves of fancy bread weighing less than one-fourth of one pound avoirdupois, or to what is commonly known as stale bread, provided the seller shall, at the time the sale is made, expressly state to the buyer that the bread so sold is stale bread: Provided, that any loaf of bread weighing within 10 per centum in excess or within 4 per centum less than standard weight shall be deemed of legal weight. (Id. § 13; amended 42 Stat. 201, Act Aug. 24, 1921, c. 92.)

113. Measures for Milk or Cream Receptacles.—Bottles or jars used for the sale of milk or cream shall be of the capacity of one gallon, half-gallon, three pints, one quart, one pint, half-pint, or one gill when filled to the bottom of the cap seat, stopple, or other designating mark. Such bottles or jars shall have clearly blown or otherwise permanently marked in the side of each such bottle or jar or printed on the cap or stopple the name and address of the person, firm, or corporation who or which shall have bottled such milk or cream. Any person who uses, for the purpose of selling milk or cream, bottles or jars which do not comply with the requirements of this section shall be deemed guilty of using false measure. (41 Stat. 1217; Act Mar. 3, 1921, c. 118, § 14.)

114. Standard Containers for Fruits, Vegetables and Other Dry Commodities.—Standard containers for the sale of fruits, vegetables, and other dry commodities in the District of Columbia shall be as follows:

(a) Standard barrel for fruits, vegetables, and other dry commodities other than cranberries, shall be of the following dimensions when measured without distention of its parts: Length of stave, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch: Provided, that any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of head, sixteen and

one-fourth inches; distance between heads, twenty-five and one-fourth inches; circumference of bulge, fifty-eight and one-half inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch. It shall be unlawful to sell, offer, or expose for sale in the District of Columbia a barrel containing fruits or vegetables or any other dry commodity of less capacity than the standard barrels defined in this act, or subdivisions thereof known as the third, half, and three-quarter barrel.

(b) Standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket, and twelve-quart basket, respectively.

The standard two-quart Climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used.

The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches; width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

The standard twelve-quart Climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used.

(c) The six-basket carrier crate for fruits and vegetables shall contain six four-quart baskets, each basket having a capacity of two hundred and sixty-eight and eight-tenths cubic inches.

(d) The four-basket flat crate for fruits and vegetables shall contain four three-quart baskets, each basket having a capacity of two hundred and one and six-tenths cubic inches.

(e) The standard box, basket, or other container for berries, cherries, shelled peas, shelled beans, and other fruits and vegetables of similar size shall be of the following capacities standard dry measure: One-half pint, pint, and quart. The one-half pint shall contain sixteen and eight-tenths cubic inches; the pint shall contain thirty-three and six-tenths cubic inches; the quart shall contain sixty-seven and two-tenths cubic inches.

(f) Standard lug boxes for fruits and vegetables shall be the one-half bushel box and the one-bushel box.

The one-half bushel lug box shall be of the following inside dimensions: Length, seventeen inches; width, ten and five-tenths inches; depth, six inches.

The one-bushel lug box shall be of the following inside dimensions: Length, twenty and three-fourths inches; width, thirteen inches; depth, eight inches; and no lug box of other than the foregoing dimensions shall be used in the District of Columbia.

(g) The standard hampers for fruits and vegetables shall be the one-peck hamper, one-half bushel hamper, one-bushel hamper, and one and one-half bushel hamper.

The one-peck hamper shall contain five hundred and thirty-seven and six-tenths cubic inches; the one-half bushel hamper shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches. The one-bushel hamper shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches, and the one and one-half bushel hamper shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths cubic inches.

(h) The standard round-stave baskets for fruits and vegetables shall be the one-half bushel basket, one-bushel basket, one and one-half bushel basket, and two-bushel basket.

The one-half bushel basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches. The one-bushel basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches. The one-and-one-half-bushel basket shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths cubic inches, and the two-bushel basket shall contain four thousand three hundred and eighty-four one-hundredths cubic inches.

(i) The standard apple box shall contain two thousand one hundred and seventy-three and five-tenths cubic inches and be of the following inside dimensions: Length, eighteen inches; width, eleven and one-half inches; depth, ten and one-half inches.

(j) The standard pear box shall be of the following inside dimensions: Length, eighteen inches; width, eleven and one-half inches; depth, eight and one-half inches.

(k) The standard onion crate shall be of the following inside dimensions: Length, nineteen and five-eighths inches; width, eleven and three-sixteenths inches; depth, nine and thirteen-sixteenths inches.

(l) No person shall sell, offer, or expose for sale in the District of Columbia any fruits, vegetables, grain, or similar commodities in any manner except in the standard containers herein prescribed or by weight or numerical count; and no person shall sell, offer, or expose for sale, except by weight or numerical count, in the District of Columbia any commodity in any container herein prescribed which does not contain, at the time of such offer, exposure, or sale, the full capacity of such commodity compactly filled: Provided, that fresh beets, onions, turnips, rhubarb, and other similar vegetables, usually and customarily sold by the bunch, may be sold by the bunch.

All kale, spinach, and other similar leaf vegetables shall be sold at retail by net weight. (Id. § 15.)

115. Containers, the Use of Which, or as Substitute for a Dry Measure, is Prohibited.—Nothing in this act contained shall be construed as permitting the use as a dry measure or substituting for a dry measure any of the following containers: Barrels, boxes, lug boxes, crates, hampers, baskets, or Climax baskets; and the use of any such container as a measure is hereby expressly prohibited, and the user shall be fined or imprisoned as herein provided for other violations of this act. (Id. § 16.)

116. Food in Package Form to be Marked With Quantity of Contents.—No person shall sell, offer, or expose for sale in the District of Columbia any food in package form unless the quantity of contents is plainly and conspicuously marked on the outside of each package in terms of weight, measure, or numerical count. The commissioners are authorized to establish and allow reasonable variation, tolerances, and exemptions as to small packages. (Id. § 16½.)

117. Standards for Liquid Measures.—The standard liquid gallon shall contain two hundred and thirty-one cubic inches; the half gallon, one hundred and fifteen and five-tenths cubic inches; the quart, fifty-seven and seventy-five hundredths cubic inches; the pint, twenty-eight and eight hundred and seventy-five thousandths cubic inches; the half pint, fourteen and four hundred and thirty-seven thousandths cubic inches; the gill, seven and two hundred and eighteen-thousandths cubic inches; the fluid ounce, one and eight-tenths cubic inches; and no liquid measure of other than the foregoing capacities, except multiples of the gallon, shall be deemed legal liquid measure in the District of Columbia. (Id. § 18.)

118. Oysters.—Shucked oysters shall be sold only by liquid measure or numerical count, and whenever there is included in the sale by measure of shucked oysters more than 10 per centum of oyster liquid or other liquid substance, the vendor shall be deemed guilty of selling short measure.

All fish shall be sold by avoirdupois weight. (Id. § 19.)

119. Automatic Measuring Pumps—Regulations Governing Use, Etc.—Inspection.—Every user of an automatic measuring pump or similar device, shall, when the supply of the commodity which he is measuring for sale with such pump or similar device, is insufficient to deliver correct measure of such commodity by the usual or customary method of operating such pump or device or when, for any cause whatever, such pump or device does not, by the usual or customary method of operating same, deliver correct measure, place a sign with the words, "Out of use" in a conspicuous place on such pump or device where it may readily be seen, and shall forthwith cease to use the same until his supply of such commodity is replenished or until such pump or device is repaired, adjusted, or otherwise put in condition to deliver correct measure. All automatic measuring pumps or other similar measuring devices in use shall be subject to inspection, and approval or condemnation, whether used for measuring or not. (Id. § 20.)

120. Pro Rata Price for Commodities.—Whenever any commodity is offered for sale at a stated price for a stated quantity, a smaller quantity shall be sold at a pro rata price unless the purchaser is informed to the contrary at the time of sale. (Id. § 21.)

121. Superintendent and His Assistants to Inspect, Weigh or Measure Packages or Amounts of Commodities.—The superintendent, or under his direction, his assistants and inspectors, shall from time to time weigh or measure and

inspect packages or amounts of commodities of whatever kind kept for sale, offered or exposed for sale, sold, or in the process of delivery, in order to determine whether or not the same are kept for sale, offered for sale, or sold in accordance with the provisions of this act, and no person shall refuse to permit such weighing, measuring, or inspection whenever demanded by the superintendent or any of his assistants or inspectors. (Id. § 22.)

122. Unlawful for Superintendent or any Employee to be Interested in Sale of Weighing or Measuring Devices.—It shall be unlawful for the superintendent or any employee of his office to vend any weights, measures, weighing or measuring device, or to offer or expose the same for sale, or to be interested, directly or indirectly, in the sale of same. (Id. § 23.)

123. Police Power of Superintendent, His Assistants and Inspectors.—There is hereby conferred upon the superintendent, his assistants and inspectors, police power, and in the exercise of their duties they shall, upon demand, exhibit their badges to any person questioning their authority; and they are authorized and empowered to make arrests of any person violating any of the provisions of this act. The superintendent, his assistants, and inspectors may, for the purpose of carrying out and enforcing the provisions of this act and in the performance of their official duties, with or without formal warrant, enter or go into or upon any stand, place, building, or premises, except a private residence, and may stop any vendor, peddler, dealer, vehicle, or person in charge thereof for the purpose of making inspections or tests. (Id. § 24.)

124. Tolerances, Specifications, Etc.—The Commissioners are hereby authorized and empowered to establish tolerances and specifications for scales, weights, measures, weighing or measuring instruments or devices, and containers used in the District of Columbia. The commissioners shall prescribe and allow for barrels, containers, and packages, provided for in this act, the same specifications, variations, or tolerances that have been prescribed or established, or that may hereafter be prescribed or established for like barrels, containers or packages by any officer of the United States in accordance with any requirement of an act of Congress. (Id. § 25.)

125. Public Weighmasters and Scales.—The commissioners are authorized to appoint public weighmasters and grant licenses for the location of public scales in the District of Columbia under such regulations as they may prescribe, and authorize such weighmasters to charge such fees as the commissioners may approve and fix in advance, and they may grant permits, revocable on thirty days' notice, for the location of such public scales on public space under their control. No person other than a duly appointed and qualified public weighmaster shall do public weighing or make any charge or accept any compensation therefor. (Id. § 26.)

126. Powers and Duties of Superintendent Also Granted to and Imposed on His Assistants and Inspectors.—The powers and duties granted to and imposed on the superintendent by this act are also hereby granted to and imposed on his assistants and inspectors when acting under his instructions. (Id. § 27.)

127. Supervision of All Produce and Other Markets.—The superintendent, under the direction of the commissioners, shall have supervision of all produce and other markets owned by the District of Columbia, shall enforce such regulations regarding the operation of the same as the commissioners may make, shall make such investigations regarding the sale, distribution, or prices of commodities in the District of Columbia as the commissioners may direct, and shall make reports and recommendations in connection therewith. (Id. § 28.)

128. Definitions.—Wherever the word "commissioners" is used in this act it shall be construed to mean the Commissioners of the District of Columbia. Wherever the word "superintendent" is used in this act, it shall be construed to mean the superintendent of weights, measures, and markets. (Id. § 29.)

129. "Person" Defined.—The word "person," as used in this act, shall be construed to include copartnerships, companies, corporations, societies, and associations. Wherever any word in this act is used in the singular, it shall be construed to mean either singular or plural, and wherever any word in this act is used in the plural, it shall be construed to mean either plural or singular, as the circumstances demand. (Id. § 30.)

130. Validity of Sections and Provisions of Act.—Each section of this act, and every provisions of each section, is hereby declared to be an independent section or provision, and the holding of any section or provision of any section to be void, ineffective, or unconstitutional for any cause whatever, shall not be deemed to affect any other section or provision thereof. (Id. § 31.)

131. Penalties.—Any person violating any of the provisions of this act shall be punished by a fine not to exceed \$500, or by both such fine and imprisonment

not to exceed six months. All prosecutions under this act shall be instituted by the corporation counsel or one of his assistants in the police court of the District of Columbia. (Id. § 32.)

132. Impersonating Weighmasters Forbidden.—It shall be unlawful for any person to falsely represent himself or herself as being a weighmaster of hay, straw, fodder, or corn, or to make, give, or issue any certificate of the quantity of hay, straw, fodder, or corn weighed in the District of Columbia. (30 Stat. 1346; Act Mar. 3, 1899, c. 432, § 1.)

133. Corn on Cob, Etc.—What Quantity to Constitute a Barrel—Proviso—Sale of, Not Prohibited.—Hereafter in the District of Columbia three hundred and fifty pounds of corn on the cob shall constitute a barrel and two hundred and eighty pounds of shelled corn shall constitute a barrel: Provided, that nothing in this act shall be held to prohibit the sale of corn on the cob by the barrel. (Id. § 2.)

134. Penalty.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof in the police court of the District aforesaid shall be punished by a fine of not more than fifty dollars or imprisonment in the jail of the District of Columbia not exceeding six months, or both, in the discretion of the court. (Id. § 3.)

NOTE: See also the flour law, No. 37 et seq.

PART V.

CASES.

1. General Food and Drug Law.

Act of Feb. 17, 1898—Repealed by Act of June 30, 1906 (Federal Food and Drugs Act) to the extent it is repugnant thereto: District of Columbia v. Coburn, 35 App. D. C. 324 (1910). See also: District of Columbia v. Burns, 32 App. D. C. 203 (1908); Weigand v. District of Columbia, 22 App. D. C. 559 (1903); District of Columbia v. Simpson, 47 App. D. C. 6 (1917).

Act of Feb. 17, 1898—Review of Police Court Judgment: District of Columbia v. Burns, 32 App. D. C. 203 (1908); District of Columbia v. Hauf, 33 App. D. C. 197 (1909).

Board of Health—Powers: See 13 Op. Atty.-Gen. 577 (1871).

Drugs—Adulteration: District of Columbia v. Lynham, 16 App. D. C. 85 (1900).

Milk—Adulteration: *Weigand v. District of Columbia, 22 App. D. C. 559 (1903); District of Columbia v. Thompson, 37 App. D. C. 420 (1911).

Milk—Official Sample: District of Columbia v. Garrison, 25 App. D. C. 563 (1905).

2. Special Food Laws.

Bread—Weight: Friend v. Corporation of Washington, 2 Cranch Cir. Ct. 19, Fed. Cas. 5121 (1810); Cloud v. Hewitt, 3 Cranch Cir. Ct. 199 (1827); District of Columbia v. Hauf, 33 App. D. C. 197 (1909).

Feeding Stuff—Rye Chop: Botelov v. Corporation of Washington, 2 Cranch Cir. Ct. 676 (1826).

Fish—Place for Cleaning and Packing: *Lambell v. Corporation of Washington and McClean, 1 H. & H. 25 (1841).

Flour—Inspection: Cloud v. Hewitt, 3 Cranch Cir. Ct. 199 (1827); Corporation of Georgetown v. Davidson, 6 D. C. 278 (1868).

Meat—Markets: Grumbine v. Mayor, Etc., of City of Washington, 9 D. C. 578 (1876).

Milk—Adulteration—Act of March 2, 1895 Repealed in Part by Act of Feb. 17, 1898: *Weigand v. District of Columbia, 22 App. D. C. 559 (1903).

Milk—Permit to Sell—Act of March 2, 1895 Not Repealed by Act of June 30, 1906: District of Columbia v. Simpson, 47 App. D. C. 6 (1917).

Milk—Weights and Measures Law: *Thompson v. District of Columbia, 21 App. D. C. 395 (1903).

Produce Dealers—License—Butter—Eggs—Meat: District of Columbia v. Oyster, Same v. Emmert, Same v. Daly, 15 D. C. 285 (1885).

Restaurants—License Tax—Druggists: District of Columbia v. Pearson, 50 App. D. C. 303 (1921).

3. Civil Action to Recover Damages for Injury to Have Been Caused by Consumption or Use of Product.

Drugs: Moore v. Pywell, 29 App. D. C. 312 (1907).

Food: King v. Davis, 54 App. D. C. 239 (1924). See also: Armour & Co. v. Gundersheimer, 23 App. D. C. 210 (1904).

Insecticide—Explosion: West Disinfectant Co. v. Plummer, 44 App. D. C. 345 (1916).

4. Miscellaneous.

Flag Desecration: See 34 Opp. Atty.-Gen. 483 (1925).

Gift Enterprise: Sheedy v. District of Columbia, 19 App. D. C. 280 (1902); Corporate Organization & Audit Co. v. Hodges, 47 App. D. C. 460 (1918). See also *Trading Stamps*, post.

Trade-Marks—Refilling Milk Container: District of Columbia v. Simpson, 40 App. D. C. 498 (1913).

Trading Stamps: *Lansburgh v. District of Columbia, 11 App. D. C. 512 (1897); *District of Columbia v. Kraft, 35 App. D. C. 253, 30 L. R. A. (N. S.) 957 (1910), writ of certiorari denied in Kraft v. District of Columbia, 218 U. S. 673, 31 S. Ct. 223, 54 L. Ed. 1205 (1910); District of Columbia v. Gregory, 35 App. D. C. 271 (1910), writ of certiorari denied in Gregory v. District of Columbia, 218 U. S. 673, 31 S. Ct. 223, 54 L. Ed. 1205 (1910); *Matter of Gregory, 219 U. S. 210, 31 S. Ct. 143, 55 L. Ed. 184 (1911). See also *Gift Enterprise*, ante.

Weights and Measures: *Thompson v. District of Columbia, 21 App. D. C. 395 (1903); District of Columbia v. Gant, 28 App. D. C. 185 (1906). See also *Bread*, ante.

FLORIDA.*

PART I.

General Food and Drug Law.

1. Unlawful to Manufacture or Sell Adulterated, Misbranded or Impure Food, Drugs or Liquors.—It shall be unlawful for any person to manufacture, sell, or keep or offer for sale, or distribute, within the State of Florida any article of food, drugs, medicine or liquors which is adulterated or misbranded, or which contains any poisonous or deleterious substance within the meaning of this chapter. (R. G. S. 1919, § 2035.)

2. Chemical Analysis by State Chemist; Seizure of Adulterated or Misbranded Goods; Hearing; Prosecution by State Attorney.—The inspection, examination or chemical analysis of specimens of food and drugs shall be made by the State Chemist of Florida, or under his direction and supervision, for the purpose of determining whether such articles are adulterated or misbranded within the meaning of this chapter, and if it shall appear from any such examination or analysis that any such specimen is adulterated or misbranded within the meaning of this chapter, the State Chemist shall certify the same to the Commissioner of Agriculture, who shall cause the goods so certified as adulterated or misbranded, to be seized by the sheriff of the county in which they are found, and shall cause notice thereof to be given the party from whom such sample was obtained; any party so notified shall be given an opportunity to be heard before the Commissioner of Agriculture and the Attorney-General, under such rules and regulations as may be prescribed by them, and if it appears that any of the provisions of this chapter have been violated by such party, then the Commissioner of Agriculture shall at once certify the facts to the proper State's Attorney, county solicitor, or other proper prosecuting attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination or analysis, under the oath of such officer or analyst. That in case it shall appear to the satisfaction of the Commissioner of Agriculture and the Attorney-General that the violation of this chapter is properly a subject of interstate commerce, or otherwise comes under the supervision and jurisdiction of the United States, then the Commissioner of Agriculture shall certify the case to the United States District Attorney in whose district the violations may have been committed, but if it be under the jurisdiction of the courts of this State, then the Commissioner of Agriculture shall certify the case to the State's Attorney, county solicitor or other proper prosecuting attorney in the county where the offense occurred. It shall be the duty of the State's Attorney, county solicitor or other proper prosecuting attorney to prosecute all persons violating any of the provisions of this chapter as soon as he receives the evidence transmitted by the Commissioner of Agriculture. After the judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 2036.)

3. The Terms "Drug" and "Food" Defined.—The term "drug" as used in this chapter shall include all medicines and preparations recognized by the United States Pharmacopœia [or] National Formulary, for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals.

The term "food" as used herein, shall include all articles used for food, drink, confectionery or condiment by man or other animal, whether simple, mixed or compounded. (Id. § 2037.)

4. Tests of Adulteration.—For the purpose of this chapter an article shall be deemed to be adulterated:

In Case of Drugs: First—If when a drug is sold under or by a name recognized in the United States Pharmacopœia, or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the

*CITATIONS: "R. G. S. 1919" refers to the Revised General Statutes of Florida, 1919 (also referred to as of 1920), adopted by the act of June 9, 1919. "L." refers to the general acts of the year cited.

United States Pharmacopœia or National Formulary official at the time of the investigation.

Second—If its strength or purity fall below the professed standard or quality under which it is sold.

In the Case of Confectionery: If it contains terra alba, barytes, talc, chrome yellow or other mineral substances or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug.

In Case of Food: First—If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second—If any substance has been substituted wholly or in part for the article.

Third—If any valuable constituent of the article has been wholly or in part abstracted.

Fourth—If it be mixed, colored or powdered, coated or stained in a manner whereby damage or inferiority is concealed.

Fifth—If it contains any added poisonous or other deleterious ingredient which may render such article injurious to health; provided, that when in preparation of food products for shipment they are preserved [by] any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water or otherwise, and directions for the removal of said preservative are printed on the covering of the package, the provisions of this chapter shall be construed as applying only when said products are ready for consumption.

Sixth—If the package, vessel or bottle containing it be of such a composition, or carry any attachment made of such a composition of metal or alloy as will be acted upon in the ordinary course of use by the contents of the package, vessel or bottle in such a way as to produce an injurious, deleterious or poisonous compound.

Seventh—If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or in any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal or one that has died otherwise than by slaughter. (Id. § 2038.)

5. The Term "Misbranded" Defined.—The term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded, as to the State, territory or country in which it is manufactured or produced. That for the purpose of this chapter an article shall also be deemed to be misbranded.

In Case of Drugs: First—If it be an imitation of, or offered for sale under the name of another article.

Second—If the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if the package fail to bear a statement on the label in conspicuous letters of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide or any derivative or preparation of any such substance contained therein; provided, that nothing in this paragraph shall be construed to apply to the filling of written prescriptions furnished by regular licensed, practicing physicians, and kept on file by druggists as required by law.

Third—If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any other ingredients or substances contained therein, which is false and fraudulent.

In the Case of Food: First—If it be an imitation of, or offered for sale under the distinctive name of another article.

Second—If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so; or is an imitation in package or label of another substance of a previously established name, or if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label in conspicuous letters of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein.

Third—If in package form, the net contents of the package are not correctly stated in terms of weight, measure or numerical count, conspicuously, legibly and correctly, on the outside of the package; provided, however, that reasonable varia-

tions shall be permitted and tolerations established by rules and regulations made in accordance with the provisions of section 2046.

Fourth—If the package containing it, or its label shall bear any statement, design or device which shall be false or misleading in any particular; provided, that nothing in this chapter shall be construed as excluding harmless coloring or flavoring ingredients used for the purpose of coloring or flavoring only; and as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome added ingredients, to disclose their trade formulas, except in so far as the provisions of this chapter may require, to secure freedom from adulteration or misbranding. (Id. § 2039.)

6. Dealer Not to be Prosecuted When He Can Establish Guaranty, etc.—No dealer shall be prosecuted under the provisions of this chapter when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the State of Florida from whom he purchases such articles to the effect that the same is not adulterated or misbranded within the meaning of this chapter designating it. Such guaranty to afford protection shall contain the name and address of the party or parties making the sale of such articles to the dealer and in such case the said party or parties shall be amenable to the prosecutions, fine or other penalties which would attach in due course to the dealer under the provisions of this chapter. (Id. § 2040.)

7. Seizure and Disposition of Adulterated and Misbranded Goods, etc.—If upon trial of any person convicted under this chapter, it shall appear that any article of food, drug or liquor sold, kept or offered for sale by the person convicted is adulterated or misbranded, or is of a poisonous or deleterious character within the meaning of this chapter, the same shall be seized and destroyed, or if not of a poisonous or deleterious character may be sold, or otherwise disposed of, by order of the court in such manner as the court may in order direct, which order shall guard against any further violations of this chapter by such sale or other disposition. The proceeds from any sale so ordered, less expenses, shall be converted into the General Fund of the State treasury. (Id. § 2041.)

8. Construction of Words "Person" and "Party."—The words "person" or "party" as used in this chapter shall be construed to impart [import] both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this chapter, the act, omission or failure of any officer, agent or other person acting for or employed by the corporation, society, company or association, *as well as that of the person. (Id. § 2042.)

9. Taking Samples For Analysis by Sworn Inspectors, Health Officer, Sheriff or Citizen; Result of Analysis; Appeal; Evidence, etc.—Samples for analysis of foods and drugs shall be taken by the duly qualified and sworn inspectors, or chemist, who shall take samples of such articles as may be directed by the State Chemist, and in the manner prescribed below. Whenever practicable, samples of foods and drugs shall be taken in original unbroken packages; said package shall be wrapped in paper and tied securely and sealed. That in cases where it is not practicable to send a sample for analysis in an original package, as, for instance, in case of syrups, or other liquids in barrels, or flour in barrels, etc., the inspector shall take a fair sample of the same in the presence of the seller, place it in a suitable receptacle, securely close, seal and forward the same to the State Chemist, and in every case where a sample is taken the person taking such sample shall at the same time, in the presence of the person from whom the sample is taken, seal with paper seals or otherwise, another sample of the article taken, on which sample or on the seal placed thereon, shall be written the name of the person taking said sample, and the date when the same is taken, and the said sample shall be delivered back to the person from whom it is taken; samples of fertilizer and stock feed shall be taken by the inspectors as now provided by law. Provided, that any health officer, sheriff or citizen of the State, may submit fair samples of foods and drugs to the State Chemist for analysis, when drawn in the presence of two witnesses, in the manner prescribed in this section; said witnesses to subscribe to and affix their seals to said packages, one to be delivered to the person from whom it is taken, the other to be transmitted to the State Chemist, who shall analyze the same and certify the results to the Commissioner of Agriculture, who shall return to the sender a copy of said certificate of analysis.

In case any manufacturer or dealer shall appeal from the result of an analysis made by the State Chemist, or by an Assistant State Chemist under his direction and supervision, and shall demand another analysis, the duplicate sample sealed

*So in the statutes.

and delivered to the person from whom the same was taken as provided in this section, shall be sent for analysis to some reputable chemist, upon whom the Commissioner of Agriculture, the State Chemist and the person demanding the analysis shall agree.

The certificate of analysis of the State Chemist, or his assistant, when properly verified by the affidavit of the State Chemist, or his assistant, shall be *prima facie* evidence in any court of law or equity in this State.

All chemical determinations, or analyses, made by the State Chemist, or the Assistant State Chemist, or by chemists employed in case of appeal, shall be made according to the methods adopted by the Association of Official Agricultural Chemists of the United States, or those of the United States Pharmacopœia, official at the time of investigation. (Id. § 2043.)

10. Fixing Standards of Purity; Proviso; Certificate of Violations Transmitted to Prosecuting Officer.—It shall be the duty of the Commissioner of Agriculture and the State Chemist to fix standards of purity for food products where the same are not fixed by this chapter, in accordance with those promulgated by the Secretary of Agriculture of the United States, as adopted by the Board of Food and Drug Inspectors of the United States Agricultural Department, when such standards have been published, and when not published the Commissioner of Agriculture and the State Chemist shall fix such standards; provided, that the standards for lard, mixed edible fats and cottonseed oils, are hereby defined as follows: Lard is hereby defined to be the fat of freshly slaughtered swine. It must not be from a diseased animal or any portion of animal unfit for food, or contain less than ninety-nine per cent of pure fat. A mixed edible fat is defined to be a mixture that contains not less than ninety-nine per cent of sweet mixed fat, and may consist of a mixture of refined cottonseed oil or other edible vegetable oils with sweet beef fat or other edible animal fat, and must be sold under a registered or proprietary brand and properly labeled with a distinctive trade-mark or name, bearing the name of the manufacturer. Edible cottonseed oil is hereby defined, as refined cottonseed oil, free from disagreeable taste or odors. White cottonseed oil for edible purposes is cottonseed oil which has been refined in such a manner as to be nearly odorless, colorless and flavorless. Winter cottonseed oils for edible purposes are those from which a portion of the sterine has been removed. They may be either white or yellow. Whenever the State Chemist may find by examination, or analysis, that adulterated, misbranded or imitation drugs, liquor or food products have been manufactured for sale, or put on sale in this State, he shall forthwith furnish a certificate to that effect to the Commissioner of Agriculture, who shall transmit the same to the proper prosecuting officer in the county where the said adulterated, misbranded or imitation drugs, liquor or food product was found, and shall cause the goods so adulterated or misbranded to be seized by the sheriff of the county in which such goods are found. It shall be the duty of said prosecuting officer to prosecute all persons violating any provisions of this chapter as soon as he receives the evidence transmitted by the Commissioner of Agriculture. (Id. § 2044.)

11. Annual Report to Governor by State Chemist; Expenses of Chemist in Attendance on Convention of A. O. A. C. of U. S.—The State Chemist shall make an annual report to the Governor on work done in execution of this chapter, which report may be included in that now made on commercial fertilizers and published therewith. The actual expenses of the State Chemist, or one Assistant State Chemist, in attendance upon the annual convention of the Association of Official Agricultural Chemists of the United States, or when officially representing the Department of Agriculture by order of the commissioner, shall be paid from the funds appropriated from the traveling expenses of the State Chemist. (Id. § 2045.)

12. Definitions and Standards Prescribed by Congress Adopted; Rules and Regulations, etc.—The definitions and standards of foods and drugs prescribed by the act of Congress approved June 30, 1906, entitled "An act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines or liquors, and for regulating traffic therein, and for other purposes," and amendments thereto, be, and the same are hereby adopted and declared to be the definitions and standards of foods under the terms and meaning of this chapter, and that no article of food shall be deemed to be adulterated under the terms of this chapter other than those defined and found to be adulterated, poisonous, deleterious or detrimental to health under the provisions of the Food and Drugs act of Congress approved June thirtieth, nineteen hundred and six, and amendments thereto. That the Commissioner of Agriculture, with the advice of the State Chemist, shall establish such rules and regulations as shall not be inconsistent with the provisions of this chapter; in conformity with the rules and regulations

formulated by the United States Department of Agriculture, by authority of the National Food and Drugs act of June thirtieth, nineteen hundred and six, and amendments thereto. (Id. § 2046.)

13. Punishment For Violations of Pure Food Act.—It shall be unlawful for any person to manufacture, sell, or keep or offer for sale, or distribute, within the State of Florida, any article of food, drug, medicine or liquors which is adulterated or misbranded, or which contains any poisonous or deleterious substance within the meaning of chapter 4, title 11, First Division of these Revised General Statutes,* and any person, persons, corporation, company, society or association who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed five hundred dollars, or shall be sentenced to not more than six months imprisonment, or both such fine and imprisonment, in the discretion of the court for each subsequent offense, and upon conviction thereof shall be fined not exceeding one thousand dollars, or sentenced to not more than one year's imprisonment, or both such fine and imprisonment, in the discretion of the court. (Id. § 5517.)

Miscellaneous General Provisions.

14. Sale of Saccharin.—The sale of saccharin, a drug, or other artificial sweetener for use as a substitute for sugar, or the manufacture or sale of foods or drinks of any kind containing saccharin or other artificial sweetener as a substitute for sugar in part or in whole, is prohibited in the State of Florida. Provided, that the saccharin, or foods containing saccharin, shall be sold or dispensed only by duly licensed pharmacists, upon the written prescription of duly licensed practicing physicians, with the date and name of physician and of the person for whom prescribed, and kept on file by the pharmacist. (L. 1923, c. 9363, § 1.)

15. Penalties.—Any person, firm or corporation or representative or agent thereof who shall sell, or in any other manner by gift or otherwise dispose of saccharin or other artificial sweetener as a substitute to be used in the place of sugar in foods or drink; or who shall manufacture, sell or otherwise dispose of foods or drinks containing saccharin or other artificial sweetener as a substitute for sugar, in any proportion, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars, or imprisoned not less than thirty days nor more than six months; or both such fine and imprisonment, in the discretion of the court, for the first offense. Upon conviction of a second violation of this act, the offender shall be held guilty of a felony and shall be fined not less than one hundred dollars, and shall be imprisoned in the State Penitentiary for not less than three months nor more than two years, at the discretion of the court. (Id. § 2.)

16. Forfeiture of Stocks.—All saccharin, or other artificial sweetener, sold for use in foods, or food containing saccharin or other artificial sweetener, shall be forfeited to the State, and shall be ordered destroyed by the court. (Id. § 3.)

17. Execution of Act.—The execution of this act shall be under the general provisions of the Pure Food and Drug law, sections 2035 to 2046, both inclusive, and section 5517 of the Revised General Statutes of Florida, of 1920 [or 1919],† and amendments thereto. (Id. § 4.)

17a. Appointment of Food, Drug and Fertilizer Inspectors.—The Governor shall appoint four food, drug and fertilizer inspectors for the Chemical Division of the Department of Agriculture of the State of Florida, two of said inspectors shall be appointed as soon as practicable; but the other two shall not be appointed until the expiration of the terms for which the two inspectors of the Chemical Division of the Agricultural Department now holding office were appointed, and said two inspectors shall, until the expiration of their terms, perform the duties imposed by law upon the inspectors provided for herein. (R. G. S. 1919, § 179.)

17b. Duties of Inspectors.—Said food, drug and fertilizer inspectors of the Chemical Division of the Department of Agriculture shall have authority and it shall be their duty under instructions from the Commissioner of Agriculture and the State Chemist, to inspect foods and drugs and commercial stock food and commercial fertilizers, and other material subject to inspection, as now provided by law, throughout the State or any territory assigned to them, and to seize and attach all goods subject to inspection, as are visibly misbranded, palpably adulterated, or offered for sale in violation of the provisions of law, or that shall fail to bear

*See Nos. 1-12.

†See Nos. 1-13.

the guaranteed analysis and inspection stamp provided by the commercial fertilizer and commercial stock feed laws, and place the same in the custody of the Sheriff of the county wherein found, subject to the order of the Commissioner of Agriculture, sending samples of such goods to the State Chemist for examination or analysis. The inspectors shall, under the directions of the Commissioner of Agriculture or the State Chemist, draw samples of foods and drugs, commercial stock feed, commercial fertilizers, and other goods subject to inspection, offered for sale in the State or district assigned to them, and forward samples to the State Chemist for examination or analysis as provided by law (Id. § 180.)

17c. Powers of Inspectors; Drawing Samples, etc.—In the performance of their duties, inspectors shall have free access at all reasonable hours to any store, warehouse, factory, packinghouse, or railway depot, wherein commercial stock feed, or commercial fertilizers, foods or drugs are stored, manufactured or prepared for sale, for the purpose of examination or inspection and drawing samples of commercial fertilizers, food stuffs, food or drugs.

If such access be refused by the owner, agent or manager of such premises, the inspector may apply for a search warrant which shall be obtained in the same manner as provided by law for the obtaining of search warrants in the other cases. The refusal to admit an inspector to any of the above mentioned premises, during reasonable hours, shall be construed as prima facie evidence of violation of this act.

In calling for and taking samples of foods or drugs, the inspector shall tender to the owner or agent the market value of the sample. (Id. § 181.)

17d. Division of Inspection; Supervising Inspector.—There is hereby created in the Department of the Commissioner of Agriculture of the State of Florida the Division of Inspection. The Division of Inspection created by this act shall be under the control and supervision of the Commissioner of Agriculture of the State of Florida. The Commissioner of Agriculture is hereby authorized to employ a Supervisor of Inspectors whose salary shall be twenty-four hundred dollars (\$2,400.00) per year, and whose duty it shall be to receive all reports from the inspectors; to direct the inspectors in the performance of their duties under instructions of the Commissioner of Agriculture; to receive all remittances of any nature and kind from the Inspectors and to keep an accurate account thereof; to properly dispose of the funds coming into his hands, and to perform any and all duties in connection with the Division of Inspection, which he may be required by the Commissioner of Agriculture to perform. (L. 1925, c. 10149, § 1.)

17e. Inspectors; Duties; Powers.—The Governor is hereby authorized to appoint inspectors for the Division of Inspection as provided by law as the same may be recommended in writing by the Commissioner of Agriculture. The inspectors appointed by the Governor under the provisions of this act shall each hold such office until such time as the Governor may deem proper to discontinue the services of such inspector, or until such time as the Commissioner of Agriculture may advise the Governor either that the services of such inspector are not satisfactory or that the services of such inspector are no longer required by the Division of Inspection. Commissions issued to such inspectors shall run from the date thereof during the pleasure of the Governor not exceeding the term of four years, and the Governor is hereby expressly authorized to terminate the appointment of any inspector at any time when in his judgment the best interests of the State will be subserved by discontinuing the services of such inspector. Each inspector appointed under the provisions of this act shall receive a salary of eighteen hundred dollars (\$1,800.00) per annum, and in addition thereto shall be reimbursed for his expenses incurred while away from the town of his domicile on official business, including railroad fare, taxi or automobile fare, hotel bills and other bills for food and lodging, telegrams and other expenses necessary and incident to his employment not exceeding the sum of twenty-four hundred dollars (\$2,400.00) per annum; such bills of expense to be audited by the Supervisor of Inspectors and to be approved by the Commissioner of Agriculture before the same are paid. It shall be the duty of each of the inspectors appointed under the provisions of this act, when directed by the Commissioner of Agriculture so to do, to perform any or all of those duties which have heretofore been performed by oil inspectors, by food, drug and fertilizer inspectors for the Chemical Division of the Department of Agriculture, and by citrus fruit inspectors, and each of said inspectors appointed under the provisions of this act, is hereby vested with all power and authority and with each and every obligation and restriction which was heretofore applied to or vested in oil inspectors, food, drug and fertilizer inspectors for the Chemical Division of the Department of Agriculture, and citrus fruit inspectors. (Id. § 2.)

17f. General Inspection Fund.—All funds arising from fees authorized by law for oil inspection, food, drug and fertilizer inspection, and citrus fruit inspection

from and after the passage of this act shall be paid into the general inspection fund, which said fund is hereby created in the office of State Treasurer, and the expenses incurred in carrying out the provisions of this act, together with any other expense incident to carrying out the provisions of law in connection with such inspections shall be paid from such fund upon warrant drawn by the Comptroller which warrants shall be issued upon vouchers approved by the Commissioner of Agriculture. Should any balance remain in such fund on the first day of January of each year after paying all of said expenses, then such balance shall be pro-rated between the sources from which it was derived in proportion to the total amount derived from each source, and when so pro-rated shall be transferred and disposed of in the manner in which such funds remaining after the payment of expenses are by law directed to be disposed of, and in case there are no other statutory provisions for the disposition of such funds, then such balance shall be transferred to the general fund of the State of Florida. (Id. § 3.)

17g. Powers of State Chemist not Affected.—The State Chemist and Assistant State Chemist of the State of Florida shall retain all power and authority heretofore vested in them in regard to inspections in any wise affected by the provisions of this act. (Id. § 4.)

17h. Offices abolished.—The offices of oil inspectors, of food, drug and fertilizer inspectors for the Chemical Division of the Department of Agriculture, and of citrus fruit inspectors, are hereby abolished, and the inspectors provided for in this act shall be and act in the stead and in lieu of all such former inspectors. (Id. § 5.)

17i. Wrongful Use of City's Name.—It shall be unlawful for any person or persons engaged in manufacturing in this State to cause to be printed, stamped, marked, engraved or branded upon any of the articles manufactured by them, or on any of the boxes, packages or bands containing such manufactured articles, the name of any city in the State of Florida other than that in which said articles are manufactured: Provided, however, that nothing in this section shall prohibit any person from offering for sale any goods having marked thereon the name of any city in Florida other than that in which said goods were manufactured, if there be no manufactory of similar goods in the city where name is used. (R. G. S. 1919, § 5167).

17j. Wrongful Stamping, Marking, Etc.—No person shall knowingly sell or offer for sale, within the State of Florida, any manufactured articles which shall have printed, stamped, marked, engraved or branded upon them, or upon the boxes, packages or bands containing said manufactured articles, the name of any city in the State of Florida, other than that in which such articles were manufactured: Provided, however, that nothing in this section shall prohibit any person from offering for sale any goods, having marked thereon the name of any city in Florida, other than that in which said goods are manufactured, if there be no manufactory of similar goods in the city whose name is used. Any person violating the provisions of this or the preceding section shall be fined not exceeding five hundred dollars for each violation thereof. (Id. § 5168.)

NOTE: See also Nos. 90 and 158.

PART II.

Special Food Laws.

Beverages.

See No. 113 et seq.

Citrus Fruit.

18. Definitions.—As used in this act, the word "person" shall extend to and include persons, partnerships, associations and corporations; and that the word "box" refers to the standard size containers now in common use in this State in the packing and shipment of citrus fruit; and the words "citrus fruit" shall extend to and include only the fruits of *Citrus grandis*, Osbeck, commonly and hereinafter called grapefruit or pomelo, and *Citrus sinensis*, Osbeck, commonly called sweet or round oranges, and hereinafter called oranges, the words "packing house" shall extend to and include any structure or place prepared for and used for packing or otherwise preparing citrus fruit for market or transportation. (L. 1925, c. 10103, § 1.)

19. Closed Season.—It shall be unlawful for any person to sell or offer for sale, transport, prepare, receive, or deliver for transportation or market any citrus fruit between the 31st day of August and the 26th day of November in any year, unless such fruit is accompanied by a certificate of inspection and maturity thereof as defined by this act, issued by a duly authorized citrus fruit inspector,* or the State Chemist, an Assistant State Chemist, an inspector of the Chemical Division of the Department of Agriculture of this State,* or a duly authorized inspector of the United States Bureau of Agricultural Economics.

The certificate of inspection and maturity mentioned in this act shall be of such number, form, size and character, and shall be used in such manner to identify the fruit to which they relate, as the Commissioner of Agriculture of this State may by rule or regulation prescribe. All inspections shall be made at the packing house.

Provided, that it shall be unlawful during the remaining period from November 26th to August 31st following in each year, when inspection is not required by this act for any person to sell, offer for sale, transport, deliver or prepare for sale or transportation any citrus fruit which is immature or otherwise unfit for consumption, or for any person to receive any such fruits under a contract of sale, or for the purpose of sale, offering for sale, transportation, or delivery for transportation thereof.

Provided, further, that the provisions of this act shall not apply to sales of citrus fruit "on the trees," nor to common carriers or their agents when the fruit accepted for transportation or transported by such common carrier is accompanied by a proper certificate of maturity of such fruits, as hereinafter provided, or when accepted by them for transportation between the 25th day of November in any year and the 1st day of September next thereafter, or transportation of fruit from grove to packing house located within this State. (Id. § 2.)

20. Acid Content For Grapefruit; Acid Content For Oranges.—A. Within the purpose and meaning of this act pomelos (grapefruit) shall be deemed to be mature only when the total soluble solids of the juice is not less than 8.5 per cent, and when the ratio of total soluble solids of the juice thereof to the anhydrous citric acid is as follows:

a. When the total soluble solids of the juice is not less than eight and one-half (8.5) per cent the minimum ratio of total soluble solids to anhydrous citric acid shall be seven to one (7 to 1).

b. When the total soluble solids of the juice is not less than nine (9) per cent the minimum ratio of total soluble solids to anhydrous citric acid shall be six and one-half to one (6.5 to 1).

c. When the total soluble solids of the juice is not less than ten (10) per cent the minimum ratio of total soluble solids to anhydrous citric acid shall be six to one (6 to 1), only when the total soluble solids of the juice is not less than eleven (11) per cent, the minimum ratio of total soluble solids to anhydrous citric acid shall be five and one-half to one (5.5 to 1).

e. [d?] When the total soluble solids of the juice is not less than twelve (12) per cent the minimum ratio of total soluble solids to anhydrous citric acid shall be five to one (5 to 1); and,

B. Oranges shall be deemed to be mature only when the juice thereof contains not less than eight (8) per centum of total soluble solids to each part of anhydrous citric acid.

In determining the total soluble solids the Brix Hydrometer shall be used, and the reading of the Hydrometer corrected for temperature shall be considered as the per centum of total soluble solids. Anhydrous citric acid to be determined by titration of the juice, using standard alkali and phenolphthalein as the indicator, the total acidity being calculated as anhydrous citric acid.

C. Any citrus fruit not conforming to the above standards shall be deemed and held to be immature within the meaning of this act. (Id. § 3.)

21. Notice of Packing.—The owner, manager or operator of each packing house at which it is intended to pack or prepare citrus fruit for market or transportation during the then present or then next ensuing citrus fruit shipping season, shall register such packing house and its location, shipping point, and post office, with the Commissioner of Agriculture, not less than ten (10) days before packing or otherwise preparing any citrus fruit for sale or transportation in or at such packing house; and he shall in addition to such registration give the said commissioner not less than seven (7) days' written notice of the date on which the packing, or other preparation for sale or transportation between August 31st and November 26th of citrus fruit of the then current or the next ensuing season's

*See Nos. 17e-17f.

crop would be begun. And it shall be unlawful for any person to operate a citrus fruit packing house or to pack or otherwise prepare for sale or transportation any citrus fruit at such packing house without having previously registered said packing house and given the notice herein required; provided, that no certificate of inspection and maturity of any fruit shall be issued by any authorized inspector to any person who has not registered with the commissioner during the then current year or has not given to said commissioner the notice as required by this act, nor until after payment of the inspection fee imposed by or under the provisions of this act and such payment evidenced as herein required or authorized. (Id. § 4.)

22. Shipping Fee; Stamps.—Every vendor or shipper of citrus fruit between the dates of August 31st and November 26th of each year shall pay to the Commissioner of Agriculture a fee of one and one-half cents for every box of citrus fruit by him, it or them sold, transported or delivered for transportation, or, when such fruit is sold or transported in bulk or in containers other than standard size boxes, shall pay one and one-half cents for each two (2) cubic feet or each eighty (80) pounds of such fruit; provided, however, that if the Governor and Commissioner of Agriculture shall determine, not less than thirty (30) days before the first day of September in any year, that a smaller fee than that herein named will produce sufficient funds to defray the expenses of and incident to the enforcement of this act during the then next ensuing citrus fruit shipping or marketing season, the Governor may, by order and proclamation, reduce the fee to be paid during the next ensuing season to such sum as may be deemed sufficient for said purpose. Such fee shall be due when the fruit is prepared for market or transportation, and payment thereof shall be evidenced by stamps, as hereinafter provided. And it shall be unlawful to sell, deliver, transport or deliver or receive for transportation, any citrus fruit payment of the fee for which is not evidenced by proper stamps as may be provided by regulation prescribed by the Commissioner of Agriculture. Provided, however, that the provisions of this section shall not apply to the transportation or carriage of fruit from grove to packing houses within this State. (Id. § 5.)

23. Commissioner of Agriculture to Furnish Stamps to Vendors and Shippers.—It shall be the duty of the Commissioner of Agriculture to furnish the vendors and shippers of citrus fruits with such stamps to be attached to the packages of fruit prepared for sale, transportation or delivery for transportation, or to the certificate of inspection and maturity, herein provided for, or to the shipping receipt, as the Commissioner of Agriculture may by rule or regulation prescribe. (Id. § 6.)

24. When Certificates of Inspection, etc., Unlawful.—It shall be unlawful for any authorized inspector to make or deliver a certificate of inspection and maturity of any citrus fruit upon which the inspection fee hereby imposed or authorized has not been paid, or to make or issue any false certificate as to inspection, maturity or payment of inspection fee. (Id. § 7.)

25. Immature Fruit Destroyed.—All citrus fruit prepared for sale or transportation, or which is being prepared for such purposes, or which has been or is being delivered for sale or transportation, that may be found to be immature or otherwise unfit for consumption upon inspection and testing, shall be seized and destroyed by a citrus fruit inspector* or the sheriff of the county where found, as may be provided by regulations prescribed by the Commissioner of Agriculture. (Id. § 8.)

26. Rules and Regulations.—The Commissioner of Agriculture shall, from time to time, as he may deem to be expedient and necessary, make and promulgate rules and regulations for carrying out and enforcing the provisions and regulations of this act. (Id. § 11.)

27. Unlawful to Obstruct or Resist Authorized Inspectors.—It shall be unlawful for any person to obstruct or resist any authorized inspector in the performance or discharge of any duty imposed upon or required by him or her by the provisions of this act or by any rule or regulation prescribed by the Commissioner of Agriculture as herein authorized. (Id. § 12.)

28. Penalties.—Any person who shall violate any of the provisions of this act, or do or commit any act herein declared to be unlawful, or shall violate any reasonable rule or regulation made and promulgated by the Commissioner of Agriculture in pursuance of the authority therefor herein given, shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment for not less than one month and not more than twelve months, or by both such fine and imprisonment in the discretion of the Court. (Id. § 13.)

*See Nos. 17e-17f.

29. Falsely Shipping Oranges as Florida Oranges.—Whoever ships foreign-grown fruit or oranges, representing by mark or otherwise that said fruit is the product of the State of Florida, shall be punished by imprisonment not exceeding thirty days or by fine not exceeding one hundred dollars for each offense. (R. G. S. 1919, § 5647.)

NOTE: See also No. 151 et seq.

Cold Storage.

29a. Cold Storage, Curing and Drying Plants.—Whenever the county commissioners of any county in this State shall determine that the problem of storing its products to await favorable marketing conditions, is of sufficient importance in such county to warrant the same, they shall have the right to provide for the erection and operation in such county of a cold storage curing and drying plant for the storing of animal and vegetable products, and to expend public moneys therefor, and same is hereby declared to be a proper county purpose for such expenditure. (L. 1925, c. 10104, § 1.)

29b. Plans and Specifications.—Upon the making of such determination, it shall be the duty of the county commissioners of such county to cause to be made out detailed plans and specifications of the proposed cold storage curing and drying plant proposed to be erected and operated by it, together with an estimate of the probable cost of completion thereof, a statement of the probable business to be expected in its operation, and such other statement of facts as may be required by the board of commissioners of state institutions. (Id. § 2.)

29c. Approval by Board of Commissioners of State Institutions.—It shall thereupon become the duty of the board of commissioners of State institutions to cause the said plans and specifications submitted to it as provided for in section 2 to be examined and to make diligent inquiry as to the practicability of the proposed cold storage curing and drying plant described therein, and the probable business which would result from the operation of the same where and as proposed, and if they approve of same to cause their approval to be entered of record and certified to the county commissioners of the county so proposing such cold storage curing and drying plant. (Id. § 3.)

29d. One-half Cost Paid by County.—Upon the approval of the plans and specifications aforesaid, and the certification thereof as aforesaid, it shall thereupon become the duty of the County Commissioners of the county in which such cold storage curing and drying plant is proposed to be so erected, to make up and to cause to be deposited with the State Treasurer a sum equal to one-half of the approved estimated cost of said project, and for that purpose the said county commissioners are hereby authorized to expend any portion of the general county fund not otherwise appropriated and any part of the agricultural fund of said county. (Id. § 4.)

29e. One-half Cost Paid by State.—Upon the deposit of said one-half of the approved estimated cost of said cold storage curing and drying product as provided for in section 4, with the State Treasurer, it shall be the duty of the State Treasurer to set aside and apportion a like amount out of any moneys in the State treasury not otherwise appropriated, for the purpose of providing the remainder of the whole cost of completion, and any and all sums of money in the State treasury not otherwise appropriated are hereby appropriated for the purpose of carrying out the purpose and intent of this act. (Id. § 5.)

29f. Construction Contracts.—All contracts for the erection of cold storage curing and drying plants under this act shall be advertised and let by the Board of Commissioners of State institutions, and all work shall be done under the supervision of and paid only upon approval by the Board of Commissioners of State institutions, upon itemized statements, audited and approved by the Comptroller. (Id. § 6.)

29g. Public Storage.—From and after the erection and putting into operation of any such cold storage curing and drying plant as provided for in this act, storage of animal and vegetable products therein shall be open to the public upon payment of such storage charges and compliance with such reasonable rules and regulations for the government thereof as the Commissioners of State Institutions may from time to time prescribe, and all moneys realized from storage fees shall be kept in a separate and sacred fund to be expended only for the payment of the legitimate and necessary expenses of operation and the establishment of a sinking fund for the repayment to the State of Florida of the one-half of the purchase price hereinbefore provided to be advanced and paid by the State. (Id. § 7.)

29h. Title to Property.—The legal title to all cold storage curing and drying plants provided for in this act shall vest in the State of Florida for the use and benefit of the county wherein said cold storage curing and drying plant is

located and the said cold storage curing and drying plant shall always be under the supervision and control of the State of Florida through the Board of Commissioners of State Institutions until the complete repayment to the State of Florida by the county of all funds advanced or paid by the State for the erection of any such cold storage curing and drying plant, and upon the repayment of such amounts to the State, said Board of Commissioners of State Institutions shall make out and deliver to the said county a complete release, satisfaction and discharge of all claims against it under this act. (Id. § 8.)

29i. Storage Receipts.—All animal and vegetable products received or accepted in any such cold storage curing and drying plant for storage shall be represented by a receipt in writing, giving the weight or other unit measurement of the article stored, the date stored, the name of the person, firm or corporation storing the same, and the rate of storage charged. Such receipt shall be negotiable by endorsement and the same rules of law and custom shall apply to and govern such cold storage curing and drying receipts as govern warehouse receipts under laws of this State. (Id. § 9.)

29j. Building Bonds.—For the purpose of enabling any county in this State to provide funds for the erection and operation of a cold storage curing and drying plant under this act, said county is hereby authorized to provide for the calling and holding of an election to provide for the issuance and sale of bonds therein in like manner and with the same procedure as counties are now or may hereafter be authorized by law to provide for the issuance of bonds for building roads and bridges, the proceeds of such bonds to be used to defray the one-half cost of erection and operation of said plant as hereinbefore provided. (Id. § 10.)

29k. Storage Fees.—Only reasonable fees for storage of articles in any such cold storage curing and drying plant shall be charged or collected and the same shall be so fixed as to provide for a sinking fund for the retirement of the cost of erection after deducting of operating expenses, and the Board of Commissioners of State Institutions is hereby vested with full and complete power and authority to fix such fees and charges and to provide for the keeping, remittance and application of all funds charged and collected from the public by any such cold storage curing and drying plant, until the State shall be fully reimbursed for all amounts of money advanced by it in the erection of such plant, after which full title and right of control shall pass to the county in which any such plant is located. (Id. § 11.)

29l. Laws.—All laws and provisions of law regulating and governing the conduct of warehouses and the issuance and negotiation of warehouse receipts under the laws of Florida shall apply to and govern all cold storage curing and drying receipts and products stored in any cold storage curing and drying plant under the terms of this act, except that in no case shall any action sounding in tort be maintained against any county or this State. (Id. § 12.)

29m. Marketing.—It shall be the duty of the State Marketing Bureau to co-operate with the persons storing agricultural and animal products in any such cold storage curing and drying plant and to assist in marketing such products to the best advantage, and to provide facilities therefor. (Id. § 13.)

29n. Attorney-General to Approve Title to Realty.—Before any moneys provided for by this act shall be expended in the erection of any cold storage curing and drying plant in any county of this State, the legal title to the real estate upon which the same is proposed to be and is erected shall be passed upon and approved by the Attorney-General. (Id. § 14.)

29o. Additions.—Whenever any cold storage curing and drying plant is put in operation under the provisions of this act, and the storage facilities provided thereby shall be found to be insufficient to accommodate the public demand, and addition and enlargement of the same may be made upon like proceedings and in like manner and subject to the same conditions as for the erection of any such cold storage curing and drying plant as hereinbefore provided. (Id. § 15.)

29p. Rules and Regulations.—The Board of Commissioners of State Institutions is hereby authorized and required to promulgate rules and regulations not inconsistent with the provisions of this act, for the government and operation of cold storage curing and drying plants under this act, so as to secure the most economical administration of the affairs of same and the greatest benefit to the public to be accommodated. (Id. § 16.)

29q. Employees.—All employees required for the management and operation of any cold storage curing and drying plant under this act shall be appointed by the county commissioners of the county but may be removed or dismissed by the Board of Commissioners of State Institutions for incompetency or neglect of duty, upon complaint made and proved of such fact. (Id. § 17.)

Confectionery.

See No. 4.

Cottonseed Meal.

30. Sale of Certain Cottonseed Meal Prohibited Without Branding "Second-Class Cottonseed Meal."—The sale of any cottonseed meal made from short staple cotton, commonly known as "Bright Cotton Seed Meal," and containing less than 6.18 per cent of nitrogen—equivalent to 7.50 per cent of ammonia—or the sale of any cottonseed meal made from sea island cotton, commonly known as "Dark Cottonseed Meal," and containing less than 3.7 per cent of nitrogen, equivalent to 4.50 per cent of ammonia, is prohibited in the State of Florida: Provided, that "bright" or "dark" cottonseed meal, as herein defined, which contains less nitrogen or ammonia than is specified herein, may be sold in this State when there is plainly printed, in capital letters, on the guarantee tag now provided by law, the words "Second-Class Cottonseed Meal." (R. G. S. 1919, § 2416.)

31. Sale of Inferior Grades Prohibited Unless Marked "Second-class Cottonseed Meal."—The sale of inferior, mixed, or adulterated materials as cottonseed meal, by qualifying the trade-mark, name or brand, "Feed Meal," "Dairy Meal," "Star Meal," "Stock Feed Meal," or any other qualifying words or signs, is prohibited, and all goods sold or offered for sale as cottonseed meal shall contain the minimum percentage of nitrogen specified in section 2416, except such as are plainly marked in capital letters, "Second-Class Cottonseed Meal," as provided in section 2416. (Id. § 2417.)

32. Guarantee Tag.—The guarantee tag as is now provided for in the fertilizers and stock food laws of this State shall in all cases be attached to each package or sack of cottonseed meal, showing the minimum percentages of valuable ingredients, with the additional qualifying words, "Second-Class Cottonseed Meal," where nitrogen contents is less than the standard provided for in section 2416 for "Cottonseed Meal." (Id. § 2418.)

33. Seizure For Violation of Act.—Any cottonseed meal found on analysis of the State Chemist to be materially below the guaranteed analysis under which such cottonseed meal was sold, or is being offered or exposed for sale, either for the standard cottonseed meal, as the second-class cottonseed meal, as herein defined; or any second-class cottonseed meal which has been sold, or is being exposed or offered for sale, without the words "Second-Class Cottonseed Meal," plainly printed in capital letters on the guarantee tag, shall be subject to seizure by any of the sheriffs of the State, upon the order of the Commissioner of Agriculture. (Id. § 2419.)

34. Selling Cottonseed Meal in a Manner Prohibited by Law.—Any manufacturer, or importer, or agent of any manufacturer or importer, who shall sell, or offer or expose for sale, any cottonseed meal in a manner prohibited in chapter 42, Title 11, First Division of these Revised General Statutes,* shall be guilty of a misdemeanor and fined five hundred dollars for the first offense and one thousand dollars for each subsequent offense: (Id. § 5718.)

Cottonseed Oils.

See No. 10.

Dairy Products—Substitutes For Dairy Products.

35. Quality of Condensed Milk Required.—No sweetened condensed, or evaporated (unsweetened) condensed milk shall be manufactured, sold, or exchanged, or offered, or exposed for sale or exchange, in the State of Florida, unless the same be manufactured from, or out of pure, clean, healthy, fresh, unadulterated and wholesome milk, from which the cream has not been removed either in whole or in part, and that does not contain the amount of milk solids, and milk fat as herein provided. (R. G. S. 1919, § 2047.)

36. Standard.—The standard for sweetening [sweetened] condensed milk shall be as follows: Sweetened condensed milk is milk from which a considerable portion of the water has been evaporated, and to which sugar (sucrose) has been added, and which contains not less than 28 per cent of milk solids and not less than 7.7 per cent of milk fat.

*See Nos. 30-33.

The standard for evaporated (unsweetened) condensed milk shall be as follows: Evaporated milk is milk from which a considerable portion of the water has been evaporated, and contains not less than 24 per cent of milk solids and not less than 7.8 per cent of milk fat. (Id. § 2048.)

37. Selling Condensed Milk Below Standard.—Any person, or persons, firm or corporation, selling, or offering for sale, or exchange any evaporated condensed milk, either sweetened or unsweetened, containing less milk solids, or milk fat as fixed by the standards in section 2048 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$100.00, or imprisoned not more than three months. (Id. § 5516.)

38. Selling Oleomargarine.—Whoever knowingly and willfully sells or causes to be sold as butter any spurious preparation purporting to be butter, whether known as oleomargarine or by any other name, shall be punished by imprisonment not exceeding thirty days, or by fine not exceeding one hundred dollars. (Id. § 5520.)

39. Hotel Keeper Supplying Same.—Any keeper of any hotel or boarding house who shall knowingly and willfully, without giving notice to guests at the table, supply oleomargarine or other spurious preparation purporting to be butter for the use of guests, shall be subject to the same penalty. (Id. § 5521.)

39a. Oleomargarine Dealers.—Oleomargarine, wholesale dealers in, handling in original packages only, shall pay a license tax of twenty dollars. (Id. § 940.)

40. Standard Milk; Standard Cream; Unlawful to Sell Unless Standard.—The standards for milk and cream shall be as follows:

Milk is the whole, fresh, clean lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before, and five days after calving, or such longer period as may be necessary to render the milk practically colostrom-free; and shall contain not less than eight and fifty-one-hundredths (8.50%) per cent solids, not fat, and three and one-quarter (3.25%) per cent milk fat.

Cream shall contain not less than eighteen (18%) per cent of milk fat, and not more than two-tenths (2-10%) per cent of acid reacting substance calculated in terms of lactic acid.

From and after the passage of this act, it shall be unlawful for any person, firm, association or corporation to sell or offer for sale any milk or cream that does not comply with the above standard. (L. 1921, c. 8534, § 1.)

41. Ice Cream; Fruit Ice Cream; Nut Ice Cream; Unlawful to Sell Unless Standard.—The standard for ice cream shall be as follows:

Ice cream is a frozen product made wholly from cream, condensed milk, or evaporated milk and sugar, with or without a natural flavoring, and contains not less than fourteen (14%) per cent of milk fat.

Fruit ice cream is a frozen product made wholly from cream, condensed or evaporated milk, and sugar, and sound, clean, mature fruits, and contains not less than twelve (12%) per cent of milk fat.

Nut ice cream is a frozen product made wholly from sugar, cream, condensed or evaporated milk, and sound, non-rancid nuts, and contains not less than twelve (12%) per cent of milk fat.

From and after the passage of this act, it shall be unlawful for any person, firm, association or corporation to manufacture, sell or offer for sale any ice cream that does not comply with the above standard. (Id. § 2.)

42. Other Frozen Milk Products Labeled.—Any frozen milk product that does not comply with standards for ice cream provided in section 2 shall have plainly printed on each package, either wholesale or retail, the common names of the ingredients contained therein and shall not be sold under the name of ice cream. (Id. § 3.)

43. Penalty.—Any person, firm or association violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred (\$500.00) dollars for each offense or imprisonment in the county jail for six months, in the discretion of the court. (Id. § 4.)

Edible Fats.

See No. 10.

Feeding Stuffs.

44. State Chemist Inspector of Commercial Feeding Stuffs.—The State Chemist and his assistants shall be inspectors of commercial feeding stuffs; they

shall be under the general direction and supervision of the Commissioner of Agriculture. (R. G. S. 1919, § 2055.)

45. Duty of Chemist to Analyze Samples, etc.—It shall be the duty of the State Chemist to analyze samples of commercial feeding stuffs that may be offered for sale in this State, and for this purpose he is authorized, and directed, to take or have taken by his assistants, from any brand of commercial feeding stuffs offered for sale in this State, which may be in the possession of any manufacturer, dealer or person using or offering for sale the same, samples not to exceed one pound each in weight. In case any manufacturer shall request another analysis, then the sample at the request of any manufacturer, shall be sent to any chemist to whom the Commissioner of Agriculture, State Chemist and manufacturer shall agree upon. (Id. § 2056.)

46. Packages of Commercial Feeding Stuffs to be Labeled; What Label to Show; Penalties; Seizure and Sale of Unmarked Stuffs.—Every bag, barrel, or other package of commercial feeding stuff manufactured, sold in or imported into this State, shall have securely attached a tag or label, and plainly printed thereon, the number of net pounds of commercial feeding stuffs in the package, the name, brand, or trade-mark under which the commercial feeding stuff is sold; the name and address of the manufacturer, and the guaranteed chemical analysis, stating the percentage of fat, the percentage of protein—allowing one per centum of nitrogen to equal 6.25 per centum of protein—the percentage of sugar and starch contained therein, these constituents to be determined by the methods adopted by the association of official agricultural chemists of the United States; and the ingredients from which it is compounded; also the stamp showing the payment of the inspection fee provided for in this chapter. The sale of mouldy and damaged feeding stuff is prohibited in this State, except on full notice in writing to the purchaser of the nature and extent of the damage. Any manufacturer, importer, jobber, agent, or seller who shall sell, offer or expose for sale or distribution in this State any commercial feeding stuff as defined in this act, without complying with the requirements of this act, or who shall sell, offer or expose for sale or distribution any commercial feeding stuff which contains substantially a smaller percentage of constituents than are certified to be contained, or who shall adulterate any feeding stuff with foreign, mineral or other similar substance or substances, such as rice hulls or chaff, peanut shells, corn cobs or other similar material of little or no feeding value, or with substances injurious to the health of domestic animals, shall be guilty of a violation of the provisions of this chapter, and the lot of feeding stuff in question shall be subject to seizure, condemnation and sale or destruction by the sheriffs under the direction of the Commissioner of Agriculture. The sheriffs of the counties of this State are hereby authorized, and it is hereby made their duty to seize and sell at public sale, each and every bag, barrel or package of commercial feeding stuffs manufactured, imported into, or sold in this State which shall not have securely attached, the tag or label, and stamp mentioned in this section; provided, that should the owner show to the satisfaction of the sheriff such tag or label or stamp had been attached and the same had become detached, the sheriff shall release the same without cost to the owner. All commercial feeding stuffs shipped in bulk to consumers shall be subject to the penalties provided for in this act, upon the attempt to evade the guaranteed analysis, and the payment of the inspection fee provided for in this act; provided, that nothing in this chapter shall be construed to restrict or avoid sales of commercial feeding stuff material in bulk to each other by importers, manufacturers or manipulators who mix commercial feeding stuffs for sale, or as preventing the free and unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix commercial feeding stuffs for sale. All money or proceeds derived from the seizure or sale of commercial feeding stuffs, shall be covered into the State treasury. (Id. § 2057.)

47. Manufacturers and Dealers to File Annual Statements.—Any manufacturer, or importer, dealer or agent, for the sale of commercial feeding stuffs, previous to offering the same for sale in this State, shall file with the Commissioner of Agriculture annually a paper giving his or their name and address, the place of manufacture, the name and address of his principal agent or agents in the State of Florida, also the name or brand and guaranteed analysis, under oath, of the commercial feeding stuffs offered for sale by him, or them. (Id. § 2058.)

NOTE: For penalty, see No. 57.

48. Fee For Inspection; Proviso; Tags and Stamps; Duty of State Attorneys, etc.—Every manufacturer, importer, agent or seller, of any commercial feeding stuffs, shall pay to the State Treasurer a fee of twenty-five cents for each and every ton offered for sale in this State; provided, that when the manufacturer

or importer shall have paid the fees herein required for any person acting as agent or seller for any manufacturer or importer, such agent or seller shall not be required to pay the fee named in this section. It shall be the duty of every person, before selling any commercial feeding stuffs for use in this State, to attach or cause to be attached, to each bag, barrel or package thereof, one of the tags and stamps hereinbefore described, designating the name and quantity of feeding stuff in the bag, barrel or package and guaranteed analysis to which it is attached, as evidence of the payment of the inspection fee, and the guaranteed analysis imposed by this act. It shall be the duty of the Attorney-General and the several State attorneys when requested by the Commissioner of Agriculture, to enjoin any person, firm or corporation, resident or non-resident, from manufacturing or selling or soliciting orders for the sale of commercial feeding stuffs in this State, for use in this State, without complying with the provisions of this act, without bond or advanced costs. (Id. § 2059.)

49. Stamps Furnished by Commissioner of Agriculture; Reports to Governor.—It shall be the duty of the Commissioner of Agriculture to furnish the manufacturers, dealers or importers of commercial feeding stuffs with stamps to be attached to each package of commercial feeding stuffs sold or used in this State, which stamps shall be accounted for by the Commissioner of Agriculture in his monthly report to the Governor; such stamps shall be printed in such form as may be prescribed by the Commissioner of Agriculture. (Id. § 2060.)

50. Remittance For Stamps Made to State Treasurer.—Each manufacturer of or dealer in commercial feeding stuffs shall forward the money for commercial feeding stuffs stamps, with his letter of request, direct to the State Treasurer. Said letter of request shall contain the statement of tons of commercial feeding stuff for which stamps are requested, and the number of packages contained in each ton. The State Treasurer shall hand to the Commissioner of Agriculture the letter of request for commercial feeding stuff stamps, which orders shall be filled by the Commissioner of Agriculture at once, if found correct. (Id. § 2061.)

51. Citizens May Submit Feeding Stuffs For Analysis; How Drawn; Certificate of Analysis, etc.—Any person purchasing any commercial feeding stuff from any manufacturer or vendor in this State for his own use, such person being a citizen of this State, may submit fair samples of the said commercial feeding stuff to the Commissioner of Agriculture for analysis. But in order to protect the manufacturer or vendor from the submission of spurious samples for analysis, the person selecting the same shall do so in the presence of two or more disinterested persons, which sample shall be taken from one or more packages, placed in a bottle or can, and sealed in the presence of said witnesses, and this sample package, bottle or can, placed in the hands of a disinterested person, who shall forward the same, at the expense of the purchaser, to the Commissioner of Agriculture, and upon the receipt by him of such sample package, the Commissioner of Agriculture is hereby authorized to require the State Chemist to analyze the same, and he shall return to such purchaser, or purchasers, a certificate or certificates of analysis. The certificate shall in all cases set forth the component parts of said commercial feed stuffs, with their respective quantities, dates of analysis, and the name or names of the person or persons submitting the samples, and to be signed by the State Chemist, who is hereby required to keep an accurate account of the same, and the said certificate or record, when verified by the affidavit of the State Chemist, shall be competent evidence in any court of law or equity in this State. (Id. § 2062.)

52. Defrauded Purchasers May Recover Double Damages; Proceedings by Attachment Against Non-Residents, Etc.—Any person purchasing any commercial feed stuff from any manufacturer or vendor who shall, upon analysis by the State Chemist, discover that he has been defrauded by reason of adulteration, or deficiency of constituent elements, either in quality or quantity, in the commercial feed stuffs so purchased, shall recover in any action he may institute, upon proof of the fact, twice the amount paid to, or demanded by the manufacturer or vendor of the commercial feed stuff so purchased. But in all cases where the vendor is an agent of the manufacturer, or sub-agent of such agent, the judgment of the court shall be rendered against the manufacturer. In case any purchase be made of any manufacturer, or agent, of any person or persons residing out of the State of Florida, manufacturing, compounding or furnishing for sale, any commercial feed stuffs, the purchaser thereof may, at his option, proceed by attachment, as now provided by law in case of non-resident and absconding debtors, against such property, rights or credits of the person or persons selling, manufacturing, compounding or furnishing said commercial feeding stuff, when such property, rights or credits can be found within the limits of the State. (Id. § 2063.)

53. Term "Commercial Feeding Stuffs" Defined.—The term commercial feeding stuffs, as used in this chapter, shall be held to include linseed meals, cotton-

seed meals (when sold for stock feed), pea meals, cocoanut meals, gluten meals, maize feeds, starch feeds, sugar and molasses feeds, dried brewers' grains, malt sprouts, hominy feeds, cerealine feeds, oat feeds, corn and oat chops, corn and oat feeds, ground beef or fish scraps, mixed feeds, middlings, mixed feeds made wholly or in part from wheat, rye, buckwheat or rice, mixed bran and brans made from any cereal or grain, but shall not include hays and straws, and cottonseed hulls, the whole seeds, nor the unmixed meals and chops, made directly from the seed of wheat, rye, barley, oats, velvet beans, Indian corn, buckwheat, broom-corn or rice, containing less than 10 per cent of crude fibre. (Id. § 2064.)

54. Analysis to Applicants; What to Set Forth.—The State Chemist, upon application, shall furnish at any time to an applicant a full analysis of any sample of commercial feeding stuffs required. Said analysis shall set forth the percentage of fat, protein, starch and sugar, with a statement of the commercial value of each ingredient, which valuation shall be uniform and not above the real value of such ingredient. (Id. § 2065.)

54a. Appointment Additional Assistant State Chemist.—The Governor shall upon the recommendation of the State Chemist, appoint an additional Assistant State Chemist who shall be a competent analytical chemist to be stock feed analyst. (Id. § 2066.)

55. Rules Regarding Inspection, Analysis, etc.—The Commissioner of Agriculture shall have the authority to establish such rules and regulations in regard to the inspection, analysis and sale of commercial feeding stuffs, not inconsistent with the provisions of this chapter, as in his judgment will best carry out the requirements thereof. (Id. § 2067.)

56. Misrepresenting Proportion of Ingredients.—Any manufacturer or dealer who shall misrepresent the proportion of fat, protein, sugar or starch, or other ingredient contained in such commercial feeding stuffs, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be fined not more than five hundred dollars for the first offense, and one thousand dollars for each subsequent offense. (Id. § 5713.)

57. Failure of Manufacturer, Importer or Dealer in Commercial Feeding Stuff to File Annual Statements With Commissioner of Agriculture.—Any manufacturer, importer or agent who shall refuse to give the information required in section 2058,* shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars for each offense. (Id. § 5714.)

58. Failure of Dealers to Pay Inspection Fee.—Any manufacturer, importer or dealer in commercial feeding stuffs, who shall fail to pay the inspection fee provided for and required by law, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined one hundred and fifty dollars for the first offense, and two hundred and fifty dollars for each subsequent offense. (Id. § 5715.)

59. Selling Untagged and Unstamped Commercial Feeding Stuff.—Any person who shall sell any package of commercial feeding stuff which has not been tagged and stamped as required by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined the sum of one hundred and fifty dollars for each lot of feeding stuff so sold; and the said person shall be also liable to a penalty of five dollars for each omission to tag and stamp each package, each omission to constitute a separate offense, which penalty may be sued for, either by the Commissioner of Agriculture or any other person. (Id. § 5716.)

60. Using Counterfeit Tag or Stamp.—Any person who shall counterfeit, or use a counterfeit of a tag or stamp prescribed in chapter 7, title 11, division 1 of these Revised General Statutes,† knowing the same to be counterfeited, or who shall use them a second time after the tags or stamps shall have been once attached, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding five hundred dollars for the first offense and one thousand dollars for the second offense. (Id. § 5717.)

NOTE: See also No. 17a et seq.; No. 30 et seq.

Flavoring Extracts.

See Nos. 114 and 119.

*See No. 47.

†See Nos. 44-55.

Flour, Meal, Etc.

See No. 30 et seq.; No. 148 et seq.

Fruits, Vegetables, Etc.

60a. Duties of Marketing Commissioner.—The duties of the State Marketing Commissioner shall be to receive and compile reports on all fruits, vegetables and other farm products as are grown in the State, to publish same in the State press that will do so without cost, to obtain and disseminate information as to carriers' rates, to collect information as to additional market centers and their capacity, and to keep and compile a statement of all shipments moving out of the State that through this information the farmers and producers can be kept posted as to exact conditions existing in the State, and the several markets of the country, to better co-operate with and prevent a loss to our people, and to co-operate with the United States government in establishing a parcel post marketing system in this State. He shall issue such bulletins or other information along lines of advice as to how best pick, pack, kind of package, and way to distribute; to study all conditions as affecting other States; to keep in touch with the Department of Agriculture at Washington, D. C., and the Commissioner of Agriculture of the State, that through this close touch and study of conditions, he can advise our people what crops to plant or not plant, what markets are overstocked, and through a system of co-operation aid in development of agricultural interests and protecting of Florida's producers. In connection with the Commissioner of Agriculture shall co-operate and devise such methods as will best carry forward this work, such as inspection of packages and other measures as conform to plans of the marketing system of the Department of Agriculture at Washington; also, through this to get better seeds and aid in preventing, and in studying the various diseases and pests that affect our crops. To do all that can be done in connection with the Commissioner of Agriculture to bring relief to and aid in the marketing and distribution of Florida's products. (R. G. S. 1919, § 1323.)

60b. Commissioner of Agriculture, and Marketing Commissioner Authorized to Adopt Rules and Regulations.—The Commissioner of Agriculture and Marketing Commissioner are authorized to consult, advise, adopt and promulgate to shippers throughout this State rules and regulations for the inspection of quality, the truthful, honest branding of each package shipped and the prohibiting of any shipper having the benefit of shipping through the marketing bureau, who will not strictly observe and obey such rules and regulations in the preparation, packing and shipping of his farm and orchard products. (L. 1921, c. 8403, § 5.)

NOTE: See also No. 18 et seq.; No. 29a et seq.; No. 72 et seq.; No. 145 et seq.

Grain.

See No. 148 et seq.

Meat—Meat Products.

61. Certain Combinations Against Public Policy.—Every arrangement, contract, agreement, trust or combination between persons or corporations, or between any person and any corporation, made with a view to, or tending to, prevent, hinder or obstruct the lawful sale in this State, or any place therein, of beef or other fresh meat of cattle or any other edible animal raised, fattened or fed in the State of Florida, or any other beef or fresh meat, or with a view to, or tending to, prevent, hinder or obstruct the lawful sale of any cattle or other edible animal in this State, or any place therein, or which shall tend to monopolize or control the sale or price of beef or other fresh meat in this State, or any place therein, is hereby declared to be against public policy. (R. G. S. 1919, § 4986.)

62. Forfeiture of Charter.—Any corporation chartered under the laws of this State which shall violate any of the provisions of the preceding section shall thereby forfeit its charter and franchises and its corporate existence shall thereupon cease and determine. Every foreign corporation which shall violate any of the provisions of said section is hereby denied the right to do and is prohibited from doing business in this State. It is hereby made the duty of the Attorney-General of this State to enforce this provision by due process of law. (Id. § 4987.)

63. Jurisdiction of Circuit Court.—The Circuit Courts of this State are hereby given jurisdiction in Chancery and it is hereby made their duty to restrain

or enjoin any violation of this chapter in their respective circuits and to restrain or enjoin any raising or lowering [of] the price or prices of beef or other fresh meat in any place or places in such several circuits with intent to or tending to prevent, hinder or obstruct the sale of beef or other fresh meat or cattle or any other edible animal raised, fattened or fed in the State of Florida, or any other beef or fresh meat, or with intent to or tending to prevent, hinder or obstruct the lawful sale of any cattle or other edible animal in any such place or places. (Id. § 4988.)

64. Duty of State Attorney.—It is hereby made the duty of the State Attorneys to institute and prosecute all proper suits in their respective circuits in the name of the State to enforce this chapter. Any citizen of this State also may institute and prosecute suit in his own name to enforce this chapter. In case decree shall be rendered in the Circuit Court in favor of the complainant, whether the State or an individual, the court may decree that the defendant or defendants pay a reasonable fee in the cause for the State Attorney or complainant's solicitor therein. Nothing herein contained shall operate or be construed to deprive any person of any right to any damages or of any remedy to recover damages which such person would have without this chapter in order about or from matter mentioned or included in this chapter. (Id. § 4989.)

65. Compelling Testimony of Witnesses.—No person shall be excused from attending and testifying, or from producing books, papers, contracts, agreements and documents on subpoena for the State, or as witnesses for the State, or on cross-examination for the State, in any prosecution, suit or proceeding, criminal or civil, under, authorized by or based upon this chapter or growing out of any violation thereof, when such prosecution, suit or proceeding is in the name of the State and prosecuted or carried on by the Attorney-General or State Attorney, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required by him, may tend to criminate him or subject him to a penalty or forfeiture. But no such person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence: provided, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. (Id. § 4990.)

66. Combinations Against Florida Meats.—Any violation of any provisions of law relating to combinations against the sale of Florida meat shall be deemed and is hereby declared to be destructive of full and free competition and a conspiracy against trade, and any person or persons who may engage in such conspiracy or who shall as principal, manager, director or agent, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates or orders made in furtherance of such conspiracy shall on conviction be punished by fine of not more than five thousand dollars or by imprisonment for not more than one year. (Id. § 5402.)

67. Killing Young Veal For Sale.—Whoever kills or causes to be killed for the purpose of sale any calf less than four weeks old and knowingly sells or has in his possession with intent to sell the meat of any calf killed when less than four weeks old shall be punished by fine of not exceeding two hundred dollars. (Id. § 5519.)

NOTE: See also Nos. 10 and 72 et seq.

Oysters.

68. Standard Measures; Record of Measures.—As a standard measure, a half barrel of oysters shall consist of a tub or other round vessel of the following dimensions, or the cubical equivalent thereof, to wit: It shall measure eighteen and one-half inches inside at the top, and seventeen inches from the bottom to top, and twenty-five and one-half inches diagonal. The unit of such tub or measure may be in the shape of an inverted frustrum of a cone. Two of these measures filled, rounded and banked shall make one barrel, and all oysters or clams bought and sold in this State in the shell shall be measured in a measure of this equivalent, or measure holding a fraction or multiple thereof; and it shall be unlawful for any person to have in his possession any measure for oysters or clams in the shell [which] shall differ in equivalent size from the measure herein provided for; or demand or require a cargo of less or greater measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters or clams until it has been measured and stamped by the Shell Fish Commissioner, his agents or deputies, with a metal tag or stamp showing the quantity of oysters or clams such measure will hold. It shall be the duty of the Commissioner of Agriculture to make, or

have made, to be paid out of any funds to the credit of the shell fish industry, such measures, to be sold at actual cost, and to have the Shell Fish Commissioner visit or have his agents or deputies visit, for the purpose of measuring all vessels used in the buying or selling of oysters or clams; each place where oysters or clams are bought or sold, and the Shell Fish Commissioner shall keep a book in which shall be recorded the dimensions of all measures so measured. For each stamp or tag the Commissioner of Agriculture shall charge the sum of twenty-five cents from the person, firm or corporation to whom it is issued, and such moneys shall be deposited in the Shell Fish Fund.

The Commissioner of Agriculture shall keep a book to be known as the Oyster and Clam Measure Record in which he shall register the name of each person, firm or corporation to whom was issued such stamp or tag and the date of issuance and its number, and said record shall be open for the inspection of the public. (R. G. S. 1919, § 1254, as amended L. 1921, c. 8588, § 1.)

68a. Sizes of Oyster for Can Stock.—No person, firm or corporation shall take, gather or remove from the public oyster reefs or bars of the State any oyster measuring less than three and one-half inches from hinge to mouth for can stock purposes. (L. 1925, c. 10131, § 3.)

68b. Taking Small Oysters for Can Stock.—Anyone found guilty of violating section 3 shall be deemed guilty of a misdemeanor and fined as provided by law. (Id. § 4.)

Syrups.

69. Adulterating Syrup.—Any person, firm or corporation, or agent thereof, who shall sell, offer for sale, or advertise for sale in this State any adulterated or mixed syrups whatever, except at the time of such sale or offer for sale the percentage of such adulteration or mixture, and the name and postoffice address of the manufacturer, is clearly stamped or labeled on the barrel, can, case, bottle or other receptacle containing such syrup or mixture, shall be punished by fine not exceeding five hundred dollars or imprisonment not exceeding six months. The term adulterated "Mixture" or "Admixture," as used herein is understood to apply to all mixtures of two or more ingredients differing in their nature and quality, such as sugar cane syrup, sorghum syrup, maple syrup, molasses or glucose. (R. G. S. 1919, § 5657.)

Sanitation.

70. Screens.—All hotels, rooming houses and restaurants shall screen all outside doors and windows in such manner as will meet approval of hotel inspector, in accordance with section 5641. (R. G. S. 1919, § 2152.)

70a. Violation of Regulations as to Inspection and Operation of Hotels, Etc.—Any owner, manager, agent or person in charge of a hotel, rooming house or restaurant who shall obstruct or hinder any hotel inspector in the proper discharge of his duties imposed by law, or who shall fail or refuse or neglect to pay the license fee for inspection prescribed by law, or who shall fail or refuse to perform or carry out any duty imposed upon him by law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$5.00 nor more than \$50.00 or shall be imprisoned in the county jail for not less than ten days nor more than thirty days, or both. And every day that such a hotel, rooming house or restaurant shall be operated in violation of law shall constitute a separate offense. (Id. § 5641.)

71. Kitchens of Hotels and Restaurants to Be Screened; Employees to Be Free From Communicable Disease.—It shall be unlawful for any person, firm or corporation to operate any hotel, boarding house, restaurant or lunch counter within this State without keeping all doors, windows and other similar openings in or to dining rooms, kitchens, or any other place where food is prepared, served or stored, and passage ways between the same, and hallways leading thereto, screened with wire netting, with mesh sufficiently close to prevent the admission of flies.

Provided, further, that no person suffering from any contagious or communicable disease shall be employed in any hotel, apartment house, rooming house or restaurant to prepare or handle food, drinks, dishes, towels or linens, or in any other capacity whereby such disease might be communicated to guests or tenants.

All such employees shall furnish health certificates, signed by a registered, licensed physician or family practitioner of the State of Florida, whenever the Hotel Commissioner or inspector, in his discretion, deems it necessary for the protection of public health. (Id. § 2153, as amended L. 1923, c. 9264, § 10.)

72. Food Exposed For Sale to be Screened.—It shall be unlawful for any person, firm or corporation to sell or offer for sale food for consumption in the raw state, or which may be consumed without further cooking, at any meat shop, butcher shop, market, grocery store, fruit stand, or any other places where food is exposed for sale, without having such food securely screened by wire netting with mesh sufficiently close to prevent the admission of flies. (R. G. S. 1919, § 2154.)

73. Dining and Buffet Cars to be Screened.—It shall likewise be unlawful for any person, firm or corporation to operate any dining or buffet car within this State, without having all doors, windows and other similar openings to the same securely screened with wire netting with mesh sufficiently close to prevent the admission of flies. (Id. § 2155.)

74. Duty of Owners, Tenants and Operators to Keep Flies Out.—It shall be the duty of the owner, tenant, operator or person in charge of any of the foregoing described hotels, boarding houses, restaurants, lunch counters, meat shops, butcher shops, grocery stores, fruit stands, dining rooms, kitchens, dining or buffet cars, lunch counters and other places, to keep all flies out of the said places so far as may be possible. (Id. § 2156.)

75. Violation of Regulations as to Screening Hotels, etc., Places Where Food is Exposed, and Dining Cars.—Any person, firm or corporation found guilty of violating any of the provisions of sections 2153 to 2156, inclusive, shall be deemed guilty of a misdemeanor, and, upon conviction, fined not exceeding fifty dollars or punished by imprisonment not exceeding three months. Each day's business conducted in violation of the provisions of this act shall constitute a separate offense. (Id. § 5642.)

PART III.

Special Drug Laws.

Abortifacients.

76. Advertising Drugs, etc., For Abortion.—Whoever knowingly advertises, prints, publishes, distributes or circulates, or knowingly causes to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement or reference containing words or language giving or conveying any notice, hint or reference to any person, or the name of any person, real or fictitious, from whom, or to any place, house, shop or office where any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, or any advice, direction, information or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child, shall be punished by imprisonment in the State Prison not exceeding one year, or by fine not exceeding one thousand dollars. (R. G. S. 1919, § 5437.)

Caustic Acids, Etc.

77. Sale of Lye Regulated.—On and after the first day of January, one thousand nine hundred and twenty-four, it shall be unlawful for any person or co-partnership or corporation to sell at wholesale or retail within this State any caustic acids or caustic alkalies or preparations "containing such acids or alkalies" intended for household use, including preparations ordinarily described as or called "lye," without affixing to the bottle, box, vessel, sack or package containing the same a label printed or plainly written containing the name of the article, the name and place of business of the manufacturer, seller, or distributor of such household acids, alkalies or preparations thereof and in addition, the word "Poison," which shall conspicuously appear thereon in red capital letters not less than twenty-four point size or which shall be affixed thereto as a sticker conspicuously placed. (L. 1923, c. 9336, § 1.)

78. Definition.—The word "caustic" shall within the intent and purpose of this act be construed to mean any "acids or alkalies in liquid or powdered form of" preparations thereof or containing free or chemically unneutralized hydrochloric acid in a concentration of ten (10) per centum or sulphuric acid in a concentration of ten (10) per centum or nitric acid in a concentration of five (5) per centum or carbolic acid (phenol) in a concentration of five (5) per centum or oxalic acid in a

concentration of ten (10) per centum or acetic acid in a concentration of twenty (20) per centum or hypochlorous acid (calx chlorinata bleaching powder or chloride of lime) in a concentration of one hundred (100) per centum or potassium hydrate (caustic potash Vienna paste pearlash potassa carbonas) in a concentration of ten (10) per centum or sodium hydrate (caustic soda concentrated lye) in a concentration of twenty (20) per centum or silver nitrate (lunar caustic) in a concentration of five (5) per centum. (Id. § 2.)

79. Penalty.—Any person or co-partnership or corporation violating section one of this act is guilty of a misdemeanor and upon conviction shall be sentenced to pay a fine of not more than one hundred dollars and the costs of prosecution, or imprisonment of not more than 90 days. (Id. § 3.)

Embalming Fluids.

80. Embalming Fluids Prohibited.—It shall be unlawful for any person, firm or corporation to manufacture, sell, or offer for sale, or distribute, within this State any embalming fluids containing mineral poisons. (L. 1925, c. 10120, § 16.)

81. Penalty.—Any person violating any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine, not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment, in the discretion of the court. All moneys derived from fines imposed under the provisions of this act shall be turned over to the general school funds of the several counties where such convictions may be had. It shall be the duty of the State Board of Embalmers, by all lawful means to aid in the prosecution of violations of this act. (Id. § 19.)

Pharmacy, Poisons and Narcotics.

82. Board of Pharmacy.—The Governor shall appoint five persons from among the most prominent pharmacists of the State, all of whom shall have been residents of the State for two years and of at least four years' practical experience in their profession, who shall be known and styled the Board of Pharmacy for the State of Florida, one of whom shall hold his office for one year, one for two years, one for three years, two for four years, and each until his successor shall be appointed and qualified; and each year thereafter another commissioner shall be appointed for four years until a successor is appointed and qualified. If a vacancy occurs in said board another commissioner shall be appointed as aforesaid to fill the unexpired term thereof. Said board shall have power to make by-laws and all necessary regulations, and to create auxiliary boards if necessary for the proper fulfillment of their duties under this chapter without expense to the State. (R. G. S. 1919, § 2211.)

83. Examination by Board of Pharmacy; Qualification of Applicants; Certificate; Proviso.—The Board of Pharmacy of the State of Florida shall at stated times to be fixed by them, being at least twice in each year, and at such time and place in such manner as they may determine, by a schedule of questions to be answered in writing and orally, examine under such rules and regulations as such board may prescribe, every person who shall desire to conduct the business of selling at retail, compounding or dispensing drugs, medicines or chemicals for medicinal use, or compounding or dispensing physicians' prescriptions as a pharmacist, and who shall have previously paid the required fee and who shall meet such requirements as to moral character, age and education as the board may from time to time prescribe; and if a majority of said board shall be satisfied that said person is competent and fully qualified to conduct said business of compounding or dispensing drugs, medicines and chemicals for medicinal use, and to compound and dispense physicians' prescriptions, they shall enter the name of such person as a registered pharmacist, of this State, in a book to be kept for that purpose; provided, however, that this chapter shall not be construed to prevent a pharmacist from registering without examination, provided the said pharmacist is registered in some other State whose standard of requirements and examination shall be fully equal to the standard of requirement and examination maintained in the State of Florida, and provided such other State shall register pharmacists from Florida on the same conditions; provided, also, that any person not a pharmacist may open and conduct such store, if he shall keep constantly in his employ a registered pharmacist, and shall not himself sell, compound or dispense drugs or medicines or chemicals for medicinal use, except in the presence of and under the immediate personal supervision of such registered pharmacist and except also proprietary and

patent medicines in the original package; provided, also, that any physician legally qualified to practice medicine in the State of Florida for three years prior to June 5, 1915, shall be entitled to register as a pharmacist without examination; provided no new provision in this amended act shall be deemed or held to apply to any person who has been apprenticed for a period of one year or more under the provisions of the present law as the same exists prior to this amendment, and this act shall be deemed and held to be prospective in operation and not retroactive in operation. (Id. § 2212, as amended L. 1925, c. 10201, § 1.)

84. Examination Fee; Annual Registration Fee; Re-registration.—The Board of Pharmacy shall be entitled to collect of each person whom they register and furnish a certificate as a registered pharmacist the sum of fifteen dollars, which shall be in full for all services; and in case the examination of any person shall prove defective and unsatisfactory, and his name not be registered, he or she shall be permitted to present himself or herself again for examination within any period not exceeding twelve months thereafter, and no charge shall be made for such re-examination. Every person registered who desires to continue the practice of pharmacy in the State of Florida shall annually thereafter, during the time he or she shall continue such practice, pay to the secretary of said Board of Pharmacy a registered [registration] fee, to be fixed by the said board, but which shall in no case exceed the sum of one dollar, for which he or she shall receive a renewal of the said registration for one year. It shall be the duty of every person registered, upon changing his or her place of business from one town to another, forthwith to notify the secretary of the said Board of Pharmacy of such change in location. It shall also be the duty of every person registered to notify, by letter, said secretary by the twentieth day of June of each year, whether he or she will continue to practice at his or her registered place of business, enclosing the required fee. The secretary of said board shall notify by letter, mailed to their address appearing in his books, every person registered who shall not have notified him as herein provided, that renewal or registration is required, and in case an answer enclosing the necessary fee is not received by the secretary within sixty days after the date of such notice, such name shall be stricken from the register and such person shall no longer be known or considered as a registered pharmacist under the laws of the State of Florida nor entitled to practice as such; provided, that such person shall have the right to have his or her name reregistered upon payment to said board of a fee of five dollars if such application is made within twelve months from the date his or her name is so stricken. If such application is not made within twelve months from such date then he or she will be required to proceed as in the case of original registration; provided, that actual retirement from the profession of any registered pharmacist for a period not exceeding five years shall not deprive such person of the right to renew his or her registration upon the payment of all lapsed fees. (R. G. S. 1919, § 2213.)

85. Disposition of Funds; May Employ Competent Person to Check Up Certificates of Registration; Duty of Prosecuting Officers.—The said Board of Pharmacy shall pay all necessary expenses for the conducting of the business of said board out of the funds paid to said board as provided in this chapter; and after the payment of all expenses as aforesaid a reserve fund of fifteen hundred dollars shall be retained, and all surplus over and above such expenses and such reserve fund shall, on the first day of January of each year, be divided as follows: One-half paid to the Florida State Pharmaceutical Association, and the other one-half paid into the State treasury. The Board of Pharmacy shall be authorized to employ a competent man or men to make annual tour of the State, if in the opinion of the board it is advisable to do so, to check up certificates of registration and report any violation of the pharmacy law he may find to said board, and it shall be the duty of said board, upon obtaining sufficient evidence of any violation of the provisions of this chapter, to lay the same before the prosecuting attorney of the county in which such violation shall have taken place, or before the State attorney for the judicial circuit where such county has no prosecuting attorney, and it shall be the duty of such officer to prosecute such offense under this chapter or other general laws of the State of Florida. (Id. § 2214.)

86. Board Given Power to Withhold Registration; Revocation of Certificate.—The said Board of Pharmacy shall have power to withhold registration from any applicant whenever said board shall be satisfied that the safety of the public health will be endangered by reason of the character or habits of such applicant. If any registered pharmacist shall have obtained registration by misrepresentation, error or fraud, or shall have become unfit or incompetent to practice pharmacy by reason of habitual intemperance or the use of drugs, or has been convicted of any crime involving moral turpitude, or if any person holding a certificate as a registered pharmacist shall have been convicted of a violation of the pharmacy law in any

of the courts of this State, the said Board of Pharmacy shall have the power to revoke or suspend such registration certificate after giving any such person reasonable notice and an opportunity to be heard; and if any person registered under this chapter shall willfully or repeatedly violate any of its provisions, the said board may revoke or suspend his or her registration certificate upon sufficient evidence of such violation or violations, in addition to any other penalty by law imposed therefor. (Id. § 2215.)

87. Penalty For Violations; Enumerated.—Any person who shall attempt to procure or who shall procure a certificate of registration as a pharmacist, for himself or for any other person, by making or causing to be made any false representations; or any registered pharmacist who shall permit the compounding or dispensing of a medical prescription or a physician's prescription in his store or place of business by any person or persons not registered under the provisions of this chapter or acting at the direction and under the immediate personal supervision of one so registered; or any person not registered by said board who shall prepare or dispense a medical prescription or a physician's prescription, or dispense, give or sell at retail medicines or poisons, except under the direct and immediate supervision of a registered pharmacist whose certificate of registration is conspicuously displayed in the place where the same is prepared, dispensed or sold; or any person not registered by said board who shall open, conduct or have charge of any store or place of business which is not under the direct and immediate personal supervision of a registered pharmacist, for the retailing, dispensing or compounding of medicines or poisons; or any person who shall fraudulently represent himself or herself to be a registered pharmacist; or any person who knowingly refuses to permit any member of said board or any inspector of pharmacy employed by said board to enter a pharmacy or drug store for the purpose of lawfully inspecting the same; or any person who directly or indirectly prevents or attempts to prevent the lawful inspection of any place in which drugs, medicines or poisons are retailed or dispensed, or in which physicians' prescriptions are compounded; or any person whose certificate of registration has expired or been duly and legally revoked or suspended by said board and who refuses to surrender the same to said board; or any person who holds a certificate of registration and fails to display the same as hereinbefore provided; or any person who shall violate any of the provisions of this chapter in relation to retailing, compounding or dispensing drugs, medicines or poisons, for which violation no other penalty is herein imposed, shall for such offense be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding three hundred dollars or by imprisonment not exceeding six months. (Id. § 2216.)

88. Physicians Exempt; Merchants May Sell Certain Drugs; Drugs Enumerated.—Nothing in this chapter shall apply to the practicing of a legally authorized practitioner of medicine from practicing, dispensing, compounding for or giving any medicines or poisons to his patients in the regular course of his practice as such physician, nor shall this chapter apply to the sale by merchants of Paris green, white hellebore and other poisons for destroying insects, or to the sale of any substance for the use in the arts, or to the sale of ammonia, asafoetida, alum, bicarbonate of soda, borax, camphor, castor oil, cream of tartar, dyestuffs, essence of ginger, essence of peppermint, essence of wintergreen, non-poisonous flavoring, essences or extracts, glycerine, licorice, olive oil, sal ammoniac, saltpetre, sal soda, sulphur, blue vitriol, brimstone, pepper, sage, senna leaves, sweet oil, spirits of turpentine, pargoric, Glauber's salts, epsom salts, hive syrup, syrup of ipecac, tincture of arnica, syrup of tolu, syrup of squills, spirits of camphor, sweet spirits of nitre, quinine and all other preparations of cinchona bark, tincture of aconite and tincture of iron, compound cathartic pills and other household remedies; and merchants may sell in the original bottle, box or package any drugs, medicines, chemicals, essential oils or tinctures which are put up by pharmacists in bottles, boxes or packages bearing a label securely affixed, which label shall bear the name of the pharmacist putting up the same, the dose that may be administered to persons three months, six months, one year, three years, five years, ten years, fifteen years and twenty-one years of age, and if a poison, the name or names of the most prominent antidotes. Such merchants may sell any patent or proprietary medicines. (Id. § 2217.)

89. Unlawful For Anyone, Except Regular Pharmacists, to Exhibit Certain Signs; Proviso.—It shall be unlawful for anyone, except a registered pharmacist under this chapter who shall conform to the rules and regulations of the said Board of Pharmacy, to take, use or exhibit the title "pharmacist," "druggist," "pharmacy" and "drug store," or to have charge of, engage in or carry on, for himself or for another, the dispensing, compounding or sale of drugs, medicines or poisons anywhere within the State, except as otherwise in this chapter provided;

and no registered pharmacist shall have personal supervision of more than one pharmacy or drug store at the same time; and, except as prescribed by the provisions of this chapter, it shall not be lawful for any person to practice as a registered pharmacist, or advertise himself by sign or otherwise to be such, or to engage in, conduct, carry on or be employed in the dispensing, compounding or retailing of drugs, medicines or poisons within this State: provided, that this section shall not be construed as precluding any person from owning a drug store or pharmacy if all of the pharmaceutical work in the same shall be constantly under the immediate supervision and direction of a registered pharmacist. (Id. § 2218.)

90. Penalty For Selling Adulterated Drugs.—Every registered pharmacist, and the owner or proprietor of any store dealing in drugs or medicines, shall be held responsible for the quality of all drugs, chemicals or medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer and those known as proprietary; and any person whomsoever who fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment not exceeding six months or by fine not exceeding four hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court; and if the offender be a registered pharmacist, his name shall be stricken from the register. (Id. § 5532.)

91. Unlawful to Sell Certain Drugs Except on Authorized Prescription; Form of Prescription.—It shall be unlawful for any pharmacist, druggist, apothecary or other person, firm or corporation doing business in which drugs, medicines or poisons are retailed or physicians' prescriptions are compounded or dispensed to sell at retail any opium or coca leaves or any compound, manufacture, salt, derivative or preparation thereof, except upon the written prescription of a duly licensed physician or a dentist or a veterinary surgeon, and except as hereinafter provided. Such prescription shall contain the name and address of the person for whom it is written, the exact amount of any of the above named drugs or substances to be given, and the signature of the physician writing it. No pharmacist, druggist, apothecary or other person, firm or corporation shall sell, dispense or otherwise furnish more or less of any of the before mentioned drugs, compounds or mixtures than the amount set forth in such prescription. Every such prescription shall contain the date upon which it shall have been filled and a serial number. Such prescription shall be filled but once and no copy shall be given to any person, except that a copy may be taken by any officer or agent of the State Board of Health, the local board of health or of the law. (Id. § 2165.)

92. Preparations, Not Included, as Prohibited.—The provisions of this chapter shall not be construed to apply to the sale, distribution, giving away, dispensing or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them, in one fluid ounce; or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts, or alpha or beta cocaine or any of their salts or any synthetic substitute for them: provided, that such remedies and preparations are sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intentions and provisions of this chapter. The provisions of this chapter shall not apply to decocainized coca leaves or preparations made therefrom or to other preparations of coca leaves which do not contain cocaine. (Id. § 2166.)

93. Physicians, Dentists, Veterinary Surgeons May Administer Such Drugs Under Certain Regulations.—Any duly licensed physician, a dentist or veterinary surgeon may prescribe, dispense or administer any of the before mentioned drugs or preparations or their derivatives for the treatment or cure of diseases in the course of their professional practice: provided, that such physician, dentist or veterinary surgeon shall not prescribe, dispense or furnish any of the before mentioned drugs to any persons who may be addicted to the habitual use of these drugs or any of their derivatives or preparations, except that a duly licensed physician may, for the cure of such habit or addiction, prescribe or administer these drugs in reducing doses to an habitual user while personally supervising and controlling such habitual user and treating him or her for the habit or addiction aforesaid. In the event that any such case of habitual user of any of the drugs mentioned in section 2165 shall prove refractory or unusually difficult of treatment, it shall be the duty of the physician treating such case to report the fact to the State Board of Health, the local board of health or to the county judge. It shall also be the duty of any physician treating any such case of drug addiction to report such case

to the State Board of Health, the local board of health or to the county judge in the event that such patient shall not pursue his treatment in good faith until final cure: provided, that nothing in this section shall prevent the prescribing, by a duly licensed physician, of opium or any of its derivatives or preparations for such habitual users or addicts as may be declared incurable after investigation by the county judge and an agent of the State Board of Health, or of a municipal health officer, in and after consultation with the physician in attendance. (Id. § 2167.)

94. Refractory Cases; Duty of Prosecuting Officers.—In the event that such refractory or difficult or uncured case be brought to the attention of the authorities mentioned in section 2167, it shall be the duty of said authorities to bring such case to the official attention of the prosecuting officer of the county. It shall be the duty of the prosecuting officer of each county to prosecute each offender against this chapter when duly brought to his notice. (Id. § 2168.)

95. Unlawful Sale of Habit Forming Drugs; First and Second Offense.—Any violation of chapter 15, title 11, first division of these Revised General Statutes* shall be a misdemeanor and shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than thirty days. A second conviction shall be punished by a fine of not over two thousand dollars or by imprisonment for not more than one year. Furthermore, if upon a second conviction the offender be a licensed physician, veterinary surgeon or a licensed pharmacist, in addition to the fine, his or her license to practice medicine or pharmacy in the State of Florida shall be permanently revoked. (Id. § 5533.)

96. Selling Certain Poisons by Registered Pharmacists and Others.—Any violation of the law relative to sale of poisons not specially provided for shall render the principal of the store wherein the same are sold liable to a fine not exceeding one hundred dollars. (Id. § 5526.)

97. Sale of Morphine.—Any druggist or other dealer in drugs and medicines who shall sell or offer for sale any sulphate or other preparations of sulphate without wrapping the same in a scarlet wrapper and plainly labeling it shall be punished by fine not exceeding fifty dollars for each offense: provided, this section shall not apply to regular practicing physicians putting up their own prescriptions in their ordinary practice of dispensing medicines. (Id. § 5527.)

98. Provisions Concerning Poisons.—It shall be unlawful for any person not a registered pharmacist to retail any poisons enumerated below: Arsenic and all its preparations, corrosive sublimate, white and red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnine and all other poisonous vegetable alkaloids and their salts, and the essential oil of almonds, opium and its preparations of opium containing less than two grains to the ounce, aconite, belladonna, colchium, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, veratrum, digitalis and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic and oxalic acids; and he shall label the box, vessel or paper in which said poison is contained with the name of the article, the word "Poison" and the name and place of business of the seller; nor shall it be lawful for any person to deliver or sell any poisons enumerated above unless upon due inquiry it be found that the purchaser is aware of the poisonous character and represents that it is to be used for a legitimate purpose. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities or doses upon the prescriptions of practitioners of medicine. Any violation of this section shall make the principal of said store liable to a fine of not less than ten dollars or more than one hundred dollars: provided, however, that this section shall not apply to manufacturers making and selling at wholesale any of the above poisons: and provided, that each box, vessel or paper in which said poison is contained shall be labeled with the name of the article, the word "Poison" and the name and place of business of the seller. (Id. § 5528.)

99. Narcotics Not to be Sold Except on Prescription.—It is hereby declared a violation of the law for any person, firm or corporation to sell, give away or otherwise dispose of any opium, morphine, cocaine or its salts, atropine, belladonna or conium to any person or persons, except upon the written prescription of a licensed practicing physician, which prescription shall not be filled but once; provided, however, that this section shall not apply to manufacturers making and selling at wholesale to druggists or to sales thereof for the use of dentists, physicians, hospitals or infirmaries. Any person who shall, for themselves or for any other person, firm or corporation, violate any of the provisions of this section shall be deemed guilty of a felony and upon conviction shall be imprisoned not less than one year nor more than five years. (Id. § 5529, as amended L. 1925, c. 10189, § 2.)

*See Nos. 91-94.

99a. Commitment of Drug Addicts.—Persons addicted to the excessive use of morphine, cocaine, or other narcotic drugs are hereby declared to be dangerous to the peace and welfare of the State, and all such persons, upon compliance with the terms of this act may be committed to the care of the State until such time as, in the opinion of the proper officer of the State, such person or persons are enabled, by treatment, to control themselves. (L. 1925, c. 10190, § 1.)

99b. Procedure.—Any person addicted to the excessive use of morphine, cocaine or other narcotic drugs, may be arrested by a lawful officer upon a warrant of arrest issued by the County Judge or Judge of Probate of any county in this State; said warrant of arrest shall issue only upon the filing of an affidavit of two persons, one of whom shall be a practicing physician in good standing, setting forth the name, approximate age and address of the said person sought to be confined, the character of the drug, or the drugs, to the use of which the said person is addicted, and upon the filing of said affidavit, it is hereby made the duty of said County Judge, upon deposit with him of the cost of the arrest, to issue a warrant commanding the sheriff, or any other lawful officer of the county, to arrest said offending person named in said affidavit, and cause him to be brought before said judge; upon the bringing in of said person by virtue of said warrant, the County Judge shall cause the hearing to be had, and if, at said hearing, it shall be made to appear, that said person so arrested is guilty of the charge set forth in said affidavit, the county judge shall enter an order committing said person to the care and custody of the Florida farm colony for epileptic and feeble-minded, and said person shall there be retained in custody until cured, except that such inmates may be paroled under such conditions as the Board of Commissioners of State Institutions shall prescribe, and it shall be lawful for said Florida farm colony for epileptic and feeble-minded to retain said person in such custody until, in the opinion of the physicians in charge of said institution he or she is cured, or is able to properly care for themselves. (Id. § 2.)

99c. Statutes Applicable.—All statutes governing the commitment, custody, treatment and maintenance of the epileptic and feeble-minded shall, so far as applicable, govern the commitment, custody, treatment and maintenance of those addicted to the excessive use of such drugs. (Id. § 3.)

99d. Commitment to Hospital for Insane.—Should a person committed because of his excessive use of narcotic drugs become insane, the Board of Commissioners of State Institutions, upon complaint of the superintendent having the custody of such person, and on due hearing, may order such person committed to said hospital as an insane person. Such order shall have the same force and effect as though entered by the officer having jurisdiction of commitment of the insane from the county of the patient's residence. (Id. § 4.)

99e. Building for Purposes of Act.—All such persons committed as aforesaid shall be placed in a building located at the Florida farm colony for epileptic and feeble-minded at Gainesville, in Alachua County, Florida, and the Board of Commissioners of State Institutions are hereby vested with full authority to take jurisdiction over such persons, and to provide a suitable building or hospital adjacent to and connected with the present hospital for the insane, for the confinement and control of persons committed under the provisions of this act. (Id. § 5.)

99f. Appropriation.—To carry out the provisions of this act the sum of fifty thousand dollars is hereby appropriated out of any funds in the State treasury not otherwise appropriated to be used in the construction of a building or buildings which will be required to comply with the provisions hereof. (Id. § 6.)

99g. Liberal Construction.—This act is to be liberally construed, and if any provision is adjudged to be illegal or void, by a court of competent jurisdiction, such illegality shall not be held or construed to affect the other provisions of this act. (Id. § 7.)

100. "Opium Den" Defined.—Any building, structure or shelter where opium or any preparation in which opium is the principal medicinal agent, is sold for the purpose of being smoked on or about the premises where the same is sold, shall be considered an opium den. (R. G. S. 1919, § 5426.)

101. Keeper of Den; Sale of Opium.—Whoever, by himself, his servant, agent or employee, keeps or maintains an opium den, or whoever sells any opium or preparation in which opium is the principal medicinal agent, to be smoked on or about the premises where sold, shall be punished by imprisonment in the State Prison not exceeding two years or by fine not exceeding two thousand dollars. (Id. § 5427.)

102. Servant, Agent or Employee Punished.—Whoever acts as servant, agent or employee of any person in violation of the preceding section shall be punished in the manner and to the extent therein mentioned. (Id. § 5428.)

103. Renting Building For Opium Den.—Whoever whether as owner or agent, knowingly rents to another a building, structure or shelter for the purpose of an opium den shall be punished by imprisonment in the State Prison not exceeding two years or by fine not exceeding two thousand dollars. (Id. § 5429.)

104. Visiting Opium Dens For Purpose of Smoking Opium.—Whoever visits any opium den for the purpose of purchasing or smoking opium or any preparation in which opium is the principal medicinal agent, shall be punished by imprisonment in the county jail not exceeding six months or by fine not exceeding five hundred dollars. (Id. § 5430.)

105. Rule of Evidence; Proviso.—If any of the furniture, implements, drugs, preparations or materials commonly used in opium dens for the purpose of smoking opium, or other preparations in which opium is the principal medicinal agent, are found in any building, structure or shelter, it shall be prima facie evidence in prosecutions under this act that such building, structure or shelter is maintained as an opium den; provided, that this section shall not apply to the finding of opium or the other preparations aforesaid in regular drug stores. (Id. § 5431.)

106. General Reputation of Building Received in Evidence.—In any prosecutions under this act general reputation shall be received in evidence to establish the character of any building, structure or shelter as an opium den. (Id. § 5432.)

Serums.

107. Hog Cholera Serum and Virus.—It shall be the duty of the State Live Stock Sanitary Board to purchase and keep on hand for distribution through authorized and approved administrators of hog cholera serum and virus, to be furnished upon application and through said administrators and upon their approval, the applicant to pay 25% of the actual cost of the first 3000cc of said serum and virus and to be furnished additional amount of serum and virus at actual cost. All applications shall be made under oath of owner or custodian of hogs to be inoculated. It shall state that the hogs are the property of the signer of such oath or that the signer is the custodian of the hogs, and that the signer has not previously received serum and virus up to his allotment as hereinafter provided, during the year comprised in the date of oath. Such oath shall be made upon blanks furnished by the State Live Stock Sanitary Board and shall have the endorsement of some authorized and approved agent as hereinafter provided. (L. 1923, c. 9329, § 1, as amended L. 1925, c. 10173, § 1.)

108. Who May Inoculate.—Only those veterinarians, county agents and laymen who have been granted permits allowing the use of hog cholera serum and virus, by the State Live Stock Sanitary Board, shall be permitted to inoculate with hog cholera serum and virus, and it shall be the duty of the State Veterinarian to appoint, upon application, one person in each county commissioner's district in the State to inoculate with hog cholera serum and virus. (L. 1923, c. 9329, § 2.)

109. Charges.—The person designated to inoculate serum and virus shall be allowed to charge for his services not more than ten cents (10c) per head for each hog inoculated. (Id. § 3.)

110. Purchase on Bids.—The State Live Stock Sanitary Board shall purchase serum and virus from the lowest and best bidder, quality of serum and distance of shipment being considered. After having received bids from at least three serum and virus manufacturers and dealers, the said Live Stock Sanitary Board shall not purchase any serum or virus that has not been inspected according to the government or State regulations, and so labeled [as] to provide both a serial and established number. Provided, however, that when price and quality shall be equal, the State Live Stock Sanitary Board shall purchase serum and virus manufactured within the State in such amounts as they may be able to furnish. (Id. § 4.)

111. Penalty.—Any person who shall make a false statement in order to secure a shipment of serum and virus, half of which is furnished free by the Live Stock Sanitary Board, shall upon conviction be fined not more than one hundred (\$100.00) dollars or less than ten (\$10.00) dollars or by imprisonment of not more than six (6) months or by both fine and imprisonment, and any officer, agent or servant of the State Live Stock Sanitary Board or any person charged with the duty of the administration of the provisions of this act or who shall assume to administer the provisions of the act, who shall speculate in the sale or distribution of such hog cholera serum or virus or who shall fail to account for the proper sale and distribution of the same shall be deemed guilty of a misdemeanor and punished in like manner. (Id. § 5, as amended L. 1925, c. 10173, § 1.)

Toilet Preparations.

112. Toilet Articles to Show Name of Manufacturer.—Any person, firm or corporation who shall sell or offer for sale at retail to the public any perfume, talcum powder or other toilet preparations manufactured or prepared by any person, firm or corporation other than that person, firm or corporation selling or offering the same for sale at retail to the public, which shall bear upon the label, package, container or bottle the name of the retail seller thereof without also displaying with equal prominence upon such label, package, container or bottle language clearly and plainly indicating by whom the same were prepared or manufactured, together also with the name of the person, firm or corporation preparing or manufacturing the same or the name of the factory or laboratory in which the same were manufactured or prepared, shall be guilty of misbranding, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than sixty days, or by both such fine and imprisonment in the discretion of the trial court. (L. 1925, c. 10287, § 1.)

Intoxicating Liquors.

113. Unlawful Manufacture, Sale or Transportation of Intoxicating Liquors.—It shall be unlawful for any person, association of persons, or corporation, or any agent or employee of any person, association of persons or corporation, to manufacture, sell, barter or exchange, or cause to be manufactured, sold, bartered, or exchanged, or in anywise to be concerned in the manufacture, sale, barter or exchange, or to transport, cause to be transported, or in anywise be concerned in the transportation, from any point in this State to any other point in this State, or to any point in this State from any point without the State, whether in another State, territory, possession of the United States or foreign country, any alcoholic or intoxicating liquors or beverages, whether spirituous, vinous or malt, except as is hereinafter provided. (R. G. S. 1919, § 5458.)

114. Unlawful Disposition of Jamaica Ginger.—It shall be unlawful for any person, association of persons or corporation, or any agent or employee of any person, association of persons, or corporation to sell, dispense, or give away to any person the extract, essence or tincture of Jamaica ginger, except as is hereinafter provided. (Id. § 5459.)

115. Unlawful Possession of Intoxicating Liquors.—It shall be unlawful for any person, association of persons, or corporation, or any agent or employee of any person, association of persons, or corporation, to have in his, her, their, or its possession, custody or control, in this State, any alcoholic or intoxicating liquors or beverages, except as is hereinafter provided. (Id. § 5460.)

116. Exceptions; Sale of Alcohol, Except for Certain Purposes, by Prescription; Form of Prescription; Prescription Records; Quantity; Penalty.—Nothing contained in this article shall be construed to make unlawful the manufacture and sale at wholesale, or to transport, or cause to be transported from within or without this State, alcohol for medicinal, scientific and mechanical purposes; or wine for sacramental purposes, or prohibit the sale and keeping for sale by licensed druggists of alcohol for medicinal, scientific and mechanical purposes, or of wine for sacramental purposes by religious bodies, or any duly organized secret organization using wine for sacramental purposes. Nor shall it be unlawful for licensed druggists to transport or cause to be transported from any point in this State to any other point in this State, or to any point in this State from any point without the State whether in another State, territory, possession of the United States, or foreign country, exclusively for the purposes in this section mentioned, alcohol for medicinal, scientific or mechanical purposes, or wine for sacramental purposes, but no druggist shall sell any such alcohol except for medicinal, scientific and mechanical purposes, or wine for sacramental purposes, and alcohol shall not be sold for medicinal purposes, except upon a written and signed prescription of a physician regularly admitted and licensed to practice his profession in this State by a Board of Medical Examiners, who before writing such prescription shall either have a professional knowledge of the case or shall have made an actual examination of the person for whom the prescription is issued. No prescription shall be filled except by a pharmacist regularly admitted and licensed to practice his profession in this State, said prescription shall be in substance the following form:

State of Florida,

County of

I, ..., a regularly licensed and practicing physician under the laws of said State, do hereby certify that I have either a professional knowledge of the case, or that I have examined, patient in my charge, whose address is, and I do hereby prescribe for use of said patient alcohol. And I further certify that the use of such alcohol is necessary to alleviate or cure the illness or disease of which said patient is suffering.

..... M. D.

Such prescription shall be filled only upon the day issued, or upon the succeeding day, and shall not be filled more than once, nor shall any one person have more than one prescription filled in any one day. Which prescription shall be safely preserved by such pharmacist or druggist, and such pharmacist or druggist shall also keep and preserve a permanent record of all alcohol received and possessed by him on which he shall note the date and quantity sold and dispensed to any person, with the name and address of such person; which prescriptions and record shall be submitted by him for inspection and examination upon the demand of any sheriff, deputy sheriff, prosecuting attorney, constable or police officer. And no such physician shall prescribe any such alcohol for any person for other than for medicinal purposes, or in quantities exceeding eight ounces to any one person at any one time. And any such pharmacist or physician who shall violate any of the provisions of this article, including this section, shall, on conviction, be deemed guilty of a misdemeanor, and be punished as is hereinafter provided, and in addition he shall forever be disqualified to practice his profession in this State. (Id. § 5462.)

117. Sale of Alcohol by Druggist.—It shall not be unlawful for any retail druggist in this State who is himself a licensed pharmacist, or who regularly employs a licensed pharmacist, to sell in reasonable quantities alcohol to be used for scientific or mechanical purposes, and such druggist may sell in reasonable quantities wine to be used for sacramental purposes only. Any person desiring to purchase alcohol for scientific or mechanical purposes shall subscribe to and present to such druggist or pharmacist an affidavit made before some officer authorized by law to administer oath, which affidavit shall be in the following form, to wit:

State of Florida,

County of

Before the undersigned authority personally appeared, who being by me first duly sworn, says that he desires to purchase of of the city of (or town) (state quantity) of alcohol for scientific (or mechanical, as the case may be) purposes; that he desires to use such alcohol exclusively for the purposes of; and not for any other purpose; and that it will not be used for any purpose by law prohibited; that he resides at (give detailed address); that his occupation is

Sworn to and subscribed before me this day of A. D.

..... (Id. § 5463.)

118. Records to Be Preserved.—All statements, affidavits or prescriptions required by this article shall be filed and kept as provided for in this article. (Id. § 5465.)

119. Sale of Jamaica Ginger and Flavoring Extracts.—It shall not be unlawful for a pharmacist regularly admitted and licensed to practice his profession in this State by the State Board of Pharmacy of this State, to sell, dispense, or give away to any person, the extract, essence or tincture of Jamaica ginger when prescribed in writing by a physician duly admitted and licensed to practice his profession in this State by a State Board of Medical Examiners, or any druggist or general merchant to sell flavoring extracts, when manufactured and sold in accordance with the pure food laws of the State of Florida, and pure food laws of the United States, and regulations lawfully prescribed pursuant to such laws of the State and United States; but it shall be unlawful for any person, persons, firm or corporation, to sell any flavoring extract for beverage purposes in the guise of such extracts; and it shall be unlawful for any person, persons, firm or corporation to sell any extracts, flavors, perfumes, toilet preparations or medicines, patent or proprietary, for beverage purposes in the guise of such extracts, flavors, perfumes, toilet preparations or medicines, patent or proprietary. (Id. § 5466.)

120. Certain Construction Not to Be Placed on Law.—And nothing contained in this article, or in any other law of this State, shall be construed to make unlawful for any person, association of persons, or corporation, to transport, or cause to be transported from without this State to any point in this State, or from

one point in this State to another point in this State, or to manufacture, sell or keep for sale any beverage not containing the quantity of alcohol in sections 5469, 5470 and 5471 of this article prohibited; but it shall be unlawful for any person to mix or cause to be mixed with any such beverage any alcohol, or beverage containing alcohol, whereby any such beverage is caused to contain the quantity of alcohol in sections 5469 and 5470 of this article prohibited, or to mix with or to put into any such beverage any other substance, matter or thing whereby any such beverage is caused to contain the quantity of alcohol in sections 5469, 5470 and 5471 of this article prohibited.

And nothing contained in this article shall be construed to make it unlawful for any person over the age of twenty-one years to possess, have in custody, or control, in such person's bona fide residence for the personal use of himself or herself and family, and not to be disposed of to any other person in any way, not exceeding four quarts of distilled alcoholic or intoxicating liquors or beverages and twenty quarts of malt or fermented alcoholic or intoxicating liquors or beverages, either or both; provided, however, that such person obtained and had in his possession said liquors before this act became a law; but this shall not be construed to permit any such person to possess, have in custody or control more than the maximum quantity of the particular class of liquors herein mentioned.

And nothing in this article shall prevent the sale of wood alcohol, or alcohol so denatured that such denatured alcohol cannot be taken internally or used for internal purposes. And no personal property of any kind or description used in, or to facilitate, the violation of any of the provisions of this article, shall be forfeited as is in this article provided, when it shall be made to appear that the bona fide owner of such personal property was not concerned in such violation as principal in the first or second degree, or accessory before or after the fact. And nothing contained in this article shall be construed to make it unlawful for any sheriff or prosecuting attorney to transport, cause to be transported, or be concerned in the transportation of, or for any common carrier to transport to the State Chemist, from such sheriff or prosecuting attorney, any alcoholic or intoxicating liquors or beverages, whether spirituous, vinous or malt, or any other drinks, beverages or liquors, for the purpose of analysis by such State Chemist, or for the State Chemist to transport, cause to be transported, or to be in anywise concerned in the transportation of, or for any common carrier to transport to any sheriff or prosecuting attorney, any such liquors after such analysis, or to possess the same for such purpose. (Id. § 5467.)

121. Liquors Defined.—All drinks, beverages or alcoholic liquors, for beverage purposes, containing one-half of one per centum of alcohol or more by volume at sixty degrees Fahrenheit, and all intoxicating liquors and beverages, whether spirituous, vinous or malt, shall be deemed and held to be within the prohibitions of this article. (Id. § 5469.)

122. Penalty for First and Second Offense Not Otherwise Provided.—When not otherwise herein specifically provided, any person, association of persons, corporation, or agent or employee of any person, association of persons or corporation, who shall violate any of the foregoing provisions of this act, relative to the unlawful sale, barter, exchange, manufacture or transportation or possession, for illegal purposes, of intoxicating liquors, and declared unlawful by the laws of the State of Florida, or which imposes a duty upon any officer or person relative to said laws, shall for the first offense of violating said laws, upon conviction thereof, be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) and be imprisoned not less than thirty days nor more than six months, and any person, association of persons, corporation or any agent or employee of any person or association of persons or corporation who having previously been convicted of the offense of manufacturing, selling, possessing for sale, or transporting for sale any intoxicating liquors for beverage purposes in any court in the State of Florida shall be deemed to be a second offender, and the possession of such intoxicating liquors shall be prima facie evidence of the intention of the accused to sell same unlawfully, and upon conviction for such second offense of manufacturing, selling, possessing for sale or transporting for sale such intoxicating liquors, he shall be fined not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00) and confined in the State Prison not more than three years. In alleging the said second or subsequent offense it shall be sufficient to allege in the information of indictment in substance as follows: "That the said defendant herein was on the day of, 19....., and convicted in the Court of County, Florida, of a violation of the laws against the unlawful manufacture, sale, possession and transportation of intoxicating liquors and upon said conviction, had imposed upon him the judgment and sentence of the said court."

In all such prosecutions for second and subsequent offenses, the identity of the person so charged shall be made before the court trying the case. The imposition of sentence under the provisions of this section shall not prevent or be in bar of the forfeiture and destruction or sale of any property used in aid of any violation of the prohibition laws as may be provided by law. (Id. § 5486, as amended L. 1923, c. 9266, § 1.)

123. Adulteration of Liquors Prohibited; Penalty.—Whoever manufactures, sells or gives away liquor intended for beverage purposes that has been adulterated with wood alcohol, denatured alcohol, potash or other poisonous ingredients likely to cause injury, sickness or death if swallowed shall be deemed guilty of felony and upon conviction thereof shall be punished by imprisonment in the State Prison for not less than one year and not more than five years, and if the death of any person shall result from drinking such liquor the crime shall be deemed murder and be punished accordingly. (L. 1923, c. 9268, § 1.)

124. Presumption of Poison.—All intoxicating liquors illegally manufactured, transported, possessed, sold or used for beverage purposes shall be presumed to be poisonous and evidence of the illegal manufacture, transportation, possession, sale or use of any intoxicating liquors for beverage purposes shall be prima facie evidence that said liquors are poisonous within the provisions of the preceding section of this act and the burden of proof that all such liquors are not poisonous within the provisions of said section shall be upon the accused to show that said liquors are not poisonous. (Id. § 2.)

125. Procedure for Chemical Analysis.—Upon application of the defendant to the judge of the court having jurisdiction to try such offenses the judge may make an order directed to the custodian of such seized liquor requiring such custodian to forward to the State Chemist, or some reputable chemist named by the State Chemist, a quantity of such seized liquor labeled, numbered and securely sealed in some safe receptacle not more than four (4) ounces, by personal delivery or by express to such chemist for analysis, upon the payment by the defendant to such custodian of the sum of five dollars, to be expended by such custodian in the necessary expenses of such analysis, the chemist's fee not to exceed three dollars, and the certificate of such chemist properly identifying such sample by certification may be used in the trial of said cause by the defendant, except in cases where the defendant is proven to be insolvent to the satisfaction of the court, such fee for analysis shall not be required of defendant but all necessary expense shall be borne by the State. (Id. § 3.)

126. Intoxicating Liquors; Penalties.—If two or more persons conspire to commit any offense against the laws of the State of Florida prohibiting the manufacture, sale, possession, barter or exchange of alcoholic or intoxicating liquors and beverages, whether spirituous, vinous or malt, moonshine whiskey or rum, for beverage purposes or the unlawful transportation of the same, and one or more of such parties do any act to affect [effect] the object of the conspiracy, each of the parties to such conspiracy shall upon conviction be deemed guilty of a misdemeanor and punished by imprisonment in the county jail for not more than one year or fined not more than one thousand dollars or by both such fine and imprisonment. (L. 1925, c. 10209, § 1.)

PART IV.

Miscellaneous Laws.

Flag Desecration, Etc.

127. Improper Use of U. S. Flag; Penalty.—Any person, who in any manner, for exhibition or display, shall, after this act takes effect, place or cause to be placed, any word, figure, mark, picture, design or drawing of any nature upon any flag, standard, color or ensign upon which, after this act takes effect, shall have been printed, painted or otherwise placed or to which shall be attached, appended, affixed or annexed any word, figure, mark, picture, design or drawing or any advertisement of any nature or who shall expose to public view, manufacture, sell or expose for sale, give away or have in possession for sale or to give away or for use for any purpose any article or substance being an article of merchandise or a receptacle of merchandise or article or thing for transporting or carrying

merchandise upon which, after this act takes effect, shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed; or who shall publicly mutilate, deface, defile or defy, trample upon or cast contempt upon, either by words or act, any such flag, color, standard or ensign, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$100.00 or by imprisonment for not more than thirty days or both, in the discretion of the court; and permitting the flag to trail upon the ground when being carried by a person or transported by a vehicle shall in contemplation of this act be a defilement thereof. (L. 1923, c. 9325, § 1.)

128. Unlawful Use of U. S. Flag by Lodges, etc.—It shall be unlawful for any person, persons, firm or corporation, lodge or secret society to place upon or attach any words, letters, figures or pictures to any flag known as the Stars and Stripes and to carry or display the same so desecrated in the State of Florida. (L. 1919, c. 7819, § 1.)

129. Misdemeanor to so Use Flag.—Any person or persons representing any lodge, corporation or individual displaying the Stars and Stripes in any public place in the State of Florida with any words, letters, figures or pictures placed upon or attached to the same, or who shall mutilate the same in any way, shall be guilty of misdemeanor and on conviction shall be punished as for a misdemeanor. (Id. § 2.)

130. Enforcement of Act.—It shall be the duty of all sheriffs and civil officers in this State to see that this act is duly enforced. (Id. § 3.)

Tobacco—Tobacco Products.

131. Sale of Cigarettes and Wrappers to Minors.—It shall be unlawful in the State of Florida for any corporation, company, firm or person to sell, barter, furnish or give away, directly or indirectly, to any minor any cigarette, cigarette wrapper or any substitute for either; or to procure for, or to persuade, advise, counsel or compel any child under said age to smoke any cigarette. Any such corporation, company, firm or person violating any of the provisions of this section shall for the first offense, upon a conviction thereof, be fined in any sum not more than \$50.00 nor less than \$10.00; and for a second and any subsequent offense such corporation, company, firm or person shall, upon conviction thereof, be fined in any sum not more than \$100.00 nor less than \$10.00 and to which may be added imprisonment in the county jail for any period not exceeding sixty days. (R. G. S. 1919, § 5530.)

132. Same; Duty of Officers to Enforce.—It is hereby made the duty of sheriffs, constables, their deputies or any police officer to enforce the provisions of section 5530, and he may summon any minor who may have or have had in his possession any cigarettes or cigarette material and compel him to testify before the county judge or any justice of the peace as to where and of whom he obtained such cigarettes or cigarette material. (Id. § 5531.)

133. Purchase of Cotton or Leaf Tobacco.—Whoever trades, traffics for or buys except from the producer or his authorized agent, any cotton or leaf tobacco, unless the same be baled or boxed in the usual manner or unless upon some exhibition of evidence in writing that the producer has parted with his interest therein, shall be punished by imprisonment not exceeding six months or by fine not exceeding one thousand dollars. (Id. § 5658.)

Trade-Marks, Etc.

134. Unlawful to Counterfeit Trade-Mark.—Whenever any person or any association or union of working men has heretofore adopted or used, or shall hereafter adopt or use, and has filed as hereinafter provided any label, trade-mark, term, wording, design, device, color or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other products of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of working men, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, wording, design, device, color or form of advertisement, or knowingly to use, sell, offer for sale, or in any other way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, wording, design, device, color or form of advertisement. (R. G. S. 1919, § 4995.)

135. To File for Record With Secretary of State.—Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or

use, a label, trade-mark, term, wording, design, device, color or form of advertisement as provided in the preceding section, may file the same for record in the office of the Secretary of State, by leaving two copies, counterparts or facsimiles thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, wording, design, device, color or form of advertisement shall be filed, the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, trade-mark, term, wording, design, device, color or form of advertisement shall be filed, has the right to the use of the same; that no other person, firm, association, union or corporation has the right to use either in the identical form or in any such near resemblance thereto as may be calculated to deceive and that the facsimile or counterparts filed therewith are true and correct. (Id. § 4996.)

136. Fee for Filing.—There shall be paid for such filing and recording a fee of two dollars. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, wording, design, device, color or form of advertisement so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which the secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions hereunder, be sufficient proof of the adoption of such label, trade-mark, term, wording, design, device, color or form of advertisement. Said Secretary of State shall not record for any person, union or association any label, trade-mark, term, wording, design, device, color or form of advertisement that would probably be mistaken for any label, trade-mark, term, wording, design, device, color or form of advertisement heretofore filed by or on behalf of any other person, union or association. (Id. § 4997.)

137. Courts to Grant Injunction.—Every such person, association or union adopting or using a label, trade-mark, term, wording, design, device, color or form of advertisement as aforesaid may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and may award the complainant in any such suit damages resulting from any such manufacture, use, sale or display, as may be by the said court deemed just and reasonable, and shall require the defendants to pay such person, association or union all profit derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainants, to be destroyed. (Id. § 4998.)

138. Counterfeiting or Improperly Using Trade-Marks.—Whoever counterfeits or imitates any label, trade-mark, term, wording, design, device, color or form of advertisement; or knowingly sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any label, trade-mark, term, wording, design, device, color or form of advertisement which has been filed for record according to law, or knowingly purchases and keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly purchases with intent to sell or dispose of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than three months. (Id. § 5190.)

139. Using or Displaying Trade-Mark.—Every person who shall use or display the genuine label, trade-mark, term, wording, design, device, color or form of advertisement of any person, association or union, when legally filed for record, in any manner, not being authorized so to do by such person, union or association, shall be punished by imprisonment for not more than three months or by a fine of not more than five hundred dollars. (Id. § 5191.)

140. Procuring the Filing of Labels, etc., by Fraudulent Representations.—Any person who shall, for himself or on behalf of any other person, association or union, procure the filing of any label, trade-mark, term, wording, design, device, color or form of advertisement in the office of the Secretary of State, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damage sustained in consequence of such filing, to be recovered by or on behalf of the party injured thereby, in any court having jurisdiction, and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding three months. (Id. § 5192.)

141. Using the Name or Seal of Another.—Any person or persons who shall in any way, use the name or seal of any person, association or union or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars. (Id. § 5193.)

142. Forging or Counterfeiting Private Labels.—Whoever knowingly and willfully, forges or counterfeits, or causes or procures to be forged or counterfeited upon any goods, wares or merchandise, the private label, stamps or trade-mark of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser, shall be punished by imprisonment not exceeding twelve months, or by a fine not exceeding one hundred dollars. (Id. § 5209.)

143. Vending Goods With Counterfeit Labels.—Whoever vends any goods, wares or merchandise having thereon a forged or counterfeit stamp, label or trade-mark of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser, shall be punished by imprisonment not exceeding six months, or by fine not exceeding fifty dollars. (Id. § 5211.)

Trading Stamps.

144. Trading Stamp Firms.—Persons or firms or corporations known as trading stamp companies, shall pay a State license tax of one thousand dollars in each county where they transact any business. (R. G. S. 1919, § 988.)

Weights and Measures.

145. Standards of Weights and Measures.—The following standards of weights and measures shall be the standard of weights and measures throughout the State of Florida: One standard liquid gallon shall contain 231 solid inches. The weights and measures shall be as follows:

Wheat, per bushel	60 pounds	Avoirdupois
Corn, shelled, per bushel	56 pounds	Avoirdupois
Corn, on cob with shuck	70 pounds	Avoirdupois
Sorghum seed, per bushel	56 pounds	Avoirdupois
Barley seed, per bushel	48 pounds	Avoirdupois
Oats, per bushel	32 pounds	Avoirdupois
Bran, per bushel	20 pounds	Avoirdupois
Corn meal, per bushel	48 pounds	Avoirdupois
Beans, shelled, per bushel	60 pounds	Avoirdupois
Beans, velvet, in hulls, per bushel	78 pounds	Avoirdupois
Beans, castor, shelled, per bushel	48 pounds	Avoirdupois
Millet seed, per bushel	50 pounds	Avoirdupois
Beggar weed seed, per bushel	62 pounds	Avoirdupois
Irish potatoes, per bushel	60 pounds	Avoirdupois
Sweet potatoes, per bushel	56 pounds	Avoirdupois
Turnips, per bushel	54 pounds	Avoirdupois
Onions, per bushel	56 pounds	Avoirdupois
Salt, per bushel	60 pounds	Avoirdupois
Peanuts, per bushel	22 pounds	Avoirdupois
Chufas, per bushel	54 pounds	Avoirdupois
Rye, per bushel	56 pounds	Avoirdupois
Apples, dried, per bushel	24 pounds	Avoirdupois
Apples, green, per bushel	48 pounds	Avoirdupois
Quinces, per bushel	48 pounds	Avoirdupois
Peaches, dried, per bushel	24 pounds	Avoirdupois
Peaches, green, per bushel	54 pounds	Avoirdupois
Cottonseed, per bushel	32 pounds	Avoirdupois
Cottonseed, Sea Island, per bushel	44 pounds	Avoirdupois
Plums, per bushel	40 pounds	Avoirdupois
Pears, per bushel	55 pounds	Avoirdupois
Guavas, per bushel	54 pounds	Avoirdupois

(R. G. S. 1919, § 2372.)

146. Selling Certain Commodities Other Than by the Pound.—It shall be unlawful for any dealer to sell, offer for sale, barter, exchange or otherwise dis-

pose of, any of the different commodities named in section 2372, except by the pound, and any person, firm or corporation violating this section shall be guilty of a misdemeanor. (Id. § 5697.)

147. Standard to Govern.—All contracts hereafter made within this State for work to be done or anything to be sold or delivered by weight or measure, shall be taken and construed according to the standard of weights and measures hereby adopted as the standard of this State. (Id. § 2373.)

148. Requirements Before Selling.—All merchants, commission merchants, grocers, provision dealers, storekeepers and other persons, before selling or offering for sale any grain, flour, meal, grits, corn, wheat, rye, oats, bran, beans, Irish potatoes, sweet potatoes or peanuts, already put up, packed or placed in any sack, bag or barrel, in original packages shall have marked or stamped or stenciled upon such sack, bag or barrel, so sold or offered for sale, with its contents in figures, at least one inch in length, the exact weight in pounds avoirdupois of such bag, sack or barrel, with its contents. If the bag, sack or barrel is of a dark or black color such figures shall be marked, stamped or stenciled in light colored ink or pencil; if the bag, sack or barrel is of a light color, then the marking, stamping or stenciling shall be in black or dark pencil; but in all cases the stamping, marking or stenciling shall be plain, legible and placed conspicuously on such bag, sack or barrel. (Id. § 2374.)

149. Merchant Offering to Sell Grain, etc., Without Marking Sack.—Any merchant, commission merchant, grocer, provision dealer, storekeeper or other person, or any officer, agent, clerk or employee of any merchant, commission merchant, grocer, provision dealer or storekeeper who shall offer for sale, attempt to sell or sell any of the articles mentioned in section 2374, already put up, placed or packed in any sack, bag or barrel, in original packages, without having such sack, bag or barrel marked, stamped or stenciled as in the manner herein prescribed before offering for sale, attempting to sell or selling the same, shall be punished by fine not exceeding two hundred dollars for each offense, or by imprisonment not more than three months. (Id. § 5198.)

150. Merchant Selling by Short Weight.—Any merchant, commission merchant, grocer, provision dealer, storekeeper, or other person, or any officer, agent, clerk or employee of any merchant, commission merchant, grocer, provision dealer or storekeeper, who shall sell or dispose of any sack, bag or barrel with its contents, containing any of the articles mentioned in the preceding section upon which the weight in avoirdupois of such sack, bag or barrel with its contents has been marked, stamped or stenciled as provided, and the weights so stamped, marked or stenciled shall not be the true and correct weight of such sack, bag or barrel with its contents, but the weight so marked, stamped or stenciled shall be a greater weight than the true and correct weight of such sack, bag or barrel with its contents, shall be punished for each offense by a fine not exceeding two hundred dollars or by imprisonment not more than three months. (Id. § 5199.)

151. Standard Crate for Oranges.—Hereafter the legal and standard box or crate for oranges shall measure twelve inches in width and twelve inches in depth on the inside, making each end or compartment of said box or crate, whenever the same contains a middle partition, twelve inches in length, twelve inches in depth, and twelve inches in width. No crate or box intended for the sale or shipment, or delivery for sale or shipment of oranges, except of the standard measure herein specified, shall be manufactured or sold. (Id. § 2375.)

152. Selling Oranges in Boxes Not of Standard Measure.—Every box or crate used for the sale or delivery of oranges shall be of the Florida standard measure, as provided by law. No person shall use any crate or box for such sale, shipment or delivery, except the same be of such standard measure. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment; provided, that nothing herein contained shall prevent the shipment or delivery of oranges for sale in half boxes as herein described; provided, that nothing in this section shall prevent any person shipping oranges in barrels or other crates over standard size. (Id. § 5698.)

153. Standard Field Box for Sale of Oranges, Grapefruit and Lemons; Penalty for Violation.—All field boxes to be used in the sale of oranges, grapefruit and lemons by grower to packer or buyer shall be of the uniform size of twelve inches wide, thirteen inches high and thirty-three inches long, and shall contain a middle partition not less than three-fourths of one inch thick; and any person, firm or corporation violating the provisions of this section shall be

punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months. (Id. § 5699.)

154. Standard Crate for Tomatoes.—Hereafter the legal and standard crate for tomatoes shall measure ten inches in depth, eleven inches in width, and twenty-four inches in length, on the outside. (Id. § 2378.)

155. Standard Basket for Tomatoes.—Hereafter the legal and standard basket for use in tomato crates shall measure nine and one-half inches long in the bottom, five inches wide in the bottom and four and one-half inches deep, all of the last aforementioned measurements being inside measurements. The length of the inside of the top hoop of each basket shall be thirty-two and one-half inches. (Id. § 2379.)

156. Manufacture and Sale of Other Containers for Tomatoes Prohibited.—No crate or basket intended for the sale or shipment or delivery for sale or shipment of tomatoes, except of the standard measure herein specified, shall be manufactured or sold. (Id. § 2380.)

157. Selling Tomatoes in Crates Other Than Standard Measure.—Every crate or basket used for the sale or delivery of tomatoes shall be of the Florida standard measure as provided by law, and no person shall use any crate or basket for such sale, shipment or delivery, except the same be of such standard measure. This shall not apply to local persons, dealers in or growers of tomatoes, or shipments within the State. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment. (Id. § 5696.)

158. False Packing of Provisions.—Whoever fraudulently puts into any barrel, bale of cotton, cask or other package of sugar, rice or pork, or any other article of provisions, any dirt, rubbish or other thing, shall be punished by a fine not exceeding one thousand dollars. (Id. § 5655.)

159. Selling by False Weight or Measure.—Whoever knowingly sells by false weight or measure, shall be punished by imprisonment not exceeding six months, or by fine not exceeding one thousand dollars. (Id. § 5694.)

160. Selling by Untested Weights and Measures.—Whoever refuses to have his weights and measures tested, or refuses to pay the fees for the same, or whoever, after his weights and measures have been tested, fails to make them conform to the standard, and keep them conformed, shall be punished by imprisonment not exceeding sixty days, or by fine not exceeding one hundred dollars. (Id. § 5695.)

NOTE: See also No. 5; the oyster law, No. 68 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Inspectors: *In re advisory opinion to the Governor, 76 Fla. 500, 80 So. 17 (1918).

2. Special Food Laws.

Citrus Fruits: *Sligh v. Kirkwood, 65 Fla. 123, 61 So. 185 (1913), affirmed in *Same, 237 U. S. 52, 35 S. Ct. 501, 59 L. Ed. 835 (1915); Moran et al. v. Le June, 78 Fla. 643, 83 So. 668 (1919).

Feeding Stuffs: See Steinhardt v. Consolidated Grocery Co., 80 Fla. 531, 86 So. 431 (1920).

Fruits and Vegetables: State Plant Board et al. v. Roberts et al., 71 Fla. 663, 72 So. 175 (1916); State ex rel. Wolyn v. Apalachicola Northern Railroad Company et al., 81 Fla. 383, 87 So. 909 (1921). See *Markets*.

Fruits and Vegetables—License: *Roach v. Ephren, 82 Fla. 523, 90 So. 609 (1921).

Markets: Lutterloh v. Cedar Keys, 15 Fla. 306 (1875); *Jacksonville et al. v. Ledwith, 26 Fla. 163, 7 So. 885, 9 L. R. A. 69, 23 Am. St. Rep. 558 (1890); *Ledwith v. Jacksonville et al., 32 Fla. 1, 13 So. 454 (1893); *Blanchard v. Ivers, 40 Fla. 117, 24 So. 66 (1898).

Meat—License: Johnson v. Armour & Co., 31 Fla. 413, 12 So. 842 (1893); Florida Packing and Ice Company v. Carney, 51 Fla. 190, 41 So. 190 (1906). See *Markets*.

Milk—Dairymen—License: *State ex rel Niles v. Smith, 62 Fla. 93, 57 So. 426 (1911); *Sanders v. Howell, 73 Fla. 563, 74 So. 802 (1917).

Sanitation: See the preceding paragraph.

3. Special Drug Laws.

Narcotics: See Hammers v. Southern Express Company, 80 Fla. 51, 85 So. 246 (1920).

4. Miscellaneous.

Naval Stores: *Jackson et al. v. Cravens et al., 235 Fed. 212 (1916), appeal dismissed in Same, 238 Fed. 117 (C. C. A.) (1916).

Trade-Marks: El Modello Cigar Manufacturing Company v. Gato, 25 Fla. 886, 7 So. 23, 23 Am. St. Rep. 537, 6 L. R. A. 823 (1889); Bluthenthal et al. v. Mohlmann, 49 Fla. 275, 38 So. 709 (1905); Arguelles et al. v. Sabio, 66 Fla. 231, 63 So. 428 (1913); *Yaeger v. State, 78 Fla. 354, 83 So. 525 (1919). See also: Children's Bootery et al v. Sutker, 107 So. 345 (1926); Addison et al. v. Hook, 107 So. 623 (1926).

Trading Stamps: *Rast v. Van Deman & Lewis Company, 240 U. S. 342, 36 S. Ct. 370, 60 L. Ed. 679, L. R. A. 1917A, 421, Ann Cas. 1917 B, 455 (1916), reversing *Van Deman & Lewis Co. et al. v. Rast et al., 214 Fed. 827 (1913).

GEORGIA.*

PART I.

General Food and Drug Law.

1. Chief Food Inspector.—The offices of Chief Food and Drug Inspector, as heretofore existing, are hereby separated, and the Chief Food and Drug Inspector heretofore appointed by the Commissioner of Agriculture shall be chief food inspector and shall be chargeable with all the duties and shall exercise all of the powers as prescribed in this chapter, except such as appertain to the adulteration, misbranding and imitation of drugs and medicines. (Pol. C. 1914, vol. 1, § 2092.)

2. His Appointment, Salary and Duties.—The Commissioner of Agriculture is authorized to appoint, by and with the advice and consent of the State Chemist, a chief food inspector for the State, who shall receive a salary not to exceed three thousand dollars per annum, and actual expenses while discharging his duty. His whole time shall be at the disposal of the Commissioner of Agriculture, and his duty shall be to travel about the State as directed, and take samples of such articles as directed, and forward them to the Department of Agriculture for scientific examination and analysis. (Code Supp. 1922, vol. 8, § 2093.)

3. Chief Drug Inspector; His Appointment, Duties and Salary.—The Commissioner of Agriculture shall appoint, upon the recommendation of the Georgia State Board of Pharmacy, a chief drug inspector, and whenever in the future a vacancy may occur in this office the appointee shall be named at the suggestion and upon the recommendation of the Georgia State Board of Pharmacy. The salary of the chief drug inspector shall not exceed the sum of three thousand dollars per annum. His whole time shall be at the disposal of the Commissioner of Agriculture and his duties shall be those already prescribed in this chapter to visit and inspect manufacturing establishments, chemical laboratories and such other establishments as manufacture and put up for sale such articles as are known as family remedies, grocers' drugs, flavoring extracts, flavoring essences, toilet articles, bottlers' supplies, stock powders and veterinary remedies, and such other duties as may be directed by the Commissioner of Agriculture to perform, and specifically the following duty recommended by the State Board of Pharmacy: He shall report to the Commissioner of Agriculture any and all violations of any of the drug laws of this State and particularly any person operating without licenses as required by law. (Id. § 2094.)

4. Appropriation For Salaries and Expenses of Chief Food Inspector and Chief Drug Inspector.—A sum, not to exceed the total amount received from the sale of inspection tax stamps on concentrated commercial feeding stuffs, is hereby appropriated annually for the purpose of paying the salaries of the chief food inspector, and the chief drug inspector, the traveling expenses of such officials and their assistants, including the cost of obtaining samples, express, freight, drayage and other expenses incident to such inspection, and expenses incurred in the inspection of slaughterhouses, and dairies, including the compensation of veterinarians for that purpose, to be paid out of the funds derived from the sale of inspection tax stamps on concentrated commercial feeding stuffs. The Governor shall draw warrants upon the treasury against such funds from time to time to pay the salaries and expenses herein provided for, upon requisition of the Commissioner of Agriculture. (Pol. C. 1914, vol. 1, § 2094(a).)

5. Proceedings to be Had on Inspector's Report.—When such report has been made to the commissioner he shall cite such person to appear before him and the Attorney-General for a hearing, as provided for in this chapter. If after such hearing they shall decide that any of the drug laws of Georgia have been violated

*CITATIONS: "Pol. C. 1914," "Civ. C. 1914" and "Pen. C. 1914" refers to the Political, Civil and Penal Codes, respectively, of Park's Annotated Code of the State of Georgia, 1914, published by authority of the General Assembly. "Code Supp. 1922" and "Code Supp. 1926" refer to the supplements to the Code for the years stated.

the Commissioner of Agriculture shall then certify the facts to the proper prosecuting official, as directed in this chapter. When such facts have been certified to any State solicitor it shall be his duty to prosecute the offenders, whether the prosecution arise under the provisions of this chapter or under the general drug laws of the State. (Id. § 2095.)

6. State Chemist's Assistants, and Laboratory Facilities.—The State chemist may appoint, by and with the consent of the Commissioner of Agriculture, such assistants and experts in his office as may be required to carry out the provisions of this chapter, provided that the number of such assistants and experts and the salaries and compensation to be paid them shall be first submitted to and approved by a board composed of the Governor, the Commissioner of Agriculture, and Comptroller-General. The State Chemist and the commissioner may also make such expenditure for apparatus, chemicals, and increased laboratory facilities, as in their judgment may be required. Provided, that the total expenditures for any one year shall not exceed the sum appropriated in this chapter. (Id. § 2096.)

7. Additional Appropriation.—The sum of five thousand dollars, or as much thereof as may be necessary, is hereby appropriated annually in addition to that already appropriated, out of any funds not otherwise appropriated, and the Governor is authorized and directed to issue his warrant on the treasurer therefor, for additional assistants, maintenance of laboratory, purchase of chemicals and all other necessary expenses in connection with the analysis of fertilizer and feed stuffs, to be expended as follows: \$3,000 to employ additional experts and assistants, \$2,000 for equipment and maintenance of laboratory, purchase of chemicals and all other necessary expenses incidental to the chemical analysis of fertilizer and feed stuffs. (Id. § 2096(a).)

8. Additional Appropriation.—The sum of seven thousand, five hundred dollars, or so much thereof as may be necessary, is hereby appropriated annually to the Department of Agriculture for the employment of additional assistants to the State Chemist, for maintenance laboratory, purchase of chemicals, and all other necessary expenses in connection with the analysis of fertilizer, feeding stuffs, foods and drugs and all experimental work which may be conducted, and all other expenses incidental to the inspection and analysis of fertilizers, feeding stuffs, foods and drugs. This appropriation to be in addition to the sums now appropriated for maintenance of the Chemical Department of the Department of Agriculture. (Id. § 2096(b).)

9. Department of Agriculture, Duties of.—The State Department of Agriculture is charged with the duties of inspection and analysis required for the proper enforcement of this chapter. The Commissioner of Agriculture is directed to appoint officers, who shall perform all the duties required in the execution of this chapter. The commissioner, realizing the responsibilities resting on him for the protection of the lives and health of the people, shall, in making these appointments, be guided by the results of careful and diligent inquiry into the character, fitness, and reputation for integrity and industry of all the officers whom he may appoint, who may be in any way entrusted with the execution of this law. Such officers, when appointed, shall hold office during good behavior and attention to duty, and shall not be removed from office except for cause. Provided, such term of office of said officers shall terminate with that of the office of Commissioner of Agriculture. (Id. § 2097.)

10. Rules For Enforcement.—The Commissioner of Agriculture, with the advice of the Attorney-General, shall have authority to establish such rules and regulations as shall not be inconsistent with the provisions of this chapter, and as in his judgment will best carry out the requirements thereof. He may exercise discretion as to the class of products he first subjects to rigorous inspection and analysis, realizing that the fullest and most complete execution of this law under a limited appropriation must be a matter of growth. His first efforts shall be more particularly directed to fostering the young and growing agricultural and manufacturing industries of the State, [such] as the dairy, beef, fruit, cottonseed oil and syrup industries, by suppressing adulteration in butter, cheese, milk, feed-stuffs, ciders, vinegars, syrups, lard and lard compounds. (Id. § 2098.)

11. Terms "Drug" and "Food" Defined.—The term "drug," as used in this chapter, shall include all medicines and preparations recognized in the United States Pharmacopeia, or National Formulary, for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. The term "food," as used herein shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed or compound. (Id. § 2099.)

12. "Person" or "Party," Meaning of Terms.—The words "person" or "party" shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations.

When construing and enforcing the provisions of this chapter, the act, omission or failure of any officer, agent or other person acting for or employed by the corporation, company, society or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such corporation, company, society or association, as well as that of the person. (Id. § 2100.)

13. Adulteration or Misbranding Prohibited.—It shall be unlawful for any person to manufacture, sell or offer for sale any article of food, drugs, medicines or liquors, which is adulterated or misbranded, or which contains any poisonous or deleterious substance within the meaning of this chapter, and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. (Id. § 2101.)

14. Examination of Foods and Drugs.—The examination of specimens of foods and drugs shall be made by the State Chemist, or under his direction and supervision, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this chapter; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this chapter, the Commissioner of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard before the Commissioner of Agriculture and the Attorney-General, under such rules and regulations as may be prescribed by them, and if it appears that any of the provisions of this chapter have been violated by such party, then the Commissioner of Agriculture shall at once certify the facts to the proper prosecuting attorney, with a copy of the results of the analysis or the examination of such article, duly authenticated by the analyst or officer making such examination, under the oath of such officer. In case it shall appear to the satisfaction of the Commissioner of Agriculture and the Attorney-General that the violation of this chapter is properly a subject of interstate commerce, or otherwise comes under the supervision and jurisdiction of the United States, then the Commissioner of Agriculture shall certify the case to the United States District Attorney in whose district the violation may have been committed; but if it be under the jurisdiction of the courts of this State, then the commissioner shall certify the case to the solicitor of the court in the county where the offense occurred. It shall be the duty of the State Solicitor to prosecute all persons violating any provisions of this chapter, as soon as he receives the evidence transmitted by the Commissioner of Agriculture. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 2102.)

15. Adulterated, When an Article is.—For the purposes of this chapter an article shall be deemed to be adulterated.—

In case of drugs:

1. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of investigation; provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

2. If its strength or purity fall below the professed standard or quality under which it is sold.

In the case of confectionery: If it contain terra-alba, barytes, talc, chrome yellow or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor, or compound or narcotic drug.

In case of food:

1. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

2. If any substance has been substituted wholly or in part for the article.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

5. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health; provided, that when in preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering or [of] the package, the provisions of this chapter shall be construed as applying only when said products are ready for consumption.

6. If the package, vessel, or bottle containing it shall be of such a composition, or carry any attachment made of such a composition or metal or alloy, as will be acted upon in the ordinary course of use by the contents of the package, vessel, or bottle in such a way as to produce an injurious, deleterious, or poisonous compound.

7. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. (Id. § 2103.)

16. Misbranded.—The term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such articles, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

For the purposes of this chapter, an article shall also be deemed to be misbranded—

In case of drugs:

1. If it be an imitation of, or offered for sale under the name of another article.

2. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label, in as conspicuous letters as is [are] or may be prescribed by the United States law or rules and regulations, of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein; provided, that nothing in this paragraph shall be construed to apply to the filling of written prescriptions, furnished by regular[ly] licensed practicing physicians, and kept on file by druggists as required by law, or as to such preparations as are specified and recognized by the United States Pharmacopœia or National Formulary.

3. If its package or label shall bear or contain any statements, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false or fraudulent.

In case of food:

1. If it be an imitation of, or offered for sale under the distinctive name of, another article.

2. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or is an imitation in package or label of another substance of a previously established name, or which has been trade-marked or patented, or, if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or, if it fail to bear a statement on the label in conspicuous letters of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any of such substances contained therein.

3. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; provided, however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 2115: Provided, however, that this subsection shall not take effect until September first, 1914.

4. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients of the substances contained therein, which statement, design, or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

(1) In the case of mixtures or compounds which may be now, or from time to time hereafter, known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article,

if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

(2) In the case of articles labeled, branded, or tagged, so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated in conspicuous letters on the package in which it is offered for sale; provided, that the term "blend," as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided, further, that nothing in this chapter shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as the provisions of this chapter may require to secure freedom from adulteration or misbranding: Provided, also, that this chapter shall not apply to stocks of drugs and medicines on hand in this State, until the first day of August, 1908. (Id. § 2104.)

17. Samples, How Taken.—Samples for analysis shall be taken by the duly qualified and sworn inspectors, who shall take samples of such articles as may be directed by the Commissioner of Agriculture, and, whenever practicable, samples shall be taken in original unbroken packages; said package shall be wrapped in paper and tied securely, and sealed over the cord with sealing-wax, on which the inspector shall impress his official seal. In cases where it is not practicable to send a sample for analysis in an original package, as, for instance, in case of syrups, or other liquids in barrels, or flour in barrels, etc., the inspector shall take a fair sample of the same in the presence of the seller, place it in a suitable receptacle, securely close and wax it and impress his official seal upon the wax, and forward the same to the Commissioner of Agriculture. In the execution of his duties the inspector shall have free access at all reasonable hours into any place where it is suspected that impure foods are being manufactured, or wherein any article of food or drink, drug or medicine, adulterated with any deleterious or foreign ingredients, exists. In calling for and taking a sample of any goods, the inspector shall tender to the seller the market price asked for the same. (Id. § 2105.)

18. Commissioner to Fix Standards.—It shall be the duty of the Commissioner of Agriculture and the State Chemist to fix standards of purity for food products, where the same are not fixed by this chapter, in accordance with those promulgated by the Secretary of Agriculture, the Secretary of the Treasury, and the Secretary of Commerce and Labor of the United States, when such standards have been published; and when not yet published, the Commissioner of Agriculture and the State Chemist shall fix such standards, provided that the standards for lard, mixed edible fats, and cottonseed oils are hereby defined as follows: Lard is hereby defined to be the fat of freshly slaughtered swine. It must not be made from a diseased animal, or any portion of an animal unfit for food, or contain less than ninety-nine per cent. of pure fat. A mixed edible fat is defined to be a mixture which contains not less than ninety-nine per cent. of sweet mixed fat, and may consist of a mixture of refined cottonseed oil or other edible vegetable oils with sweet beef fat or other edible animal fat, and must be sold under a registered or proprietary brand and properly labeled with a distinctive trade-mark or name bearing the name of the manufacturer. Edible cottonseed oil is hereby defined as refined cottonseed oil, free from disagreeable taste or odors. White cottonseed oil for edible purposes is cottonseed oil which has been refined in such a manner as to be nearly colorless, flavorless, and odorless. Winter cottonseed oils for edible purposes are those from which a portion of the stearine has been removed. They may be either white or yellow. Whenever the State Chemist may find, by analysis, that adulterated, misbranded, or imitation drugs, liquors, or food products have been manufactured for sale or put on sale in this State, he shall forthwith furnish a certificate of analysis to that effect to the Commissioner of Agriculture, who shall transmit the same to the State Solicitor in the county where the said adulterated, misbranded, or imitation drug, liquor, or food product was found. It shall be the duty of the State Solicitor to prosecute all persons violating any provisions of this article, as soon as he receives the evidence transmitted by the Commissioner of Agriculture. (Id. § 2115.)

19. Dealers, How Protected.—No dealer shall be prosecuted under the provisions of this chapter when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in this State, from whom he purchases such articles to the effect that the same is not adulterated or misbranded within the meaning of this chapter, designating it. Said guaranty, to afford protection, shall contain the name and address of the party making the sale of such articles to such dealer, and in such case the said party shall be amenable to the

prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this article. (Id. § 2116.)

20. Prosecutions.—Any article of food, drug or liquor that is adulterated or misbranded within the meaning of this chapter shall be liable to be proceeded against in any court within the county where the same is found, and seized for confiscation by a process of libel for condemnation. And if such article is condemned as being adulterated or misbranded or of a poisonous or deleterious character, within the meaning of this chapter, the same shall be disposed of by destruction or sale, as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the treasury of the State, but such goods shall not be sold in any jurisdiction contrary to the provisions of this chapter or the laws of that jurisdiction. (Id. § 2117.)

20a. Reports of Chemist.—The State Chemist shall make an annual report to the Commissioner of Agriculture on work done in execution of this chapter, which report may be included in that now made on commercial fertilizers, and published therewith. (Id. § 2118.)

21. Adulterated or Misbranded Foods, Drugs, Etc.—Any person who shall violate any of the provisions of section 2101 of the Civil [Political; vol. 1] Code, relating to the adulteration or misbranding of articles of food and other articles, shall be guilty of a misdemeanor and shall be fined not to exceed five hundred dollars or shall be sentenced to one year's imprisonment or both such fine and imprisonment, in the discretion of the court; and for each subsequent offense, and on conviction thereof, shall be fined not exceeding one thousand dollars or sentenced to one year's imprisonment or both such fine and imprisonment, in the discretion of the court: Provided, that in case of feeding stuffs for domestic animals the punishment shall be by a fine not exceeding fifty dollars or imprisonment not exceeding thirty days or both, in the discretion of the court. (Pen. C. 1914, vol. 6, § 451.)

22. Obstructing Inspector.—Any manufacturer, dealer, or other person, who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any inspector or other person in the performance of his duty in collecting samples or otherwise in connection with chapter 3 of the fifteenth title of the Political Code* on the subject of adulterated or misbranded foods, drugs and liquors, shall be guilty of a misdemeanor and shall upon conviction be fined not less than ten dollars nor more than fifty dollars; and any violation of the provisions of said chapter, relating to feeding stuffs for domestic animals, shall be punished by a fine not exceeding fifty dollars or imprisonment not exceeding thirty days or both, in the discretion of the court. (Id. § 452.)

23. Duty of Grand Jury.—The grand juries in the several counties shall diligently inquire into and true presentments make of all violations of this article. (Id. § 453.)

Miscellaneous General Provisions.

24. Sale of Unwholesome Provisions.—A person who knowingly or carelessly sells to another unwholesome provisions of any kind, the defect being unknown to the purchaser, and damage resulting to the purchaser or his family or his property, shall be liable in damages for such injury. (Civ. C. 1914, vol. 3, § 4460.)

25. Adulterated Drugs.—A person who, knowingly or carelessly, by himself or his agents, sells to another adulterated drugs or liquors, by the use of which damage accrues to the purchaser, or his patients, or his family, or his property, shall be liable in damages for the injury done. (Id. § 4461.)

26. Mistake of Druggist.—If a vendor of drugs and medicines, by himself or his agent, either knowingly or negligently furnishes the wrong article or medicine, and damage accrues from the use of the drug or medicine furnished, to the purchaser, or his patients, or his family, or his property, the vender shall respond in damages for the injury done. If death ensues to the purchaser, in any case arising under this or the two foregoing paragraphs, the right of action shall be to the widow or children, as prescribed in cases of physical injury. (Id. § 4462.)

26a. Other Offenses of Like Kind.—Any person using any deceitful means or artful practice, other than those which are mentioned in this Code, by which an individual, or a firm, or a corporation, or the public is defrauded and cheated, shall be punished as for a misdemeanor. (Pen. C. 1914, vol. 6, § 719.)

NOTE: See also No. 178.

*See Nos. 1-20a, 35-43 and 64-71.

PART II.

Special Food Laws.

Beverages.

See Nos. 122 and 127 et seq.

Bread.

See No. 176.

Confectionery.

See No. 15.

Cottonseed Meal.

27. Cottonseed Meal, Inspection and Analysis of.—It shall not be lawful for any person or persons to offer for sale in this State any cottonseed meal until the same shall have been inspected as now required by law in the matter of all fertilizers and chemicals for manufacturing or composting purposes, nor shall it be lawful to offer such cottonseed meal for sale in this State if it be shown by the official analysis that the same contains less than 6.18 per cent of nitrogen, equivalent to $7\frac{1}{2}$ per cent of ammonia; provided, that the provisions of this section as to the per centum mentioned in this section shall not apply to meal manufactured from Sea Island cottonseed, but the Commissioner of Agriculture shall fix and make public a minimum per centum which shall control as to the cottonseed referred to in this proviso; provided further, that if any cottonseed meal shall not analyze up to the required per centum of nitrogen, the same may be offered for sale as a second-class meal, provided the analysis be made known to the purchaser and stamped on the sack. There shall be branded upon, or attached to each sack, barrel, or package of cottonseed meal offered for sale in this State, the guaranteed analysis and the number of pounds net in each sack, barrel or package. (Pol. C. 1914, vol. 1, § 1779.)

28. Grade or Quality to be Branded.—All manufacturers, dealers or manipulators who shall offer any cottonseed meal for sale in this State, either as a fertilizer or as a feed stuff, shall brand upon or attach to the packages in which such meal is offered for sale, the grade or quality of the same. (Id. § 1779 (a).)

29. Grades.—There shall be three grades of cottonseed meal, known as high grade, standard grade, and low grade. High grade meal must contain 6.60 per cent of nitrogen (equivalent to 8 per cent of ammonia) as a minimum before it shall be entitled to bear the brand of high grade. Standard meal must contain 6.18 per cent nitrogen (equivalent to $7\frac{1}{2}$ per cent of ammonia) as a minimum before it shall be entitled to the brand of standard grade. All cottonseed meals containing less than 6.18 per cent of nitrogen (equivalent to $7\frac{1}{2}$ per cent of ammonia), shall be branded low grade before being offered for sale in this State; provided, that low grade shall not contain less than 6 per cent of ammonia, and provided, further, that all meal made from Sea Island cotton shall be branded Sea Island cottonseed meal, and the guaranteed analysis shall not be less than $4\frac{1}{2}$ per cent of ammonia, and the same shall be printed upon the package.

The words high grade, standard grade and low grade, when branded upon or attached to the package containing the cottonseed meal shall be printed just above all other guarantees or descriptions of said meal, and in type larger than any other descriptive words or matter branded upon or attached to such package. (Id. § 1779 (b).)

30. Duty of Commissioner of Agriculture.—It shall be the duty of the Commissioner of Agriculture to take all steps necessary to make this law effective. (Id. § 1779 (c).)

31. Inspection, Analysis and Sale of Cottonseed Meal.—Any person violating the provisions of law governing the inspection, analysis and sale of cotton seed meal shall be guilty of a misdemeanor. (Pen. C. 1914, vol. 6, § 645.)

32. Branding Cottonseed Meal According to Grade.—Any person or persons violating the provisions of sections 1779 (a) to 1779 (c) of the Civil [Political; vol. 1] Code in regard to branding cottonseed meal according to grade, shall be deemed guilty of a misdemeanor. (Id. § 645 (a).)

NOTE: See also Nos. 43, 60 and 170.

Cottonseed Oils.

See No. 18.

Dairy Products—Substitutes For Dairy Products.

33. Sale of Oleomargarine Without Notice.—If any manufacturer, merchant, shopkeeper, or other person shall sell or expose for sale the product known as "oleomargarine" without first branding, marking, or labeling it in a legible manner and conspicuous place with the word "oleomargarine" so as to be easily observed by persons offering to purchase, and also without first informing the person offering to purchase that the article is oleomargarine, he shall be guilty of a misdemeanor. (Pen. C. 1914, vol. 6, § 559.)

34. Notice to Guests.—If the proprietor, keeper, or manager of any hotel, inn, restaurant, or house of public entertainment shall knowingly furnish, offer, or set before, or permit to be offered, furnished, or set before his guests the article known as "oleomargarine," without first putting his guests on notice by posting in conspicuous places in the dining room, and in all other rooms where the guests of such house are accustomed to take meals, and also in the private rooms of the guests, notices that can be easily observed and read by the guests, in the following words: "This house uses oleomargarine," and also by printing said notice on their bills of fare when bills of fare are used by such house, he shall be guilty of a misdemeanor. (Id. § 560.)

NOTE: See also No. 66 et seq.

Edible Fats.

See No. 18.

Feeding Stuffs.

35. Concentrated Commercial Feeding Stuff.—The term "concentrated commercial feeding stuff," as used herein, shall include cottonseed meal, linseed meal, corn and cob meal, cocoanut meal, gluten feeds, gluten meal, germ feeds, corn feeds, starch feeds, sugar feeds, dry brewer's grains, malt sprouts, dried distiller's grain, dried beet refuse, hominy feed, cerealine feeds, rice meals, rice brans, rice polish, peanut meal, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts, ground beef or fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, peavine meal, cottonseed meal feeds, whole seeds and grains and meals, mixed or unmixed, made from such seeds or grains, and all other materials of a similar nature. (Pol. C. 1914, vol. 1, § 2106.)

36. Registration of Feeding Stuff.—Every lot or parcel of concentrated commercial feeding stuff and condimental feed used for feeding domestic animals or poultry, sold, offered or exposed for sale within this State, shall be registered annually with the Commissioner of Agriculture, and shall have affixed thereto, or printed on the bag or other package, in a conspicuous place on the outside thereof, a legible and plainly printed statement, clearly and truly certifying the number of net pounds of feeding stuff contained therein; provided, that all concentrated commercial feeding stuffs shall be in standard weight bags or packages of fifty, seventy-five, one hundred, one hundred and twenty-five, one hundred and fifty, one hundred and seventy-five or two hundred pounds each; also the name, brand or trade-mark under which the article is sold, the name and address of the manufacturer, importer or jobber, and a statement of the maximum percentage it contains of crude fibre, and the minimum percentage it contains of crude fat and crude protein, allowing 1 per cent of nitrogen to equal $6\frac{3}{4}$ per cent of protein; both constituents to be determined by the method in use at the time by the Association of Agricultural Chemists of the United States. (Id. § 2107.)

37. Samples of Concentrated Commercial Feeding Stuff.—Every manufacturer, importer, jobber, agent or seller, before selling, offering or exposing for sale any concentrated commercial feeding stuff as defined in section 2106, shall, for each and every feeding stuff bearing a distinct name or trade-mark, file with the Commissioner of Agriculture a copy of the statement named in section 2107, and accompany said statements, when so requested by the Commissioner of Agriculture, by a sealed glass jar or bottle containing at least one pound of the feeding stuffs to be sold, exposed or offered for sale, which sample shall correspond within reasonable limits to the feeding stuff which it represents in the percentage of protein, fat and fibre which it contains. (Id. § 2108.)

38. Sample Shall be Analyzed.—The Commissioner of Agriculture shall cause at least one sample of each distinct brand of feeding stuff sold in this State to be analyzed annually by or under the direction of the State chemist. Said analysis shall include determinations of crude fat and of crude protein, and such other determinations as may at any time be deemed advisable by the State Chemist. (Id. § 2109.)

39. Inspection Fees.—Each manufacturer, importer, jobber, agent or seller of any concentrated commercial feeding stuffs, as defined in section 2106, shall pay to the Commissioner of Agriculture an inspection tax of twenty cents per ton for each ton of such concentrated feeding stuffs sold, offered or exposed for sale, and shall affix to each car shipped in bulk, and to each bag, barrel or other package of such concentrated feeding stuff, a stamp to be furnished by said Commissioner of Agriculture, indicating that all charges specified in this section have been paid, provided, that the inspection tax of twenty cents per ton shall not apply to cotton-seed hulls, hays and straws, whole seeds and grains and pure meals made from whole grains and seeds, not mixed with other substances, but sold separately as distinct articles of commerce. Should any of these materials otherwise exempt be mixed or adulterated with any substance for the purpose of sale, the package which contains it, or in which it is offered for sale, must have plainly marked or indicated thereon the true composition of the mixture, or the character of the adulteration. Tax stamps shall be in denominations as follows: One-half cent, three-quarters cent, one cent, one and one-quarter cents, one and one-half cents, one and three-quarter cents, two cents, or multiples thereof. The Commissioner of Agriculture may prescribe the form of such tax stamps. Whenever a manufacturer, importer or jobber of a concentrated feeding stuff shall have filed the statement named in this article, and paid the inspection tax, no agent or seller of said manufacturer, importer or jobber shall be required to file such statement or pay such tax. (Id. § 2110.)

40. Registration of Feeding Stuffs.—The Commissioner of Agriculture shall have the power to refuse the registration of any feeding stuffs under a name which would be misleading as to the materials of which it is made, or when the percentage of crude fibre is above, or the percentage of fat and protein is below, the standards adopted under section 2107. Should such materials as referred to above be registered, and it is afterwards discovered that they are in violation of the above provision, the Commissioner of Agriculture shall have the power to cancel the registration. When the special inspector provided for in this article is unable to cover the territory sufficiently, the Commissioner of Agriculture may utilize the oil and fertilizer inspectors in taking samples of drugs, feeding stuffs or food products, without other compensation than that now received. (Id. § 2111.)

41. Penalties.—The sale of mouldy and damaged feeding stuff is prohibited as feeds, except on full notice in writing to the purchaser of the nature and extent of the damage. Any manufacturer, importer, jobber, agent or seller who shall sell, offer or expose for sale or distribution any concentrated commercial feeding stuff, without complying with the requirements of the preceding section of this article, or who shall sell, offer, or expose for sale or distribution any concentrated, commercial feeding stuff which contains substantially a smaller percentage of constituents than are certified to be contained, or who shall adulterate any feeding stuff with foreign, mineral or other similar substance or substances, such as rice, hulls or chaff, peanut shells, corncobs, oat hulls or other similar material of little or no feeding value, or with substances injurious to the health of domestic animals, shall be guilty of a violation of the provisions of this article, and the lot of feeding stuff in question shall be subject to seizure, condemnation and sale or destruction by the Commissioner of Agriculture; and it shall be the duty of the sheriff to seize and sell by public sale each and every bag, package, or lot of commercial concentrated feeding stuffs sold, or offered for sale or for distribution, which shall not have securely attached the stamp mentioned in section 2110; provided, that should the owner or agent show to the satisfaction of the sheriff that such stamps were attached and the same have become detached, the sheriff shall release the same without cost to the owner or agent. All moneys or proceeds divided from the seizure and sale of concentrated commercial feeding stuffs shall be covered into the State treasury. (Id. § 2112.)

42. Samples, How Collected.—The Commissioner of Agriculture is hereby authorized to have collected a sample not exceeding two pounds in weight, for analysis, from any lot, parcel or package of concentrated feeding stuff as defined in section 2098 [2106] which may be in the possession of any manufacturer, importer, agent or dealer; but said sample shall be taken from not less than ten per cent of the whole lot inspected. (Id. § 2113.)

43. Tax Stamps.—All manufacturers and manipulators, importers, and jobbers, or agents representing them, who have registered their feeding stuff in compliance with this article, shall forward to the Commissioner of Agriculture a request for tax stamps, stating that said stamps are to be used upon brands of feeding stuffs registered in accordance with this article, and said request shall be accompanied with the sum of twenty cents per ton as an inspection tax, except in case of cottonseed meal, where the present tax of ten cents per ton must be paid; whereupon it shall be the duty of the Commissioner of Agriculture to issue stamps to the party applying, who shall attach a stamp to each bag, barrel, or package thereof, which, when attached to said package, shall be prima facie evidence that the seller has complied with the requirements of this article. Any stamps left in the possession of the manufacturer, manipulator, importer, jobber, or agent, may be used another season. (Id. § 2114.)

NOTE: See also Nos. 7 et seq., 21-22, 27 et seq.

Flour, Corn Meal and Grain.

44. Inspectors, by Whom Appointed.—The ordinaries in the several counties of this State shall have power to appoint, annually, one person of good repute to be inspector of flour in their respective counties, but the same power may be exercised exclusively in any corporate towns within their corporate limits; vacancies in such office of inspector may be filled by the appointing power as soon as may be after the happening of any vacancy. (Pol. C. 1914, vol. 1, § 1864.)

45. Number of Pounds Stamped on Each Sack.—It shall be the duty of each and every miller or manufacturer of flour or corn meal (and every merchant or dealer), offering for sale said articles, to stamp or have printed on each sack in which either of said articles are packed, in plain figures not less than one and one-half inches in length, the exact number of pounds of flour or corn meal contained therein; provided, the provisions of this section shall not apply to grist ground for toll. (Id. § 1865.)

46. Flour Shall be Merchantable.—All bolted wheat flour and every cask thereof, brought to the places aforesaid for sale, shall be made, by the miller or manufacturer thereof, merchantable and of due fineness, and without mixture of coarse flour, or the flour of any other grain than wheat. (Id. § 1866.)

47. Flour, Grits and Corn Meal, How Packed and Marked.—All flour, grits and corn meal packed in barrels or half-barrels made of any material or any package made of wood or metal in which flour, grits or corn meal are or may be offered for sale, shall be well made and of good material; shall have the net weight of flour, grits, or meal plainly marked in the head, top or side of the barrel or package with a stencil, or paper label or pencil, with letters and figures not less than one inch in length, and the tare marked on the reverse end or side of the barrel or package in like manner. (Id. § 1867.)

48. Weight in Barrels and Sacks.—Every miller, bolter, blender, or mixer, or other person who manufactures or who buys flour, grits, or corn meal for the purpose of repacking, shall put into each barrel the full quantity and weight of one hundred and ninety-six pounds of flour, grits, or corn meal, and shall put into each half-barrel the quantity and weight of ninety-six pounds of flour, grits, or corn meal.

When flour, grits, or corn meal is packed in sacks, the gross weight shall be as follows: Sacks containing 140 pounds, sacks containing 280 pounds, half-barrel sacks 96 pounds, quarter-barrel sacks 48 pounds, eighth-barrel sacks 24 pounds, sixteenth-barrel sacks 12 pounds, thirty-second-barrel sacks 6 pounds. (Id. § 1868.)

49. Variations in Weights.—From the weights above specified variations for inaccuracies will be allowed as follows: On all packages weighing ninety pounds or over, an allowance of one-fourth of one per cent, and on all packages smaller than ninety pounds an allowance of one-half of one per cent, less than the weight specified in the preceding section. (Id. § 1869.)

50. Packages, How Marked.—It shall be unlawful for any person to pack for sale, sell, or offer for sale any corn meal except in bags or packages containing by standard weight two bushels, or one bushel, or one-half bushel, or one-fourth bushel, or one-eighth bushel, respectively. Each bag or package of corn meal shall have plainly printed or marked thereon, whether the meal is "bolted" or "unbolted," the amount it contains in bushels or fraction of a bushel, and the weight in pounds; provided, the provisions of this section shall not apply to the retailing of meal directly to customers from bulk stock, when priced and delivered by actual weight or measure. (Id. § 1870.)

51. Flour Shall be Inspected, When.—All barrels, half-barrels, and bags of flour brought to any place of inspection for sale shall be submitted to the view and examination of the inspector, who shall expeditiously inspect the same by boring into the barrel, half-barrel, or bag, from head to head, or end to end, with an instrument of not more than three-fourths of an inch in diameter, to be by him provided for that purpose; and if he shall judge the same well packed and merchantable, he shall plug the hole and brand the barrel, half-barrel, or bag with the name of the place at which he shall be inspector, with a public brand or mark to be by him provided for that purpose, and approved by the ordinary, city council, or corporation, as the case may be, and shall also mark the degree of fineness which he shall determine the flour to be, on inspection, which degrees shall be distinguished as follows: "Extra Family," "Superfine," "Fine," "Middling," "First" or "Second." For which trouble the inspector shall receive from the owner or consignee at the rate of five cents per barrel. (Id. § 1871.)

52. Fraudulently Packing Flour.—If any person shall pack flour in an old barrel which may have been marked and branded as aforesaid, and which shall still have the brand of the inspector thereon, or shall otherwise fraudulently pack flour for sale, such person or persons shall forfeit and pay the sum of twenty dollars for every barrel so packed, to be recovered by an informer before any justice of the peace, or other court having jurisdiction thereof—one-half of such penalty to go to the informer, and the other half to the miller or manufacturer injured by such false packing. (Id. § 1872.)

53. Inspector Cannot Purchase.—No inspector shall be permitted, directly or indirectly, to purchase any flour by him condemned as unmerchantable, or any other flour whatever, other than for his own or family use and consumption, under the penalty of thirty dollars for every barrel by him purchased, to be recovered by any informer before any justice of the peace, or other court having jurisdiction; one-half of which shall belong to the informer, and the other half to the county or corporation having the appointment of the inspector. (Id. § 1873.)

54. Selling Without Inspection.—Any person who shall sell flour in or from any of the places where there is an inspector, without an inspection as aforesaid, shall forfeit and pay the sum of ten dollars for each barrel, half-barrel, or bag so sold, to be recovered by an informer before any justice of the peace, or other court having jurisdiction; one half to go to the informer and the other half to the inspector. (Id. § 1874.)

55. Corn Meal, Corn, and Other Grain.—Every inspector of flour shall inspect Indian corn and corn meal, wheat, and other grain in bags or in barrels, or in bulk, when requested by the owner or consignee to do so, and he shall brand only such as he may deem to be sound and merchantable, for which his compensation shall be three cents per bag or barrel, and, when the grain inspected is in bulk, the sum of twenty-five cents per carload, to be paid by the owner or consignee, as aforesaid. (Id. § 1876.)

56. Weights to be Stamped on Sacks of Flour and Meal.—If any miller or manufacturer of flour or corn meal, or any merchant or dealer offering said articles for sale, shall fail to stamp or have printed on each sack in which either of said articles are packed, in plain figures, not less than one and one-half inches in length, the exact weight of the contents thereof, he shall be guilty of a misdemeanor. (Pen. C. 1914, vol. 6, § 562.)

57. Exceptions.—The preceding section shall not apply to grist ground for toll, nor to millers, merchants, or dealers, selling flour or meal in quantities less than a full sack, or in any quantities when sold by weight. (Id. § 563.)

58. Corn Meal, Weight and Packages of.—Any person who shall violate section 1870 of the Civil [Political, vol. 1] Code, relating to corn meal, shall be guilty of a misdemeanor. (Id. § 564.)

59. Flour, Grits, and Corn Meal, How Marked and Weighed.—Any person who shall violate sections 1867, 1868, and 1869 of the Civil [Political, vol. 1] Code, relating to packing, marking, and weighing flour, grist, and corn meal, shall be guilty of a misdemeanor. (Id. § 565.)

60. Cottonseed Hulls; Weight to be Stamped.—Any person, firm, or corporation who shall sell cottonseed hulls in bales or packages, without having the weight thereof plainly stamped or branded on each bale or package, shall be guilty of a misdemeanor. (Id. § 566.)

61. Neglect of Duty by Inspectors of Flour, Etc.—Any neglect of duty by an inspector of flour, Indian corn, and corn meal, wheat and other grain in bags, barrels, or in bulk, shall be a misdemeanor. (Id. § 644.)

NOTE: See also Nos. 17 and 170.

Fruits, Vegetables, Etc.

61a. Standards, Grades, and Classes.—The Director [of Markets] shall likewise formulate and announce proper and fair standards, grades and classes for and among agricultural products of all kinds, and may modify or supplement the same from time to time, and shall recommend the same to co-operative and other like associations of producers, distributors and vendors thereof as the standards, grades, or classes to be adopted in marketing the same. (Supp. 1922, vol. 8, § 2141(4).)

NOTE: See also No. 170.

Lard.

See No. 18.

Meat—Meat Products.

See Nos. 18, 66 et seq. and 178.

Oysters.

62. Oysters Sold in Shell; How Measured; Dimensions of Tubs; Brands.—All oysters sold in the shell in this State in tidewater Georgia shall be measured in circular tub, with straight sides, straight and solid bottoms, with holes in the bottom not more than one-half inch in diameter. A bushel tub shall measure eighteen inches from the inside across the bottom, and twenty-one inches from the bottom to the top of chime. All measures used for buying or selling oysters shall have a brand, to be adopted by the State Board of Game and Fish, stamped thereon by the tidewater commissioner or his lawful inspectors or patrolmen. All measures found in the possession of any person not meeting the requirements of this section shall be destroyed by the tidewater commissioner of game and fish. (Code Supp. 1926, vol. 12, § 993(172).)

63. Use of Illegal Measures in Sale of Oysters in Shell; Failure to Brand Measures.—Any person or persons violating section 993 (172) of the Civil Code, relating to the measures to be used in sale of oysters and brands thereon, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars or imprisoned for not less than ten days nor more than thirty days in the discretion of the court. (Code Supp. 1926, vol. 13, § 476(i).)

Rice.

See Nos. 170, 178-179 and 182.

Sugar.

See No. 178.

Sanitation.

64. Regulations For Places Used For Sale, Manufacture, Etc., of Foods.—Every place occupied or used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food shall be properly lighted, drained, ventilated, screened and conducted with strict regard to the influence of such condition upon the health of operatives, employees, clerks or other persons therein employed and the purity and wholesomeness of the foods therein produced. (Pol. C. 1914, vol. 1, § 2119(a).)

65. Officers Authorized to Make Sanitary Rules; Penalty For Violation.—The Commissioner of Agriculture, State Veterinarian and State Chemist are hereby authorized and directed to make and cause to be published such sanitary rules and regulations as are necessary in food inspection and to carry out the provisions of this section and the preceding section, and any person or persons or associations violating the provisions of this section and the preceding section or any of the rules and regulations made or published under the provisions of said sections shall upon conviction be fined in a sum not exceeding one hundred dollars. (Id. § 2119 (b).)

66. Sanitary Regulations For Slaughterhouses, Dairies, Etc.—The State Veterinarian of the Department of Agriculture shall assume supervision and con-

trol over the sanitary conditions of all slaughterhouses, meat and meat food products, dairies, milk depots, milk and its by-products in the State of Georgia, under the provisions of this law and such rules and regulations as shall be promulgated by him and approved by the Commissioner of Agriculture: provided, that no rule shall be adopted in the supervision of slaughterhouses to prevent the carrying into and reception in such houses of cattle infected with ticks intended for slaughter, except in counties where the work of tick eradication is in progress or where the work is completed and the county released from quarantine. As far as practicable, the standards recognized and approved by the United States Department of Agriculture for such meat and meat food products, milk and milk food products shall be adopted. The necessary expenses incurred in the enforcement of this law shall be paid from the fees arising from the inspection of food. It shall be the duty of the State Veterinarian to employ competent assistants of unimpeachable character, reputation for integrity and fitness for service to carry into effect the provisions of this law. (Id. § 2119(c).)

67. Report of Veterinarian; Bulletin.—The State Veterinarian shall annually render a detailed report to the Commissioner of Agriculture of conditions found upon inspection, and he shall issue a statistical bulletin showing the conditions of the dairies and meat markets as far as they relate to the production of home supplies; such report may be published jointly with the report of the State Pure Food Inspector and shall be published for free public distribution. (Id. § 2119(d).)

68. Unsanitary Conditions in Slaughterhouses.—It shall be unlawful for any person or persons, firm or corporation to sell within this State or to have in his or their possession to sell within this State for human food, the carcasses or parts of carcasses of any animal which has been slaughtered, prepared, handled or kept under unsanitary conditions, and unsanitary conditions shall be deemed to exist wherever and whenever any one or more of the following conditions appear or are found, to wit: If the slaughterhouse is dilapidated or in state of decay; if the floors or sidewalls are soaked with decaying blood or other animal matter; if efficient fly screens are not provided; if the drainage of the slaughterhouse or slaughterhouse yard is not efficient; if maggots or filthy pools or hog wallows exist in the slaughterhouse yard or under the slaughterhouse; if the water supply used in connection with the cleaning or preparing is not pure and unpolluted; if hogs are kept in the slaughterhouse yard or fed therein on animal offal, or if the odors of putrefaction plainly exist therein; if carcasses or parts of carcasses are transported from place to place when not covered with clean, white cloths, or if kept in unclean, bad-smelling refrigerators, or if kept in unclean, bad-smelling cold storage rooms. It shall be the duty of the State Veterinarian to install an adequate system of meat inspection at any time and in such places as public welfare may demand, under rules and regulations which shall provide ways and means for shipping home-grown and home-killed meats into any city in Georgia. As far as practical the rules established under this law shall conform with the meat inspection requirements of the United States Bureau of Animal Industry as far as practicable conform to this law and to the meat and milk inspection requirements of the United States Bureau of Animal Industry.* (Id. § 2119(e).)

69. Inspection of Dairies, Etc.—The State Veterinarian at such time as he may deem proper shall cause to be inspected all places where dairy products are made, stored or served as food for pay and all places where cows are kept by persons engaged in the sale of milk or cream and may require the correction of all unsanitary practices found therein. He may take samples anywhere of any dairy products or imitations thereof and cause same to be sent to the State Chemist for analysis or bacteriological tests, such analysis or tests shall be recorded and preserved as evidence and when sworn to by such chemist shall be prima facie evidence of guilt in all prosecutions under this law. In the performance of their official duties the State Veterinarian, or any duly accredited representative of his acting for him, is hereby authorized and empowered to enter, during business hours, any slaughterhouse, meat market, dairy, creamery, butter and cheese factory, milk depot or any other place or places where meat and meat food products, dairy and dairy products are sold or kept for sale or any railroad cars, wagons, boats or other vehicles used in transporting of such products. (Id. § 2119(f).)

70. Statistics in Regard to Certain Food Products.—The State Veterinarian shall devise some system by which accurate statistics regarding the home supply of meat and meat food products, dairies and dairy products can be correctly ascertained and for that purpose he is authorized to require every owner, agent or manager of every public dairy, creamery, butter and cheese factory, milk depot and other places where dairy products are sold or kept for sale to report annually

*So in the enrolled act.

on or before September 1st of each year ending July 1st on blanks furnished by State Veterinarian full and accurate information concerning the quantity of milk or cream bought, sold or used, the average price paid for same, the number of cows used in or contributing to the operation of such creameries, dairies or factories, and the number, name and address of the patrons of creameries, public dairies or milk depots and the number of cows owned or milked by each said patron and the number of gallons of milk sold to such creamery, public dairy, milk depot and other milk distributing places. In like manner record shall be kept of the slaughter of all animals in this State and whether or not such animals originated in this State or were shipped here for slaughter, and the amount of dressed meat and meat food products shipped into this State annually. Failure on the part of any person, persons, firm or corporation to supply the State Veterinarian, without undue delay, with the true and correct information in regard to these statistics shall be a misdemeanor. (Id. § 2119(g).)

71. Municipal Inspection of Meat and Meat Products and of Dairies and Dairy Products.—Nothing in this law shall prevent the governing authority of any municipal corporation from enacting ordinances providing for the inspection of meat markets, meats and meat food products, dairies and dairy products sold within its limits and to affix penalties for violation thereof; but no such ordinances shall conflict with any power or authority of the State Veterinarian or his subordinates. (Id. § 2119(h).)

72. Regulations for Places Used for Sale, Manufacture, Etc., of Food.—Any person or persons or associations violating the provisions of sections 2119(a) and 2119(b) of the Civil [Political; vol. 1] Code in regard to sanitary regulations for places used for the preparation for sale, manufacture, packing, storage, sale or distribution of food or any person or persons or associations violating any of the rules and regulations made or published under the provisions of section 2119(b) of the Civil [Political; vol. 1] Code, shall upon conviction be fined in a sum not exceeding one hundred dollars. (Pen. C. 1914, vol. 6, § 453 (a).)

73. Regulation and Inspection of Slaughterhouses, Dairies, Etc.—Any person, persons, firm or corporation violating any of the provisions of sections 2119 (c)—2119 (h) of the Civil [Political; vol. 1] Code, in regard to the sanitary condition of slaughterhouses, dairies, etc., or the rules and regulations promulgated by authority of same, shall be guilty of a misdemeanor. Violations of said sections shall be tried without undue delay in any court of competent jurisdiction. (Id. § 453 (b).)

73a. Statistics as to Certain Food Products.—Failure on the part of any person, persons, firm or corporation to supply the State Veterinarian, without undue delay, with the true and correct information in regard to the statistics as to certain food products referred to in section 2119 (g) of the Civil [Political; vol. 1] Code, shall be a misdemeanor. (Id. § 453 (c).)

74. Duties of Commissioner.—It shall be the duty of the District Commissioner of Health to * * * inspect * * * all places where food is sold and shall see that all laws pertaining to infectious and contagious diseases are properly enforced. * * * (Pol. C. 1914, vol. 1, § 1676(i).)

PART III.

Special Drug Laws.

Abortifacients.

74a. Use of Obscene Pictures.—If any person shall bring, or cause to be brought, into this State for sale or exhibition, or shall sell or offer to sell, or shall give away or offer to give away, or having possession thereof shall knowingly exhibit to another any indecent pictorial newspaper tending to debauch the morals, or any indecent or obscene book, pamphlet, paper, drawing, lithograph, engraving, daguerreotype, photograph, picture, or any model, cast, instrument, or article of indecent and obscene use, or shall advertise any of said articles or things for sale, by any form of notice, printed, written, or verbal, or shall manufacture, draw, or print any of said articles, with intent to sell or expose or to circulate the same, he shall be guilty of a misdemeanor. (Pen. C. 1914, vol. 6, § 385.)

Embalming Fluids.

74b. Approved Disinfectant; Embalming Defined.—An approved disinfectant fluid shall contain not less than five per cent. of formaldehyde gas. The term embalming as employed in this law shall require the injection by a licensed embalmer of not less than ten per cent of the weight for bodies of persons dead of diseases in section 1717 (b), injected arterially in addition to cavity injection; and not less than six per cent of the body weight injected arterially in all other cases in addition to cavity injection. (Supp. 1922, vol. 8, § 1717(g).)

74c. Embalming; Violation of Civil Code Sections.—Any person who shall practice or hold himself or herself as practicing the science of embalming, and all common carriers, railroads, express companies and others, without having complied with the provisions of sections 1717-1717(h), 1719, 1721(a)-1721(c), of the Civil Code shall be guilty of a misdemeanor and, upon conviction thereof before any court, shall be sentenced to pay a fine of not less than fifty dollars or more than one hundred dollars, for each and every offense. All fines collected for the violation of any of the provisions of the aforesaid sections shall be paid into the common school fund of this State. (Supp. 1922, vol. 11, § 411½.)

Insecticides and Fungicides.

75. Registration of Names.—All manufacturers and jobbers of and dealers in calcium arsenate, lead arsenate, and dust mixtures containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruits in this State, who may desire to offer for sale and sell calcium arsenate, lead arsenate, and dust mixtures containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruit, shall first file with the Commissioner of Agriculture the name of each brand of said preparation, which they may wish to sell either directly or through agents, together with the name and business address of such manufacturers, jobbers or dealers as the case may be. (Code Supp. 1922, vol. 8, § 2141 (18).)

76. Brands.—It shall be the duty of all manufacturers, jobbers, dealers and agents in advance of offering calcium arsenate, lead arsenate, and dust mixtures containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruits, for sale in this State, to brand on each package, containing the name [same], the words, "calcium arsenate," "lead arsenate," and "dust mixtures containing sulphur, lead arsenate and lime," and other insecticides and fungicides commonly used on cotton, field crops and fruit, the weight of the package in full, the name and address of the manufacturer, also the contents of goods, the guaranteed analysis, solubility and density. (Id. § 2141 (19).)

77. Tags.—All manufacturers, or jobbers or agents representing them, who have registered their brands of the preparations heretofore mentioned, shall apply to the Commissioner of Agriculture for tags to be attached to each package of the aforementioned preparation, and with such request, the sum of twenty-five (\$0.25) cents per ton, as an inspection fee. Thereupon, the Commissioner of Agriculture shall supply all such applicants with the requisite number of tags which later, attached to each package of calcium arsenate, lead arsenate, and dust mixtures containing sulphur, lead arsenate and lime, and other field insecticides and fungicides commonly used on cotton, field crops and fruit, shall be prima facie evidence of compliance with the provisions of this chapter. Tags left over from one season shall not be used next or succeeding season or be redeemed by the Commissioner of Agriculture. (Id. § 2141 (20).)

78. Samples by Inspectors; Expenses.—Samples of calcium arsenate, lead arsenate, and dust mixtures containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruit shall be taken by fertilizer inspectors appointed by the Commissioner of Agriculture, but they shall not be allowed additional compensation for such service; they shall, however, be reimbursed in the matter of actual traveling expenses now paid, under the rules of the Department of Agriculture, when engaged in inspecting fertilizers. Samples of calcium arsenate, lead arsenate and dust mixtures, containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruit, shall be taken in the same manner now observed in taking samples of fertilizers. (Id. § 2141 (21).)

79. Analyses.—It shall be the duty of the State Chemist to make the necessary analysis of all samples of calcium arsenate, lead arsenate and dust mixtures containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruit, that may be turned over to him by the proper authorities. He shall keep a record of all such analyses and report on the same, as he now does in the case of fertilizer samples analyzed. (Id. § 2141 (22).)

80. Standard.—The State Board of Entomology is hereby authorized and required to fix a standard for calcium arsenate, lead arsenate and dust mixtures, containing sulphur, lead arsenate and lime, and other insecticides and fungicides commonly used on cotton, field crops and fruit, and to make such rules and regulations as, in the judgment of said board, as shall be necessary for the protection of the people, and make thoroughly effective the provisions of this chapter, and such regulations shall have the force of law. (Id. § 2141 (23).)

81. Duty to Prosecute Violators of Law.—It shall be the duty of the Commissioner of Agriculture to prosecute each and every violator of any of the provisions of this chapter. (Id. § 2141 (24).)

82. Drug Laws Inapplicable.—No provisions of the laws relating to the sale of drugs and poisons shall be construed to apply to the sale of the above named insecticides and fungicides for use on cotton, field crops and fruit. (Id. § 2141 (25).)

83. Illegal Sales, Etc., of Calcium Arsenate, Etc.; Fines.—Any person or persons who shall violate any of the provisions of sections 2141 (18)-2141 (25) of the Civil [Political] Code [vol. 8], relating to insecticides and fungicides shall be deemed guilty of a misdemeanor, and on conviction shall be punished as prescribed in section 1065 of this Code.* All fines arising therefrom shall be paid into the State treasury and shall become a part of the State educational fund. (Code Supp. 1922, vol. 11, § 702 (t).)

84. Ingredients of Insecticides; Showing on Containers.—On and after January 1, 1924, all manufacturers of insecticides used for agricultural or horticultural purposes shall be required to have printed or have stamped on the containers of all insecticides the ingredients of the insecticides. Provided, that nothing contained herein shall be held or construed in any way or manner to repeal any part or provision of section 2141 (19). (Code Supp. 1926, vol. 12, § 2141 (26).)

85. Printing or Stamping on Containers Ingredients of Insecticides.—Any person or persons or corporations violating the provisions of section 2141 (26) of the Civil Code, requiring that the ingredients of insecticides shall be printed or stamped on the containers thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as for a misdemeanor.* (Code Supp. 1926, vol. 13, § 702 (t-1).)

Pharmacy, Poisons and Narcotics.

86. State Board of Pharmacy, Appointment of.—The Governor shall appoint five experienced druggists, or practical pharmacists, from the names of ten persons suggested by the Georgia Pharmaceutical Association, who shall have been actually engaged in the drug business within this State for the three years immediately preceding their appointment, and the five so appointed shall constitute the "Georgia State Board of Pharmacy," one of whom shall hold his office for one year, one for two years, one for three years, one for four years, and one for five years, or until his or their successors shall have been legally appointed and qualified; and at each and every annual meeting the said Georgia Pharmaceutical Association shall submit to the Governor the names of five registered druggists, who shall have been actually engaged in the retail drug business within this State for three years immediately preceding the submitting of their names, and who are not connected with any college or school of pharmacy, and the Governor shall appoint from said names so submitted one member of the said board, who shall hold his office for five years, until his successor is duly appointed and qualified. Vacancies in the board caused by death, resignation, or removal of members from the State shall be filled by the Governor from the list of names last submitted to him by said association. (Pol. C. 1914, vol. 1, § 1722.)

87. Oath and Certificate of Appointment.—Immediately, and before entering upon the duties of said office, the member of said board shall take the oath prescribed by the Constitution of the State for State officers, and shall file the same

*See footnote to No. 137.

in the office of the Secretary of State, who upon receiving the said oaths of office, shall issue to each of said examiners a certificate of appointment. (Id. § 1723.)

88. Adopt Rules and Regulations.—Said board shall meet and organize as a State Board of Pharmacy, elect a chairman and secretary, adopt such rules, regulations, and by-laws as they shall deem necessary to carry into execution the provisions of this chapter. (Id. § 1724.)

89. Meetings.—Said board shall meet at least twice every twelve months, at such place as a majority of the board may determine, and the board may also hold special meetings as frequently and at such places as the proper discharge of its duties shall require; the same to be convened by order of the chairman and the rules or by-laws shall provide for the giving of proper notice of the time and place of all such meetings to the members of the board and to the public. (Id. § 1725.)

90. Their Duty.—It shall be the duty of the board to grant license—

1. To druggists, who, after three years experience in a drug store managed by a licensed apothecary or pharmacist, shall have passed a satisfactory examination before the said Board of Pharmacy.

2. To such physicians, graduates of a regular medical college, and such graduates of schools of pharmacy as shall have passed a satisfactory examination before said Board of Pharmacy.

3. To pharmacists who have obtained licenses from such other State Boards of Pharmacy as may be recognized by said Georgia State Board of Pharmacy.

All licenses granted shall be signed by a majority of the whole board; shall specify the ground upon which such license is granted; shall be in such form as the board shall prescribe, and shall be posted in a conspicuous place in the place of business of such licensee; provided, that this chapter shall not apply to physicians who are graduates of medical colleges in good standing, and who have been practicing medicine for five years prior to October 25th, 1889. (Id. § 1726.)

91. Permanent License.—Persons applying for examination and license shall pay to the Board of Pharmacy the sum of fifteen dollars, and, if passing the examination, shall be furnished with a license as hereinbefore provided. Should the applicant fail to stand a satisfactory examination, no fee shall be required for a subsequent examination and subsequent examinations. It shall be the duty of the board to keep a record of its transactions in a book to be kept for that purpose by the secretary. Said book to be turned over to his successor in office. The salary of the secretary of said board shall be ten per cent. of gross receipts annually; all necessary expenses of the board to be paid out of receipts, and the remainder to be equally divided between the members of the board. Said board shall make an annual report to the Georgia Pharmaceutical Association. (Id. § 1727.)

92. Registration of Druggists and Apothecaries.—All persons now lawfully engaged in the compounding and vending of medicines, drugs, and poisons in this State shall, on or before December 1st, 1881, and every person who shall be hereafter duly licensed under the provisions of this chapter, shall, before engaging in any business under said license, register in the office of the ordinary of the county wherein he resides, or intends to conduct said business, in a book to be kept for that purpose by said ordinary, his name, nationality, and credentials and date thereof, under which he is entitled to engage in such vocation. For each registration the ordinary shall receive fifty cents, to be paid by the party so registering, and a certificate of such registration, stating the terms of the same, shall be given him by said ordinary. (Id. § 1728.)

93. Exemption.—No person shall engage in the compounding or vending of medicines, drugs, or poisons within this State without a full compliance with this article, except—

1. Such druggists as are exempted from the operations of the present law by the statutes of the State of Georgia, and such druggists as have heretofore obtained license, and are legally authorized by existing laws to compound and vend drugs, poisons and chemicals.

2. Physicians putting up their own prescriptions, and dispensing medicines from their own office.

3. Merchants selling family medicines not poison, Paris green, arsenate of copper, arsenate of lead, or preparations containing any of these articles, used for killing Lincoln bugs, cabbage worms, caterpillars, all and similar insects, provided the labels, cartons, [and] packages containing such preparations have the word "poison" printed across the face of each in red ink, and in type not less than one-half inch in size. All labels, cartons and packages containing such articles

to show the quantity and kind of poison it contains, give specific directions for use, and antidote (only), for each poison they contain in letters of not less than three-eighths inch in size.

4. Assistants in drug stores where the manager has complied with the requirements of this article. (Code Supp. 1922, vol. 8, § 1729.)

94. Penalty.—Any person who shall violate the provisions of this chapter, or shall register fraudulently, shall be guilty of a misdemeanor. In all cases of prosecution under this chapter, the burden shall be upon the defendant to show his authority. (Pol. C. 1914, vol. 1, § 1730.)

95. Fees Paid, Board, Etc.—All the fees for examinations and licenses, and one-half the fines collected from convictions under this chapter, shall be paid to the Board of Pharmacy, to defray the expenses of the same, and as compensation for their services. (Id. § 1731.)

96. Sale of Poisons.—No person shall furnish, by retail, any poison enumerated in schedule "A" and "B," as follows, to wit:

Schedule "A"—Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisonous vegetable alkaloids and their salts; essential oil of bitter almonds, opium and its preparations, except paregoric and other preparations of opium containing less than two grains to the ounce;

Schedule "B"—Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and their pharmaceutical preparations; croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, and oxalic acid;

Without distinctly labeling the bottle, box, vessel, or paper in which said poison is contained, and also the outside wrapper or cover thereof, with the name of the article, the word "Poison," and the name and place of business of him who furnishes the same; nor unless upon due inquiry it be found that the person to whom it is delivered is aware of its poisonous character, and represents that it is to be used for a legitimate purpose. (Pen. C. 1914, vol. 6, § 454.)

97. Druggists Shall Keep Books.—No licensed or registered druggist or pharmacist shall sell or deliver any of the poisons included in Schedule "A" without, before delivering the same, causing an entry to be made in a book kept for that purpose, stating the date of the delivery, the name and address of the person receiving the same, the name and quantity of the poison, the purpose for which it is represented by such person to be required, and the name of the dispenser. Such book shall be always open for inspection by the proper authorities, and be preserved for reference for at least five years. (Id. § 455.)

98. On Prescriptions.—Nothing in the preceding sections shall apply to the dispensing of poisons in not unusual quantities or doses, upon the prescriptions of practitioners of medicine. (Id. § 456.)

99. Penalty.—Any person violating the provisions of the three preceding sections shall be punished as for a misdemeanor. (Id. § 457.)

100. How Morphine Shall be Wrapped and Labeled.—If any druggist or other dealer in drugs and medicines, shall sell or offer for sale any sulphate or other preparations of morphine in a bottle, vial, envelope, or other package, unless it is wrapped in a scarlet paper or envelope, and unless the bottle or vial also has on it a scarlet label, lettered in white letters, plainly naming the contents of the bottle or vial, he shall be guilty of a misdemeanor. (Id. § 458.)

101. Narcotic Drugs, Illegal Sale of.—Any person who shall violate any of the provisions of sections 1651 and 1652 of the Civil [Political, vol. 1] Code, on the subject of the traffic in and the sale of narcotic drugs, shall be guilty of a misdemeanor. (Id. § 459.)

102. Compounding or Vending Drugs, Etc., Illegally.—Any person who shall engage in the compounding or vending of medicines, drugs, or poisons, without first having complied with the law authorizing the same, or shall register fraudulently, shall be punished as for a misdemeanor. In prosecutions under this section, the burden shall be upon the defendant to show his authority. (Id. § 460.)

103. Half of Fine Paid to Board of Pharmacy.—One-half of the fines collected from convictions under the preceding section shall be paid to the Board of Pharmacy to defray the expenses of the same, and as compensation for their services. (Id. § 461.)

104. Opium Joints Prohibited.—Any person who shall keep, set up, maintain, or open any house, room or place of any description for the smoking of opium or any preparation thereof shall be guilty of a misdemeanor. (Id. § 384.)

105. Narcotic Drugs, Sale of, Regulated.—It shall be unlawful for any person, firm or corporation to sell, furnish or give away any cocaine, alpha or beta eucaine,

opium, morphine, heroin, chloral hydrate or any salt or compound of any of the foregoing substances or any preparation or compound containing any of the foregoing substances or their salts or compounds, except upon the original written orders or prescription of a lawfully authorized practitioner of medicine, dentistry or veterinary medicine, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, or, if ordered by a practitioner of veterinary medicine, shall state the kind of animal for which ordered, and shall be signed by the person giving the prescription or order. Such written order or prescription shall be permanently retained on file by the person, firm or corporation who shall compound or dispense the articles ordered or prescribed, and it shall not be again compounded or dispensed except upon the written order of the prescriber for each and every subsequent compounding or dispensing. No copy or duplicate of such written order or prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by the prescriber and properly authorized officers of the law: provided, however, that the above provisions shall not apply to preparations containing not more than four grains of opium, or not more than one grain of morphine, or not more than one-fourth grain of heroin, or not more than one-eighth grain of alpha or beta eucaine, or not more than twenty grains of chloral hydrate in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce; provided, also, that the above provisions shall not apply to preparations containing opium and recommended and sold in good faith for diarrhoea and cholera, each bottle or package of which is accompanied by specific directions for use and a caution against habitual use, nor to powder of ipecac and opium, commonly known as Dover's powder, nor to liniments or ointments plainly labeled "For external use only." And provided, further, that the above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers to retail druggists or qualified physicians or to each other, nor to sales at retail by retail druggists to regular practitioners of medicine, dentistry or veterinary medicine, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparations, nor to sales to hospitals, colleges, scientific or public institutions. (Pol. C. 1914, vol. 1, § 1651.)

106. Prescriptions For Habitual Users.—It shall be unlawful for any practitioner of medicine, dentistry or veterinary medicine to furnish to or prescribe for the use of any habitual user of the same any cocaine, heroin, alpha or beta eucaine, opium, morphine chloral hydrate, or any salt or compound of any of the foregoing substances or any preparation containing any of the foregoing substances or their salts or compounds. And it shall also be unlawful for any practitioner of dentistry to prescribe any of the foregoing substances for any person not under his treatment in the regular practice of his profession, or for any practitioner of veterinary medicine to prescribe any of the foregoing substances for the use of any human being: provided, however, that the provisions of this section shall not be construed to prevent any lawfully authorized practitioner of medicine from furnishing or prescribing in good faith, for the use of any habitual user of narcotic drugs who is under his professional care, such substances as he may deem necessary for their treatment when such prescriptions are not given or substances furnished for the purpose of evading the provisions of this and the preceding section. (Id. § 1652.)

107. Board of Pharmacy to Prosecute.—It shall be the duty of the Board of Pharmacy to cause the prosecution of all persons violating the provisions of the two preceding sections. No prosecution shall be brought for the sale of any patent or proprietary medicine containing any of the drugs or preparations hereinbefore mentioned until the Board of Pharmacy shall certify that such medicine contains any of the said drugs or preparations in excess of the maximum percentage hereinbefore mentioned. (Id. § 1653.)

108. Who Liable to Prosecution.—In any proceedings under the provisions of the three preceding sections the charge may be brought against any or all of the members of a partnership or against the directors or executive officers of a corporation or against the agent of any person, partnership or corporation. (Id. § 1654.)

108a. Private Hospitals and Sanitariums.—It shall be lawful for any private hospital or sanitarium in this State, for inebriate or other persons who are the victims of the excessive use of alcohol, morphine, cocaine, or other intoxicants, narcotics, or drugs of a similar character, to receive such persons therein, for treatment, who shall voluntarily make application for admission therein. (Id. § 1628.)

108b. Treatment of Patients.—When any such person shall apply for admission, and be received in such hospital or sanitarium, the authorities thereof shall have the right to exercise such restraint upon the person of such patient, and administer such treatment to him, as may, in their opinion, be necessary and proper for

the care and treatment, according to the methods in use by alienists and neurologists in such cases. (Id. § 1629.)

108c. Discharge of Patients.—The authorities of such private hospital or sanitarium shall have the right to discharge such patient at any time they may deem proper; or whenever the patient, or other person with whom the contract for his treatment is made for such treatment, fails to comply with the terms of such contract. (Id. § 1630.)

108d. Inspection, Subject to.—Any private Institution of the character aforesaid, which shall receive a patient under the provisions of this chapter, shall be subject to the inspection and investigation of the superintendent of the Georgia State Sanitarium, and of the chairman of the State Board of Medical Examiners. Such inspection and investigation of said officers may be made at any time, and any number of times they may deem proper, and they may make such recommendations in their annual or other reports, as to the management of such institutions, as will, in their opinion, tend to the improvement of the same. (Id. § 1631.)

NOTE: See also No. 26.

Serum, Vaccine, Antitoxin.

109. Vaccine, How Distributed.—The Governor is authorized and required to procure the necessary quantity of genuine vaccine matter, either by purchase or manufacture, at such reasonable compensation as he may contract for, and have the same transmitted to the ordinaries of each county in this State for immediate use. (Pol. C. 1914, vol. 1, § 1649.)

110. Hog Cholera Serum.—For the benefit of instruction to the agricultural students at the State College of Agriculture at Athens, and for the protection of the swine breeding industry of the State, the State Agricultural College at Athens shall, in connection with its veterinary department, establish a plant for the production of the Bureau of Animal Industry, or Dorest-Niles hog cholera serum; this plant shall at all times be open for the inspection and instruction of swine breeders in the State of Georgia, the intention of this law being not only to produce the above named preventative serum, but also to instruct the public in its use and to disseminate practical information for the prevention of this disease among the breeders of swine. (Id. § 2082 (d).)

111. Serum Distributed by State Veterinarian.—To prevent the use of the serum in outbreaks other than true hog cholera, which would be an economic loss to the people, the distribution of the serum shall be under the direction of the State Veterinarian, whose duty it shall be to investigate reported outbreaks and then direct the distribution of the serum to such communities where the disease is in progress. He shall keep a record of all serum so distributed, and to whom, and with what result, such record to be published annually in pamphlet form. (Id. § 2082 (e).)

112. Appropriation; Training in Use of Serums; Permits to Administer Serums; Reports; Supply to Farmers and Swine Growers.—In order to carry out the provisions of this law the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated out of any funds in the treasury not otherwise appropriated. This sum, or so much thereof as may be necessary, shall be available for the investigation of reported outbreaks of hog cholera, field investigation, sanitary control of the infested districts and supervision of the distribution of serum under the direct supervision of the State Veterinarian. It shall be the duty of the State Veterinarian upon request filed with him by the commissioners of roads and revenues of any county or counties or by the ordinaries in counties which have no commissioners of roads and revenues to send into such county or counties an expert who shall instruct and train to proficiency in the proper and efficient use of hog cholera serum and virus, not less than four persons in such county or counties so requesting; said four persons to be residents of different sections of such county or counties. All persons so trained and qualified shall be issued a permit by the State Veterinarian to administer hog cholera serum and virus; and it shall be the duty of all persons holding such permits and all licensed veterinarians to report daily, on blanks furnished by the State Veterinarian, a full report on number of hogs inoculated, Federal license number and serial number of serum and virus used, the condition of the herd and any other information that may be necessary or helpful in the suppression of hog cholera. All persons holding such permits shall keep on hand a reasonable supply of serum and virus and shall supply same to farmers and swine growers at cost. Failure to make these reports and otherwise co-operate

with the State Veterinarian shall revoke the permit. (Code Supp. 1922, vol. 8, § 2082 (f).)

113. Cost of Serum.—The serum produced under the provisions of this law shall be furnished to all citizens of this State at the actual cost of production, and all moneys received from the sale of such serum shall revert back to the veterinary department at the State College of Agriculture, the intention of this law being to make said hog cholera serum plant self sustaining after this first appropriation of three thousand dollars. (Pol. C. 1914, vol. 1, § 2082 (g).)

114. Permits Required; Inspection and Regulation.—All serum companies and jobbers in veterinary biological products, before doing business in the State of Georgia, must secure a permit from the State Veterinarian. The sale or free distribution of hog cholera virus, mallein, tuberculin or anthrax vaccine, except through the office of the State Veterinarian, is prohibited. The State Veterinarian shall inspect or cause to be inspected all serum plants within the State and shall issue a license only to plants equipped and operated in conformity with Federal regulations governing the manufacture of veterinary biological products. The State Veterinarian shall arrange to supervise the test of all serum made in such plants under regulations promulgated by him and approved by the Commissioner of Agriculture, uniform, as far as practicable, with regulations of the United States Bureau of Animal Industry governing the manufacture of hog cholera serum. No license shall be issued to any hog cholera serum plant unless such plant be arranged, equipped and conducted as provided by regulations previously referred to. (Code Supp. 1922, vol. 8, § 2082 (g-1).)

115. Sale, Free Distribution, or Use of Hog Cholera Virus, Etc.—Any violation of the provisions of section 2082 (g-1) of the Civil Code [Political, vol. 8] relating to the sale, free distribution and use of hog cholera virus, etc., shall be punishable as for a misdemeanor. (Code Supp. 1922, vol. 11, § 583 (d).)

116. Diphtheria Antitoxin, Distribution of.—The State Board of Health shall ship and keep with the ordinaries a reasonable supply of diphtheria antitoxin for the purpose of supplying the needs of the physicians in each county of this State, for charitable purposes only, and shall keep the proper dates on all packages so shipped, and the ordinaries are authorized and directed to turn over to the authority of all charity and city hospitals of each county as demands are made by them, for the treatment of diphtheria in said hospitals, such amount as they may need. (Pol. C. 1914, vol. 1, § 1663.)

117. Sale of Antitoxin by Ordinaries.—The ordinaries of each county, while being required to furnish antitoxin for charitable purposes only, are authorized to furnish antitoxin to purchasers of same, who are unable to purchase antitoxin from the registered pharmacists in their county, at a price at the regular retail price at which said dealers usually sell first class antitoxin, as conforms to the United States Pharmacopœia requirements. (Id. § 1664.)

118. Proceeds of Sales.—The revenue derived from the sale of antitoxin, with the exception of ten per cent, which may be deducted by the ordinaries for their expenses, shall be returned to the Georgia State Board of Health, to be used in the manufacture of antitoxin. (Id. § 1665.)

118a. Hydrophobia, Prevention of.—The State Board of Health is empowered and directed, as soon as practicable, to arrange for the preparation and manufacture, in its laboratory at the capital, of material necessary for the treatment and prevention of hydrophobia according to the method of Pasteur, and to keep constantly on hand the necessary material sufficient in quantity to meet the requirements that any exigency may demand, and to distribute the same free of cost to physicians and surgeons over the State for the treatment of such of their patients as have been bitten by an animal suffering with rabies. (Id. § 1666.)

Ethyl Alcohol.

119. Manufacture of Ethyl Alcohol Permitted.—It shall be lawful for any person, firm or corporation to manufacture in this State ethyl alcohol from sawdust, chips, slabs or any other wood substances, or material or materials produced therefrom, or from waste material of any kind, or from molasses, with the aid of such fermenting materials or boosters as may assist in the production of such alcohol from any or all such materials, subject to the conditions and restrictions hereinafter set out. (Code Supp. 1926, vol. 12, § 1770 (ppp).)

120. Statement by Person, Firm or Corporation Desiring to Manufacture Alcohol.—Before any person, firm or corporation shall be authorized to engage

in the manufacture of ethyl alcohol as provided in section 1770 (ppp), such person, firm or corporation shall file with the ordinary of the county in which the plant for the manufacture of such alcohol is to be located, a statement giving the following information:

1. The name and address of the applicant, if an individual; and if a firm, the names of all members thereof with the addresses of the firm and of the individual members; and if a corporation, with the name of the president or other chief executive officer and his address.

2. The name and address of the person who is to be in charge of the proposed plant as manager or superintendent.

3. A tracing or blue print showing the location and layout from and including fermentation equipment to finished and/or stored alcohol equipment, of the proposed plant, with the dimensions shown thereon.

Such application shall be verified by the affidavit of the applicant if an individual, or by a member if the applicant is a firm, or by an executive officer if the applicant is a corporation. The affidavit shall also contain the declaration that the applicant does solemnly promise that the terms, conditions and restrictions placed upon the manufacture of ethyl alcohol in this chapter shall be faithfully kept and observed by the applicant in the operation of the proposed plant.

Upon the filing of such statement the applicant shall pay the ordinary the sum of five dollars as his fee for filing such statement, and thereupon shall be authorized to proceed with the construction of such plant in accordance with the plans shown in the statement so filed.

If during the course of construction or after completion the applicant should make alterations in or additions to the plant as shown by the tracing or blue print so filed with the application, a supplemental statement accompanied by a tracing or blue print showing such alterations or additions shall be filed in the same manner and with a similar affidavit. If there should be a change of the person in charge of such plant as manager or superintendent, or a change in the ownership thereof, the owner of the plant shall file a supplemental statement showing such change, verified as aforesaid. The ordinary shall be paid a fee of one dollar for filing each supplemental statement.

A copy of the statement so filed, certified as exemplifications from the court of ordinary are required to be certified, shall be admissible in evidence either for or against the applicant or owner in any court proceeding in which the matter appearing in such statement would be relevant and material evidence. (Id. § 1770 (qqq).)

121. Unauthorized Use of Equipment.—It shall not be lawful for any equipment from and including fermentation equipment to finish and/or stored alcohol equipment, to be used in the manufacture of ethyl alcohol unless such equipment be shown on the statement or supplements thereto on file with the ordinary of the county in which located, as provided in the preceding section; nor shall it be lawful for any said equipment shown on such statement to be used for any purpose in connection with the manufacture, storage or handling of such alcohol, except for the purpose designated on said statement or supplements thereto. Any such unauthorized use of any such equipment shall not fall within the operation of this act, but shall be governed by the existing laws of this State prohibiting such use, and the owner or owners thereof, and any other person or persons guilty of making such use, shall be subject to the penalties fixed by existing laws. (Id. § 1770 (rrr).)

122. Manufacture as Beverage Prohibited.—No ethyl alcohol shall be manufactured under the provisions of this chapter to be used either within or without this State as a beverage. (Id. § 1770 (sss).)

123. Sale and Transportation.—Ethyl alcohol manufactured under the terms of this chapter may be sold by the manufacturer in Georgia, and may be transported to points within the State, in the same manner and to the same extent and for the same purposes that such alcohol lawfully may be purchased outside of the State and brought into the State under the laws of the United States governing such matters, and the rules and regulations prescribed by the Department of the United States Government having at the time jurisdiction and control thereof. All such alcohol manufactured under the terms of this chapter not sold and transported within the State shall be handled and kept from the date of its manufacture until denatured, or until delivered to some common carrier for shipment without the State, and shall be handled and transported by the common carrier to whom delivered, in accordance with the laws of the United States governing such matters,

and the rules and regulations prescribed by the Department of the United States Government having at the time jurisdiction and control thereof. (Id. § 1770 (ttt).)

124. Inspection of Plant.—Any plant operating under the provisions of this chapter shall, subject to the laws and/or regulations of the United States, be open to the inspection of the sheriff, or any deputy sheriff, or any committee of the grand jury, or any person designated by the grand jury, or the solicitor of any city or county court, of the county in which the plant is located, or of the Solicitor-General of the circuit in which such county is located, or any person or persons designated by him, or of any State, United States, county or municipal prohibition enforcement officer within whose jurisdiction the plant is located, at any and all reasonable hours, without a search warrant, or other legal process or authority, providing such person or persons, officer, representative and/or committee shall tender credentials duly identifying himself and/or such committee. (Id. § 1770 (uuu).)

125. Failure to Comply With Provisions of Chapter, Effect.—In order for the manufacture and handling of ethyl alcohol within this State to be lawful, the manufacturer thereof must comply with the terms and provisions set out in sections 1770 (ppp) to 1770 (uuu) inclusive. A failure to comply with all or any such provisions will operate to remove such manufacture and handling of ethyl alcohol from the protection afforded by this chapter, and in that event the existing prohibition laws of Georgia against the manufacture, sale, transportation, handling, storage and being in possession of intoxicating liquors and beverages shall apply with full force and effect to any person, firm or corporation undertaking or claiming [and] purporting to operate under the terms of this chapter, and to all agents and employees of such person, firm or corporation. (Id. § 1770 (vvv).)

126. "Denatured Alcohol" Defined.—"Denatured Alcohol" as used in this chapter shall mean ethyl alcohol denatured in accordance with the rules and regulations prescribed by the Department of the United States Government having at the time jurisdiction and control of such matters. (Id. § 1770 (www).)

Intoxicating Liquors.

127. Prohibition as to Intoxicating Liquors.—From and after the first day of January, 1908, it shall not be lawful for any person within the limits of this State to sell or barter for valuable consideration, either directly or indirectly, or give away to induce trade at any place of business, or keep or furnish at any other public places, or manufacture, or keep on hand at their place of business any alcoholic, spirituous, malt, or intoxicating liquors, or intoxicating bitters, or other drinks which, if drunk to excess, will produce intoxication; and any person so offending shall be guilty of a misdemeanor. Nor shall it be lawful in the limits of said State for intoxicating liquors to be sold in dispensaries, and the sale of intoxicating liquors in said State shall be prohibited to private persons and to the State, its officers and agents; provided, that licensed druggists may sell and furnish pure alcohol, for medicinal purposes only, upon written prescription of a regular practicing physician of this State, in the manner herein prescribed, to wit: Before any physician shall issue any such prescription he shall make an actual examination of the person for whom the prescription is granted. The prescription shall be substantially in the following form: "Georgia, ... county. I, ..., a regular practicing physician under the laws of said State, do hereby prescribe for the use of of a patient in my charge, whom I have personally examined, ... of pure alcohol, and do certify in my opinion that the same is necessary in the alleviation or cure of illness from which said patient is suffering. This" (date). (Signed by the physician.) (Pen. C. 1914, vol. 6, § 426.)

128. Prescription, When to be Filled, How Recorded, Etc.—No prescription shall be filled hereunder except upon the day upon which it is dated and issued, or upon the following day. Within ten days after the same is filled by the druggist he shall file said prescription for record with the ordinary of the county in which filled, who shall cause the same to be recorded in his office; and a certified copy of the same, or the original prescription showing it has been recorded, shall be primary evidence in any court in this State. The record containing such prescriptions shall be open to public inspection. A recording fee of five cents for each prescription so recorded shall be paid by such druggist to the ordinary. (Id. § 427.)

129. Further Regulations as to Prescription.—No druggist who is also a practicing physician shall fill his own prescriptions hereunder, nor shall they be

filled at any drug store in which said physician is financially interested, and no prescription shall be refilled; nor shall more than one pint be furnished on any one prescription. (Id. § 428.)

130. Delivery of the Alcohol.—The delivery of the alcohol under such prescription shall be made only directly to the person for whom such prescription is issued, or to the physician, or, in case of a minor, to his parent or guardian for him, or, in case of a married woman, to her husband for her. (Id. § 429.)

131. Sales of Alcohol by Wholesale Druggists.—Nothing in the preceding sections of this article shall be so construed as to prevent wholesale druggists from selling or furnishing alcohol in wholesale quantities to regular licensed retail druggists, or to public or charity hospitals, or to medical or pharmaceutical colleges. All wholesale druggists shall be required to keep a complete record of all their sales of alcohol, which record shall at all times be open for inspection to the regular authorities of such counties or cities in which such wholesale stores are located. (Id. § 430.)

132. Wood or Denatured Alcohol, Sales of, When Allowed.—Nothing in the preceding sections of this article shall prohibit the sale, by licensed druggists, of wood or denatured alcohol for art, scientific or mechanical purposes, or grain alcohol for bacteriologists who are actually engaged in that class of work for scientific purposes only. (Id. § 431.)

133. Penalties.—Any person, firm, or corporation who shall violate this article in any respect shall be guilty of a misdemeanor; any physician who shall issue a prescription hereunder containing any false statement shall be guilty of a misdemeanor; any druggist who shall fill any prescription for alcohol in any wise other than herein allowed, or who shall fail to file a prescription filled by him hereunder with the ordinary within the time prescribed, shall be guilty of a misdemeanor; any person who shall obtain alcohol for another in accordance with the terms hereof and who shall convert the same to any other use shall be guilty of a misdemeanor. (Id. § 432.)

134. Definition of Prohibited Liquors and Beverages, What Embraced in.—The term "prohibited liquors and beverages," whether used in this article or in any other law to promote temperance or to suppress the evils of intemperance, shall include and be deemed to embrace the following: (1) Alcohol, alcoholic liquors, spirituous liquors and all mixed liquors, any part of which is spirituous, foreign or domestic spirits, or rectified or distilled spirits; absinthe, whiskey, brandy, rum and gin; (2) vinous liquors and beverages; (3) all malted, fermented or brewed liquors of any name or description, manufactured from malt, wholly or in part, such as beer, lager beer, near beer, porter and ale and all brewed or fermented liquors and beverages in which maltose is a substantial ingredient, whether alcoholic or not or whether intoxicating or not; (4) and any drinks, liquors or beverages containing one-half of one per cent of alcohol or more by volume at 60 degrees Fahrenheit; or any other liquids or liquors manufactured or sold, or otherwise disposed of, for beverage purposes, containing said amount of one-half of one per cent of alcohol or more; (5) any intoxicating bitters or beverages by whatever name called; (6) all liquors and beverages or drinks made in imitation of or intended as a substitute for beer, ale, wine or whiskey, or other alcoholic or spirituous, vinous, or malt liquors, including those liquors and beverages commonly known and called near-beer. (Code Supp. 1922, vol. 11, § 448 (b).)

135. Prohibited Acts Specified; Social Serving in Private Residences.—It shall be unlawful for any person, firm or association of persons or corporation, within the limits of this State to manufacture, sell, offer for sale, keep for sale, barter, furnish at public places, keep on hand at a place of business or at or in any social, fraternal or locker club, or otherwise dispose of any of the prohibited liquors and beverages described in section 448 (b), or any of them, in any quantity;* but this inhibition does not include, and nothing in this article shall affect, the social serving of such liquors and beverages in private residences in ordinary social intercourse. (Id. § 448 (c).)

136. Licensing of Sale, Dealing in, or Furnishing of Liquors Prohibited.—It shall not be lawful or authorized for the State or any county or municipality therein to license within this State the sale, dealing in or furnishing of any of said prohibited liquors or beverages, including imitations of or substitutes therefor. (Id. § 448(d).)

*See No. 143.

137. Penalty for Violation.—Any violation of any provision of this article shall be a misdemeanor and the persons so offending shall be punished as prescribed by section 1065 of this Code.* (Id. § 448 (x).)

138. Act of August 6, 1907, Not Repealed.—Except as the same may be modified hereby, the act of August 6, 1907, commonly called the Prohibition Law, which is now contained in sections 426 to 433 of this code [Penal; vol. 6] shall not be deemed repealed by this article. (Id. § 448 (y).)

139. Unlawful to Carry, Receive or Possess Specified Liquors.—It shall be unlawful for any common carrier, corporation, firm or individual to transport, ship or carry, by any means whatsoever, with or without hire, or cause the same to be done, from any point without this State to any point within this State, or from place to place within this State, whether intended for personal use or otherwise, any spirituous, vinous, malted, fermented or intoxicating liquors, or any of the prohibited liquors or beverages as are defined in sections 448 (b)-448 (z), or any alcoholic compound or malt or liquors whether intended for beverage purposes or not but which can be diluted, and when so diluted may be used as a beverage and will produce intoxication. It shall be unlawful for any corporation, firm, person or individual to receive from any common carrier, corporation, firm, person or individual, or to have, control or possess, in this State, any of said enumerated liquors or beverages whether intended for personal use or otherwise, save as is hereinafter excepted. (Id. § 448 (vvv).)

140. Pure Alcohol for Medicinal Purposes Excepted.—Nothing herein contained shall prohibit the use of pure alcohol for medicinal purposes as is prescribed by sections 426, 427, 428, 429 and 430, of this code [Penal; vol. 6], said alcohol, however, to be shipped, received and possessed only as is provided in section 448 (xxx). (Id. § 448 (www).)

141. Transporting and Receiving Pure Alcohol; Permit; Oath; Certificate; False Statement.—Any common carrier may transport, ship or carry from any point without this State to any point within this State, pure alcohol to be received only by any practicing physician who is the sole proprietor of a drug store, licensed druggists, pharmacists, manufacturers, chartered colleges, chartered hospitals, or State institutions, and to be used only for medicinal, mechanical and scientific purposes not contravening in any way the prohibition laws of this State, under the following conditions: Any practicing physician who is the sole proprietor of a drug store, licensed druggist, pharmacist, manufacturer, chartered college, chartered hospital, or State institution, desiring to have shipped and to receive pure alcohol for said purpose within this State shall make sworn application to the ordinary of the county of his residence for a permit to receive said alcohol, upon the certificate of two responsible citizens of said county as to his good moral character in the following form:

Georgia County.

..... (naming applicant) applies for right to receive gallons of pure alcohol, which is to be used for the following scientific, mechanical, or medicinal purposes only, ... (state purposes for which intended). The business or occupation of applicant is that of (state business or occupation).

.....
(Name of party making application.)

Personally comes, the above stated applicant, who being duly sworn says that the facts herein set forth are true. This the

*Section 1065 reads as follows:

"Misdemeanors, How Punished.—Except where otherwise provided, every crime declared to be a misdemeanor is punishable by a fine not to exceed one thousand dollars, imprisonment not to exceed six months, to work in the chain-gang on the public roads, or on such other public works as the county or State authorities may employ the chain-gang, not to exceed twelve months, any one or more of these punishments in the discretion of the judge: Provided, that nothing herein contained shall authorize the giving the control of convicts to private persons, or their employment by the county or State authorities in such mechanical pursuits as will bring the products of their labor into competition with the products of free labor. If the convict be a female, the judge may, in his discretion, sentence her to labor and confinement in the woman's prison on the State farm, in lieu of a chain-gang sentence, not to exceed twelve months; provided, that the trial judge shall have the discretion also of sending any person convicted of a misdemeanor to the State farm."

day of 19..... Ordinary
 County, Georgia.

We, ... citizens of County, State
 of Georgia, do hereby certify that, the above named
 applicant is personally known to us as a citizen of this county, and is of
 good moral character, and is engaged in the business or occupation named in the
 above stated application. This the.....day of....., 19....

The above application is approved and granted by me on this the
 day of, 19....

.....
 Ordinary County, Georgia.

This application shall be presented in duplicate, the ordinary to retain one in
 his office. When said application is presented to the ordinary aforesaid he shall
 issue and approve the same, and when so issued and approved will authorize
 said applicant to present the same to any common carrier, and will authorize
 said common carrier to deliver to said applicant and the said applicant to receive
 the quantity of pure alcohol therein specified. Said common carrier is hereby
 required to endorse on the back of said application the date of delivery and the
 quantity of alcohol so delivered on said application. Whereupon said application
 shall cease to be authority for the delivery or receiving of any further quantity
 of alcohol on said certificate, and no other or further certificate shall be issued
 to said applicant until he shall have made a sworn statement to the ordinary
 showing in what manner and for what purposes said alcohol has been used, and
 the names of parties to whom sold. If any person under the provisions of this
 section shall make a false statement of the use made of said alcohol, he shall,
 on conviction thereof, be punished as prescribed in section 448 (kkkk), and on
 conviction for the second offense be forever denied the right to receive any
 further shipments of alcohol. (Id. § 448 (xxx).)

142. Punishment as for Misdemeanor.—The punishment for any violation
 of any of the provisions of this article, wherein a different punishment is not pre-
 scribed, shall be as for a misdemeanor as provided in section 1065 of this Code.*
 (Id. § 448 (kkkk).)

143. Repeal of Certain Laws.—Sections 448 (aa) to 448 (ddd), inclusive, of
 this code, are expressly repealed; provided, that this shall not be construed to affect
 either directly or indirectly nor save from prosecution for offenses committed here-
 tofore under those sections. The latter part of section 448 (c), reading as follows:
 "But this inhibition does not include and nothing in this article shall affect the social
 serving of such liquors and beverages in private residences in ordinary social inter-
 course," is expressly repealed. Sections 448 (jjj) to 448 (ooo), inclusive, regu-
 lating the importation of alcohol, are also expressly repealed. (Id. § 448 (mmmm).)

144. Denatured Alcohol.—Nothing contained in this article shall affect or
 limit the shipping or receiving of denatured alcohol which can not be used for beverage
 purposes, and which can be used only for scientific or mechanical purposes. (Id.
 § 448 (nnnn).)

145. Intrastate Shipments of Alcohol by Dealers in Drugs and Medicines.—
 No dealer in drugs and medicines shall ship any beverage or non-beverage alcohol
 in intrastate commerce in this State, unless such dealer has complied with all regula-
 tions of the United States laws touching such shipments and has given the bond re-
 quired and obtained the permit for said shipments, and such regulations shall there-
 upon be exclusive except as hereinafter provided. (Id. § 448 (ssss).)

146. Filing of Orders.—In addition to the triplicate orders required by the
 laws of the United States to be kept on file, one with the seller, one with the
 Internal Revenue Department, and one with the purchaser, every authorized purchaser
 of alcohol shall also file with each order for such alcohol an additional copy of such
 order with the ordinary of county of the residence of such purchaser, which said
 order shall be also open for inspection of all persons whatsoever. (Id. § 448 (tttt).)

147. Who May Order and Receive Alcohol.—All druggists, pharmaceutical
 and medical schools, bona fide hospitals and chemical laboratories, and industrial
 manufacturers using alcohol for industrial and scientific purposes only in this State,
 who have complied with all the laws of the United States in regard to ordering and
 receiving alcohol in intrastate shipments, and who hold permits and have given bond
 as required, shall be allowed to order and receive such alcohol from the wholesale
 dealer therein or manufacturers thereof in the method in this law provided only,

*See footnote to No. 137.

and to be used by them for the purposes only as provided by such laws. (Id. § 448 (uuuu).)

148. Dispensing Alcohol by Druggists; Formulas; Prescription of Physician.—The retail druggists shall be allowed to sell or dispense any such alcohol only in one of the following methods, to wit:

(a) By first denaturing or medicating such alcohol in accordance with one of the following formulas: (1) carbolic acid 1 part, alcohol 99 parts; (2) formaldehyde 1 part, alcohol 250 parts; (3) bichloride of mercury 1 part, alcohol 2,000 parts; (4) bichloride of mercury 0.8 gram, hydrochloric acid 60 c. c., alcohol 640 c. c., water 300 c. c.; (5) bichloride of mercury 1½ grains, hydrochloric acid 2 drams, alcohol 4 ounces; (6) formaldehyde 2 parts, glycerine 2 parts, alcohol 96 parts; (7) carbolic acid 1 dram, tannic acid 1 dram, alcohol 1 pint; (8) alum ½ ounce, formaldehyde 2 drams, camphor 1 ounce, alcohol and water, each one pint; (9) liquor cruolis compound (U. S. B.) 10 c. c., alcohol 1,000 c. c.

(b) By dispensing same upon a physician's prescription which so medicates such alcohol as to render it absolutely unfit for use as a beverage. When dispensed in prescriptions the druggist will be held absolutely responsible as to the sufficiency of the medication. (Id. § 448 (vvvv).)

149. Misdemeanor by Dealer.—Any dealer who shall order, purchase, receive or dispense any shipment of alcohol otherwise than in this law provided shall be guilty of a misdemeanor.* (Id. § 448 (wwwv).)

PART IV.

Miscellaneous Laws.

Flag Desecration.

150. Advertising, Selling or Promoting Sale of Merchandise.—It shall be unlawful for any person, firm or corporation of this State to copy, print, publish or otherwise use the flag or national emblem of the United States of America for the purpose of advertising, selling or promoting the sale of any article of merchandise whatever, within this State. (Code Supp. 1922, vol. 11, § 702 (b).)

151. Contemptuous Use or Defacement.—It shall also be unlawful for any person, firm or corporation within this State to mutilate, deface, defile on [or] contemptuously abuse the flag or national emblem of the United States by any act whatever. (Id. § 702 (c).)

152. Uses Not Prohibited.—Nothing in this article shall be construed so as to prevent any person, firm or corporation from using any flag, standard, color, shield, ensign or other insignia of the United States of America for decorative or patriotic purposes, either inside or outside of any residence, store, place of business or public building, or school building. (Id. § 702 (d).)

153. Punishment for Violation.—Any person, firm or corporation who violates any of the provisions of this article shall be punished as prescribed in section 1065 of this code as for a misdemeanor.* (Id. § 702 (e).)

Tobacco—Tobacco Products.

154. Furnishing Cigarettes to Minors.—If any person, by himself, agent, or in any other way, shall furnish a minor with cigarettes, cigarette tobacco, cigarette paper, or any substitute therefor, he shall be guilty of a misdemeanor.* (Pen. C. 1914, vol. 6, § 491.)

Trade-Marks, Etc.

155. Fraudulent Trade-Marks, Etc.—Any attempt to encroach upon the business of a trader or other person by the use of similar trade-marks, names or devices with the intention of deceiving and misleading the public is a fraud for which equity grants relief. (Civ. C. 1914, vol. 3, § 4632.)

156. Counterfeiting or Imitating Label or Trade-mark.—Whenever any person, firm, corporation or association shall adopt and use in their business, for their protection, any label, trade-mark, trade name, or form of advertisement it shall be unlawful for any person, firm, corporation or association to counterfeit or

*See footnote to No. 137.

imitate such label, trade-mark, trade name or form of advertisement, with the intent to use the same for the purpose of deceiving the public in the sale of goods. Every person violating this section shall be guilty of a misdemeanor.* (Pen. C. 1914, vol. 6, § 254.)

157. Using Counterfeit.—Every person, firm, corporation or association who shall use any counterfeit or imitation of any label, trade-mark, trade name or form of advertisement of any person, firm, corporation or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor.* (Id. § 255.)

158. Using Genuine Label, Etc., in Unlawful Manner.—Every person, firm, corporation or association who shall use or display the genuine label, trade-mark, trade name or form of advertisement of any person, firm, corporation or association in any manner not authorized by law, knowing that such use is not authorized, with intent to deceive the public in the sale of goods, shall be guilty of a misdemeanor.* (Id. § 256.)

159. Unauthorized Use of Name or Seal.—Any firm, person, corporation or association who shall use the name or seal of any other person, firm, corporation or association in and about the sale of goods or otherwise, not being authorized to use the same, knowing that such use is unauthorized, with intent to deceive the public in the sale of goods, shall be guilty of a misdemeanor.* (Id. § 257.)

160. Counterfeiting Brands or Marks, Etc.—If any person shall fraudulently counterfeit or be concerned in fraudulently counterfeiting any brand or mark directed by law, or shall fraudulently cause or procure the same to be done or shall use, export, sell, exchange, barter or expose to sale anything upon which a brand or mark is directed by law to be made, with such counterfeit brand or mark, knowing the same to be false and counterfeit, he shall be deemed a cheat and be punished as for a misdemeanor.* (Id. § 708.)

161. Fees to be Paid to Treasurer.—The fees which officers are allowed to charge, and which, when collected, must be paid to the treasurer, are as follows: * * * For recording trade-mark, \$1.00 * * * (Pol. C. 1914, vol. 1, § 1248.)

162. Trade-marks of Labor Unions.—Whenever any person, association, or union of working men have adopted, or shall hereafter adopt for their protection, any label, trade-mark, or form of advertisement announcing that goods to which such label, trade-mark, and form of advertisement shall be attached were manufactured by such person or by a member or members of such association or union, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trade-mark, or form of advertisement with intent to use the same for the purpose of deceiving the public in the sale of goods. (Id. § 1989.)

163. Union Labels and Trade-marks Filed With Secretary of State.—Every person, association, or union of working men that has adopted or shall hereafter adopt a label, trade-mark, or form of advertisement may file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof, with the Secretary of State. Said secretary shall deliver to such person, association, or union, a duly attested certificate of the record of the same, for which he shall receive the fee of one dollar; such certificate of record shall, in suits under this Chapter, be sufficient proof of the adoption of such label, trade-mark, or form of advertisement, and of the right of said person, association, or union to adopt the same. No label shall be recorded that probably would be mistaken for a label already of record. (Id. § 1990.)

164. Remedies Against Using Counterfeits.—Every such person, association, or union adopting a label, trade-mark, or form of advertisement as aforesaid may proceed by suit to enjoin the manufacture, use, display, or sale of any such counterfeits or imitations, and all courts having jurisdiction thereof shall grant injunction to restrain such manufacture, use, display, or sale, and shall award the complainant in such suits such damages resulting from such wrongful manufacture, use, display, or sale as may be deemed just and reasonable and shall require the defendant to pay such person, association, or union the profit derived from such wrongful manufacture, use, display, or sale, and such court shall also order that all counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. (Id. § 1991.)

165. Suits, How Bought.—In all cases where such associations or unions are not incorporated, suits may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union. (Id. § 1992.)

166. Name and Style of Benevolent and Other Associations.—No person or organization shall assume, use, or adopt, or become incorporated under, or continue

*See footnote to No. 137.

to use the name and style or emblems of any benevolent, fraternal, social, humane, or charitable organization previously existing in this State, and which has been incorporated organization as to be a colorable imitation thereof. In all cases where or a name and style or emblem so nearly resembling the name and style of such incorporated organization as to be a colorable imitation thereof. In all cases where two or more of such societies, associations, or corporations claim the right to the same name, or to names substantially similar as above provided, the organization which was first organized and used the name, and first became incorporated under the laws of the United States or of any State of the Union, whether incorporated in this State or not, shall be entitled in this State to the prior and exclusive use of such name and the rights of such societies, associations, or incorporations, and of their individual members shall be fixed and determined accordingly. (Id. § 1993.)

167. Injunction Against Infringement.—Whenever there shall be an actual or threatened violation of the provisions of the preceding section of this chapter, the organization entitled to the exclusive use of the name in question, under the terms of said section, shall have the right to apply to the proper courts for an injunction to restrain the infringement of its name and the use of its emblems; and if it shall be made to appear to the court that the defendants are in fact infringing or about to infringe the name and style of a previously existing benevolent, fraternal, social, humane, or charitable organization in the manner prohibited in said section, or that the defendant or defendants are wearing or using the badge, insignia, or emblems of said organization, without the authority thereof and in violation of said section, an injunction be issued by the court under the principles of equity without requiring proof that any person has been in fact misled or deceived by the infringement of such name, or the use of such emblem. (Id. § 1994.)

Trading Stamps.

168. Trading Stamps.—It shall be a misdemeanor for any person, firm, or corporation to issue or give away in connection with the sale of any article of goods, wares or merchandise any stamp commonly called a trading stamp or other like device, which said stamp or other like device would entitle the holder thereof to receive, from some other person or party than the vendor, any indefinite or undescribed thing, the nature or value of which was unknown to the purchaser at the time of the purchase of said article of goods, wares or merchandise. (Pen. C. 1914, vol. 6, § 404.)

169. Trading Stamps; License Tax.—Upon all trading stamp companies, or dealers in trading stamps, \$50.00 for each place of business. (Code Supp. 1926, vol. 12, § 993 (124).)

Weights and Measures.

170. Legal Weights Declared.—The legal weight of the following articles or commodities per bushel shall be as follows: Of wheat, sixty pounds; of shelled corn, fifty-six pounds; of corn in the ear, seventy pounds; of peas, sixty pounds; of rye, fifty-six pounds; of oats, thirty-two pounds; of barley, forty-seven pounds; of Irish potatoes, sixty pounds; of sweet potatoes, fifty-five pounds; of white beans, sixty pounds; of clover-seed, sixty pounds; of timothy-seed, forty-five pounds; of flaxseed, fifty-six pounds; of hemp-seed, forty-four pounds; of blue-grass seed, fourteen pounds; of buckwheat, fifty-two pounds; of dried peaches (unpeeled), thirty-three pounds; of dried peaches (peeled), thirty-eight pounds; of dried apples, twenty-four pounds; of onions, fifty-seven pounds; of stone coal, eighty pounds; of unslacked lime, eighty pounds; of turnips, fifty-five pounds; of corn meal, bolted or unbolted, forty-eight pounds; of wheat bran, twenty pounds; of cottonseed, thirty pounds; of ground peas, twenty-five pounds; of plastering hair, eight pounds; of rough rice, forty-three pounds; of tanbark, per cord, two thousand two hundred and fifty pounds. (Pol. C. 1914, vol. 1, § 1880.)

171. Seal or Stamp for Marking Weights and Measures.—The ordinaries must procure for their respective counties a marking instrument, seal or stamp for the purpose of marking all weights and measures which they may find not to weigh or measure less than the standard established by the Congress of the United States which is the standard of this State. (Id. § 1881.)

172. Penalty for Selling by Unmarked Weights.—All persons engaged in selling by weights and measures shall apply to the ordinaries of their respective counties and have their weights and measures so marked, and in default thereof shall not collect more than three-fourths any account, note or other writing, the consideration of which is any commodity sold by their weights and measures: pro-

vided, this section shall not apply to any person selling by weights and measures who has applied to the ordinary of his county and found that the county has not been supplied with the necessary standards for testing weights and measures. (Id. § 1882.)

173. Selling by Deficient Weights or Measures, How Punished.—Any citizen may complain to the ordinary of the deficiency of any weights and measures, whether marked or not, and when done it is the duty of said ordinary to notify the person complained of and give him the name of the complainant and specify a day, not more than ten days distant, when he shall submit his weights and measures to the test of the ordinary; and if the complaint is found to be true within the seller's knowledge he shall be deemed a person selling by false weights and measures and shall be presented by the grand jury as such if no person appears and indicts. (Id. § 1883.)

174. Standards of Weights and Measures to be Procured.—The Governor shall procure standards of weights and measures for each county which does not have them and they, together with the marks provided by the ordinary, shall be kept in his office for the inspection of the citizens. (Id. § 1884.)

175. Ordinary to Give Notice.—When such standards are obtained, it is the duty of such ordinary to give sixty days' written notice thereof at the door of the courthouse and in the public gazette where the sheriff of the county advertises his sales. (Id. § 1885.)

176. Bakers and Others Selling Under Assize.—Any baker or other person selling bread under the assize established by the corporation of any city, town or village, or the rules laid down by law, shall be deemed a cheat and shall be punished as for a misdemeanor.* (Pen. C. 1914, vol. 6, § 705.)

177. Selling by False Weights and Measures.—If any person shall knowingly buy or sell by false weights or measures, he shall be deemed a common cheat and shall be punished as for a misdemeanor.* (Id. § 706.)

178. Putting Dirt or Rubbish Into Cotton, Rice, Etc.—Any person who shall put or cause to be put into any bale of cotton, vessel of sugar, rice, pork, beef or other provisions, wool or other article prepared for market any dirt, rubbish or other thing for the purpose of adding to and increasing the weight or bulk of said cotton, sugar, rice, beef, pork or other provisions or things shall be deemed a common cheat and shall be punished by a fine equal to the value of the thing thus fraudulently packed or put up and imprisonment and labor in the penitentiary for not less than one year nor more than five years. The bare possession or ownership of such commodities so fraudulently packed or put up shall not of itself authorize a conviction where sufficient evidence of knowledge or privity on the part of the owner or the person in possession may not be produced on the trial. (Id. § 709.)

179. Scalesmen, Weighers of Cotton, and Others to be Sworn.—It shall not be lawful for any scalesman, salesman, or other person, in any of the cities, towns, or villages of this State, to weigh any bale, bag, or package of cotton, tierce or half-tierce of rice, or any other article of produce disposed of by weight, without first taking and subscribing an oath, before some person authorized by law to administer it, that he will justly, impartially, and without deduction, weigh all such cotton and all other articles of produce disposed of by weight that may be shown to him for that purpose, and tender a true account thereof to the party or parties concerned if so required. (Pol. C. 1914, vol. 1, § 1844.)

180. Deduction.—The weigher may, nevertheless, make such deduction for wet, or other cause, as may be reasonable, when the seller or his agent shall thereto consent: Provided, that if the weigher, with the consent of the seller or his agent, makes a deduction from the gross weight of any bale, bag, or package of cotton because of the bagging and fastenings on said bale, bag, or package, the deduction shall be not more than twenty-four pounds if it is covered with jute bagging, and not more than sixteen pounds if it is covered with cotton bagging, except in the case of any bale, bag, or package of cotton not fastened with iron ties nor with ropes, in which case the deduction shall be not more than ten pounds if it is covered with jute bagging, and not more than five pounds if it is covered with cotton bagging. And, in every case in which a deduction is made from the gross weight of any bale, bag, or package of cotton because of the bagging and fastenings on said bale, bag, or package, the weigher, in tendering a true account thereof to the party or parties concerned, shall state the gross weight of each bale, bag, or package, and also the number of pounds deducted for bagging and fastenings, and the net weight. (Id. § 1845.)

*See footnote to No. 137.

181. Oath to be Recorded, and Penalty for Weighing Without Oath.—Such oath, when taken, must be filed in the office of the ordinary of the county, and a minute made thereof; and if such person weighs such produce without having taken and filed such oath, he and the factor or person who may employ him shall be guilty of a misdemeanor.

(a) **Public Weigher and Grader of Cotton; Oath and Bond.**—Upon the application or petition of at least fifty citizens or producers of cotton in any county within the State of Georgia, made to the county commissioners of a county when they administer the affairs of a county, or to the ordinary of the county when he administers the affairs of the county, he or they shall appoint one competent and discreet person who shall be known as the public weigher and grader of cotton in such county. Upon his appointment by them, they shall issue to him a commission authorizing him to weigh and grade all cotton that may be brought to him for such purpose by the citizens of said county; provided he shall first take an oath to faithfully perform the duties of such weigher and grader, and give bond conditioned upon the accurate and faithful performance of his duty subject to be enforced by any person that shall be damaged on account of a failure in the performance of his duty, said recovery to be had in any court of this State having jurisdiction of the parties and subject matter.

(b) **Deputies.**—Said weigher and grader shall be authorized when it be necessary to appoint a deputy or deputies to act within said county to assist him in weighing and grading cotton. In the appointment of such deputies he shall not appoint any one who is not of good character and competent to perform such duties.

(c) **Compensation; Duties; Scales Tested.**—As compensation for the weighing, grading, issuing certificates, as to weights and grades, and stamping same upon the bale of cotton, such weigher and grader shall have for such service, and be allowed to charge the party desiring to have said cotton weighed and graded the sum of twenty cents per bale. It shall be the duty of the weigher and grader or his deputy, upon their appointment to provide a platform and scales with ample facilities for handling cotton with speed and at a minimum cost, at which platform or platforms, all cotton sold in said market or shipped may first be weighed, graded and stamped if so desired by the seller, producer, or buyer, and upon the application by the parties, it shall be the weigher's duty to immediately weigh, grade and stamp upon the cotton weights, grade, and issue to the applicant a certificate showing the same and enter the same in a book to be kept by him. The appointed public weigher and grader shall be responsible, on his bond, for the official act of his deputy, and each weigher or deputy shall have his scales tested at least once every thirty days by the standard weights in the office of the ordinary as provided by law.

(d) **Removal of Weigher and Grader.**—The county commissioner or ordinary, whichever has the appointing power, upon good and sufficient cause shown, after ten days' notice, in writing, personally served upon the public weigher and grader, shall inquire into his conduct and if they find sufficient reason, remove any such officer from office, and appoint another in his stead, and in the same manner may remove any deputy by such public weigher appointed. (Id. § 1846.)

182. Tare on Rice.—The tare to be allowed on rice shall be the actual tare, as nearly as can be determined, except in cases of the sale of a single tierce, half-tierce, or barrel, where a tare of ten per centum shall be allowed, unless otherwise agreed on between the buyer and seller. (Id. § 1847.)

183. Tare on Other Articles.—In other cases where tare is usually allowed, the actual tare, as nearly as the same can be ascertained, shall be allowed, except where the seller and purchaser may expressly agree upon a different rule. (Id. § 1848.)

184. No Deduction to be Made for Turn of Scales, Etc.—It shall not be lawful for any purchaser or weigher to make any deduction from the weight of any article for or on account of the draft or turn of the scales or steelyard, under a penalty, for every such offense, of five hundred dollars, to be recovered in any court having jurisdiction, one-half to go to the informer by whom the suit may be brought, and the other half to the use of the county where the offense may be committed. (Id. § 1849.)

185. Corporate Authorities May Make Further Rules.—The corporate authorities of all cities and towns may make such further regulations for the weighing of product of all descriptions, including fees for weighing, as in their judgment may tend to effect the objects of the foregoing provisions, and the ordinaries of the respective counties shall have the same power, to be exercised outside the jurisdiction of said incorporated cities or towns; but, until altered by such authorities or ordinaries, fees for weighing shall be such as are now fixed by law. (Id. § 1850.)

186. Weigher of Produce Failing to Take and File Oath.—If any scalesman, salesman, or other person, in any of the cities, towns, or villages of this State, to weigh any article of produce disposed of by weight, weighs such produce without having taken and filed the oath prescribed by law, he and the factor, or person who may employ him, shall be guilty of a misdemeanor. This section shall apply only to parties weighing said articles for sale, and not to persons weighing their own produce. (Pen. C. 1914, vol. 6, § 274.)

NOTE: See also No. 16; the feeding stuffs law, No. 35 et seq.; the flour, etc., law, No. 44 et seq.; the oyster law, No. 62 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Food—Civil Action—Food Inspector's Decision as Evidence: See *Walton v. Hancock*, 14 Ga. App. 754, 82 S. E. 309 (1914).

Meat—Adulteration: *Evitt v. State*, 23 Ga. App. 532, 98 S. E. (1919).

2. Special Food Laws.

Beverages—Imitation of Intoxicating Liquors—License: **Carroll et al. v. Wright et al.*, 131 Ga. 728, 63 S. E. 260 (1908).

Beverages—Itinerant Vendors—License: **Rome Coca Cola Bottling Co. v. Mayor & Aldermen of Calhoun et al.*, 134 Ga. 360, 67 S. E. 1031 (1910).

Beverages—Medicinal, Toilet and Culinary Preparations: *Mason v. State*, 1 Ga. App. 534, 58 S. E. 139 (1907).

Beverages—Mineral Water—License: *Pratt v. City of Macon*, 35 Ga. App. 583, 134 S. E. 191 (1926).

Beverages—Soft Drinks—License: *Cassidy v. Mayor & Council of Macon*, 133 Ga. 689, 66 S. E. 941 (1909).

Beverages—Tincture of Ginger: *Davis v. State*, 93 Ga. 45, S. E. 998 (1893).

Beverages—Wines—Inspection—Regulations: **Stephens v. Henderson*, 120 Ga. 218, 47 S. E. 498 (1904).

Butter, Eggs, Chickens—Peddlers—License: *Latham v. Stewart et al.*, 140 Ga. 188, 78 S. E. 812 (1913).

Cold Storage—License: *Stewart v. Atlanta Beef Co.*, *Same v. Armour Packing Co.*, *Same v. Nelson Morris & Co.*, 93 Ga. 12, 18 S. E. 981, 44 Am. St Rep. 119 (1893).

Feeding Stuff—Beet Pulp: See *Southern Flour and Grain Co. v. Smith*, 31 Ga. App. 52, 120 S. E. 36 (1923).

Fish—License: *Lewis v. Harris*, 12 Ga. App. 305, 77 S. E. 108 (1913).

Fruit—Peddlers—License: *Butler et al. v. Stewart et al.*, 140 Ga. 196, 78 S. E. 816 (1913).

Ice Cream **Rigbers v. City of Atlanta*, 7 Ga. App. 411, 66 S. E. 991 (1910).

Markets: *Bethune v. Hughes*, 28 Ga. 560, 73 Am. Dec. 789 (1859); **Massey v. City of Columbus*, **Phelps v. Same*, 9 Ga. App. 9, 70 S. E. 263 (1911). See also *Meat—Markets*.

Meat—Inspection: **Armour & Co. v. City Council of Augusta et al.*, 134 Ga. 178, 67 S. E. 417, 27 L. R. A. (N. S.) 676 (1910).

Meat—License: **Davis & Co. v. Mayor & Council of Macon*, 64 Ga. 128, 37 Am. Rep. 60 (1879); **Burr & Co. v. City of Atlanta*, 64 Ga. 225 (1879). See also *Meat—Markets*.

Meat—Markets: *Mayor & Council of Atlanta v. White & Kreis*, 33 Ga. 229 (1862); **Badkins v. Robinson*, 53 Ga. 613 (1875); **Henry v. Mayor & Council of Macon*, **Dopson v. Same*, 91 Ga. 268 (1893). **Georgia Packing Co. et al. v. Mayor & Council of Macon*, 60 Fed. 774 (1893), appeal dismissed in **Mayor & Council of Macon v. Georgia Packing Co. et al.*, 60 Fed. 781, 9 C. C. A. 262 (1893).

Meat—Packing House Agents—License: *Stewart v. Kehrer, 115 Ga. 184, 41 S. E. 680 (1902); *Kehrer v. Stewart, 117 Ga. 969, 44 S. E. 854 (1903), affirmed in *Same, 197 U. S. 60, 25 S. Ct. 403, 49 L. Ed. 663 (1905); *Leps v. State, 120 Ga. 139, 47 S. E. 572 (1904); *Smith v. Clark, 122 Ga. 528, 50 S. E. 480 (1905); Schwartz v. National Packing Co. et al., 122 Ga. 533, 50 S. E. 494 (1905); *Mayor & Aldermen of Savannah v. Cooper, 131 Ga. 670, 63 S. E. 138 (1908).

Meat—Slaughter Houses: *Pylant v. Schoen Bros. Inc., 35 Ga. App. 133, 132 S. E. 461 (1926); *Schoen Bros. Inc. v. Pylant, 162 Ga. 565, 134 S. E. 304 (1926).

Milk—Dairies—Keeping Cows in City—Permit: *Thorpe v. Mayor & Aldermen of Savannah, 13 Ga. App. 767, 79 S. E. 949 (1913); *Davis et al. v. Mayor & Aldermen of City of Savannah, 147 Ga. 605, 95 S. E. 6 (1918).

3. Special Drug Laws.

Narcotics: Holmes v. State, 7 Ga. App. 570, 67 S. E. 693 (1910); Harker v. State, 8 Ga. App. 93, 68 S. E. 650 (1910); Lee v. State, 8 Ga. App. 413, 69 S. E. 316 (1910); *Stanley v. State, 135 Ga. 859, 70 S. E. 591 (1911); *Pinckney v. State, 9 Ga. App. 129, 70 S. E. 594 (1911); *Stanley v. State, 9 Ga. App. 141, 70 S. E. 894 (1911); Dukes v. State, 9 Ga. App. 537, 71 S. E. 921 (1911); Oppenheim v. State, 12 Ga. App. 480, 77 S. E. 652 (1913); Cooper v. State, 13 Ga. App. 697, 79 S. E. 908 (1913); Silver v. State, 13 Ga. App. 722, 79 S. E. 919 (1913); Butler v. State, 14 Ga. App. 446, 81 S. E. 370 (1914); Howard v. State, 18 Ga. App. 6, 89 S. E. 443 (1916); Jones v. State, 21 Ga. App. 22, 93 S. E. 514 (1917). See also: *Lewis v. State Board of Medical Examiners, 162 Ga. 263 (1926).

Patent Medicines—Itinerant Vendors—License: Smith et al v. Whiddon, 138 Ga. 471, 75 S. E. 635 (1912).

Pharmacy: Carter et al. v. State, 122 Ga. 175, 50 S. E. 64 (1905); Sconyers v. State, 6 Ga. App. 804, 65 S. E. 814 (1909). See also: McCardle v. Fogarty, 41 Ga. 626 (1870); Taliaferro v. Moffett, 54 Ga. 150 (1874); Penniston v. City of Newman, 117 Ga. 700, 45 S. E. 65 (1903).

Pharmacy—Patent Medicines—Sale by Merchants: Lewis v. Brannen, 6 Ga. App. 419, 65 S. E. 189 (1909).

Vaccine—Purchase by County: *Daniel v. Putnam County, 113 Ga. 570, 38 S. E. 980, 54 L. R. A. 292 (1901). See also: *Barksdale v. Hayes et al., 134 Ga. 348, 67 S. E. 852 (1910).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Bottle—Explosion: Hudgins v. Coca-Cola Bottling Co., 122 Ga. 695, 50 S. E. 974 (1905); Payne v. Rome Coca-Cola Bottling Co., 10 Ga. App. 762, 73 S. E. 1087 (1912); Commerce Coca-Cola Bottling Co. v. Farabee, 17 Ga. App. 487, 87 S. E. 720 (1916); Atlanta Coca-Cola Bottling Co. v. Danneman, 25 Ga. App. 43, 102 S. E. 542 (1920).

Drugs: Ray v. Burbank & Jones, 61 Ga. 505, 34 Am. Rep. 103 (1878); Blood Balm Co. v. Cooper, 83 Ga. 457, 10 S. E. 118, 5 L. R. A. 612, 20 Am. St. Rep. 324 (1889). See also: Wells v. Gress, 118 Ga. 566, 45 S. E. 418 (1903); Lewis v. Brannen, 6 Ga. App. 419, 65 S. E. 189 (1909).

Food: Watson v. Augusta Brewing Co., 124 Ga. 121, 52 S. E. 152, 1 L. R. A. (N. S.) 1178n, 110 Am. St. Rep. 157 (1905); Martin v. Waycross Coca-Cola Bottling Co., 18 Ga. App. 226, 89 S. E. 495 (1916); Bradfield v. Atlanta Coca-Cola Bottling Co., 24 Ga. App. 657, 101 S. E. 776 (1919); Beckham v. Jacobs' Pharmacy Co., 25 Ga. App. 592, 103 S. E. 857 (1920); Fleetwood v. Swift & Co., 27 Ga. App. 502, 108 S. E. 909 (1921); Rowe v. Louisville & Nashville Railroad Co., 29 Ga. App. 151, 113 S. E. 823 (1922); McPherson v. Capuano & Co. et al., 31 Ga. App. 82, 121 S. E. 580 (1923); Copeland v. Curtis, 136 S. E. 324 (1926). See also: Mansor v. Zemurray, 22 Ga. App. 441, 96 S. E. 233 (1918); Edwards Co. v. Zemurray, 27 Ga. App. 479, 108 S. E. 830 (1921); Boone v. Lewis, 35 Ga. App. 478, 132 S. E. 653 (1926).

Fungicide: Ayers v. John B. Daniel Co., 35 Ga. App. 511, 133 S. E. 878 (1926).

Liquors: Keiley v. Bristol, 30 Ga. App. 725, 119 S. E. 334 (1923).

Salt: See Comer Co. v. Joyner, 32 Ga. App. 661, 124 S. E. 356 (1924).

Vaccine: Wyatt v. City of Rome, 105 Ga. 312, 31 S. E. 188, 42 L. R. A. 180, 70 Am. St. Rep. 41 (1898).

5. Miscellaneous.

Cigarettes: Ramfos v. State, 120 Ga. 175, 47 S. E. 562 (1904).

Gift Enterprise: Meyer v. State, 112 Ga. 20, 37 S. E. 96, 51 L. R. A. 496, 81 Am. St. Rep. 17 (1900); DeFlorin v. State, 121 Ga. 593, 49 S. E. 699, 104 Am. St. Rep. 177 (1905); Townsend v. State, 14 Ga. App. 757, 82 S. E. 253 (1914); Rowland v. Devon Manufacturing Co., 19 Ga. App. 481, 91 S. E. 783 (1917); Forbes Drug Co. et al. v. Bernard Manufacturing Co., 20 Ga. App. 270, 92 S. E. 1009 (1917); Standridge v. Williford-Burns-Rice Co., 148 Ga. 283, 96 S. E. 498 (1918); *Commercial Security Co. v. Lee et al., 148 Ga. 597, 97 S. E. 516 (1918); Guy v. National City Bank of Memphis, 24 Ga. App. 281, 100 S. E. 648 (1919).

Trade-Marks: Larrabee & Co. v. Lewis, 67 Ga. 561, 44 Am. Rep. 735n (1881); Brewer & Co. v. Lamar, Rankin & Lamar, 69 Ga. 656, 47 Am. Rep. 766 (1882); Swift Specific Co. v. Jacobs et al., 87 Ga. 507, 13 S. E. 643 (1891); Comer v. State, 103 Ga. 69, 29 S. E. 501 (1897); Coleman, Burden & Warthen Co. v. Dannenberg Co. et al., 103 Ga. 784, 30 S. E. 639, 68 Am. St. Rep. 143, 41 L. R. A. 470 (1898); Whitley Grocery Co. v. McCaw-Mfg. Co., 105 Ga. 839, 32 S. E. 113 (1898); Hagan & Dodd Co. v. Rigbers, 1 Ga. App. 100, 57 S. E. 970 (1907); Independent Order of Good Samaritans & Daughters of Samaria et al. v. Mack et al., 139 Ga. 835, 78 S. E. 336 (1913). See also: Ellis v. Zeilin & Co., 42 Ga. 91 (1869); Merrell v. Pemberton, 62 Ga. 29 (1878); Foster, Milburn & Co. v. Blood Balm Co. et al., 77 Ga. 216, 3 S. E. 284 (1886); Lies & Co. v. Daniel, 82 Ga. 272, 8 S. E. 432 (1887); Thedford Medicine Co. v. Curry, 96 Ga. 89, 22 S. E. 661 (1894); Butler v. State, 127 Ga. 700, 56 S. E. 1000 (1907); Grand Lodge Knights of Pythias et al. v. Creswill et al., 128 Ga. 775, 58 S. E. 163 (1907); Rome Machine & Foundry Co. v. Davis Foundry & Machine Works, 135 Ga. 17, 68 S. E. 808 (1910); Creswill et al. v. Grand Lodge Knights of Pythias of Georgia, 133 Ga. 837, 67 S. E. 188, 134 Am. St. Rep. 231, 18 Ann. Cas. 453 (1910), reversed in Same, 225 U. S. 246, 56 L. Ed. 1074, 32 S. Ct. 822 (1912); *Emery et al. v. Grand United Order of Odd Fellows et al., 140 Ga. 423, 78 S. E. 922 (1913); Armstrong et al. v. Atlantic Ice & Coal Corp. et al., 141 Ga. 464, 81 S. E. 212 (1914); Faisan et al. v. Adair et al., 144 Ga. 797, 87 S. E. 1080, Ann. Cas. 1918A, 243 (1915), certiorari denied in Same, 248 U. S. 583, 63 L. Ed. 432, 39 S. Ct. 136 (1919); Faisan et al. v. Adair et al., 148 Ga. 403, 96 S. E. 871 (1918), certiorari denied in Same, 248 U. S. 583, 39 S. Ct. 136, 63 L. Ed. 432 (1919); Graves et al. v. District Grand Lodge No. 18, 155 Ga. 147, 116 S. E. 613 (1923); Carter et al. v. Carter Electric Co., 156 Ga. 297, 119 S. E. 737 (1923); Saunders System Atlanta Co. Inc. et al. v. Drive It Yourself Co. of Georgia, 158 Ga. 1, 123 S. E. 132 (1924); Goldberg et al. v. Goldberg et al., 159 Ga. 761, 126 S. E. 823 (1925); Graves et al. v. Grand Lodge No. 18, 161 Ga. 110, 129 S. E. 783 (1925).

Trading Stamps: *Hewin et al. v. City of Atlanta, 121 Ga. 723, 49 S. E. 765, 67 L. R. A. 795 (1905); Tumlin Bros. Co. v. Daniel Bros. Co., 141 Ga. 613, 81 S. E. 793 (1914); *United Cigars Stores Co. v. Stewart, 144 Ga. 724, 87 S. E. 1034 (1916).

Weights and Measures: Southwestern Railroad Co. v. Cohen, 49 Ga. 627 (1873); Patillo v. Smith & Clifford, 61 Ga. 265 (1878); Finch v. Barclay, 87 Ga. 393, 13 S. E. 566 (1891); Carter v. Pitts, 125 Ga. 792, 54 S. E. 695 (1906); Fain & Stamps v. Ennis, 4 Ga. App. 716, 62 S. E. 466 (1908); *City of Dawson v. Thornton, 134 Ga. 476, 68 S. E. 73 (1910); *City of Cartersville v. McGinnis et al., 142 Ga. 71, Ann. Cas. 1915D, 1067, 82 S. E. 487 (1914); Henley v. Toole, 20 Ga. App. 146, 92 S. E. 760 (1917); Southern Flour & Grain Co. v. Smith, 31 Ga. App. 52, 120 S. E. 36 (1923).

IDAHO.*

PART I.

General Food and Drug Law.

1. Duties of Officers of Department of Public Welfare to Enforce Law.—It shall be the duty of the department of public welfare to enforce all laws of this state so far as they may relate to the healthfulness and purity of such products, regarding the production, manufacture, or sale of dairy products, foods, meats, drinks, drugs and illuminating oils. (C. S. 1919, § 1671.)

2. Expenses.—The expenses incurred in enforcing the provisions of this chapter shall be paid out of the funds appropriated for the department of public welfare, and accounts thereof shall be approved and certified by the said department before presentation to the State auditor. (Id. § 1672.)

3. Biennial Report.—The department of public welfare shall biennially on or before December 1 preceding the assembly of the state legislature report to the Governor a full account of its official actions under this chapter,† also the operation and result of this or any other law pertaining to the dairy industry, foods, drink, and illuminating oils in the State, a full account of all expenses and disbursements of the department, as full and complete statistics as it is in its power to collect pertaining to the manufacture, import and export of dairy products within the state, for the biennial term and shall make suggestions as to the matter of further legislation upon this subject. (Id. § 1673.)

4. Disposition of Fines.—All fees, license moneys, fines, forfeitures and penalties which the department of public welfare may lawfully collect or impose shall be paid over to the state treasurer and placed to the credit of the general fund. For failure to perform the duty imposed upon him by this section the delinquent officer shall forfeit the sum of \$1,000, to be collected upon his official bond.

All fines exclusive of costs collected by any of the courts of this state for violations of the dairy, food, sanitary and health laws of this state, shall be paid to the state treasurer and by him credited to the general fund. The costs aforesaid shall be retained by the county in which the suit is brought. Courts, in fixing money penalties, shall state the costs separately, and in such a manner that the division of the moneys to be paid to the State and county, as provided in this section, may be accurately carried out. (Id. § 1674.)

5. Duties of Inspection.—It shall be the duty of the department of public welfare to enforce all laws that now exist, or that may be hereafter enacted in this state so far as they may relate to the healthfulness and purity of such products regarding the production, manufacture or sale of dairy produce [products], foods, drink, and illuminating oils, and to inspect any article of milk, butter, cheese, foods, drink, illuminating oils or imitations thereof, made or offered for sale within the state, which it may suspect or have reason to believe to be impure, unhealthful, adulterated, misbranded or counterfeit, or not complying with this chapter, and to prosecute or cause to be prosecuted any person or persons, firm or firms, corporation or corporations, engaged in the manufacture or sale of any adulterated, misbranded or counterfeit dairy products, food, drink, or illuminating oil, contrary to law. The officials of the department of public welfare shall have access, ingress and egress to and from all places of business, factories, farms, buildings, carriages and cars used in the manufacture, transportation or sale of any article of food, and also into restaurants, dining halls, cafes, hotels, and all rooms thereof, and all places where food is prepared, stored or served to patrons. They shall also have power and authority to open any package, can or vessel containing or supposed to contain any article manufactured, sold or exposed for sale, or held in possession with intent

*CITATIONS: "C. S. 1919" refers to the Compiled Statutes, 1919, adopted at the 1919 session of the legislature. "L." refers to the session laws of the year cited.

†Chapter 71, entitled "Dairy, Food and Sanitary Inspection."

to sell, in violation of law, and may inspect the contents thereof, and may take samples therefrom for analysis (Id. § 1675.)

6. Duty of Attorney General and Prosecuting Attorneys.—It shall be the duty of the attorney general or the prosecuting attorney in any county of the state, when called upon by the department of public welfare to render any legal assistance in his power to execute the laws, and to prosecute cases arising under the provisions of this chapter. (Id. § 1676.)

7. Department May Issue Bulletins.—The department of public welfare shall have authority to issue bulletins, as often as deemed necessary, showing a list of the chemical analyses made by the department, also any other information which they may have in regard to the subject matter of this chapter. (Id. § 1677.)

8. Procuring Samples.—All dealers, clerks, bookkeepers, express agents, railroad officials, employees or common carriers shall render to the department of public welfare, all the assistance in their power when so requested in tracing, finding or discovering the presence of any article prohibited by law, and in securing samples thereof, as provided in section 1675. Any refusal or neglect on the part of such dealer, clerks, bookkeepers, express agents, railroad officials, employees or common carriers to render such friendly aid or to furnish such sample for analysis as provided for in this section shall be a misdemeanor. Upon taking any such sample, the official of the department of public welfare shall mark or seal such sample with a paper seal or otherwise, and shall write his name thereon and number said sample so as to properly identify the same, and shall tender to the manufacturer or vendor of such article or product or the person in whose control or possession such article or product may be at the time the same is taken the value thereof; and if the person from whom such sample is taken shall request him to do so, he shall at the same time, and in the presence of the person from whom the same is taken, seal with proper seals or otherwise two samples of the article taken on each of which said samples, or on the seals placed thereon, shall be placed the name of the person taking said sample and also the number above provided for, the one of which samples shall be delivered to the person from whom the sample is taken, and the other shall be taken or forwarded by the official who procured the same to the department of public welfare for the purpose of making chemical examination or analysis of samples so taken. (Id. § 1678.)

9. Penalties for Interference: Confiscation.—Any person, manufacturer, producer or dealer who refuses to comply, upon demand, with the requirements of the preceding section, or who shall obstruct an official of the department of public welfare in the performance of his duties under this article, or whoever violates any of the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not exceeding \$100, or imprisoned not exceeding 90 days, or both. Any person found guilty of manufacturing or offering for sale, or selling, any adulterated, impure, or misbranded article of food, drink, or illuminating oil, in violation of the provisions of this chapter shall be adjudged to pay, in addition to the penalties herein provided for, all the necessary costs and expenses incurred in inspecting and analyzing such adulterated or misbranded articles, which said person may have been found guilty of manufacturing, selling or offering for sale. And in addition thereto, such adulterated, impure, or misbranded article, or articles, shall be confiscated, and upon the order of any court of competent jurisdiction, the official of the department of public welfare shall destroy the same; Provided, That in case the legal disability which exists against such article, or articles, is one which can be removed by proper labeling, the department shall sell the same and pay the proceeds into the state treasury, where they shall be placed to the credit of the general fund. (Id. § 1679.)

10. Possession of Unlawful Articles Prima Facie Violation.—Possession by any person or firm of any article or substance, the sale of which is prohibited by this chapter, shall be considered prima facie evidence that the same is kept by such person or firm in violation of the provisions of this chapter, and the department of public welfare shall be authorized to seize upon and take possession of such article or substance, and upon the order of any court of competent jurisdiction, it shall dispose of the same as provided in the preceding section. (Id. § 1680.)

11. Certificate of Chemist Prima Facie Evidence.—In all prosecutions arising under this chapter, the certificate of the chemist making the analysis or testing, when duly sworn to by such analyst, shall be prima facie evidence of the fact or facts therein certified. (Id. § 1681.)

12. Subpoena for Chemist.—In any prosecution under this chapter, whenever the department shall certify that the presence of any of its chemists is necessary as a witness in the trial of the cause, the judge of the court, or the probate judge of the county wherein such trial shall be held, shall issue a subpoena for his attend-

ance at the trial; and it shall be the duty of such chemist to obey said subpoena, and all his actual and necessary expenses shall be paid by the county wherein said trial was held in the same manner that county officers are paid, and in case of conviction, shall be charged to the defendant as part of the costs of the prosecution. (Id. § 1682.)

13. Unlawful to Manufacture Adulterated and Misbranded Articles.—It shall be unlawful for any person to manufacture within the state of Idaho any article of food or drugs, medicine or liquor which is adulterated or misbranded or which contains any poisonous or deleterious substance within the meaning of this article; and any person who shall violate any of the provisions of this section or shall fail to comply with the same, shall be guilty of a misdemeanor, and for such offense shall, upon conviction thereof, be fined in a sum not to exceed \$500, or be imprisoned in the county jail for a term not to exceed six months, or be punished by both such fine and imprisonment. (Id. § 1683.)

14. Unlawful to Sell Adulterated or Misbranded Articles.—It shall be unlawful for any person to sell, keep for sale, or offer for sale within the state of Idaho any article of food, drug or liquor which is adulterated or misbranded within the meaning of this article and any person who shall sell, keep for sale, or offer for sale any article of food or drug or liquor which is adulterated or misbranded within the meaning of this article, shall be guilty of a misdemeanor and shall be punished therefor as provided for in section 1683. (Id. § 1684.)

15. Regulations.—The department of public welfare is authorized and directed to make and publish uniform rules and regulations not in conflict with this article, or other laws of the state of Idaho, which rules and regulations shall be in harmony with those adopted and promulgated by the United States department of agriculture, in so far as they are applicable to and not in conflict with the provisions of this article, or any other law of the state of Idaho, which rules and regulations shall include the collection and examination of specimens of food, medicine, drugs, liquors and drinks manufactured, kept for sale, offered for sale or sold in the state of Idaho. Each of such rulings shall be in writing signed by the commissioner of public welfare and shall be kept on file in his office and be open to inspection on request; and before any such ruling shall take effect, it shall be published twice in a newspaper of general circulation published in this state, and, when so made and published, shall from and after the tenth day succeeding the date of the last publication, have the force and effect of law, and an affidavit of such publication setting forth the said ruling in full and the date of such publication thereof, shall be made by the publisher of such newspaper, or by the agent of such publisher and shall be kept on file by the said commissioner of public welfare, in his office with the original of such ruling or rulings; and such affidavit of publication shall be prima facie evidence of the facts therein contained and of the said ruling and rulings therein set forth; and whenever in its discretion, such action is advisable, the said department of public welfare shall have authority to modify change or abrogate any and all such rulings, and to issue new rulings, but always in the manner hereinbefore prescribed. (Id. § 1685.)

16. Definition of "Drug," "Food."—The term "drug" as used in this article shall include all medicines and preparations recognized in the United States pharmacopœia or national formulary for internal or external use in force at the time the drug is prepared, sold or offered for sale, and any substance or mixture intended to be used for the curing, mitigation, or prevention of disease of either man or other animals, whether said drug be simple, mixed or compounded. The term "food" as herein used shall include all articles used for food, drink, confectionery or condiment by man or other animals, or in the preparation of food, drink, confectionery or condiment, whether dispensed, mixed or compounded. (Id. § 1686.)

17. Adulteration of Drugs.—For the purpose of this article, a drug shall be deemed to be adulterated: 1. If, when a drug is sold under or by a name recognized in the pharmacopœia and national formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in the United States pharmacopœia or national formulary, official at the time of investigation.

2. If its strength or purity fall below the professed standard of quality under which it is sold. (Id. § 1687.)

18. Adulteration of Confectionery or Gum.—For the purpose of this article confectionery or gum shall be deemed to be adulterated if it contains paraffine, terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or

any vinous, malt or spiritous [spirituous] liquor or compound or narcotic drug. (Id. § 1688, as amended L. 1923, c. 29.)

19. Adulteration of Food.—For the purpose of this article food shall be deemed to be adulterated:

1. If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength.

2. If any substance has been substituted wholly or in part for the article.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be mixed, colored, powdered, polished, coated or stained in a manner whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is.

5. If it contain any added poisonous or other added deleterious ingredients which may render such article injurious to health; Provided, That when, in the preparation of food products for shipment, they are preserved by any external application applied in such a manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the cover of the package, the provisions of this article shall be construed as applying only when said products are ready for consumption.

6. If it consists in whole or in part of a diseased, filthy, decomposed, infected, tainted, putrid or rotten animal or vegetable substance or article, or any part or portion of an animal diseased or otherwise unfit for food, whether manufactured or not, or if it is the product of a diseased animal or one that had died otherwise than by slaughter.

7. If it contains methyl or wood alcohol or any of its forms. (C. S. 1919, § 1689.)

20. Definition of Term "Misbranded."—The term "misbranded," as used herein, shall apply to all drugs, liquors or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food, liquor or drug product which is falsely branded as to the state in which it is manufactured or produced. (Id. § 1690.)

21. Misbranding of Drugs.—For the purpose of this article a drug shall be deemed to be misbranded:

1. If it be an imitation of, or offered for sale under the name of another article.

2. If the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if the package fails to bear a statement on the label of the quality [quantity] or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, phenacetin, acetanilid, or any derivative or preparation of any such substances contained therein: Provided, That the drugs and medicines dispensed by or under the order of a physician's prescription, intended for immediate or temporary use, need not bear any statement on the package as to its contents, except as otherwise provided by law of this state. (Id. § 1691.)

22. Misbranding of Food.—For the purpose of this article food shall be deemed misbranded:

1. If it be an imitation of, or offered for sale under the distinctive name of another article.

2. If it be a manufactured article of food or foods sold in package form, and is not distinctly labeled, marked or branded with the true name of the article, and with either the name of the manufacturer and place of manufacture or the name and address of the packer or dealer who sells the same; if it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package; or if the package fails to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, phenacetin or acetanilid, or any derivative or preparation of any such substance contained therein.

3. If in package form, and the contents are stated in terms of weight or measure, the net weight or measure is not plainly or correctly stated on the outside of the package.

4. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substance contained therein, which statement, design or device shall be false or misleading in any particular; Provided, That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases: (a). In the case of mixture or compounds which may be now, or from time to time hereafter, known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with the statement of the place where said article has been manufactured or produced.

b. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the words "compound," "imitation," or "blend," as the case may be, plainly stated on the package in which it is offered for sale; Provided, That the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; And, provided further, That nothing in this article shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this article may require, to secure freedom from adulteration or misbranding. Labels required by this article shall be distinctly printed in the English language in legible type no smaller than eight point heavy Gothic caps, and shall give, in continuous list, with no intervening printed or descriptive matter, the true and correct names of all the constituents of such mixture, compound, combination, imitation or blend, and if artificially colored or preserved, the names of each and every such added substance shall be plainly stated on the label. Such label shall be placed on the outside of the package, and in plain sight. There shall be such a contrast between the color of the label and the color of the ink used in printing the label, as heretofore provided, that the label shall be easily and plainly legible. (Id. § 1692.)

23. **Guaranty.**—No dealer shall be prosecuted under the provisions of this article when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchased such articles to the effect that the same is not adulterated or misbranded within the meaning of this article designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to the dealer, and the date sold, and in such case, said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this article; Provided, That this exemption shall not apply when such dealer knew or ought to have known that such drugs, liquors or foods so sold, offered or kept for sale were adulterated or misbranded within the meaning of this article. (Id. § 1693.)

24. **Distribution of Free Samples Prohibited.**—It shall be unlawful for any person to distribute or cause to be distributed, by throwing into yards or upon porches of any private or public house in this state, any free samples containing drugs which are or may be harmful to the human system, and any person guilty of such offense shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1683.* (Id. § 1694.)

25. **"Person" Applied.**—The word "person" as used in this article shall be construed to include and import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this article, the act, omission or failure of any officer, agent or other person acting for, or employed by any corporation, company, society or association within the scope of this employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (Id. § 1695.)

26. **Inspectors Have Access to All Places.**—For obtaining information regarding the suspected violations of law, the department of public welfare or its duly appointed assistants, shall have access to all places where any article of food or other article, the manufacture or sale of which is restricted, regulated or prohibited by this article, is stored or prepared for sale, or may be manufactured, kept for sale, or sold, and to places where food is or may be cooked, prepared, or sold or kept for sale, to or for the public, or distributed as a part of the compensation of servants or agents, including public and private hospitals, railroad camps, inns, boarding and eating houses, drinking places, dining cars, boats, and other places where any of said articles may be sold, and they may inspect any packages, articles or

*See No. 13.

receptacle found therein apparently containing any article of food or ingredient thereof, or any article, the manufacture or sale of which is restricted, regulated or forbidden by this article, and may take samples therefrom for analysis, tendering payment therefor. Any person obstructing such entry or inspection, or failing, upon request, to assist therein, shall be guilty of a misdemeanor, and shall be punished as provided in section 1683. (Id. § 1696.)

27. Standards Established.—The standards of quality, purity and strength for food, liquors, and drugs that have been or shall be adopted by the United States department of agriculture are hereby declared to be the standards of purity, quality and strength for foods, liquors, drugs and drinks in the state of Idaho. (Id. § 1697.)

27a. Fines to be Paid.—All fines, exclusive of costs, collected by any of the courts of this State, as penalties for the violation of this article or any of its provisions, shall be paid by the proper officers of said court to the State Treasurer of the State of Idaho, who shall credit the same to the general fund. Courts imposing fines under this article shall so fix the same that the fine that is to be remitted to the State and the costs which are to be rendered by the county shall be separately stated. (Id. § 1698.)

Miscellaneous General Provisions.

28. Sale of Tainted Food.—Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of, any article of food, drink, drug, or medicine, knowing the same has become tainted, decayed, spoiled, or otherwise unwholesome or unfit to be eaten or drank [drunk], with intent to permit the same to be eaten or drank [drunk], is guilty of a misdemeanor. (C. S. 1919, § 1699.)

28a. Powers and Duties.—The Department of Agriculture shall have power:

1. To exercise the rights, powers and duties vested by law in the State Board of Agriculture, its president, secretary and treasurer.

2. To exercise the rights, powers and duties vested by law in the Director of Farm Markets.

3. To exercise the rights, powers and duties vested by law in the State Board of Horticultural Inspection, its president and secretary.

4. To exercise the rights, powers and duties vested by law in the State Horticultural Inspector and his deputies.

5. To exercise the rights, powers and duties vested by law in the State Bee Inspector and his deputies.

6. To exercise the rights, powers and duties vested by law in the State Livestock Sanitary Board, its president and secretary. * * *

9. To exercise the rights, powers and duties vested by law in the State Sealer of Weights and Measures and his deputies and assistants.

10. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture and apiculture, the livestock industry, domestic arts, dairying, cheese making, poultry raising, the production of wool, and all other allied industries. * * *

15. To establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products.

16. To prescribe and promulgate rules and regulations governing the marks, brands and labels which may be required upon receptacles for farm products. * * *

22. To investigate the practices and methods of factors, commission merchants and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, dairy products, eggs, livestock, vegetables, or other farm products, to the end that the distribution of such commodities through such factors, commission merchants and others shall be efficiently and economically accomplished without hardship, waste or fraud. * * *

30. To enter and inspect any right of way of any irrigation canal, railway, public highway, field, orchard, nursery, fruit packing house, storeroom, salesroom, depot or other place where fruits are grown or stored, and to inspect fruits, trees, plants, vines, shrubs or other articles within the state, and if such places or articles are infested with pests or with their eggs or larvæ or with any contagious diseases injurious to plant life to abate the same as a nuisance.

31. To prevent the spreading of infectious and contagious diseases among bees. * * *

36. To establish standards of weights and measures and enforce compliance therewith. * * * (Id. § 276.)

28b. Powers and Duties.—The Department of Public Welfare shall have power: * * *

6. To exercise the rights, powers and duties vested by law in the Dairy, Food and Sanitary Inspector and his deputies and the State Chemist. (Id. § 342.)

PART II.

Special Food Laws.

Apples.

See Nos. 104 et seq. and 269.

Bakeries.

See No. 174.

Baking Powder.

29. Baking Powders: Ingredients to be Indicated.—Every person making, manufacturing or selling, or offering or exposing for sale, any baking powders, or any mixture or compound intended for use as a baking powder, shall securely affix, or cause to be securely affixed, to every box, can, or package containing such baking powder or like mixture or compound, on a white or light colored label, upon the outside and face of which is distinctly printed with black ink, in legible type no smaller than brevier heavy Gothic caps, the name and residence of the manufacturer and the words "This baking powder is composed of the following ingredients and none other"; and immediately after said words shall be printed, in the English language, upon said white or light colored label, in the color, style and manner above specified, the true and correct name of each and all ingredients contained in or constituting a component part of such baking powder, or mixture or compound intended for use as a baking powder, using the names by which each ingredient is commonly known in trade. (C. S. 1919, § 1700.)

Beverages.

See Nos. 108-109, 174 and 212 et seq.

Bread.

See No. 273.

Cider.

See Nos. 108-109.

Cold Storage.

See No. 60; the sanitation law, No. 148 et seq.

Confectionery.

See Nos. 18 and 174.

Dairy Products—Substitutes for Dairy Products.

30. Names of Dairymen to be Posted.—All wholesale dairymen and other persons having stationary places of business, keeping and offering for sale milk, shall at all times keep the name or names of the dairyman or dairymen, from whom the milk on sale shall have been obtained, posted in a conspicuous place where such milk may be sold or kept for sale. (C. S. 1919, § 1705.)

31. Dairies to be Inspected and Rated.—It shall be the duty of the department of public welfare to cause to be visited as frequently as it may deem necessary

all dairies supplying dealers and consumers with milk, and inspect and score the same according to the score card authorized by the bureau of animal industry of the United States department of agriculture. A copy of the score card shall be left with the owner and such information given as will assist the producer to improve the sanitary conditions or remedy such defects as the score card indicates. A copy of the score card shall be kept on file in the office of the department. (Id. § 1706.)

32. Excluding Poor Milk from Sale.—Milk and cream from dairies falling below 50 in the rating as indicated by the score card are hereby excluded from sale, or being offered for sale. (Id. § 1707.)

33. Milk Wagons to be Kept Clean.—Every person using, in the sale or distribution of milk, a delivery wagon, or other vehicle, shall keep the same at all times clean and free from any substance liable to contaminate or injure the purity of the milk. (Id. § 1708.)

34. Milk Wagons to be Covered.—Every person, firm or corporation using, in the sale or distribution of milk, a delivery wagon, or other vehicle shall, from May 1st to September 30th, inclusive, each year, have and keep over said delivery wagon or other vehicle a covering of canvas or other material so arranged as adequately to protect the contents from the heat of the sun. (Id. § 1709.)

35. Milk Must be Bottled in Milk Houses.—No person, firm or corporation shall bottle any milk upon a delivery wagon or vehicle or in any place other than a milk house, dairy or other building where milk is regularly stored and sold. (Id. § 1710.)

36. Cleaning of Milk Cans.—Milk vendors must not, under any circumstances whatever, wash their empty cans in any of the streams or ponds within the state. (Id. § 1711.)

37. Milk Must be Bottled: Location of Milk Houses.—No person, firm or corporation shall give, furnish, sell or offer for sale, or deliver any milk, buttermilk, whey, sour milk, skim milk, or cream in quantities less than one gallon, except in sanitary bottles, sealed with suitable cap or stopper, with date and approximate hour that milk sold as sweet milk was drawn, plainly inscribed on bottle or cover, except where milk is sold at a milk house or dairy, when the same may be dipped. But the milk house, dairy or other place in which milk is sold shall not be located within 50 feet of any privy vault or cesspool, or any stable, pen or corral, and the milk house, dairy or other place shall be a room which is not used for any other purpose than the handling and sale of milk, or milk products. (Id. § 1712.)

38. Cans Must be Washed and Scalded.—Any person, firm or corporation who receives milk or cream, ice cream, or other milk food products, in bottles, cans, vessels, or other milk food receptacles, before returning the same empty, shall cause said cans, bottles, vessels, or other milk food receptacles to be thoroughly washed, cleaned, steamed or scalded and aired. (Id. § 1713, as amended L. 1921, c. 119.)

39. Empty Bottles from Quarantined Premises.—No person, firm or corporation shall remove from any dwelling in which any communicable disease exists any bottles or other receptacles which have been or which are to be used for containing or storing milk, except by permission of the local health officer. (C. S. 1919, § 1714.)

40. Refilling Bottles Owned by Others.—It shall be unlawful to fill or refill with milk, cream or other milk product, any glass jar or bottle having the name of any person, firm or corporation blown therein or any private mark or marks irremovably branded, stamped, etched, or blown therein: Provided, That the provision of this section shall not extend to the person, firm or corporation whose own name or mark is blown in such jar or bottle or to a duly authorized agent or employee of such person, firm or corporation. (Id. § 1715.)

41. Sale of Diluted Milk Forbidden.—No milk adulterated, reduced or changed in any respect by the addition of water or other substances, or by the removal of cream, except as hereinafter provided, shall be sold or offered for sale; nor shall any person, firm or corporation keep, have, sell or offer for sale, or have in his, their or its possession with intent to sell, any such milk. (Id. § 1717.)

42. Milk Deemed to be Adulterated.—Milk shall be deemed to be adulterated in any one of the following cases:

1. Milk containing more than 89 per cent of water or fluid.
2. Milk containing less than 8 per cent of milk solids other than fat.
3. Milk containing less than 3.2 per cent of butter fat.
4. Milk drawn from animals within 15 days before, or four days after parturition.
5. Milk drawn from animals fed on brewery or distillery waste, or any substance in a state of putrefaction or rottenness or any unwholesome food.
6. Milk drawn from cows kept in a crowded, insanitary or unhealthy condition.

7. Milk from which any part of the cream has been removed.
8. Milk which has been diluted with water or any other fluid, or to which has been added, or into which has been introduced, any foreign substance whatever.
9. Milk which has not been properly cooled to a temperature lower than 58 degrees Fahrenheit, or which contains an excess of bacteria: Provided, That all milk found not to have been so cooled to a lower temperature than 58 degrees Fahrenheit, the department of public welfare may seize, confiscate and destroy.
10. Milk having a specific gravity of less than 1.029 at 60 degrees.
11. Milk containing any pathogenic bacteria.
12. Milk containing any boracic or salicylic acid, formaldehyde or other foreign chemical, or any preservative whatsoever.
13. Milk containing bacteria of any kind more than 500,000 per cubic centimeter.
14. Milk drawn from any cow having a communicable disease or from any cow or cows in a herd which contains any diseased cattle, or from a cow or cows in a herd the attendants of which are afflicted with or have been exposed to any communicable disease.
15. Milk which shows a dark gray, black or other sediment at the bottom of any bottle or other vessel in which it is contained.
16. Milk kept in refrigerators with vegetables or other products, unless said milk is sealed in bottles. (Id. § 1718.)
43. **Milkmen Afflicted with Disease.**—Any milkman or dairyman being afflicted, or any member of whose family is afflicted, with a communicable disease, shall report the same to the state local health officer within 24 hours after he knows or has reason to suspect such communicable disease, and said health officer shall take such steps as are prescribed by the department of public welfare for the prevention of the spread of said communicable disease by said milkman, dairyman, his family, hired help or their families. (Id. § 1719.)
44. **Selling Milk from Infected Premises.**—No milk or cream shall be sold or dispensed as food from any house, store, shop, dairy or other place in which there is a case of contagious or infectious disease, as aforesaid, until all danger of contagion has been removed, and permission in writing is obtained from the local health officer authorizing the sale of milk or cream, from said house, shop, or from said dairy, or other place.
The existence of smallpox, typhoid fever, diphtheria, scarlet fever, measles or other communicable diseases on or in the immediate vicinity of the dairy farm shall be promptly reported to the county health officer and by him to the department of public welfare, and the sale of milk shall be stopped until its resumption is authorized as provided by law. (Id. § 1720.)
45. **Milk Stored in Insanitary Cellars.**—No person, firm or corporation shall store any milk in any basement, cellar, milkhouse, dairy, or other place unless such place is well lighted, ventilated, and in a sanitary condition, and if such room or space is in a cellar or subcellar, the same shall be properly concreted, guttered and drained. (Id. § 1721.)
46. **Milk Kept Near Insanitary Premises.**—No person shall store any milk in any basement, cellar, refrigerator, milk house, dairy, or other place which is within 50 feet of any closet or privy vault or cesspool or any horse or cow stable or any chicken or poultry yard or coop. (Id. § 1722.)
47. **Skimmed Milk: When Salable.**—No person shall sell, or offer for sale, or have in his possession with intent to sell, milk from which the cream has been removed, either in whole or in part, unless sold as skimmed milk, and unless on both sides of the vehicle from which said milk is sold there is displayed in letters not less than 4 inches in height the words "skimmed milk." If not sold from a vehicle, upon each and every vessel from which said milk is sold, there shall be painted in letters at least 2 inches in height, or displayed in plain and legible manner, the words "skimmed milk." (Id. § 1723.)
48. **Same: Standard.**—No person shall sell or offer for sale, or have in his or their possession with intent to sell, any so-called skimmed milk containing less than 9.3 per cent of milk solids and not to exceed an acidity of .2 per cent, and must be delivered to purchasers at the same temperature as provided in this chapter* for sweet milk. (Id. § 1724.)
49. **Same: Manufacturers May Handle Wholesale.**—Manufacturers who make affidavit in a form to be prescribed by the department of public welfare that the skimmed milk they handle will not be sold at retail as milk, but solely used for manufacturing purposes, shall be exempt from the foregoing provision. (Id. § 1725.)
50. **Standard for Cream.**—No person, firm or corporation shall keep, sell or offer for sale or have in his or their possession with intent to sell, any cream to

*Chapter 71, entitled "Dairy, Food and Sanitary Inspection."

which any foreign substance has been added or containing less than 18 per cent butter fat, and when sold to any person, firm or corporation, must be truly represented as to being "coffee" or "whipping cream" with an acidity not greater than twenty-five hundredths of 1 per cent. The term "cream" means that portion of milk representing milk fat which rises to the surface of milk standing, or is separated from it by centrifugal force, and which is fresh and clean. (Id. § 1726.)

51. Weight of Milk.—A pint of milk shall weigh 1 pound strong and a quart of milk shall weigh 2 pounds strong and shall not be sold otherwise. (Id. § 1727.)

52. Penalties.—Any person, or persons, corporation or corporations violating, or who shall fail to comply with the preceding sections, numbered 1705 to 1727, inclusive, or any part, provision or section thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than \$10 and not exceeding \$300 or by imprisonment in the county jail for a period not exceeding six months, or both such fine and imprisonment. (Id. § 1728.)

53. Reports by Dairies, Creameries and Cheese Factories.—The department of public welfare shall furnish blanks to all proprietors or managers of creameries, cheese factories or milk dairies that ship milk, and all vendors and peddlers of milk and dairy goods handled, and all owners or managers of such creameries and cheese factories, and all milk dairies and all milk vendors, or milk peddlers shall fill out the blanks, giving a full and accurate report of the business done during the year, and send them to the department of public welfare before the 1st day of November of each year. Every person or corporation who shall engage in the business of purchasing or dealing in milk shall attach in a permanent manner to each can furnished by him or the producer, a tag containing in plain figures a correct statement of the capacity thereof. Any neglect or failure or false statement on the part of the proprietor or manager of such creamery, cheese factory, dairy or milk vendor or milk peddler, shall be considered a misdemeanor, and upon conviction thereof the person guilty shall be punished as provided in section 1679.* Provided, that any information thus furnished shall be published only in such form as to show totals and averages, and not the details of the business of any individual or concern. (Id. § 1729.)

54. Authority for Enforcement of Act.—The department of public welfare shall have charge of the enforcement of this act. (L. 1923, c. 37, § 1.)

55. Defining the Term "Filled Milk."—Whenever used in this act the term "person" shall include an individual, partnership, corporation or association. The term "filled milk" shall mean any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or dessicated, to which has been added, or which has been blended or compounded with any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or dessicated. This definition shall not include any distinctive proprietary food compound not readily mistaken for milk or cream or for evaporated, condensed, or powdered milk or cream. (Id. § 2.)

56. Manufacture and Sale of Same Prohibited.—It is hereby declared that filled milk as herein defined is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public. It shall be unlawful for any person to manufacture or sell or offer for sale within the state of Idaho, any filled milk. (Id. § 3.)

57. Penalty.—Any person violating any of the provisions of this act shall, upon conviction thereof, be subject to a fine of not more than \$1,000.00, or imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. (Id. § 4.)

58. Test of Cream Cheese.—Cream cheese under this chapter shall contain not less than 30 per centum of pure butter fat and shall have been manufactured from pure and wholesome milk, from which no portion of the butter fat shall have been removed by skimming or by other process, and in the manufacture of which neither butter nor any substance [substitute] for butter, or any animal or vegetable fats or oils, have been used, or any fat which has been extracted from milk in any form and returned for the purpose of filling said cheese. All cheese containing less than 30 per centum of pure butter fat shall be marked "skimmed cheese" in full-face capital letters not less than 1 inch high, with such ink as is not easily removed by moisture. The manufacture or sale of any cheese containing less than 15 per centum of pure butter fat, or so-called "filled cheese," is hereby prohibited; Provided, That nothing in this section shall be construed to apply to Edam, Brickstein, pineapple, Limburger or Swiss cheese, or handmade cheese, or any other fancy cheese; Pro-

*See No. 9.

vided further, That cheese not made in this state, but which shall be sold or offered for sale in this state, shall be so stamped as to indicate its true character; And, Provided further, That no cheese shall be stamped "full cream" which does not in every particular comply with the requirements of full cream cheese, as hereinbefore set forth. (C. S. 1919, § 1730.)

59. Sale of Cheese Containing Foreign Substances Unlawful.—It shall be unlawful for any person to sell or offer for sale or exchange, or have in his possession for sale, any cheese containing any substance except salt, rennet and harmless vegetable coloring matter, other than that produced from pure milk or cream, or both, or from pure skimmed or pure half-skimmed milk. (Id. § 1731.)

60. Cold Storage Butter Must be Dated.—All butter that is placed in cold storage shall have stamped or written on each box in solid black type, and easily discernible, the words, "cold storage butter," together with the date when stored. (Id. § 1716.)

61. Fraudulent Sale of Imitation Butter.—Every person who sells or keeps for sale, or offers for sale, or otherwise disposes of, oleomargarine, butterine, mixture imitating butter, or adulterated butter, under the name of or under the pretense that the same is butter, or keeps for sale or manufactures oleomargarine, butterine, mixture imitating butter, or adulterated butter, without branding the same or the package in which it is contained, on the outside thereof, with the word "oleomargarine," "butterine" or "adulterated butter" is guilty of a misdemeanor. (Id. § 1732.)

62. Use of Imitation Butter in Eating Houses.—No person, by himself, his agents, or his servants, shall render or manufacture, sell, offer for sale, expose for sale, or have in his or their possession with intent to sell or serve to patrons, guests, boarders, or inmates of any hotel, eating house, restaurant, public conveyance or boarding house or public or private hospital, asylum, school or eleemosynary or penal institution, any article, product, or compound made wholly or partly out of any fat, or oil, or oleaginous substance or compound thereof, not produced directly and wholly at the time of manufacture from unadulterated milk or cream from the same, with or without harmless vegetable coloring matter, which shall be in imitation of yellow butter produced from pure, unadulterated milk or cream from the same; Provided, That nothing in this chapter shall be construed to prohibit the manufacture and sale of oleomargarine in a separate and distinct form, and in such manner as will advise the consumer of its real character, free from coloration or ingredient which causes it to resemble butter, or the use of the same by patrons, guests, boarders, or inmates of any hotel, eating house, restaurant, public conveyance, or boarding house, when signs are displayed in a conspicuous place that may be easily read from any part of the room. (Id. § 1733.)

62a. Penalty.—Any person, firm, corporation or other organization, foreign or domestic, or any officer, agent or receiver of any firm, corporation or other organization or any member of the same, or any individual, violating any of the provisions of sections Nos. 1732 and 1733 of the Compiled Statutes of Idaho, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100.00 nor more than \$500.00 for each offense or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment, and, if a corporation, may have its charter or permit to do business in this State forfeited. (Act of Feb. 17, 1927.)

63. Sales of Process Butter.—No person, firm, or corporation shall manufacture, sell or offer for sale or have in his possession with the intent to sell, butter known as "process butter" unless the package in which the butter is sold has marked on the side of it the words "renovated butter" in capital letters 1 inch high and one-half inch wide, with ink which is not easily removed; Provided, That it shall be unlawful for any retailer to sell said butter unless a card is displayed on the package from which he is selling butter, with the following words printed thereon, so that it may be easily read by the purchaser, to wit: "renovated butter"; or if it is sold in packages on which a wrapper is used the words "renovated butter" shall be plainly printed on each and every wrapper; Provided further, That all process butter shipped from other states shall be subject to the same regulations as are provided in this section. (C. S. 1919, § 1734.)

64. Percentage of Butter Fat.—All dairy or creamery butter shall contain not less than 82.5 per centum butter fat. (Id. § 1735.)

65. Weight of Butter.—Each package of butter offered or exposed for sale shall have stamped upon the wrapper or package, the actual number of ounces contained in said package. Each square or roll of butter kept, exposed or offered for sale in the state of Idaho, which is represented to contain 1 pound in weight,

shall contain full 16 ounces; and each square or roll of butter kept or offered for sale in the state of Idaho, which shall be represented to contain 2 pounds in weight, shall contain full 32 ounces. (Id. § 1736.)

66. Uniform Stencil Brand.—The department of public welfare is hereby authorized and directed to procure and issue to the butter and cheese manufacturers of the state, and under any regulations as to the custody and use thereof as it may prescribe, at the expense of the party requiring the same not exceeding \$1, a uniform stencil brand, bearing the name of the manufacturer and place where manufactured, and the words, "Idaho state full cream cheese," or "Idaho state creamery butter," or "Idaho state dairy butter." Every brand issued shall be used on the outside of each cheese and package containing the same, and shall be used on the wrapper of each package of butter, and also on the outside of every package used by him, and shall contain a different number for each separate manufactory. The department shall keep a book in which shall be registered the name, location and number of each manufacturer using the said brand. It shall be unlawful to use or permit such brand to be used on any other than Idaho full cream cheese, or Idaho creamery butter, or Idaho dairy butter, or packages containing the same, unless such cheese or butter has been manufactured within the state of Idaho from pure milk or cream by the person, persons or firm using said brand; Provided, That all butter known as tub butter, that has been packed or stored in tubs or firkins, which is pressed or printed into what is known as bricks, pats or rolls, shall have in addition the words "tub butter" in one-half inch Roman letters stamped or pressed upon it, or, if wrapped, the wrapper shall be marked in such manner. All butter sold or offered for sale within the state shall have the name of the manufacturer and place of manufacture stamped upon the label. (Id. § 1737.)

67. Method of Testing Cream.—All cream sold in the state of Idaho for manufacturing purposes shall be tested for butter fat by the following prescribed method: The Babcock test shall be employed, and samples used in testing shall be weighed on a suitable scale or balance, and where 18 grams are used as a sample the same shall be tested in a 9-inch bottle graduated to at least .5 per cent, or where 9 grams are used as a sample the same shall be tested in a 6-inch bottle graduated to at least .5 per cent, also graduated to give full reading of the test, and in all tests the column of butter fat shall be read at a temperature of not less than 120 degrees Fahrenheit. (Id. § 1738.)

68. Director of Dairying Appointed; Term of Office.—As soon as possible after this act takes effect the commissioner of agriculture shall appoint a director of dairying, who shall have a practical knowledge and experience in the manufacture of dairy products, who shall hold office until January 5th, 1927, or until his successor is appointed and qualified, subject to removal by the commissioner of agriculture for inefficiency, neglect, or violation of duty, thereafter the term shall be two years. (L. 1925, c. 224, § 1.)

69. Duties: Statistics, etc.—It shall be the duty of the director of dairying, under the supervision of the commissioner of agriculture, to make inspections or cause inspections to be made in this state of all places required to be licensed by the provisions of this act, where dairy products are sold, offered for sale, or manufactured in the enforcement of the present dairy laws and all future dairy legislation hereinafter enacted, and to collect statistics on the manufacture and sale of dairy products in Idaho. (Id. § 2.)

70. Appropriation.—There is hereby appropriated out of any moneys in the general fund not otherwise appropriated, the sum of \$10,000.00, or so much thereof as may be necessary, to be used to pay salaries, wages and other expenses under the provisions of this act. (Id. § 3.)

71. Reports by Buyers, etc.—All buyers of butter fat, cream, milk or other dairy products, required to be licensed by the provisions of this act, shall report to the commissioner of agriculture weekly the number of pounds of each grade of cream, butter fat or other dairy products purchased and prices paid at each station operated by any creamery, cheese factory or condensary in the state. Such report blanks are to be furnished by the department and additional reports may be called for at the discretion of the department. (Id. § 4.)

72. Babcock Test Samples.—Every operator of a Babcock test for butter fat in milk or cream for the purpose of determining their commercial value when purchased or sold shall keep for the period of forty-eight hours after completing a test a portion sufficient for two tests of each and every sample tested. These samples shall be accessible to the director of dairying or his representative at any and all times and legible record of all tests made by the operator of said tests shall be

accessible to the department for a period of thirty days following such tests. (Id. § 5.)

73. Testers to Secure License: Examinations—Apparatus for Tests, etc.—Every person testing milk or cream to determine the milk-fat as a basis of fixing the purchase price shall secure a tester's license from the department and shall make such tests only by such process as has been approved by the department, and no person shall make such test without such license, and other than by such process. Each applicant for such license shall be required to submit to examination or by actual demonstration show that he is competent to test cream and milk according to the regulations prescribed by the department. The department shall furnish at cost to each licensee one standard test bottle and one standard pipette adapted to the use of the testing machine approved for the licensee. Said bottle and pipette shall be certified to by the department as a standard and shall bear the official stamp of the department. Any person not a licensee may secure test bottles and pipettes from the department at cost. The fee for each licensee shall be \$2.50 per year. With the approval of the department any licensee may appoint a person to act for him not to exceed a period of fourteen days. (Id. § 6.)

74. False Tests Prohibited.—No person shall falsely manipulate or misread the Babcock test or any other milk or cream testing apparatus. The writing of a check or payment of money by such person for cream or milk shall constitute prima facie evidence that such test was made. (Id. § 7.)

75. License for Creameries, etc.—Sanitary Conditions—Fees.—Every creamery, milk plant, shipping or cream buying station, milk condensing plant, cheese factory, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of the amount of the milk fat therein, shall annually obtain a license therefor. Such license shall be issued by the department upon being satisfied that the building, places, or premises where such milk or dairy products is to be received or purchased is maintained in a sanitary manner, and upon payment of such license fee to the department according to the following schedule:

Milk condensary \$50.00, reprocessing plant \$50.00, creamery \$25.00, cheese factory \$10.00, ice cream factory \$10.00, casein plant \$15.00, milk powder plant, \$15.00, cream buying or shipping station \$5.00.

When one or more kinds of dairy products are being manufactured by the same firm on the same premises, this shall be construed to require that a separate license be procured for each kind of product manufactured and sold. The license, when issued, shall be posted in a conspicuous place in the plant for which issued. (Id. § 8, as amended Act of Mar. 1, 1927.)

76. Period of License—Revocation.—Licenses shall be issued by the department for the period of one year except 1925 and shall expire on December 31st, of each year issued, and may be revoked by the department after a hearing on ten days' notice to the licensee, if such licensee shall fail to comply with the provisions of this act. (L. 1925, c. 224, § 9.)

77. Disposition of Fees and Fines.—Fees collected under the provisions of this act shall be credited to the general fund of the state of Idaho and fines collected shall go to the respective counties in which the convictions occur. (Id. § 10.)

78. Commissioner of Agriculture to Make Rules and Regulations.—The commissioner of agriculture is empowered to prescribe rules and regulations in the administration of this act not inconsistent with its provisions. The term "department" as used in this act, means the department of agriculture. (Id. § 11.)

79. Test by Unlicensed Person, Separate Offense.—The testing of each lot of milk or cream by an unlicensed person shall constitute a separate offense. (Id. § 12.)

80. Violation of Act a Misdemeanor.—A violation of any of the provisions of this act shall constitute a misdemeanor. (Id. § 13.)

81. Duty of Attorneys.—It is hereby made the duty of the prosecuting attorneys of the respective counties, where violations of this act take place, to prosecute such violations. (Id. § 14.)

82. Act Not to Prevent Enforcement of Sanitary and Health Laws.—Nothing in this act contained is intended to prevent the inspection and regulation of the places, persons, and industries mentioned herein, by the department of public welfare in the enforcement of the sanitary and health laws. (Id. § 15.)

82a. Standard Measures for Testing.—Every person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butterfat contained therein as determined by the Babcock test, shall use the standard Babcock test bottles and pipettes, as defined in section 5 of this act, and all Babcock test

bottles and pipettes, shall have been inspected for accuracy by the Department of Dairy Husbandry of the University of Idaho, at Moscow, Idaho, or its agent, and shall be legibly and indelibly marked by the Department of Dairy Husbandry or its agent with the letters S. G. I., meaning "Standard Glassware Idaho." It shall be unlawful for any firm or corporation or any of their agents to use other than standard test bottles and pipettes which have been examined and marked as provided by this section, to determine the amount of fat in milk or cream received or purchased on the butterfat basis. (Act of Mar. 12, 1927, § 1.)

82b. Fees.—For all testing of glassware by the said Department of Dairy Husbandry or its agent, a fee of three cents shall be paid by the owner of said glassware so examined, and said fee shall be used by the Department of Dairy Husbandry to defray the cost of testing such glassware. (Id. § 2.)

82c. Penalty.—A violation of any of the provisions of this act shall constitute a misdemeanor. (Id. § 3.)

82d. Duty of Prosecuting Attorney.—It shall be the duty of every prosecuting attorney to whom the Dairy Director shall report any violations of the provisions of this act to cause proceedings to be commenced against the person or persons so violating the provisions of this act. (Id. § 4.)

82e. Standard Testing Glassware.—The term "Standard Babcock Testing Glassware" shall apply to glassware complying with the following specifications:

(a) Standard milk test bottles.

Graduation for Milk Test Bottles. The total per cent graduation shall be 8. The graduated portion of the neck shall have a length of no less than 63.5 millimeters ($2\frac{1}{2}$ inches), the graduations shall represent whole per cent, five-tenths per cent, and tenths per cent. The tenths per cent graduations shall not be less than three millimeters in length; the five-tenths per cent graduations shall be one millimeter longer than the tenths per cent, graduations projecting one millimeter to the left; the whole per cent graduation shall extend at least one-half way around the neck to the right and project two millimeters to the left of the tenths per cent graduation. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters, if conical, the outside diameter of the base shall be between 31 and 33 millimeters, and the maximum diameter between 35 and 37 millimeters. The charge of the bottle shall be 18 grams. The total height of the bottle shall be between 150 and 165 millimeters, ($5\frac{7}{8}$ inches and $6\frac{1}{2}$ inches).

(b) Standard cream test bottles.

Three types of bottles shall be accepted as standard cream test bottles, a fifty per cent nine-gram short-neck bottle, a fifty per cent nine-gram long-neck bottle, and a fifty per cent 18-gram long-neck bottle.

Fifty Per Cent Nine-gram Short-neck Bottle Graduation. The total per cent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 63.5 millimeters ($2\frac{1}{2}$ inches). The graduation shall represent five per cent, one per cent and five-tenths per cent. The five per cent graduation shall extend at least half-way around the neck to the right.

The five-tenths per cent graduations shall be at least 3 millimeters in length, and 1 per cent graduations shall have a length intermediate between the five per cent and five-tenths per cent graduations. Each five per cent graduation shall be numbered the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per cent.

Neck. The neck shall be cylindrical and the cylindrical shape shall extend at least nine millimeters below the lowest and nine millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb. The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters. If conical, the outside diameter of the base shall be between 31 and 33 millimeters and the maximum diameter between 35 and 37 millimeters.

The charge of the bottle shall be nine grams.

All bottles shall bear on the top of the neck above the graduations in plainly legible characters, a mark, defining the weight of the charge to be used (nine grams).

The total height of the bottle shall be between 150 and 165 millimeters ($5\frac{7}{8}$ inches and $6\frac{1}{2}$ inches), same as standard milk test bottles.

Fifty Per Cent, Nine-gram, Long-neck Bottle. The same specifications in every detail as specified for the 50 per cent nine-gram, short-neck bottle shall apply for the long-neck bottle, with the exception, however, that the total height of this bottle shall be between 210 and 234 millimeters ($8\frac{3}{4}$ inches and $8\frac{7}{8}$ inches) and that the total length of the graduation shall be not less than 120 millimeters.

Fifty Per Cent, 18-gram, Long-neck Bottle. The same specification in every detail as specified for the 50 per cent nine-gram, long-neck bottle shall apply, with the exception that the charge of the bottle shall be 18 grams, and the mark defining the weight of the charge placed at the top of the neck shall be 18.

The total length of the Standard Babcock pipette shall be not more than 330 millimeters, ($13\frac{1}{4}$ inches). Outside diameter of suction tube six to eight millimeters. Length of suction tube 130 millimeters. Outside diameter of delivery tube 4.5 to 5.5 millimeters. The length of delivery tube 100 to 120 millimeters. Distance of graduation mark above bulb 30 to 60 millimeters. Nozzle straight. Delivery 17.6 cubic centimeters of water at 20 degrees Centigrade in five to eight seconds. (Id. § 5.)

82f. When Act Effective.—This act* shall be in force and effect from and after July 1, 1927. (Id. § 6.)

83. Statement to Show Number of Pounds Purchased.—Every person, corporation or company operating a creamery, when using the Babcock test as a standard to determine the value of any milk or cream received or bought by such person, corporation or company to be manufactured into butter, shall, when paying for such milk or cream, include in every statement or check issued to any patron in payment therefor a statement of the number of pounds of butter fat for which payment is made. (C. S. 1919, § 1740.)

84. Apparatus to be Correct.—Any manufacturer, merchant, dealer or agent in this state who shall offer for sale or sell a milk pipette or measure, test tube or bottle which is not correctly marked or graduated, as herein provided, shall be guilty of a misdemeanor. (Id. § 1741.)

85. Regulation of Prices.—

(a) Any person, firm, corporation or other organization, foreign or domestic, engaged in the business of buying milk, cream or butter fat for the purpose of manufacture, that shall discriminate between different sections, communities, towns, villages or cities of this state, by buying such commodity at a higher price or rate in one section, community, town, village or city, than is paid for the same commodity by said firm, person, corporation or other organization in another section, community, town, village or city, after making due allowance for the difference, if any, in the actual cost of transportation from the point of purchase to the locality of manufacture, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared unlawful.

(b) Proof of the buying of any such commodity for the purpose of manufacture, by any person, firm, corporation or other organization at a higher price or rate in one section, community, town, village or city of this state than is paid for the same commodity by the said person, firm, corporation or other organization in another section, community, town, village or city in this state after making due allowance for the difference, if any, in the actual cost of transportation from the point of purchase to the locality of manufacture, shall constitute prima facie evidence of a violation of this section.

(c) Two grades of cream shall be recognized in the enforcement of this act: to be designated as sweet cream and sour cream. Sweet cream within the meaning of this act shall be cream having a clean flavor, not more than 0.2% acidity, and not less than 25% butterfat. Sour cream within the meaning of this act shall be cream showing more than 0.2% acidity or less than 25% butterfat. (L. 1923, c. 121, § 1, as amended L. 1925, c. 78.)

86. Unfair Discrimination in Selling Dairy Products Prohibited.—Any person, firm, corporation or other organization, foreign or domestic, doing business in this state and engaged in the manufacture or distribution of any dairy product, that shall intentionally, for the purpose of destroying the competition of any regular established dealer in such commodity or to prevent competition of any person, who in good faith, intends or attempts to become such dealer, discriminate between different sections, communities, towns, villages or cities of this state, by selling such com-

*Included in Nos. 82a-82f.

modity at a lower rate in one section, community, town, village or city, or any portion thereof, than such person, firm, corporation or other organization, foreign or domestic, charges for such commodity in another section, community, town, village or city, after making due allowance for the difference, if any, in the cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be guilty of unfair discrimination, which is hereby prohibited and declared unlawful. Any person, firm, corporation or other organization, foreign or domestic, doing business in this State and engaged in the purchase, sale, manufacture or distribution of any dairy product, that shall pay a price for any dairy product or do any act with the intention or for the purpose of creating a monopoly, or destroying the business of a competitor in any locality, or restraining trade or preventing, stifling or limiting competition by any person in such business or who in good faith intends or attempts to engage in such business, shall be guilty of unfair discrimination which is hereby prohibited and declared unlawful. (L. 1923, c. 121, § 2, as amended Act of Mar. 12, 1927.)

87. Special Rebates.—The inhibition of this act against locality discrimination shall embrace any scheme of special rebates, collateral contracts or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of this act. (L. 1923, c. 121, § 3.)

88. Penalty.—(a) Any person, firm, corporation or other organization, foreign or domestic, and any officer, agent or receiver of any firm, corporation or other organization, or any member of the same, or any individual, violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each offense, or be imprisoned in the county jail not to exceed six months, or by both such fine and imprisonment, and, if a corporation, may have its charter or permit to do business in this state forfeited. (b) Any person who, either as officer, director or agent of any firm, corporation or other organization or as agent of any person, violating the provisions hereof, assists or aids, directly or indirectly, in such violation shall be responsible therefor equally with the person, firm, corporation or other organization for whom or which he acts. In the prosecution of any person or officer, director or agent it shall be sufficient to allege and prove the unlawful intent of the person, firm, corporation or other organization for whom or which he acts. (Id. § 4.)

89. Duty of Commissioner of Agriculture.—(a) Whenever the commissioner of agriculture is credibly informed that this act has been violated, he shall make investigations and if the evidence justifies it he shall report the results of his investigation to the proper county attorney. He shall co-operate with such county attorney in the securing of evidence of violations of this act. (b) All the books, papers and other records of every person, firm, corporation or other organization engaged in the business of buying or selling dairy products, shall be subject to inspection by the commissioner of agriculture of this state or by his deputy, if it shall appear to the commissioner of agriculture that there are reasonable grounds to believe that there has been a violation of this act, and such person, firm, corporation or other organization shall, at such times as he shall prescribe, make such further verified returns having a bearing on the provisions of this act as the commissioner of agriculture may prescribe. (Id. § 5.)

90. Prosecutions.—The various county attorneys in their respective counties shall institute, manage and direct all prosecutions for violations of this act. It shall be the duty of the commissioner of agriculture to co-operate with and assist the county attorney in the county in which any such prosecution may be instituted or pending. (Id. § 6.)

91. Person Injured May Maintain Action.—Any person, firm, private corporation or municipal or other public corporation, may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this act and, if injured thereby, for the recovery of damages. If, in such action, the court shall find that the defendant is violating any of the provisions of this act, it shall enjoin the defendant from a continuance thereof; it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in such action shall be entitled to recover from the defendant three times the amount of the actual damage, if any, sustained. (Id. § 7.)

92. Contracts: Void.—All contracts or agreements made in violation of any of the provisions of this act shall be void. (Id. § 8.)

93. Revocation of Corporate Charter.—If complaint shall be made to the attorney general that any corporation is guilty of unfair discrimination, as defined by the provisions of this act, he shall investigate such complaint and for that purpose he may subpoena witnesses, administer oaths, take testimony and require the

production of books or other documents, and, if in his opinion sufficient grounds exist therefor, he may prosecute an action in the name of the state in the proper court to annul the charter or revoke the permit of such corporation, as the case may be, and to permanently enjoin such corporation from doing business in this state, and if in such action the court shall find that such corporation is guilty of unfair discrimination, as defined by the provisions of this act, such court shall annul the charter or revoke the permit of such corporation, and may permanently enjoin it from transacting business in this state. (Id. § 9.)

94. Penalties.—Whoever shall violate any of the provisions of sections 1738 to 1743, inclusive,* shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25 nor more than \$200, for each and every offense, or be imprisoned in the county jail not less than 30 days nor more than 60 days, or both such fine and imprisonment. (C. S. 1919, § 1744.)

95. Registration of Brands for Dairy Products.—All persons, companies and corporations engaged in the transportation or manufacture of any dairy product or ice cream, or in bottling milk and cream for sale and use may adopt a mark or marks of ownership to be stamped or marked on any can, bottle, cask, keg, barrel or other receptacle used in the handling and transportation of any of said products, and may file in the office of the secretary of state a description of the name or marks so used by them or either of them, and the use to be made of any such can, bottle, cask, keg, barrel, or other receptacle, and cause the same to be published for two successive weeks in a weekly newspaper published and in general circulation in the state of Idaho. (Id. § 1745.)

96. Character of Brand.—The brand or mark so selected and adopted as herein provided may consist of a name, design, mark or marks, or some particular color of paint or enamel, used upon the can, bottle, cask, keg, barrel, or other receptacle, or any part thereof. (Id. § 1746.)

97. Unlawful to Adopt Brand of Another.—It shall be unlawful for any person, company or corporation to adopt or use any brand or mark which has already been designated, appropriated or obtained under the provisions of this article. (Id. § 1747.)

98. Unlawful Use of Branded Receptacle.—It shall be unlawful for any person other than the rightful owner thereof to use any can, bottle, cask, keg, barrel or other receptacle marked or branded as herein provided, for any other purpose, or for the transportation or handling of any other article or product than designated or provided for by such branding. (Id. § 1748.)

99. Unlawful to Deface or Remove Brand.—It shall be unlawful for any person other than the rightful owner thereof to deface or remove any such brand, mark, or stamp put upon any such can, bottle, cask, keg, barrel or other receptacle as herein provided. (Id. § 1749.)

100. Enforcement of Law.—For the purpose of preventing the use of said cans, bottles, casks, kegs, barrels, or other receptacles for any purpose other than that herein provided, and to insure the wholesomeness and high quality of said products, and the sanitary condition of the receptacle in which the same are transported, it shall be the duty of the department of public welfare to enforce the provisions of this article. (Id. § 1750.)

101. Penalty.—Whoever shall violate any of the provisions of the preceding sections, 1745 to 1750, inclusive, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not more than \$100 or by imprisonment in the county jail not exceeding 30 days, or by both such fine and imprisonment, at the discretion of the court. (Id. § 1751.)

102. Limiting Pictures, etc., of Advertisements Used in the Sale of Substitutes for Milk and Other Dairy Products.—It shall be unlawful for any person, firm or corporation to make use of the words, milk, cream, butter, cheese, creamery, dairy, churn, cow, the name of any dairy breed or any pictorial representation of any of these terms in connection with the sale, offering for sale or advertisement of any substance designed to be used as a so-called substitute for milk, cheese, butter or any other dairy products. (L. 1921, c. 149, § 1.)

103. Penalties for Violations of the Act.—Any person, firm or corporation, violating the provisions of this act shall be guilty of a misdemeanor and punishable by a fine not exceeding two hundred dollars or imprisonment in the county jail not exceeding six months or by both such fine and imprisonment. (Id. § 2.)

103a. Licenses; Fees.—Any person, firm, corporation or other organization desiring to engage in the promotion of creameries, cheese factories or condenseries within the State of Idaho shall make application to the Department of Agriculture for

*Sections 1739, 1742 and 1743 are repealed.

the issuance of a license for that purpose, presenting with such application for license a full and complete statement of the proposition to be presented to the community. Upon the issuance of said license, a license fee of \$1 shall be paid to the department by the applicant. (C. S. 1919, § 2046.)

103b. Penalty.—Any person violating any of the provisions of this article shall be guilty of a felony. (Id. § 2048.)

NOTE: See also No. 28a; the farm products law, No. 109a et seq.; the meat law, No. 113 et seq.; the sanitation law, No. 164 et seq.; the weights and measures law, Nos. 271 and 274.

Eggs.

See Nos. 28a and 113-115.

Fish.

See Nos. 138 et seq. and 164.

Flour and Meal.

See No. 266.

Fruits, Fruit By-Products and Vegetables.

104. Fruit Boxes: How Marked: Misuse of Labels.—It shall be the duty of every person growing or packing and selling, offering for sale [or] shipping in closed boxes or packages, any fruit grown in this State, to plainly mark the same on the outside of the box or package with the name of the variety contained therein or with the words "variety unknown," the name of the place or locality where grown and the name of the grower, or, in the case of sale or shipment through an association or organization of growers, the name of such association, and the lot number of the grower, and, in case of apples, pears or peaches, the net weight or the number contained in the package, and it shall be unlawful for any person to mark, or place upon, any package the name of any other place or locality than the place where such fruit was grown except the place to which shipped, or to falsely mark any such package as to variety, name or grower, association or organization or place where grown, or to obliterate or change the original marks on any such package or to re-mark the same with the name of any other grower or of any other place than that by or in which the contents were grown, or in case such package is marked with the name of an association or organization of growers to re-mark the same with the name of any other association or organization, and it shall be unlawful for any person, having in his possession for sale, or offering for sale, or selling any fruit grown in this state and shipped in closed packages, to re-pack the same in the boxes or packages of any other grower or shipper or from any other place, or to sell or offer for sale in closed packages any such fruit except in the original packages, or to pack in or offer for sale, from any marked box or package, any fruit other than that originally contained or shipped therein. In addition to the marks required to be placed upon any closed package of fruit grown in this state, as hereinabove provided, the grower thereof, or association or organization of growers packing the same, shall mark upon the outside of such package the grade of the fruit contained therein, and it shall be unlawful for any person to re-mark any such closed package as a higher or superior grade than that originally marked by the grower thereof or association or organization packing the same, or for any person other than the grower or association or organization packing such fruit grown in this state to place [on] any such closed package, not marked with the grade of the contents thereof, any mark or brand indicating the grade of such contents. Provided, That nothing in this section shall be construed to apply to canned or dried fruit. (C. S. 1919, § 2038, as amended L. 1925, c. 52.)

105. Apple Grades: Annual Publication of Regulations.—It shall be unlawful for any grower thereof or association or organization of growers packing apples to mark the package with the grade of the contents unless such contents shall comply with the general rules and regulations made, adopted, issued and published from time to time by the commissioner of agriculture, which general rules and regulations shall govern the packing of apples and define and establish the standards for the several grades thereof; which general rules and regulations shall be adopted, issued and published within ninety days after the taking effect of this article, and the commissioner of agriculture is authorized and directed in the month of January of each year to make, adopt, issue and publish general rules and regulations govern-

ing the packing of apples and establishing and defining the grades thereof for the ensuing calendar year and in adopting the same the commissioner is authorized to consult and advise with fruit growers, the officers of associations or organizations of apple growers, or distributors or dealers in apples. (C. S. 1919, § 2039.)

106. Inspection; Certificate of Inspection.—For enabling the commissioner of agriculture to investigate and certify to shippers and other interested parties the quality and condition of fruits, he shall, upon request of interested parties, inspect or cause to be inspected as to condition and grading by authorized inspectors, by him appointed, any or all fruits prepared or being prepared for shipment and is hereby authorized to issue certificates of inspection to said shippers or other interested parties, certifying as to the condition and grade of such fruits, under such rules and regulations as he may prescribe, including payment, by party requesting such inspection, of such fees as will be reasonable and as nearly as may be to cover the cost for services rendered. In carrying out the provisions of this article the commissioner of agriculture may cooperate with the U. S. department of agriculture or other inspection agencies. (Id. § 2040.)

107. Violation; Penalty.—Any person who violates any provision of this article shall, upon conviction thereof, be adjudged guilty of a misdemeanor and shall be fined not less than \$25 nor more than \$200, or shall be imprisoned in the county jail not less than 10 days nor more than six months, or shall be punished by both fine and imprisonment. (Id. § 2041.)

108. License to Purchase Infected Fruits for By-products.—All persons, firms or corporations engaged in the manufacture of canned fruits, evaporated or dried products, fruit preserves, jellies, butters, cider and other fruit by-products within the state of Idaho shall procure from the department of agriculture a license permitting the purchase of infected fruits to be used in the manufacture of by-products only as herein provided. Said license shall be \$10 per annum, and shall continue in force for one year from the date of issue; Provided, That it shall not be necessary for any grower to procure such license for the manufacture of his own production into the by-products above mentioned, or for the gift, sale or distribution of such by-product. (Id. § 2073.)*

109. Sale of Infected Fruit Prohibited.—It shall be unlawful to sell, or offer to sell or have in one's possession for sale or barter, any fruit, which is or has been infected with San Jose scale, apple scab, or the larva or larvæ of the codling moth, or the peach twig borer, and the fact that such fruit bears the marks of San Jose scale, apple scab, or is worm-eaten by the larva or the larvæ of the codling moth or the peach twig borer, shall be deemed conclusive evidence that such fruit is infested within the meaning of this section; and it is hereby made the duty of the department of agriculture through its inspectors to prevent the sale of such infected fruit, and they are hereby given power to seize and destroy such infected fruit whenever they shall find that the same has been packed, sold, shipped or offered for sale or is being held in any warehouse, store, salesroom or other place for the purpose of being sold, bartered, shipped or exposed for sale or barter: Provided, That nothing in this section shall be construed to prevent the utilization of such infected fruit in the manufacture of canned fruit, evaporated or dried products, fruit preserves, jellies, butters, cider or other fruit by-products within the state, as provided for in section 2073.

The department of agriculture is hereby empowered to make the necessary rules and regulations for the carrying out of the provisions of this section. (Id. § 2074.)*

109a. Marketing Farm Products a Public Interest.—The business of marketing farm products in this State is hereby declared to be affected with a public interest and to be subject to regulation and control by the State. The term "farm products" within the meaning of this section shall be deemed to mean all products, except livestock, grown in garden, on farm, ranch, or orchard, including poultry and poultry products, butter, cream, cheese and all other dairy products. (Id. § 2031, as amended L. 1923, c. 50.)

109b. Standards for Farm Products and Receptacles.—After investigation and public hearing the Department of Agriculture may, from time to time, as far as practicable establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products, by which their quantity, quality or value may be determined, and prescribe and promulgate rules and regulations governing the marks, brands and labels which may be required upon receptacles for farm products for the purpose of showing the name and address of the producer or packer, the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception in reference thereto:

*For penalty, see No. 185.

Provided, that any standard for any farm product or receptacle therefor or any requirement for making receptacles for farm products now or hereafter established under authority of the congress of the United States, shall forthwith, as far as applicable and practicable, be established or prescribed and promulgated by the department as the official standard or requirement in this state: Provided, further, that no standard established or requirement for marking prescribed under this article shall become effective until the expiration of six months after it shall have been promulgated. (C. S. 1919, § 2032.)

109c. Sale of Graded and Ungraded Products.—Whenever any standard for the grade or other classification of any farm product becomes effective under this article, no person thereafter shall pack for sale, offer to sell or sell within this State any such farm product to which such standard is applicable unless it conforms to the standard, subject to such reasonable variations therefrom as may be allowed in the rules and regulations made under this article: Provided, that any farm product may be packed for sale, offered for sale or sold without conformity to the standard or grade or other classification applicable thereto when such product will be consumed or used for manufacturing purposes wholly within this State, if it is not specifically described as stated, graded or packed under State standard, in accordance with such regulations as the Department of Agriculture may prescribe. (Id. § 2033.)

109d. Inspectors; Appointment.—Upon application of any owner or person firm, corporation or association in charge of farm products, the department of agriculture is authorized to appoint, license or designate persons to inspect and classify such farm products and to certify as to the grade or other classification thereof, in accordance with the standards made effective under this article, and shall fix, assess and collect, or cause to be collected, the fees for such services. Whenever, after opportunity for a hearing is afforded to any person, appointed, licensed or designated under this section, it is determined by the department that such person has failed to classify farm products correctly, in accordance with the standards established therefor under this article, or has violated any provision of this article or of the rules and regulations made hereunder, the department may suspend or revoke the appointment, license or designation of such person. Pending investigation, the department may suspend or revoke any such appointment, license or designation temporarily without hearing. (Id. § 2034.)

109e. Appeal From Classification.—The owner or person in possession of any farm product classified in accordance with section 2034 may appeal from such classification to the department, under such rules and regulations as the department may prescribe, which shall issue a certificate of the grade or other classification thereof. (Id. § 2035.)

109f. Prima Facie Evidence of Classification.—A certificate of the grade or other classification of any farm product issued under this article shall be accepted in any court of this state as prima facie evidence of the true grade or other classification of such farm product at the time of its classification. (Id. § 2036.)

109g. Penalty for Violation.—Any person, firm, corporation or other organization who violates any provision of this article or of the rules and regulations made under this article for carrying out the provisions of this section, fails or refuses to comply with any requirement of this article or who wilfully interferes with the department, its agents or employees in the execution or on account of the execution of its or their duties under this article, shall be guilty of a misdemeanor. (Id. § 2037.)

109h. Discrimination in Sale of Farm Products.—It is hereby made unlawful for any person, firm, company, partnership, co-partnership, corporation, foreign or domestic, or association, or other organization doing business in the State of Idaho, who shall intentionally for the purpose of creating a monopoly or destroying the business of a competitor, in any locality, section, community, city or village; to discriminate between different individuals, corporations, partnerships, co-partnerships, associations or organizations of any kind or to discriminate between different sections, localities, communities, villages or cities of this State in the purchase, barter, exchange or resale of farm products, either in the raw or manufactured state, when such products are purchased or sold under recognized standards and grades, as prescribed by the Department of Agriculture, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase in the raw state to the locality of manufacture, or from the locality of manufacture to the locality of sale, and in addition thereto allowance in the grade or quality of such products, if any. (Id. § 2051, as amended L. 1921, c. 189, § 1.)

109i. Records Subject to Inspection.—All the books, papers, and other records of every person, firm, corporation or other organization engaged in the business of buying or selling farm products, shall be subject to inspection by the Department of Agriculture, if it shall appear to the department that there are

reasonable grounds to believe that there has been a violation of this article, and such person, firm, corporation or other organization shall, at such times as the department shall prescribe, make such further verified returns having a bearing on the provisions of this article as the department may prescribe. (C. S. 1919, § 2052.)

109j. Penalty.—Whoever shall violate any of the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$1,000 for each offense, and, if a corporation, may have its charter or permit to do business in this State forfeited. (Id. § 2053.)

109k. Prosecution by Attorney-General.—If any person, firm, corporation or other organization shall violate any of the provisions of this article, upon complaint thereof by the department of agriculture to the Attorney-General, setting forth the violations of this article complained of, it shall be the duty of the Attorney-General to proceed in the name of the State of Idaho against such person, firm, corporation or other organization. (Id. § 2054.)

109l. Penalty for Disclosures.—No person shall disclose any fact or information obtained pursuant to or under the provisions of this article except for the purpose of prosecuting or aiding in the prosecution of persons charged with the violation of the terms of this article. And any person violating any of the provisions of this section shall be guilty of a misdemeanor and punished accordingly. (Id. § 2055.)

109m. Interpretation of Law.—If any section, sub-section, sentence, clause or phrase of this article or as the same may be hereafter amended, is for any reason held to be unconstitutional by any court of competent jurisdiction, the validity of the remaining parts of this article shall not thereby be affected or impaired. (Id. § 2056.)

NOTE: See also Nos. 19, 28a; the sanitation law, No. 148 et seq.; the weights and measures law, No. 266 et seq.

Grain.

See Nos. 28a, 279 and 283.

Ice.

110. Manufacture and Storage of Ice.—Ice manufactured or stored for human consumption shall be made from pure water, and shall be kept stored in clean places free from all filth, offal, refuse, and polluted waters and separate and removed from contact with animal or vegetable matter, and not in proximity to any cesspool, privy vault or sewer, nor in places where such ice may be subject to the contamination from, or in the action of, acids, oils, noxious, offensive or injurious gases, smoke or vapors; and all ice manufactured or stored in violation of this section shall be deemed polluted ice and not fit for human consumption; and it shall be unlawful to sell, offer for sale, or store for sale such polluted ice, for human consumption. (C. S. 1919, § 1752, as amended L. 1921, c. 176.)

111. Domestic Water to be Pure.—Any person or persons, corporation or corporations, or officers of a municipality, owning or maintaining any plant or system for the supply of the inhabitants of this state, or any part thereof, of water for domestic purposes shall keep the same clean and free from all impurities, accumulation of sediment, offal, refuse, dead animals, and all other foreign substances which tend to injury [injure] the health of the consumers of such water. The standard for water purification in the state of Idaho shall be that in force in the United States interstate quarantine regulations. (Id. § 1753.)

112. Penalty.—Any person, persons, corporation, corporations or officers of a municipality, failing or neglecting to comply with any of the provisions of this article shall be guilty of a misdemeanor. (Id. § 1754.)

Jellies.

See Nos. 108-109.

Meat—Meat Products.

113. Regulating the Sale and Handling of Imported Meats, etc.—It shall be unlawful for any individual or corporation to sell or offer for sale or dispose of, in any manner, any meat, canned, cured or fresh, poultry, eggs or butter which have been imported into the United States from any foreign country, excepting products which were produced in the Dominion of Canada and have been imported to this

country from the Dominion of Canada, without the same being plainly labeled in such manner as to show the country from which said product came or in which they were produced, and shall be plainly stamped or marked to show the date on which such meat, poultry, eggs, or butter were exported from the country in which they were produced. (L. 1921, c. 188, § 1.)

114. Sign Indicating Sale of Same to be Displayed.—The owner or owners of any store or place of business, whether wholesale or retail, which shall sell, offer for sale or dispose of any meats, poultry, eggs or butter which have been imported from a foreign country, shall display in a conspicuous place a sign containing the following inscription: "This store sells imported meats, poultry, eggs and butter," but if such store shall handle only one or more of these products the said sign shall be so modified as to state the product or products sold. (Id. § 2.)

115. Penalty for Violations of Act.—Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than \$50.00 nor more than \$100.00. (Id. § 3.)

115a. Slaughter and Sale of Famished Animals.—Every person who slaughters, offers or exposes for sale to the public, any animal or animals that have been confined for 48 hours or more without proper food, or 20 hours without water, is guilty of a misdemeanor. (C. S. 1919, § 8345.)

115b. Sale of Animals Affected With Communicable Diseases.—It shall be unlawful for any person, firm or corporation, agent, or employee thereof, knowingly to sell, offer to sell, or in any manner to part with to another, any animal affected or infected with any contagious, infectious or communicable disease, except for immediate slaughter, and in accordance with the meat inspection regulations of the United States Department of Agriculture, or dispose of the meat or milk of any animal that may be affected, or infected, with such contagious, infectious or communicable disease for use as a food or for other purposes, except in such manner as shall be provided by the rules and regulations of the bureau, or to dispose of to another in any manner an animal or animals that may be in quarantine without notifying the purchaser of the existence of such quarantine, or until such time as the quarantine shall have been raised by the proper officer. (Id. § 1852.)

NOTE: See also No. 28a; the farm products law, No. 109a et seq.; the sanitation law, No. 120 et seq.; and No. 272.

Vinegar.

116. Cider Vinegar: Percentage of Solids and Acids.—No person, persons, firm, corporation or corporations shall manufacture, sell or offer for sale as apple cider vinegar, any vinegar not made exclusively from pure apple juice; nor any other fruit vinegar not made exclusively from fruit juices. Apple cider vinegar or fruit vinegar shall contain at least $1\frac{3}{4}$ per centum of cider vinegar solids, upon full evaporation over boiling water, and shall contain at least 4 per centum by weight of acetic acid. (C. S. 1919, § 1701.)

117. Same: Other Vinegars.—All vinegars shall be made wholly from the substance or substances from which they purport to be, or are represented to be made, and shall contain not less than 4 per centum by weight of acetic acid. (Id. § 1702.)

118. Vinegar Barrels to be Marked.—Each barrel, cask or keg containing vinegar sold, offered or exposed for sale, in this state, shall be plainly branded or stenciled with bold-faced black letters and figures, at least 1 inch in length, on the head of said barrel, cask or keg giving the name of the kind of vinegar contained therein, the name of the substance or substances from which it is made, and the name and location of the manufacturer manufacturing the same. (Id. § 1703.)

119. Certain Substances Prohibited in Vinegar.—Every person who manufactures for sale, offers or exposes for sale, or sells any vinegar containing any preparation of lead, copper, sulphuric acid, or other mineral acids, or any acid made from the distillation of wood, or any ingredient injurious to health, shall be deemed guilty of a misdemeanor. (Id. § 1704.)

Sanitation.

120. Rules and Regulations to be Complied With.—All slaughtering, packing, meat canning, salting, rendering, or similar establishments whose meat or meat food products, in whole or in part, enter into commerce, shall be prepared under

the following rules, regulations and provisions, and a failure upon the part of any person or persons, corporation or corporations to comply with the said rules, regulations and provisions is hereby declared to be unlawful and shall be punished as provided for in section 1782.* (C. S. 1919, § 1755.)

121. Light and Ventilation.—All person or persons, corporation or corporations owning, leasing or conducting any establishment or establishments in which animals are slaughtered, or meat or meat food products are prepared, cured, packed, stored, or handled shall suitably and adequately light and ventilate, and maintain the same in a sanitary condition. Said persons or corporations shall require that all work performed in such establishments shall be done in a cleanly and sanitary manner. (Id. § 1756.)

122. Walls, Partitions and Ceilings to be Whitewashed.—All person or persons, corporation or corporations shall frequently whitewash and paint the ceilings, sidewalls, pillars and partitions of said establishment or establishments and shall render the same sanitary by frequent washing and scraping. Where floors or other parts of the building or tables or other part of the equipment are so old and in such condition that they cannot be readily made sanitary, they shall be removed and replaced by suitable materials, or otherwise put in condition acceptable to the department of public welfare. All floors upon which meats are piled during the process of curing shall be so constructed that they can be kept in a clean and sanitary condition, and such meats shall also be kept clean. (Id. § 1757.)

123. Tools and Utensils to be Cleaned.—All trucks, trays and other receptacles, all chutes, platforms, racks, tables, floors and other devices used in carrying on the work of the establishment, and all knives, saws, cleavers and other tools and all utensils and machinery used in the moving, handling, cutting, chopping, mixing, canning or other processes shall be thoroughly cleansed daily, both before and after being used. (Id. § 1758.)

124. Clothing to be Clean.—The aprons, smocks, or other outer clothing of employees who handle meat in contact with such clothing shall be of such material that is readily cleansed and made sanitary, and shall be cleansed daily if used. Employees who handle meat or meat food products shall be required to keep their hands clean. (Id. § 1759.)

125. Toilets to be Provided for Employees.—Said person or persons, corporation or corporations aforesaid shall provide ample and sufficient toilet rooms, urinals and dressing rooms and the same shall be entirely separated from compartments in which carcasses are dressed and meat and meat food products are cured, stored, packed, handled and prepared. Said toilet rooms, urinals and dressing rooms shall be amply fitted and supplied with lavatory accommodations, including soap, ample water supply and towels, and shall be properly lighted, suitably ventilated, and kept in a sanitary condition. (Id. § 1760.)

126. Ventilation, Cuspidors, Screens.—Said person or persons, corporation or corporations aforesaid shall ventilate all rooms or compartments in which meat or meat food products are prepared, cured, stored, packed or otherwise handled in a manner acceptable to the department of public welfare, and shall cause said rooms or compartments to be so located and constructed that odors from toilet rooms, catch basins, casing departments, tank rooms, hide rooms and other sections of said establishment do not permeate them; and all rooms and compartments shall be provided with cuspidors, which employees who expectorate shall be required to use. All outer doors and windows shall be screened against flies and other insects. (Id. § 1761.)

127. Employees to be Free from Disease.—Said person or persons, corporation or corporations shall not knowingly employ, in any of the departments of the establishment or establishments where carcasses are dressed, or meats handled or meat food products prepared, any person afflicted with tuberculosis or any other communicable disease, and any employee suspected of being so affected shall be reported by the manager of the establishment to the department of public welfare. (Id. § 1762.)

128. Hogs Not to be Fed Raw Offal.—Said person or persons, corporation or corporations shall not fatten hogs or other animals on refuse of slaughter houses, and shall keep all animals in proper pens at least 100 feet from the slaughter house. No use incompatible with proper sanitation shall be made of any part of the premises on which said establishment is located. All yards, fences, pens, chutes, alleys and all appurtenances belonging to the premises of such establish-

*See No. 147.

ments shall, whether they are used or not, be maintained in a sanitary condition. (Id. § 1763.)

129. Implements to be Disinfected.—All butchers who dress diseased carcasses shall cleanse their hands of all grease and then in a prescribed disinfectant, and rinse them in clear [clean] water before engaging again in dressing or handling healthy carcasses. All butchers' implements used in dressing diseased carcasses shall be cleansed of all grease and then sterilized either in boiling water or by immersion in a prescribed disinfectant and rinsed in clean water before again being used in dressing healthy carcasses. (Id. § 1764.)

130. Prevent Meat from Falling on Floor.—Said person or persons, corporation or corporations must use a reasonable care to prevent from falling on the floor, while being emptied into tanks, all meat and meat food products intended for rendering into edible products, and shall provide for such use metal funnels or similar devices. (Id. § 1765.)

131. Authority to Seize Diseased Meat.—Said person or persons, corporation or corporations shall not sell or offer for sale any carcass or carcasses showing lesions or anthrax (charbon), regardless of the extent of the disease, but immediately tank the same, together with the hides, hoofs, horns, viscera, fat, blood, and all other portions of the animal. The killing bed upon which the animal was slaughtered shall be disinfected with a 10 per cent solution of formalin, and all knives, saws, cleavers and other instruments which have come in contact with the carcasses shall be so treated before being used upon other carcasses. The department of public welfare, the local health authority, or any other person heretofore properly empowered by law shall have authority to seize [seize], condemn or destroy any animals found in the condition mentioned in this section. (Id. § 1766.)

132. Tubercular Meat to be Destroyed.—It shall be unlawful for said person or persons, corporation or corporations aforesaid, or for any person or persons at all, to sell or offer for sale any carcass or carcasses affected with tuberculosis, and all carcasses so affected shall be immediately condemned and destroyed by the person owning them or having them in possession. (Id. § 1767.)

133. Three-fourths Stage of Pregnancy.—It shall be unlawful for said person or persons, corporation or corporations aforesaid to sell or offer for sale any carcass or carcasses of any animal or animals killed after the three-fourths stage period of pregnancy or any carcass or carcasses of animals which have within 10 days given birth to young; Provided, however, In the latter case, if they have no evidence of septic infection, said carcass or carcasses may be rendered into tallow, but otherwise the person or persons, corporation or corporations, owning or possessing such carcass or carcasses shall destroy the same.

Power is hereby given to the department of public welfare, the local health authorities of any county or municipality, or either of them, to condemn and destroy such slaughtered animals. (Id. § 1768.)

134. Immature Carcasses.—It shall be unlawful for any person or persons, corporation or corporations aforesaid, or any one at all, to sell or offer for sale carcasses of animals too immature to produce wholesome meat; or to sell or offer for sale any carcass or carcasses of calves, pigs, kids and lambs under 6 weeks of age; and it is hereby made the duty of the department of public welfare or other authorities in this article mentioned to seize and condemn such property. (Id. § 1769.)

135. Location of Offal Tank.—It shall be unlawful for any person or persons, corporation or corporations aforesaid to locate any offal tank at a less distance than 20 feet from the slaughtering house, and it shall be unlawful to fail to tank the offal and refuse of the slaughtering house or slaughtering yards or to permit the fumes and odors arising from the tank to pervade any compartment or compartments in which carcasses are dressed or edible products are prepared. (Id. § 1770.)

136. Water to be Provided.—All person or persons, corporation or corporations aforesaid shall supply their slaughtering houses and yards with a water system amply sufficient to furnish hot and cold water under sufficient pressure and in such a manner as to facilitate the cleansing of the establishment and the maintaining of the same in a sanitary condition, and only good, clean, wholesome water and ice shall be used in the preparation of meat and meat food products; Provided, That in rural communities where no regular water system is available, hot and cold water shall be supplied in a manner sufficient to keep the slaughter house in a sanitary condition at all times. (Id. § 1771.)

137. Delivery Wagons to be Covered.—Said person or persons, corporation or corporations shall cover and keep in a clean and sanitary condition all wagons, cars, or vehicles in which meat or meat food products are transported. (Id. § 1772.)

138. Meat Unfit for Human Food.—It shall be unlawful for any person or persons, corporation or corporations to sell or offer for sale the meat of any cattle, sheep, swine, fish, game, fowl or poultry which is blown, tainted, heated, soured, raised, stuffed, putrid or impure, or which, for other reasons, is unfit for human food. (Id. § 1773.)

139. Meat to be Covered in Transportation.—It shall be unlawful for any person or persons, corporation or corporations aforesaid, or any person at all, to carry or transport through any street, alley, or thoroughfare the carcass or meat of any cattle, sheep, swine, fish, game, fowl or poultry, except it be entirely covered with a clean, white cover so as to be thoroughly protected from the dust, dirt and flies. (Id. § 1774.)

140. Unlawful Location of Animals.—It shall be unlawful for any person or persons, corporation or corporations, to keep any cattle, sheep, swine, game, fowl or poultry in any place in which water, food and ventilation are not sufficient for the preservation of a healthful and safe condition. (Id. § 1775.)

141. Unlawful Hours for Slaughter.—It shall be unlawful for any person or persons, corporation or corporations aforesaid to slaughter any animals between the hours of 8 a. m. and 4 p. m. unless by special permission of the department of public welfare. (Id. § 1776.)

142. Exposure to Dust, Dirt and Flies.—It shall be unlawful for any person or persons, corporation or corporations aforesaid, or any other person at all, to sell or expose for sale any fresh meat, game or fish which has been in any way exposed to the dust, flies or insects or other cause of contamination, and all such foodstuffs while on sale must be at all times thoroughly protected from contamination from any cause. (Id. § 1777.)

143. Meat Shops to be Screened.—It shall be unlawful for any person or persons, corporation or corporations to keep or maintain any markets, meat stands or meat shops in any unclean and insanitary condition. Said markets, meat stands and meat shops must be screened in a proper manner, and any meat, fish, or fowl which is found, upon inspection, unfit for food, shall be condemned. (Id. § 1778.)

144. Destruction of Meat.—Whenever the insanitary condition of any slaughtering house or other place in which meat is prepared or kept for sale renders unfit for human food any meat found therein, the department of public welfare shall condemn such meat and notify the owner or owners of such action. If such owner or owners fail to remove and destroy such condemned food within a reasonable time, then the department of public welfare shall proceed under sections 1679 and 1680* and its official upon the proper order of the court, shall saturate with kerosene all such condemned meat; and the building in which said meat has been slaughtered shall not be used for any similar purpose until such condemned meat is removed and destroyed and the building placed in a sanitary condition, and accepted by the department. (Id. § 1779.)

145. Inspection and Licensing of Slaughter Houses.—It shall be the duty of the department of public welfare to at least once a year inspect all public slaughter houses or slaughter yards and other places where meat or meat products are prepared for human consumption, and if the said places are sanitary and are maintained in a condition in conformity with the provisions of this article, it shall issue a certificate so certifying to the present conditions of said places, and said certificate shall be good for a period of one year unless the same be revoked and cancelled for non-conformity with the provisions of this article. Said certificate may be revoked by the department upon the failure of the persons or corporations owning or controlling the places mentioned in this section to comply with any of the provisions of this article. No certificate shall be evidence that said places are maintained in conformity with the provisions of this article for any other time than at the date of said certificate. (Id. § 1780, as amended L. 1925, c. 130.)

146. Certificate to be Procured Before Opening Slaughter House.—Any person or corporation who shall sell or offer for sale or expose for sale at public or private sale, any meat or food products which have not been prepared for human consumption in the places mentioned in the preceding section, or who shall operate said places without first obtaining from the said department the certificate or permit mentioned in said section shall be guilty of a misdemeanor and

*See Nos. 9-10.

shall be punished as provided in the following section: Provided, That nothing in this article shall be construed to prohibit any farmer from slaughtering any animal raised by him, and disposing of the meat of such animal: Provided, That said meat was prepared in a sanitary and wholesome manner and under proper sanitary conditions, not surrounded by or in proximity to contaminating conditions of any kind, and protected at all times up to delivery to the purchaser from dust, dirt, flies, and other contaminations.

In prosecuting under this section it shall not be necessary to allege or prove that the defendant did not have the certificate or permit mentioned in the preceding section at the time the act is alleged to have been committed, but the burden shall be on the defendant to show that he had such certificate or permit at such time. (C. S. 1919, § 1781.)

147. Penalty for Violation.—Any person or persons, corporation or corporations violating this article or any part, provisions or sections thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$300, and not less than \$25, or by imprisonment in the county jail for a period not exceeding six months, or by both fine and imprisonment. (Id. § 1782.)

148. Sanitation of Factories Manufacturing, etc., Food, Food-products, or By-products Thereof, and Cold Storage Plants, to be Under the Supervision of the Department of Public Welfare.—From and after the passage of this act, all matters and things relating to the sanitation of factories or establishments, and cold storage plants, within the State of Idaho, in which foods and food-products of vegetables, fruits, meats or by-products thereof, are manufactured, evaporated, dehydrated, preserved, pickled, handled, kept in cold storage, or placed in cans, or jars of tin, glass, wood-fibre, or other containers, shall be under the supervision of the department of public welfare. (L. 1921, c. 223, § 1.)

149. Requirements.—Any person or persons, firms or corporations, or corporations operating factories affected by this act shall be subjected to the following requirements: All rooms in which food and food-products of fruits, vegetables, meats and by-products thereof are packed, evaporated, dehydrated, canned, pickled or preserved, and in which manufacturing is actually carried on, shall be provided with smooth, water-tight floors, which can be cleansed. (Id. § 2.)

150. Equipment, Ventilation, etc.—All walls, partitions and ceilings shall be cleansed, painted, or whitewashed to keep same in a sanitary condition. All equipment that has become insanitary by age, use, or deterioration, shall be replaced by suitable equipment and material. All buildings, rooms, or compartments in which food-products are manufactured, cured, evaporated, dehydrated, packed, preserved, prepared, or stored, shall be properly ventilated, free from odors from toilet rooms, catch basins, or tank rooms, and provided with suitable cuspidors which shall be used by employees who expectorate. All outer doors, windows and ventilators shall be screened against flies and insects. (Id. § 3.)

151. All Machines, Tables, etc., to be Kept in a Clean and Sanitary Condition.—All machines, tables, trays, trucks, platforms, floors, knives, tools and other utensils used in the manufacture of food-products shall be thoroughly cleansed before and after being used. No drainage or waste-matter of any kind shall be allowed to collect in or around any building in which food-products are manufactured, and the surroundings shall be kept in a clean and sanitary condition in a manner acceptable to the department of public welfare. (Id. § 4.)

152. Only Pure Water and Ice to be Used: Hot and Cold Water, etc., to be Supplied.—All factories affected by this act shall be supplied with pure hot and cold water, under sufficient pressure to facilitate the cleansing of the establishment and the maintaining of the same in a sanitary condition. Provided That, in rural districts, where no water system is available, hot and cold water shall be supplied in sufficient quantity to keep the establishment in a sanitary condition at all times. Only pure water and ice shall be used in the preparation of food-products. All toilet rooms and dressing rooms for both sexes shall be entirely separate from compartments in which food-products are prepared. All toilet rooms shall be supplied with ample soap, water, and towels, properly ventilated, and kept in a sanitary condition. When a sewer system is available, adequate sewer connections shall be provided from toilet rooms, connected with proper plumbing and sealed with the water seal. (Id. § 5.)

153. Sanitation of Living Quarters, If Any.—Where living quarters are provided for employees by manufacturers, these quarters shall be screened against flies, supplied with ample ventilation, clean water and sanitary sewerage disposal. No smoking or spitting on the floors or walls shall be permitted within food-products factories. (Id. § 6.)

154. Food Unfit for Human Consumption to be Condemned and Destroyed: Buildings Not to be Used Again Until Accepted by Department of Public Welfare.—Whenever the insanitary condition of any establishment where food products are prepared, stored, handled, canned, pickled, preserved, or kept for sale, renders unfit for human food any food-products found therein, or any other condition renders same unfit for human consumption, the department of public welfare shall condemn such products and notify the owner of such action. If such owner or owners fail to remove and destroy such condemned food within a reasonable time, then the department of public welfare shall proceed under sections 1679 and 1680 of the compiled statutes* and upon the proper order of the court, destroy same. The building in which said food-products have been prepared shall not be used for any similar use until such condemned food-products are removed and destroyed and the building or buildings placed in a sanitary condition and accepted by the department of public welfare. (Id. § 7.)

155. Penalties.—Any person or persons, corporation or corporations, violating this act or any part, provision, or section thereof, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$500 and not less than \$25, or by imprisonment in the county jail for a period not exceeding six months or by both fine and imprisonment. (Id. § 8.)

156. Enforcement of Act.—The department of public welfare shall have charge of the enforcement of this act. (L. 1925, c. 69, § 1.)

157. "Eating Place" Defined.—The term "eating place" as used in this act shall be held to include restaurants, cafes, lunch counters, lunch stands, hotel dining rooms, or any other places where meals or lunches are served to transient guests. (Id. § 2.)

158. Same; Must be Approved by Department of Public Welfare.—No person, firm or corporation shall conduct, operate or carry on an eating place, as defined in this act, unless such place is approved by the department of public welfare. (Id. § 3.)

159. Regulations for Rooms, Side Walls, etc.—All rooms used for the storing, cooking, preparing or serving of food shall have floors and side walls so constructed as to exclude vermin, mice or other rodents, and shall be kept in a state of good repair. Such floors shall have a smooth surface, and shall be constructed of wood, tongued and grooved, and laid water tight, or cement or tile or other impervious material, laid water tight.

The walls and ceilings of such rooms shall have a smooth surface and, except where painted or finished in natural wood, shall be properly whitewashed or kalsomined or papered as often as required by the department of public welfare, and at least once in every twelve months. The furniture, tables, fixtures, ranges, stoves, and all appliances in such rooms, shall be arranged and placed so as to be readily accessible for cleaning. No dog, cat or other animal shall be permitted in any eating place. (Id. § 4.)

160. Lighting, Ventilation, etc.—The kitchen and all other rooms and compartments must be properly lighted, and shall be ventilated so as to insure the free circulation of air at all times, and shall be kept free from flies, roaches and other insects. The outside openings thereof shall, from April first to November first of each year, be fitted or covered with wire screens and with self closing wire screen doors. Whenever such screens do not effectively exclude flies, the inspector may order the installation and use of electric fans. (Id. § 5.)

161. Sanitary Conditions of Toilet Rooms, etc.—No toilet shall be located in any room where food is prepared, stored, cooked or served. All toilet rooms shall have direct connection with the outside air for ventilation, and shall be provided with an automatically closing door except where the entrance to such toilet room is from the outside. All toilet rooms, compartments or fixtures shall be maintained in a clean and sanitary condition and in good repair. (Id. § 6.)

162. Utensils, etc., to be Sterilized.—Every eating place shall be provided with ample facilities for washing and cleaning all eating or cooking utensils or dishes, and with hot and cold water. No eating, drinking or cooking utensils or dishes shall be used in the cooking, preparation or serving of food without first being properly sterilized, with steam or boiling water, after such service or use. In cleaning such utensils or dishes the use of water which has become insanitary by previous use is prohibited. The use of the common or public drinking cup is prohibited. (Id. § 7.)

163. Care of Cooked and Uncooked Food.—All food, whether cooked or uncooked, shall be kept in a clean and wholesome condition, and it shall be so kept as

*See Nos. 9-10.

to avoid pollution by exposure to the elements, or to dust, dirt, flies or vermin, or by cats, dogs or other animals or fowls, and it shall not be allowed to become poisoned, infected or unwholesome, nor shall any chemicals be used to preserve such food, or to improve its appearance or flavor. No such food shall be kept or placed on the floor of any room or compartment of any eating place. (Id. § 8.)

164. Unlawful to Serve Food Which is Unwholesome, etc.—It shall be unlawful for any person to serve or offer to serve, sell or offer for sale, or to have in his possession in connection with the food supply of any eating place, any meat, fish, poultry, game, milk, cream or other dairy products, or any fruit, vegetables or market produce, or any other food whatever, that is decayed, diseased, unwholesome, or, from any cause, unfit for use as human food. All foods preserved or canned in metal containers shall be removed therefrom immediately upon being opened. The use of tin cans or containers for the cooking of food is prohibited. (Id. § 9.)

165. Care of Milk, etc.—Milk, cream and butter shall be kept in a refrigerator or ice box, or in a compartment thereof, separate from that in which meat, vegetables and other articles of food are kept. Ice boxes and refrigerators must be kept in a thoroughly clean and sanitary condition at all times. Sweet milk, when served to the public as a drink or beverage, must be served in half pint bottles, securely sealed or capped, as originally delivered from the dairy or milk station. (Id. § 10.)

166. Sleeping in Rooms, etc., Prohibited.—No person shall sleep in any room where food is prepared, or cooked. No person in any way connected with the handling, cooking, preparing or serving of food in any kitchen or eating place, shall engage at work following a visit to a toilet room without first thoroughly cleansing his or her hands. Conveniently located washing facilities, including running water, soap and individual clean towels, shall be provided in all such eating places. The use of a common towel is prohibited. (Id. § 11.)

167. Expectoration Prohibited—Use of Tobacco, etc.—Cuspidors of impervious material shall be provided for the use of employes and the public, and these shall be cleaned daily. No employe or other person shall spit or discharge any substance from the mouth or nose on the floor or walls of the kitchen or any other room of an eating place. The smoking, snuffing or chewing of tobacco is prohibited in any part of any eating place, except that smoking will be permitted in the toilet room or rest room, and in the dining room by the public only. Plain notices shall be posted in every eating place forbidding any person to spit on the floor or walls, or to use tobacco except as herein permitted. (Id. § 12.)

168. Violations—Penalties.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not less than ten dollars and not exceeding one hundred dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 13.)

169. Enforcement of Act by Whom.—The department of public welfare shall have charge of the enforcement of this Act. (L. 1925, c. 91, § 1.)

170. The Term "Eating Place" Defined.—The term "eating place" as used in this act shall be held to include restaurants, cafes, lunch counters, lunch stands, hotel dining rooms, or any other places where meals or lunches are served to transient guests. (Id. § 2.)

171. Employment of Diseased Persons Therein Prohibited.—No person having tuberculosis in a communicable form, as evidenced by the finding of an open lesion in the chest or tubercle bacilli in the sputum, or who is a typhoid carrier, as evidenced by a positive Widal reaction in the blood and confirmed by typhoid organisms in the urine or stool, or who has syphilis, as evidenced by a positive Wasserman test of the blood, or chancre of the lip, or mucous patches, or other evidence of the disease in the mouth or throat or nose, shall conduct, operate, or be employed in or about any eating place, as defined in this Act, or in handling of any foodstuffs, or products used therein, and all persons before engaging in such business, occupation or employment shall be examined by the county or city physician in whose jurisdiction the applicant wishes to engage in such business, occupation or employment, as follows:

The county or city physician shall designate certain times and places wherein such examinations are to be held and the applicants for health certificates shall present themselves for this examination, which is to be conducted as follows: There shall be an examination of the lips, mucous membranes of the mouth and throat and nose for clinical evidence of syphilis or tuberculosis, and there shall be a specimen of blood taken for a Wasserman test. The sample of blood so taken shall be sent to the state laboratory for a Wasserman test and a Widal test, or the sample of blood or other laboratory tests may be sent to a laboratory accredited by the State Department of Public Welfare and the report of such laboratory shall be accepted; Provided, That the laboratory work when done by the state laboratory shall be done free of

charge. The physician shall examine the lungs of the applicant for evidence of an open tubercular lesion and if such lesion is suspected, may request the applicant to submit specimens of sputum taken in the presence of the physician for examination for tubercle bacillus which shall be examined by the laboratories under the same provision as the examination for syphilis and typhoid fever. If there is a laboratory or clinical evidence of either tuberculosis or typhoid fever in a communicable form, or of syphilis, the applicant shall be refused a health certificate until such time as showing freedom from such disease, or diseases, and if there is no evidence of any of the above mentioned diseases, the applicant shall be given a health certificate which shall be, as far as the intent of this section is concerned, *prima facie* evidence of freedom from such diseases for the period of six months, or until such time as the local health officer or sanitary inspector shall have reasons to suspect the applicant of being a carrier of one or more of these diseases, in which event, he may request another examination. The fee for this examination shall be one dollar for each person examined, payable by the applicant. (Id. § 3.)

172. Health Certificate Required.—It shall be unlawful to employ a person for service in any eating place, or for a person to enter such service or to conduct or operate any eating place, who is not in possession of a valid health certificate as provided in the preceding section, and every person so employed or engaged shall have his or her health certificate available to show the local health officer or inspector of the Department of Public Welfare at any time when called for. A certificate of health issued in one county of the state shall be valid in all counties in the state until six months after the date of the issuance of such certificate. (Id. § 4.)

173. Penalty for Violation of Act.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine in any sum not exceeding one hundred dollars or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. (Id. § 5.)

173a. Application of Act.—All the provisions of Chapter 91 of the Idaho Session Laws for 1925* shall apply to, and be in full force and effect in relation to, all butchers, butchershops and places where meat or meat products are made, prepared or sold, all bakeries, and places where bakery goods are made, and all candy makers, and places where candy is made. (Act of Mar. 2, 1927.)

174. Inspection of Grocery Stores, etc.: Sanitary Regulations: Certificate: Revocation.—It shall be the duty of the department of public welfare to make an inspection at least once a year, of all grocery stores, bakeries, candy factories or kitchens, confectionery stores, milk or cream stations, creameries, cheese factories, meat markets, vegetable and fruit markets or stands, or other places where food products are made, sold or handled, restaurants, boarding houses, cafes or any other place where meals are served to the public, soda fountains, ice cream parlors or stands, or other places where drinks are offered for sale, and, if found to be in a sanitary condition, shall issue a certificate of inspection to all such establishments. Said certificate shall be posted up in a conspicuous place in said inspected building, and shall be liable to be revoked at any time, and the place be closed by said department, if such premises shall become insanitary, or said business shall not be conducted in conformity to the provisions of this law; and shall not be reopened until it has been placed in a sanitary condition, and approved by the said department. All food, food products or beverages offered or intended for sale for human consumption must be fully and effectively protected from flies, dust, or other sources of contamination at all times, and where fresh, smoked or salted meats and dried or evaporated fruits in bulk are displayed for sale, they must be properly covered or protected from flies, dust or other contamination. All sidewalk displays of fruits, vegetables, or other food products must be on stands or other structures at an elevation of at least 18 inches above the sidewalk or ground. No rusted tin or iron vessels shall be used in cooking or preparing food products or beverages offered or exposed for sale or intended for sale for human consumption, and all food products or beverages shall be kept in a clean and suitable place, free from dampness and contact with dirty water. The floors, closets, cupboards, walls and other parts of the kitchens, pantries, sculleries, and all other places where such food, food products, or beverages, are kept, cooked or prepared, shall at all times be kept clean and sanitary, and no dust or grease shall be allowed to collect thereon or therein. All windows, doors and other openings shall be properly and effectively screened to prevent the entry of flies, and no restaurant, store, bakery, or other place where food, food products or beverages are served, kept or sold, shall be considered to be in a

*See Nos. 169-173.

sanitary condition if infested with flies, roaches or other vermin. (C. S. 1919, § 1811, as amended L. 1925, c. 24.)

NOTE: See also No. 5 et seq.; the dairy law, No. 30 et seq.; the ice law, No. 110 et seq.; and the meat law, No. 113 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

175. Indecent Advertisements.—Every person who willfully publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise to assist in the accomplishment of any such purpose, is guilty of a felony. (C. S. 1919, § 8306.)

Alcohol.

176. License: Fees: Exceptions.—All wholesale dealers in alcohol within the state, and all manufacturers, including pharmacists, using alcohol in their manufactured products, within the state, shall hereafter obtain a license from the secretary of state, with the approval of the governor, for which license a fee of two dollars per annum shall be charged.

Provided, however, pharmacists holding regular Idaho pharmacist licenses in good standing shall not be required to obtain the license from the secretary of state as provided in this section, but such licensed pharmacists shall be deemed duly licensed under the provisions of this chapter for all purposes herein; and such licensed pharmacists shall not be required to pay any license fee under the provisions of this chapter. Provided further, that licensed pharmacists of the state of Idaho shall not be required to comply with any of the provisions of sections 2607, 2608, 2609, 2610, 2611 or 2612 of the Idaho compiled statutes.* (L. 1921, c. 50, § 1, as amended L. 1923, c. 10.)

177. Who May Purchase, Transport, Keep for Sale and Sell Alcohol.—Licensed wholesale dealers within the state may purchase, transport, keep for sale and sell alcohol, and unlicensed wholesale dealers without the state may sell and transport alcohol into and within the state by regular railroad or express carrier, and all licensed manufacturers, including pharmacists, and all hospitals, educational institutions, chemical laboratories, and assayers, and all physicians who have been regularly licensed to practice medicine within the state, desiring to use pure alcohol for manufacturing, laboratory or scientific purposes, may purchase such alcohol of such wholesale dealer and transport the same into or within the state by regular railroad or express carrier, and may use the same for manufacturing, laboratory or scientific purposes only. (Id. § 2.)

178. Quantity Carried in Stock Limited: Record Kept of Quantities Withdrawn: Manufacture of Beverages Therefrom Forbidden.—No wholesaler shall carry in stock alcohol in excess of ten per cent. of the value of his or its general merchandise stock, provided that the wholesalers who are manufacturers of products in which alcohol is a component part, may withdraw from their stock alcohol in such quantities from time to time as may be necessary to meet their manufacturing requirements, but a record, open to public inspection, shall be kept, showing the date and amount of each such withdrawal, and no article used as a beverage shall be manufactured therefrom. (L. 1921, c. 50, § 3.)

179. Violations: Penalties: Proof of Conviction for Violations.—Any person, agent, employe, representative, manager, proprietor, pharmacist, physician, the member or members of any association, the officer or officers of any corporation, or any other person who shall violate any of the provisions of this act, and any

*See Nos. 215-220.

person, association, or corporation whose officer, agent, employee, representative or servant shall violate any of the provisions of this act, shall, for the first offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the justice or court. Every second and subsequent offense, committed within five years of the first, by any of the persons herein designated, shall be deemed a felony, and upon conviction thereof, he shall be imprisoned in the state penitentiary at hard labor, not less than one year and not more than three years; and if a corporation be so convicted a second or subsequent time it shall be fined in a sum of not less than one thousand dollars nor more than five thousand dollars; and the license of any physician to practice medicine or the permit of any person to purchase or sell alcohol so convicted a second or subsequent time shall be forfeited, and none shall thereafter be granted such person within a period of five years, following such second or subsequent conviction. A certified copy of the entry or [of] judgment, or other proper court record, showing the former conviction of the defendant from any justice, county or district court within this state shall be conclusive proof of a former conviction. (Id. § 4.)

180. Denatured Alcohol: Sale, etc.: Labels.—Denatured alcohol may be sold, given away, or transferred, in this state by any registered pharmacist, or other person. It shall be unlawful for any person to sell, give away, or transfer, denatured alcohol, preparations or compounds thereof, in any quantity, unless the container from which such denatured alcohol, preparation or compound thereof, is taken and the container in which it is delivered to the purchaser or transferee, has thereon printed in red ink the words, "Denatured Alcohol," "Caution," "Poison," the name and address of the vendor or transferor, the percentage strength of grain alcohol in the contents of the containers, the names of at least two readily obtainable antidotes, and the words, "must not be used externally or internally," and the following caution as required by the United States government:

"Completely denatured alcohol is a violent poison. It cannot be applied externally to human or animal tissue without seriously injurious results. It cannot be taken internally without inducing blindness and general physical decay, ultimately resulting in death."

Provided nothing herein contained shall prohibit the transfer of denatured alcohol, preparation or compound thereof, direct from a container, labeled as above provided, to the radiator of any motor vehicle for anti-freeze purposes. (L. 1925, c. 11, § 1.)

181. Penalty.—Any person or persons violating any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment in the county jail not exceeding six months (6), or by both such fine and imprisonment. (Id. § 2.)

NOTE: See also No. 212 et seq.

Distribution of Samples.

See No. 24.

Embalming Fluids.

181a. Use of Disinfecting or Embalming Fluid Regulated.— * * * An approved disinfectant fluid shall contain not less than five per cent (5%) of formaldehyde gas, the term embalming as employed herein shall require the injection by a licensed embalmer of not less than ten per cent. (10%) of the body weight for bodies of persons dead of diseases enumerated in paragraph 1, injected arterially, in addition to cavity injection; and not less than six per cent. (6%) of the body weight injected arterially in all other cases in addition to cavity injection, and ten hours shall elapse between the time of embalming and the shipment of the body, and no disinfecting or embalming fluid which contains arsenic or any arsenical preparation shall be used on any body dead of any disease whatsoever. * * * (C. S. 1919, § 1634 a, added by L. 1923, c. 89.)

Insecticides.

182. Lime and Sulphur Spray Solution: Labeling: Standard.—All spray solutions known as a lime and sulphur liquid shall be conspicuously labeled as to the strength of the solution showing a guaranteed strength of lime and sulphur combined

in solution as sulphates and sulphides, of which solution not less than 70 per cent by weight shall be sulphur, and such label or labels shall also contain a direction as to the proportions of water to be used in any mixture containing a 4 per cent solution by weight of lime and sulphur combined as sulphates and sulphides, of which solution not less than 70 per cent by weight shall be sulphur. (C. S. 1919, § 2078.)

183. Same: Contracts.—All contract or custom sprayers using what is known as the lime sulphur solution shall use a solution containing at least 4 per cent solution by the weight of lime and sulphur, combined with sulphates and sulphides, of which solution not less than 70 per cent by weight shall be sulphur, and any contract or custom sprayer using a weaker solution than is herein provided shall not be entitled to charge or collect for his services in applying the same unless such services have been rendered pursuant to a written contract expressly authorizing the use of a weaker solution. (Id. § 2079.)

184. Arsenate of Lead Spray Solution: Standard.—All contract or custom sprayers using what is known as the arsenate of lead solution for the purpose of controlling the codling moth shall use a solution containing not less than 2 pounds of arsenate of lead paste or its equivalent to each 50 gallons of water. All arsenicals must meet the analysis required by the state department of agriculture. Each contract or custom sprayer spraying for the control of the codling moth must maintain a force of at least 150 pounds pressure per square inch of surface in the cylinder of his spray pump, and must be equipped with such machinery [as] to meet the approval of the department of agriculture.

All arsenate of lead sold for the purpose of being manufactured into arsenate of lead solution shall contain not more than 50 per cent water, not less than 12½ per cent arsenic oxide, and not more than three-fourths of 1 per cent water soluble arsenic oxide. (Id. § 2080, as amended L. 1921, c. 33.)

185. Violations of Law and of Regulations.—Any person, persons, firms, corporation, dealers or shippers violating any of the provisions of sections . . . , 2073,* 2074,* . . . , 2078, 2080, . . . , shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than \$25 nor more than \$300, together with all costs of suit.

Any neglect or refusal to comply with the orders of the department of agriculture made in pursuance of the provisions of this chapter shall constitute a misdemeanor, and shall be punished as provided in this section. Any fines assessed under the provisions of this section may be collected by execution against the property of the judgment debtor, and if the property is not sufficient to pay such fine, the judgment debtor shall be liable to imprisonment in the county jail for a term not exceeding one day for each \$2 of said fine. (C. S. 1919, § 2082.)

Pharmacy, Poisons and Narcotics.

186. Fees.—The Department of Law Enforcement shall be entitled to charge and collect the following fees:

For licensing those already qualified under the now existing laws, \$5.

For examining an applicant for license as pharmacist, \$15.

For examining an applicant for license as assistant pharmacist, \$10.

For renewal of licenses, \$1, payable annually.

For issuing permit to an assistant pharmacist to conduct a drug store in village of not more than 200 inhabitants, \$5. All fees must be paid before the applicant shall be admitted to examination or his name placed upon the register of pharmacists, or before any license or permit or renewal thereof may be issued by the board. (C. S. 1919, § 2172.)

187. Drugs to be Sold by Registered Pharmacists.—It shall be unlawful for any person not a registered pharmacist, within the meaning of this chapter† to conduct or manage any pharmacy, drug or chemical store, apothecary shop or other place of business, for the retailing, compounding or dispensing of any drugs, chemicals or poisons, except as hereinafter provided; or for the compounding of physicians' prescriptions; or to keep exposed for sale at retail any drugs, chemicals or poisons; or for any person not licensed as a pharmacist or assistant pharmacist, within the meaning of this chapter, to compound, dispense, or sell at retail, any drug, chemical, poison or pharmaceutical preparation, upon the prescription of a physician or otherwise; or to compound physicians' prescriptions, except under the supervision of a person licensed as a pharmacist under this chapter. And it shall be un-

*See Nos. 108-109.

†Chapter 95, entitled "The Practice of Pharmacy," included in Nos. 186-203.

lawful for any owner or manager of a pharmacy, drug store or other place of business, to cause or permit any other than a person licensed as a pharmacist or assistant pharmacist to compound, dispense, or sell at retail, any drug or medicine or poison except as an aid to or under the supervision of a person licensed as a pharmacist or assistant pharmacist: Provided, however, That nothing in this section shall be construed to interfere with a legally registered practitioner of medicine, or dentist, in the compounding of his own prescriptions, or to prevent him from supplying to his patient such medicines as he may deem proper; nor with the exclusively wholesale business of any dealer who shall be licensed as a pharmacist, or who shall keep in his employ at least one person who is licensed as a pharmacist; nor with the selling at retail of domestic non-poisonous remedies; nor with the sale of patent or proprietary preparations which do not contain poisonous ingredients; nor with the sale of poisonous substances which are sold exclusively for use in the arts, or for use as insecticides, when such substances are sold in unbroken packages bearing a label having plainly printed upon it the name of the contents, the word "poison" and the names of at least two readily obtained antidotes; Provided, Nothing in this chapter shall be construed to apply to the manufacture or sale of proprietary or patent medicines: Provided, further, That in any village of not more than 200 inhabitants, where there is no person licensed as a pharmacist within less than two miles of such village, the department of law enforcement may grant to any person who is licensed as assistant pharmacist, a permit to conduct a drug store or pharmacy in such village, which permit shall not be valid in any other village than the one for which it was granted, and shall cease and determine when the population of the village for which such permit was granted shall become greater than 200: Provided, also, That this chapter shall not apply to dealers in general merchandise in a city or rural district where there is no person licensed as a pharmacist or assistant pharmacist. All such drugs and remedies authorized to be sold by general merchandise stores shall be sold in original packages, properly labeled over the name of a registered pharmacist of this or some other state. Within the meaning of this chapter rural districts are places of not more than 100 inhabitants. (Id. § 2173.)

187a. Permits to Assistant Pharmacist.—The department of law enforcement may grant a permit to an assistant pharmacist for such time as the department may prescribe to conduct a drug store or pharmacy during the temporary absence of a regularly employed licensed pharmacist therein. The fee for such a permit shall be two dollars. (Id. § 2173a, as added by L. 1921, c. 175.)

188. Application for Examination.—Every person who shall hereafter desire to be licensed as a pharmacist or assistant pharmacist, shall file with the department of law enforcement an application, duly verified under oath, setting forth the name and age of the applicant, the place or places at which he studied, and the time spent in the study of the science and art of pharmacy, and the experience in compounding physicians' prescriptions which the applicant has had under the direction of legally qualified pharmacists; and shall appear at a time and place designated by the department of law enforcement, and submit to an examination as to his qualifications for registration under this chapter, as pharmacist or assistant pharmacist. (C. S. 1919, § 2174.)

189. Qualifications of Licentiates and Assistants.—(a) Every applicant for license as a registered pharmacist, shall be not less than twenty-one (21) years of age, and shall be a graduate of at least a two years course in pharmacy at a school or college recognized by the Department of Law Enforcement; such applicant in addition to the time required to graduate from a college of pharmacy, and exclusive of that portion of the year spent in attendance at college, shall have had at least two years of practical experience, in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work directly related to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, and keeping of records and making reports required under state and federal statutes.

Provided, however, that toward the two years of required practical experience, not to exceed one year of credit may be allowed for one or more years in excess of the required two years of successfully completed work in a recognized school or college of pharmacy, or for one or more years of pharmaceutical experience acquired in a regularly chartered public hospital or other institution; or hospital corps of the United States Army or United States Navy under the supervision of a registered pharmacist, and shall have passed a theoretical and practical examination satisfactory to the Department of Law Enforcement.

Provided, further, that exemption from the graduate in pharmacy requirement for entrance to examination for registered pharmacists, shall be allowed to persons, who, before this Act became effective, had been employed in a retail pharmacy in

this or another state under a registered pharmacist, and who within not more than five years from the date on which this Act becomes effective, prove to the Department of Law Enforcement to have had four years' practical experience in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work relating to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, and keeping of records and making reports required under state and federal statutes, and who shall at the time of application for examination be not less than twenty-one (21) years of age, and who prove to have acquired the requisite fitness and knowledge by successfully passing the examination required of applicants for registration as registered pharmacists within the said five (5) years; if they cannot or do not qualify by successfully passing an examination within the said five (5) years, they shall, in keeping with public welfare, be required thereafter to first become a graduate from a recognized school or college of pharmacy, before being permitted entrance to examination.

(b) Every applicant for a license as a registered assistant pharmacist, shall be not less than eighteen (18) years of age, and shall have had at least three (3) years of practical experience, not to exceed two years of which may be successfully completed work in a recognized school or college of pharmacy; or of which not to exceed one year may be credited for pharmaceutical experience acquired in a regularly chartered public hospital, or other institution, or hospital corps of the United States Army or United States Navy, under the supervision of a registered pharmacist, but of the three years' experience required, each applicant shall have had not less than one year of practical experience in a retail pharmacy under the supervision of a registered pharmacist which shall be predominantly work directly related to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions and keeping of records and making reports required under state and federal statutes, and shall have passed an examination satisfactory to the Department of Law Enforcement. Every applicant shall furnish proof of preliminary education satisfactory to the said department, which shall consist of not less than two years of successfully completed high school training or its equivalent.

An assistant pharmacist shall have the right to do all things that may be done by a pharmacist, in a pharmacy conducted under the active personal supervision of a registered pharmacist, and may lawfully take charge of a drug store or pharmacy during the temporary absence of the registered pharmacist, but cannot own or operate a drug store or pharmacy unless he employs a registered pharmacist and places him in active personal charge of all professional duties connected with the proper conduct of the business. The Department of Law Enforcement shall make rules and regulations clearly defining temporary absence. (Id. § 2175, as amended L. 1925, c. 39.)

190. Issuance and Refusal of Licenses.—If the applicant for license as pharmacist or assistant pharmacist has complied with all the provisions of the two preceding sections, the department of law enforcement shall enroll his name upon the register of pharmacists or assistant pharmacists, and issue to him a license which shall entitle him to practice as a pharmacist or assistant pharmacist for the period of two years from the date of said license. The department of law enforcement may refuse to grant a license to any person guilty of felony or gross immorality, or who is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to render him unfit to practice pharmacy; and the board may, after due notice and hearing, revoke the license for like cause, or any license which has been obtained by fraud. An appeal from the action of the department in refusing to grant or in revoking a license for such cause, may be taken to the governor and attorney general, the decision of which officers, either affirmative or overruling the action of the department shall be final. (C. S. 1919, § 2176.)

191. License of Registered Pharmacists from Other States.—The department of law enforcement may in its discretion register as a pharmacist or assistant pharmacist, without examination, any person who is duly so registered by examination in some other state, provided that the said person shall produce satisfactory evidence of having had the required secondary and professional education and is possessed of good character and morals demanded of applicants for registration as pharmacists under the laws of this state, excepting that persons of good moral character who have become registered as pharmacists by examination in other states prior to the passage of this act shall be required to meet only the requirements which existed in this state at the time when they become registered in such other states, and provided also that the state in which such person is registered shall, under like conditions, grant registration as a pharmacist without examination to pharmacists duly registered by examination in this state.

Applicants for such registration in this state shall pay the required fee for the application blank and expense of making an investigation of their character, general reputation and pharmaceutical standing in the state where they are registered. (Id. § 2177, as amended L. 1925, c. 39.)

192. Licenses to be Displayed: Renewal.—All licenses and permits under the provisions of this chapter, shall within 30 days of the issuance of the same, be conspicuously displayed in the place of business of the person holding the license or permit.

All licenses and permits must be renewed within 60 days after the expiration of the same. A failure to make application for renewal within the time specified will work forfeiture of the right of renewal under this chapter, and will subject the applicant to examination and the payment of the original fee. (C. S. 1919, § 2178.)

193. Unauthorized Persons Not to Use Title of Pharmacist.—It shall be unlawful for any person, not legally licensed as a pharmacist, to take, use or exhibit the title of pharmacist or the title of druggist or apothecary, or any other title or description of like import; and it shall be unlawful for any person, not legally licensed as an assistant pharmacist, to take, use or exhibit the title of assistant pharmacist, or any other title or description of like import. (Id. § 2179.)

194. Exemption from Jury Service.—All persons licensed under this chapter as pharmacists or assistant pharmacists, and actively engaged in the practice of their profession, shall be free and exempt from jury duty in all courts of this state. (Id. § 2180.)

195. Restrictions Upon Sale of Poisonous Medicines.—It shall be unlawful for any person to sell at retail or to furnish any of the poisons of schedules A and B, set out in this section, without affixing or causing to be affixed to the bottle, box, vessel or package, a label with the name of the article and the word poison distinctly shown and with the name and place of business of the seller, all printed in red ink, together with the name of such poisons printed or written thereupon in plain, legible characters. Wholesale dealers in drugs, medicines, pharmaceutical preparations, chemicals or poisons shall affix or cause to be affixed to every bottle, box, parcel and outer inclosure of any original package containing any of the articles of schedule A, a suitable label or brand in red ink with the word poison upon it. Every person who disposes of or sells at retail or furnishes any poisons included in schedule A shall, before delivering the same enter in a book kept for that purpose the date of sale, the name and address of the purchaser, the name and quantities of the poison, the purpose for which it is purchased and the name of the dispenser. The poison register must be always open for inspection by the proper authorities and must be preserved for at least five years after the last entry. He shall not deliver any of the poisons of schedules A or B until he has satisfied himself that the purchaser is aware of its poisonous character and that the poison is to be used for a legitimate purpose. The provisions of this paragraph do not apply to the dispensing of medicines or poisons on physicians' prescriptions. No pharmacist, druggist, or other person shall refill more than once prescriptions containing opium or morphine or preparations of either of them or chloral, in which the dose of opium shall exceed one-fourth of a grain, or of morphine one-twentieth of a grain, or of chloral 10 grains, except upon the written order of a physician.

Schedule A. Arsenic, atropine, corrosive sublimate, and other poisonous salts of mercury, potassium cyanide, hydrocyanic acid, dilute hydrocyanic acid, carbolic acid, excepting preparations containing not more than 5 per cent aconite, belladonna, digitalis, fluid extract of cottonwood bark, fluid extract of ergot, oil of tansy, oil of pennyroyal, oil of savin, croton oil, strychnine, cantharides, chloroform, and creosote.

Schedule B. Nicotine, colchicum, conium, hellebore, henbane, phytolacca, strophanthus, arsenical solutions, methyl or wood alcohol, mineral acids, oxalic acid, Paris green, salts of lead, salts of zinc, or any drug, chemical or preparation which, according to the pharmacopœia and formulary and homeopathic pharmacopœias is destructive to adult human life in quantities of 60 grains or less. (Id. § 2181.)

196. Penalties for Violations of Chapter.—Whoever, not being licensed as a pharmacist, shall conduct or manage any drug store, pharmacy or other place of business for the compounding, dispensing, or sale at retail of any drugs, medicines or poisons, or for the compounding of physicians' prescriptions, contrary to the provisions of section 2173, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25 nor more than \$100; and each week such drug store or pharmacy or other place of business is so unlawfully conducted, shall be held to constitute a separate and distinct offense.

Whoever, not being licensed as a pharmacist or assistant pharmacist, shall compound, dispense or sell at retail, any drug, medicine, poison or pharmaceutical

preparation, either upon a physician's prescription or otherwise, and whoever, being the owner or manager of a drug store, pharmacy or other place of business, shall cause or permit any one not licensed as a pharmacist or assistant pharmacist to dispense, sell at retail or compound any drug, medicine, poison or physician's prescription, contrary to the provisions of section 2173, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$10 nor more than \$100. Any license or permit or renewal thereof obtained through fraud or by any false or fraudulent representation shall be void and of no effect in law. Any person who shall make any false or fraudulent representation for the purpose of procuring a license or permit, or renewal thereof, either for himself or for another, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25 nor more than \$100; and any person who shall wilfully make a false affidavit for the purpose of procuring a license or permit, or renewal thereof, either for himself or for another, shall be deemed guilty of perjury, and upon conviction thereof shall be subject to like punishment as in other cases of perjury.

Whoever, being the holder of any license or permit granted under this chapter, shall fail to expose such license or permit, or any renewal thereof, in a conspicuous position in the place of business to which such permit relates, or in which the holder of any license issued under the provisions of this chapter is employed, contrary to the provisions of section 2178, shall upon conviction thereof, be fined not less than \$5 nor more than \$25, and each week that such license, permit or renewal shall not be exposed shall be held to constitute a separate and distinct offense. And whoever, being the holder of any license or permit granted under this chapter, shall after the expiration of such license or permit, and without renewing the same, continue to carry on the business for which such license or permit was granted, contrary to the provisions of section 2178, shall, upon conviction thereof, be fined not less than \$5 nor more than \$25.

Whoever shall sell or deliver to any person any poisonous substance specified in section 2181, without labeling the same and recording the delivery thereof in the manner prescribed in said section 2181, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$10 nor more than \$100.

Whoever, not being legally licensed as a pharmacist, shall take, use or exhibit the title of pharmacist, licensed or registered pharmacist, druggist, apothecary, or any other title of similar import, contrary to the provisions of section 2179, and whoever, not being legally licensed as an assistant pharmacist, shall take, use or exhibit the title of assistant pharmacist, or any other title of similar import, contrary to the provisions of said section 2179, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$10 nor more than \$50. (Id. § 2182.)

197. Duty of Prosecuting Attorneys.—It shall be the duty of the prosecuting attorneys to take charge of and prosecute any violation of any of the provisions of this chapter. (Id. § 2183.)

198. Unlawful Traffic in Narcotics.—It shall be unlawful to sell, to manufacture for sale, to transport for sale, to furnish or give to any person or persons within the state of Idaho any cocaine, alpha or beta eucaine, opium, morphine, heroin, chloral hydrate, or any salt or compound of any of the foregoing substances, or any preparation or compound containing any of the foregoing substances, or their salts or compounds, otherwise than as in this article specifically provided. (Id. § 2184.)

199. Lawful Traffic in Narcotics.—It shall be lawful for wholesalers, manufacturers and jobbers to sell the articles named in section 2184 to each other, or to regularly licensed retail druggists or physicians.

It shall be lawful for duly licensed retail druggists to sell the articles named in section 2184 to a regularly licensed and practicing physician, dentist or veterinary surgeon, or, when the same enter into or form part of a written prescription duly made, dated and signed by a regularly licensed and practicing physician to the person presenting such prescription, according to the terms thereof and not otherwise: Provided, That all such prescriptions shall be kept on file by the retail druggist who fills them for a period of one year, and that no such prescription shall be refilled except on the written order of the physician making it. No copy or duplicate of any such prescription shall be made or delivered to any person.

It shall be lawful for a duly licensed physician, dentist, or veterinary surgeon to furnish or administer any of the articles named in section 2184 to or for any patient under his immediate care or treatment, but to none other.

It shall be lawful for wholesalers, manufacturers or jobbers of articles mentioned in section 2184, or for regularly licensed retail druggists to sell the same to hospitals, colleges or scientific institutions upon the certificate of the head of such hospitals, colleges or institutions, or of a licensed physician connected therewith, that the same are desired for medical or scientific purposes.

It shall be lawful for a regularly licensed druggist to sell proprietary preparations containing not more than four-tenths of 1 per cent of opium, or not more than one-eighth grain or [of] morphine, or not more than one-eighth grain of heroin, or not more than 10 grains of chloral hydrate in one fluid ounce, or if a solid preparation, in one avoirdupois ounce, when the label on any such preparation shall show clearly the percentages of such articles contained therein. (Id. § 2185.)

200. Unlawful Traffic a Felony.—Any dealing in, furnishing or giving away of any of the articles mentioned in section 2184 in any manner not specifically recognized as lawful by section 2185 shall constitute a felony which shall be punished upon conviction by imprisonment in the state penitentiary for not less than three nor more than 10 years. (Id. § 2186.)

201. Unlawful Procuring of Narcotics a Misdemeanor.—Any person who shall obtain for his own use, or otherwise, any of the articles mentioned in section 2184, except in the manner recognized as lawful by section 2185 shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$100 and not more than \$250, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. (Id. § 2187.)

202. Penalty for Violation by Licensed Professionals.—Pharmacists, retail druggists, physicians, dentists or veterinary surgeons who shall furnish any of the articles mentioned in section 2184 to any person when the same is not in the due, lawful and regular course of trade, or the practice of his profession, shall upon conviction be fined in a sum not exceeding \$500, and shall forever thereafter be ineligible to secure a license to practice within this state. (Id. § 2188.)

203. Narcotic Traffic Presumptively Unlawful.—It is the intent and purpose of this article to make any dealing in, furnishing or giving away of the articles mentioned in section 2184 prima facie unlawful, and whenever any of such articles are found in the possession of any person, proof of such possession shall be prima facie evidence of a violation of section 2187, and it shall then be incumbent upon such person to show that the same was lawfully acquired. (Id. § 2189.)

204. Limiting Use of Terms "Drug," etc.—It shall be unlawful for any person who is not legally licensed as a registered pharmacist, under the laws of the state of Idaho, or any person, firm, or corporation who does not have in his or its continuous employ, at each place of business, a duly registered and licensed pharmacist, licensed under the laws of the state of Idaho and in good standing, to take, use, or exhibit the title "Drug," "Drugs," "Drug Store," "Pharmacy," or "Apothecary," or any combination of such title, on any title or any description of like import, or any term designated to take the place of such title. (L. 1925, c. 23, § 1.)

205. Penalties for Violations.—Any person, firm or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Five Dollars (\$5.00), nor more than Twenty-five Dollars (\$25.00) for the first offense, and not less than Twenty-five dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for each succeeding offense. (Id. § 2.)

206. Resorts for Smoking and Sales of Opium.—Every person who opens, maintains or keeps any house or place as a resort for the purpose of smoking opium, or any preparation containing opium, or who barter, sells, vends or gives away opium, or any preparation containing opium for the purpose of being smoked, or that is smoked upon the premises, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding \$300, or by imprisonment in the county jail, not exceeding six months, or by both such fine and imprisonment, and in case any such fine and the costs of prosecution are not paid, any person or persons convicted under this section and sentenced to pay a fine, may be held by the sheriff and compelled to work at hard labor in a chain gang or otherwise, in charge of a keeper, upon the public highways, or elsewhere, or for any person who may contract with the sheriff for such labor, until such fine and costs are fully paid, at the rate of \$1 a day for each day of 10 hours of hard labor, and any money so received shall be applied to the payment of the fine and costs. And upon any conviction under this section, the court before which such conviction is had, may direct the sheriff, or arresting officer, to destroy any opium, or preparation containing opium, or all pipes, utensils, implements and other things used, had or kept for use, or designed or adapted for use in smoking opium, or any such preparation that may

have been used in evidence on the trial of any person convicted under this chapter* or that may be found upon his person or premises. (C. S. 1919, § 8300.)

207. Purchasing Opium for Smoking.—Every person who bargains for, buys, takes or accepts any opium or preparation containing opium in any house or place to be smoked upon the premises, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$100 or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment. (Id. § 8301.)

208. Frequenting Resorts.—Every person who is found in any house or place kept as a resort or place for the purpose of smoking opium, or any preparation containing opium, without any lawful business, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$50, or by imprisonment, not exceeding three months, or by both such fine and imprisonment. (Id. § 8302.)

208a. Sale of Cannabis Sativa, Etc., Unlawful; Penalty.—It shall be unlawful to grow, cultivate, have in possession, to sell, give, or offer to sell or give, within the State of Idaho, cannabis sativa, otherwise known as cannabis indica, Indian hemp, American hemp, or Marihuana, or any preparation thereof in a form capable of internal administration; provided, that it shall be lawful for regularly licensed retail pharmacists or physicians, and wholesalers, manufacturers, and jobbers to have in their possession and to sell the above named herbs or preparations thereof to each other, and for regularly licensed retail pharmacists to dispense preparations of the same in a form unfit for internal administration.

Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 and not more than \$250 or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment. (Act of Mar. 1, 1927.)

208b. Jurisdiction of Police Judge.—The police judge shall have exclusive jurisdiction to hear and determine all offenses against the ordinances of the city, and jurisdiction concurrent with that which is or may be conferred upon justices of the peace, of misdemeanors under the laws of the State, arising within the limits of the city, and shall also have jurisdiction for the examination of offenders against the laws of the State, for offenses arising within the city limits, and shall also have jurisdiction concurrent with that which is or may be conferred upon justices of the peace in any criminal proceeding for the enforcement of any and all laws in any way regulating or dealing with the selling, manufacture, disposal, possession or transportation of any intoxicating liquor or the manufacture for sale, transportation for sale, the furnishing or giving away of any harmful drug or narcotic, as such harmful drugs and narcotics are enumerated in section 2184 of the Idaho Compiled Statutes.† (C. S. 1919, § 3880, as amended Act of Mar. 12, 1927.)

Serums, Etc.

209. Proper Handling of Biological Products, Vaccines, etc.—It shall be the duty of any person, persons, firm, corporation, or other person, having for sale any biological products such as smallpox vaccine, diphtheria [diphtheria] antitoxin, typhoid vaccine, antirabic vaccine, or any other sera used in the prevention or treatment of human ills, and which deteriorates with age, or when exposed to heat or light, or freezing, to keep same stored in a proper container where the temperature shall be equalized at not more than 60 degrees F., nor less than 50 degrees F., and not exposed to the light. Providing, further, that no such products as mentioned in this act shall be offered for sale or dispensed in any manner unless they are well within the date stamped on said package. (L. 1921, c. 192, § 1.)

210. Duty of Department of Public Welfare.—It shall be the duty of the department of public welfare to see that this act is complied with. (Id. § 2.)

210a. Failure to Comply with Act a Misdemeanor.—Upon conviction of failure to comply with the provisions of this act, said person, persons, firm or corporation shall be deemed guilty of a misdemeanor. (Id. § 3.)

211. Distribution of Serums, Etc., to Quarantined Persons Regulated.—Whenever a quarantine has been declared as provided in section 1662 of the Compiled Statutes,‡ and any person so quarantined is unable through poverty or other wise to procure such medicines, medicinal and surgical supplies, vaccines, serums,

*See Nos. 206-208.

†See No. 198.

‡Section 1662 relates to the quarantine of infected premises, omitted herein.

anti-toxins, or other sick room supplies as the attending physician deems necessary for the abatement or cure of the disease, the board of county commissioners or the local health officers with the consent of the board of county commissioners, shall purchase and supply to the quarantined person such necessities and the cost of the same shall be deemed to be a debt due the county from such person and may be recovered from him, or from his estate in the event of his death; provided, that in the case the amount due the county is uncollectible the same shall be paid out of the funds of the county available for poor relief. (Act of Mar. 2, 1927.)

Venereal Disease Drugs.

211a. Advertisement, Etc. of Cures of Medicines for Certain Diseases Prohibited.—It shall be unlawful for any person to publish, or cause to be published, to deliver or distribute, or cause to be delivered or distributed in any manner whatsoever, or to post, or display, or to permit to be posted, displayed, or to remain on any buildings, windows, or outhouses, or premises or other surface owned or controlled by him in the State of Idaho, or to have displayed in or on any window or place where the same could be read by passers-by or the public, any advertisement, label, statement, print, or writing which refers to any person or persons from whom, or to any means by which, or to any office or place at which, may be obtained any treatment or cure of syphilis, gonorrhea, chancroid, lost manhood, sexual weakness, lost vitality, impotency, seminal emissions, gleet, varicocele, or self-abuse, whether described by such names, words, terms, or phrases, or by any other names, words, terms, or phrases, calculated or intended to convey to the reader the idea that any of said diseases, infirmities, disabilities, conditions, or habits are meant or referred to, or which refers to any medicine, article, device or preparaton that may be used for the treatment, cure, or prevention of any of the diseases, infirmities, disabilities, conditions or habits mentioned in this act. (L. 1921, c. 201, § 1.)

211b. "Person" Defined.—The word "person" as used herein, shall mean and include natural persons, co-partnerships, corporations and associations, and shall include persons of both sexes. (Id. § 2.)

211c. Application of Act.—This act shall not apply to publication, advertisement, or notices of the United States Government, the State of Idaho, or of any city in the State of Idaho. (Id. § 3.)

211d. Penalty.—Any person violating any of the provisions of this act shall be punished by a fine of not more than (\$500) dollars, or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment. (Id. § 4.)

Intoxicating Liquors.

212. Traffic in Intoxicating Liquors Prohibited.—The manufacture, disposal and transportation of intoxicating liquors for beverage purposes are prohibited in the state of Idaho. (C. S. 1919, § 2604.)

213. Intoxicating Liquors Defined.—The words "intoxicating liquors" as used in this chapter shall be deemed and construed to include spirituous, vinous, malt and fermented liquors, and all mixtures and preparations thereof, including bitters and other drinks that may be used as a beverage and produce intoxication. (Id. § 2605.)

214. Traffic in and Possession of Liquor Unlawful: Regulation of Alcohol Traffic.—It shall be unlawful for any person, firm, company or corporation, its officers or agents, to sell, manufacture or dispose of any intoxicating liquor or alcohol of any kind or to have in his or its possession or to transport any intoxicating liquor or alcohol unless the same was procured and is so possessed and transported under a permit as hereinafter provided: Provided, That nothing in this article shall be construed to apply to the manufacture, transportation or sale of wood or denatured alcohol. (Id. § 2606.)

215. Pharmacist May Transport Alcohol Under Permit.—Before a pharmacist shall be authorized to transport pure alcohol for scientific or mechanical purposes or for compounding or preparing medicines, as provided by this article, he shall procure a permit for that purpose from the probate court. (Id. § 2607.)

216. Same: Application.—To procure such a permit, a pharmacist shall make and file with the probate court of the county where the pure alcohol is to be used, a statement in writing, under oath, stating that he desires to transport pure alcohol for scientific or mechanical purposes, or for compounding, preparing or preserving medicines only, as provided by this article, and giving his name, the

location of his place of business, a statement that he is a licensed pharmacist, that he is regularly engaged in the practice of his profession at the location named, and that he will not violate any provisions of this article. (Id. § 2608.)

217. Same: Form of Permit.—If the probate court is satisfied of the good faith of the applicant, he shall issue to such pharmacist a permit to transport pure alcohol for compounding, preparing or preserving medicines, or for scientific or mechanical purposes. Such permit shall be substantially in the following form:

Permit to Pharmacists to Transport Pure Alcohol for Compound-
ing, Preparing and Preserving Medicines Only, or for
Scientific or Mechanical Purposes.

State of Idaho, County of, ss.

....., a pharmacist residing at, is hereby permitted to transport pure alcohol for compounding, preparing and preserving medicines only or for scientific or mechanical purposes. This permit can only be used for one shipment and will be void after 20 days from the date of issue.

By order of the probate court.

Dated this day of, 19....

.....
Probate Judge.

(Id. § 2609.)

218. Same: Issuance and Record.—The said permit mentioned in section 2609 shall be issued upon forms supplied by the probate court and shall contain the permit, a copy of the application for permit and a copy of the provisions of section 2611, and shall be issued under the seal of the court and shall be void for transportation purposes after 20 days from the date of issuance. The probate court shall keep in a separate book provided for that purpose a record of permits issued under this article, wherein shall be entered the date and the number thereof, the person to whom issued and the purpose for which issued. (Id. § 2610.)

219. Same: Affixing to Package.—Said permit shall be attached to and remain affixed in a conspicuous place upon any package or parcel containing pure alcohol, imported into or shipped within the state of Idaho, and when so affixed, shall authorize any common carrier, or any person operating a boat or vehicle for the transportation of goods, wares or merchandise within the state of Idaho, to transport, ship or carry such pure alcohol. Any person so transporting such alcohol shall, before the delivery of such package or parcel, cancel said permit and so deface the same that it cannot be used again. (Id. § 2611.)

220. Record of Shipments by Carrier.—All express companies, railroad companies, public or private carriers, are hereby required to keep a separate book in which shall be entered, immediately upon receipt thereof, the name of the person to whom pure alcohol is shipped, from what city or town and state the same was shipped, and the name of the shipper, the amount and kind received, the date when received, the date when delivered and to whom delivered; after which record shall be a blank space in which the consignee shall be required to sign his own name in ink before such pure alcohol is delivered to such consignee, which book shall be open to the inspection of the public at any time during business hours of the company, and shall not be removed from the county wherein the same is required to be kept. A copy of entries upon any such record herein provided to be kept, when certified to by the agent of any express or railroad company, or any public or private carrier in charge of the same, shall constitute prima facie evidence of the facts therein stated in any court of this state. (Id. § 2612.)

221. Shipment to Fictitious Consignee Unlawful.—It shall be unlawful for any person, firm or corporation, or agent, to ship alcohol or intoxicating liquor to a false or fictitious name or person or any person to receive or receipt for alcohol or intoxicating liquor in a false or fictitious name. (Id. § 2613.)

222. Permit for Purchase of Pure Alcohol.—Any person who shall desire to purchase pure alcohol for scientific or mechanical purposes shall apply to the probate court for a permit for that purpose. To procure such permit he shall make and file with the probate court of the county where the pure alcohol is to be used, a statement in writing under oath, stating that he desires to purchase pure alcohol for scientific or mechanical purposes as provided by this article and giving his name and residence and the place at which such pure alcohol is to be used. (Id. § 2616.)

223. Same: Form.—If the probate court is satisfied of the good faith of the applicant, he shall issue to said applicant a permit to purchase pure alcohol for scientific or mechanical purposes. The original of said permit shall have attached thereto a duplicate copy and each shall be numbered with the same number and be in substantially the following form:

State of Idaho, County of, ss.

....., residing at, is hereby permitted to purchase pure alcohol in the amount of (here insert quantity) to be used for scientific or mechanical purposes. This permit can only be used for one purchase and the copy hereof attached hereto shall be conspicuously pasted upon the package containing said alcohol and this permit to purchase shall be void after 20 days from the date hereof.

By order of the probate court.

Dated this.....day of, 19....

(Id. § 2617.)

.....
Probate Judge.

224. Same: Record and Display.—The permit mentioned in section 2617 shall authorize the applicant to purchase and any pharmacist to sell and deliver to him, the quantity named in the said permit. The permit shall be cancelled, kept and retained on file for at least one year by the pharmacist so selling said pure alcohol and the copy of said permit shall be, by the pharmacist, conspicuously pasted upon the receptacle containing said alcohol and shall so remain upon said receptacle so long as the same shall contain alcohol. Said permit and copy shall only authorize one purchase and sale. (Id. § 2618.)

225. Possession of Alcohol Without Permit Unlawful.—It shall be unlawful for any pharmacist to sell pure alcohol without the permit herein specified or for any person to keep or have in his possession any pure alcohol unless the receptacle containing the same shall be distinctly labeled with the copy of the permit authorizing the purchase of the same. (Id. § 2619.)

226. Premises Unlawfully Used for Liquor Traffic.—It shall be unlawful for any person owning, leasing or occupying or in possession or control of any premises, building, vehicle, car or boat knowingly to permit thereon or therein the manufacture, transportation, disposal or the keeping of intoxicating liquor with intent to manufacture, transport, or dispose of the same, in violation of the provisions of this article. (Id. § 2620.)

227. Acquisition, Transportation, Sale and Possession Unlawful.—It shall be unlawful for any person to import, ship, sell, transport, deliver, receive or have in his possession any intoxicating liquors except as in this article provided. (Id. § 2621.)

228. Punishment of Other Violations.—Any person convicted of violation of any of the provisions of this article, where the punishment therefore is not herein specifically provided, shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00, or by imprisonment in the county jail for not less than sixty days nor more than one year, or by both said fine and imprisonment. (Id. § 2624, as amended L. 1925, c. 61.)

229. Punishment for Second Offense.—A person having once been convicted of a violation of any of the provisions of this article, except section 2622,* who thereafter violates the provisions hereof, shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the state penitentiary at hard labor for not less than two years nor more than five. (Id. § 2625.)

230. Revocation of Pharmacist's License.—In case a pharmacist is convicted under the provisions of this article, the court shall, in addition to the penalty provided by this article, revoke his license to practice pharmacy. (C. S. 1919, § 2626.)

231. Internal Revenue Receipt Prima Facie Violation.—The issuance by the United States of an internal revenue special tax stamp or receipt to any person as a dealer in intoxicating liquors shall be prima facie evidence of the sale of intoxicating liquors by such person during the time the stamp or receipt is in force and effect.

A copy of such stamp or receipt or of the record of the issuance thereof, certified to by a United States internal revenue officer having charge of such record is admissible as evidence in like case and with like effect as the original stamp or receipt. (Id. § 2627.)

232. Possession Unlawful.—It shall be unlawful for any person, firm, company, corporation or agent to have in his or its possession any intoxicating liquors of any kind for any use or purpose except the same shall have been obtained and is so possessed under a permit authorized by this article. A violation of this section shall constitute a misdemeanor and be punished by a fine of not to exceed \$300.00 or by imprisonment in the county jail for not to exceed six months or by both such fine and imprisonment. (Id. § 2628, as amended L. 1925, c. 61.)

*Entitled "Drinking in public a misdemeanor."

233. Provisions Extended.—The provisions of article 3† are hereby specifically extended to and made applicable in the enforcement of this article. (C. S. 1919, § 2629.)

234. Unconstitutional Provisions.—It is expressly declared that should any section, part or portion of this article be declared unconstitutional or void, such invalidity shall in no way affect the remaining portions of said article. (Id. § 2630.)

235. Liquor Nuisances Defined—Penalty.—All places where intoxicating liquors are sold, furnished, delivered, given away or otherwise disposed of in violation of law, or where persons are permitted to resort for the purpose of drinking intoxicating liquors and beverages, or where intoxicating liquors are kept for sale, delivery or disposition in violation of law, and all intoxicating liquors, vessels, glasses, kegs, pumps, bars and other property kept in and used in maintaining such a place are hereby declared to be common nuisances, and every person who maintains or assists in maintaining such common nuisance is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00 or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment for each offense. (Id. § 2631, as amended L. 1925, c. 61.)

236. Prima Facie Evidence of Guilt.—In all prosecutions for maintaining a common nuisance as herein defined, the finding of intoxicating liquors in the possession of one not having lawful authority to sell or dispose of the same, except in a private dwelling house not used in connection with a place of business or place of public resort, shall be prima facie evidence that such intoxicating liquors are kept for sale, delivery or disposition in violation of law, and, upon the trial of any person charged with maintaining or assisting in maintaining a common nuisance as hereinbefore defined, proof of the finding of such intoxicating liquors in the possession of such persons (except in the place above mentioned) shall be deemed sufficient to authorize a verdict of conviction for such offense in the absence of evidence showing that such liquors were in the possession of such person for a lawful purpose.

The finding in a place fitted up with bars or counter and glasses or other paraphernalia usually connected with places where intoxicating liquors are sold as a beverage, or in a place used for the storage of intoxicating liquors, of a stamp showing the payment by any person of the United States internal revenue special tax for the sale of distilled or malt liquors at such place for a period not then expired, shall be prima facie evidence that the person or persons to whom the same was issued were, at the time of finding such special tax stamp, maintaining a common nuisance at such place. (C. S. 1919, § 2632.)

237. Advertisement of Intoxicating Liquor Prohibited.—If any person shall advertise or give notice by signs, billboards, newspapers, periodicals, or otherwise, for himself or for another, of the sale or keeping for sale of intoxicating liquors, or shall circulate or distribute any price lists, circulars, or order blanks advertising intoxicating liquors, or publish any newspaper, magazine, periodicals or other written or printed papers in which such advertisements or notices are given, or shall permit any such notices or any advertisement of intoxicating liquors (including billboards) to be posted upon his premises or premises under his control, or shall permit the same to remain upon such premises, he shall be guilty of a misdemeanor. (Id. § 2649.)

NOTE: See also No. 208b.

PART IV.

Miscellaneous Laws.

False Advertising.

238. False Advertising.—Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, entertainment or amusement or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof or to increase the attendance at places of amusement

†Article 3 of Chapter 125 of the Compiled Statutes, 1919. The pertinent sections are included in Nos. 235-236.

or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, entertainment or amusement or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25 and not to exceed \$300. (C. S. 1919, § 8487.)

Flag Desecration.

239. Flag Desecration.—Any person who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement, of any nature, upon any flag, standard, color or ensign of the United States, or state flag of this state or ensign, or shall expose, or cause to be exposed, to public view any such flag, standard, color or ensign, upon which shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose, any article or substance, being an article of merchandise, or receptacle of merchandise, or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color or ensign, to advertise, call attention to, decorate, mark or distinguish the article, or substance, on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, or cast contempt, either by words or act, upon any such flag, standard, color or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding \$100, or by imprisonment for not more than 30 days, or both, in the discretion of the court, and shall also forfeit a penalty of \$50 for each such offense, to be recovered with costs in a civil action, or suit, in any court having jurisdiction. Such action or suit may be brought by and in the name of any citizen of this state, and such penalty when collected, less the reasonable cost and expense of action or suit and recovery, to be certified by the auditor of the county in which the offense is committed, shall be paid into the treasury of such county; and two or more penalties may be sued for and recovered in the same action or suit. The words flag, standard, color, ensign, as used in this subdivision or section, shall include any flag, standard, color or ensign, or any picture or representation, of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of said flag, standard, color or ensign, of the United States of America, or a picture or representation of either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard or ensign of the United States of America.

The possession by any person other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be anything made unlawful at any time by this section, or of any article or substance or thing on which shall be anything made unlawful at any time by this section, shall be presumptive evidence that the same is in violation of this section.

When, by any statute of this state, the use of the flag of the United States of America, or of any picture or representation of such flag, is made penal or unlawful, such statute shall not apply to any act permitted by the statutes of the United States of America of by the United States army and navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence, on any of which shall be printed, painted or placed, said flag, disconnected from any advertisement. (C. S. 1919, § 8594.)

Tobacco—Tobacco Products.

240. Tobacco, Etc.; License.—Any person, firm or corporation bartering, selling or having in possession for sale, any cigars, cigarettes, smoking tobacco,

chewing tobacco or any tobacco or product or compound of tobacco in any form or any cigarette papers or wrappers, or any paper prepared or made for the purpose of making cigarettes, without having previously secured from the Commissioner of Law Enforcement of the State of Idaho a license permitting the same, as hereinafter provided, and without having such license conspicuously displayed at the place where goods, wares or merchandise of the above enumerated kinds or descriptions are bartered, sold or kept for sale, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$300, or by imprisonment in the county jail for a period of not to exceed six months, or by both such fine and imprisonment.

The Commissioner of Law Enforcement of the State of Idaho is hereby authorized and directed to issue to any and all persons, firms or corporations applying to him for the same, and not disqualified under the terms of this act, licenses permitting the licensee to barter, sell and have in their possession for sale cigars, cigarettes, cigarette papers, tobacco and tobacco products and compounds of all the various forms hereinbefore mentioned, upon payment to him by the applicant of an annual license fee in the sum of \$50, and the deposit with him of a bond payable to the State of Idaho, in the penal sum of \$500, executed by sureties qualified and justifying as is required of sureties on the bonds of executors and administrators, to be approved by the Commissioner of Law Enforcement, which bond shall be conditioned that the licensee will, in addition to all other fines and penalties imposed by law, pay and forfeit to the State of Idaho the full penal amount of said bond, if he is convicted during the term of said license of violating any law of the State of Idaho respecting the barter, sale, gift or possession of tobacco in any form, product or compound, or of cigarettes, cigarette papers, or of a violation of the provisions of section 8363 of the Compiled Statutes of Idaho, as amended.

If the same person, firm or corporation barter, sell, keep or have in possession for sale cigars, cigarettes, cigarette papers or tobacco in any of the forms, products or compounds hereinbefore mentioned, in more than one place, separate license shall be required for each such separate place. All the licenses issued under the provisions of this act shall, unless forfeited as hereinafter provided, expire on December 31 following the date of their issuance. No deduction from the amount of the annual license fee herein fixed shall be allowed on licenses issued for less than a full year: Provided, however, that the amount of the license fee for the year ending December 31, 1921, shall be the sum of \$30. Licenses issued hereunder may be transferred but only on condition that the original license be surrendered to the Commissioner of Law Enforcement and a new bond deposited by the transferee, conditioned in like manner as the original bond; whereupon said Commissioner of Law Enforcement shall issue to the transferee a new license for the balance of the unexpired year.

Upon conviction of any person, firm or corporation licensed under the provisions of this act for any violation of the laws of this State respecting the barter, sale, gift or possession of tobacco in any form product or compound or of cigarettes or cigarette papers, or of a violation of the provisions of section 8363, Compiled Statutes of Idaho, as amended, in addition to forfeiting to the State of Idaho the full penal amount of the bond hereinbefore referred to, and in addition to any other fine or penalty imposed by law, all licenses held by such person, firm or corporation, under the provisions of this act, shall be deemed immediately forfeited and void, and no license under the provisions of this act shall be issued to such convicted person, firm or corporation, directly or indirectly, or through any agent or subterfuge, for the period of five years after such conviction. (C. S. 1919, § 8362, as amended L. 1921, c. 262.)

240a. Use of Tobacco by Minors.—Every minor person who shall buy, accept or have in his possession any cigarette, cigar or tobacco in any form, or who shall buy, accept or have in his possession any cigarette paper or other paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or compounds of tobacco used in the filling or makeup of cigarettes, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100; and every person who shall give, sell or furnish, directly or indirectly, any cigarettes, cigars or tobacco in any form, or any cigarette paper or other paper or wrapper intended for the wrapping of tobacco in the form of a cigarette, or any compound of tobacco used in the filling or makeup of cigarettes, to such minor persons, or shall permit such minor persons to frequent any premises owned, held or managed by him for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not less than \$50 nor more than \$100, and for the second offense by a fine of not less than \$100 nor more than

\$300, or by imprisonment in the county jail for a period of not to exceed six months. (C. S. 1919, § 8363, as amended L. 1921, c. 185.)

Trade-Marks, Etc.

241. Unlawful to Counterfeit Union Label.—Whenever any person, or any association or union of workmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement, for the purpose of designating, making known, or distinguishing any goods, wares, merchandise, or other products of labor, as having been made, manufactured, produced, prepared, packed or put on sale, by such person, or association, or union of workmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement. (C. S. 1919, § 2314.)

242. Same: Penalty.—Whoever counterfeits or imitates any such label, trade-mark, term, design, device or form of advertisement, or sells, offers for sale, or in any way utters, or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be guilty of a misdemeanor and be punished by a fine of not more than \$100, or by imprisonment for not more than three months. (Id. § 2315.)

243. Record of Label.—Every such person, association, or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device or form of advertisement, as provided in section 2314, may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or facsimiles thereof with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, trade-mark, term, design, device, or form of advertisement shall be filed, has the right to the use of the same: that no other person, firm, association, union or corporation has a right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of \$3. Said secretary shall deliver to such person, association, or union, so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said secretary shall receive a fee of \$3. Any such certificate of record shall, in all suits and prosecutions under this chapter, be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement. Said secretary of state shall not record for any person, union, or association, any label, trade-mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association. (Id. § 2316.)

244. Penalty for Fraudulent Record.—Any person who shall, for himself or on behalf of any other person, association or union, procure the filing of any label, trade-mark, term, design or form of advertisement in the office of the secretary of state under the provisions of this chapter, by making any false or fraudulent representations or declarations, verbally or in writing or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by, or on behalf of, the party injured thereby, in any court having

jurisdiction, and shall be guilty of a misdemeanor, and be punished by a fine not exceeding \$100, or by imprisonment not exceeding three months. (Id. § 2317.)

245. Injunction and Damages for Infringement.—Every such person, association or union adopting or using a label, trade-mark, term, design, device or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, and may award the complainant in any such suit damages resulting from such manufacture, use, sale or display, as may be by the said court deemed just and reasonable, and shall require the defendants to pay to such persons, association or union, all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court or to the complainant to be destroyed. (Id. § 2318.)

246. Penalty for Unauthorized Use of Label.—Every person who shall use or display the genuine label, trade-mark, term, design, device or form of advertisement of any such person, association or union, in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months or by fine of not more than \$100. In all cases where such association or union is not incorporated, suits under this chapter may be commenced and prosecuted by an officer or members of such association or union on behalf of, and for the use of, such association or union. (Id. § 2319.)

247. Penalty for Unauthorized Use of Name.—Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized so to use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than \$100. (Id. § 2320.)

248. Forging or Counterfeiting Trade-Marks.—Every person who willfully forges or counterfeits or procures to be forged or counterfeited, any trade-mark usually affixed by any person to his goods, with intent to pass off any goods to which such forged or counterfeited trade-mark is affixed or intended to be affixed, as the goods of such person, is guilty of a misdemeanor. (Id. § 8422.)

249. Sale of Counterfeit Goods.—Every person who sells or keeps for sale any goods upon or to which any counterfeited trade-mark has been affixed, intending to represent such goods as the genuine goods of another knowing the same to be counterfeited, is guilty of a misdemeanor. (Id. § 8423.)

250. Forged and Counterfeit Trade-Marks Defined.—The phrases "forged trade-mark" and "counterfeited trade-marks," or their equivalents, as used in this chapter include every alteration or imitation of any trade-mark so resembling the original as to be likely to deceive. (Id. § 8424.)

251. Trade-Mark Defined.—The phrase "trade-mark" as used in the three preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label or wrapper usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description. (Id. § 8425.)

NOTE: See also the dairy law, No. 95 et seq.

Trading Stamps.

252. Sales with Trading Stamps Prohibited: Penalty.—Any person, firm or corporation who shall sell or exchange any goods, wares or merchandise whatsoever, or offer, or attempt so to do, upon a representation, advertisement, notice or inducement that any stamps, trading stamps, coupons, tickets, certificates or other similar devices which entitles the purchaser to demand or receive, either from the vendor or from any other person, firm or corporation, any other article of property as a premium or premium gift, are to be delivered or received, or are in any way connected with, or are a part of the transaction as a premium or premium gift, shall for each and every offense be guilty of a misdemeanor and be punishable by a fine of not less than \$50 nor more than \$300. (C. S. 1919, § 8488.)

253. Giving of Premiums Prohibited: Penalty.—Any person, firm or corporation who shall sell or exchange any of the devices mentioned in the preceding section upon a contract to enable the purchaser or receiver thereof to sell or exchange

property, or attempt so to do, upon any representation, advertisement, notice or inducement hereinbefore mentioned, or who shall deliver any goods, wares, or merchandise upon the presentation of any such stamps or other similar devices, shall be guilty of a misdemeanor, and be punishable by a fine not less than \$50 nor more than \$300. (Id. § 8489.)

254. Application of Sections: Fairs Exempted.—The provisions of the two preceding sections shall not apply to agricultural or church fairs conducted for scientific or charitable purposes. (Id. § 8490.)

Weights and Measures.

255. Duties.—The department of agriculture shall have the care and custody of the authorized public standards of weights and measures and of balances and other apparatus of all kinds owned by the state. It shall maintain the state standards in good order and submit them at least once in every ten years to the national bureau of standards for verification. It shall compare and adjust by the state standards all county, municipal and other official standard weights, measures, balances and measuring devices which may be sent or brought to it for that purpose, and shall seal the same when found or made to conform to the state standards, by stamping upon each the letter "I" and the last two figures of the year in which the said comparison and adjustment have been made, with seals which it will have and keep for that purpose; Provided, That it may refuse to compare and seal any weights, measures, balances or measuring devices as standards for any county, municipality or public offices which do not conform to the type approved by the national bureau of standards for such use. It shall enforce all laws now existing or which may hereafter be enacted in any manner whatever relating to weights and measures and false weights. (C. S. 1919, § 2555.)

256. Inspection of Weights and Measures.—The department of agriculture may try and prove weights, measures, balances and other measuring devices on request, for any person, corporation or institution, and when the same are found or made to conform to the state standards, and otherwise fulfil such reasonable requirements as it shall make, the department may seal the same with a seal which it shall have and keep for that purpose. (Id. § 2556.)

257. Record and Report.—The department of agriculture shall keep a record of all of the weights, measures, balances or other measuring devices, sealed or condemned by it, and shall make an annual report to the governor on or before January 1, of each year, a copy of which shall be filed with the national bureau of standards. It shall issue, from time to time, regulations for the guidance of county, municipal and all other inspectors or sealers of weights and measures, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 2557.)

258. Additional Record and Report.—The department of agriculture shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by it, giving the name of the owner or agent, the place of business, the date of inspection, and kind of apparatus so inspected, sealed or condemned, and shall make a biennial report of the same to the governor on or before the 1st day of December, giving in addition to the above, an inventory of the standards and apparatus in its possession, and such other information as the department may deem important. (Id. § 2558.)

259. Free Testing Service.—The department of agriculture shall try and prove all weights, measures, balances and measuring devices used in the state of Idaho without charge, and when the same are found or made to conform to the authorized standards, it shall seal and mark such weights, measures, balances and measuring devices with a seal to be kept by it for that purpose. Where any weight, measure, balance or measuring device is found to be false or untrue, or which does not conform to the standards, and yet may be repaired, it shall be marked or tagged as "condemned for repairs," and the owners or users shall have the same repaired within such time as the Department may require, and any weight or measure or weighing or measuring device that has not been repaired within the required time and any weight or measure or weighing or measuring device that is, in the judgment of the department, not susceptible to satisfactory adjustment or repair, may be confiscated and may be taken into possession by the inspector of the Department and shall be held by the department for a period of thirty days next ensuing, at the expiration of which time, if no action has been brought for the recovery of the same, it shall be destroyed. Whoever shall remove any mark or tag placed on any weighing or measuring device by the Department of Agriculture, without its approval or consent, shall be guilty of a misdemeanor and upon conviction thereof

shall be subject to a fine of not less than \$20.00 nor more than \$200.00, or imprisonment in the county jail for a period not to exceed sixty days. (Id. § 2559, as amended Act of Feb. 28, 1927.)

260. Authority to Enter Premises.—The department of agriculture through its officers, shall have full power to enter any premises in or on which any weights, measures, balances or measuring devices may be located or used for the purpose of trade, for the purpose of inspecting, adjusting and sealing or condemning the same. (C. S. 1919, § 2560.)

261. State Standards.—Such standard weights and measures as have been furnished to this state by the government of the United States, in accordance with a joint resolution of congress, approved June 17, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances and measuring devices, in addition thereto or in renewal thereof, shall be the authorized standards of the state of Idaho. (Id. § 2561.)

262. Standards of Weight.—The units of standards of weight, from which all other weights shall be derived and ascertained, shall be the standard weights designated in this chapter.* The hundredweight consists of 100 avoirdupois pounds, and a ton contains 20 hundredweight. Whenever, hereafter in this chapter, the word "pound" is used, it shall mean the avoirdupois pound, unless otherwise distinctly specified. (Id. § 2563.)

263. Nonliquid Capacity Measures.—The units of standards of measure of capacity for commodities, not liquids, from which all other measures shall be derived and ascertained, shall be the standards for such commodities designated in this chapter. The peck, half-peck, quarter-peck, quart, pint and half-pint measures for measuring commodities which are not liquids shall be derived from the half-bushel by successively dividing that measure by two. (Id. § 2564.)

264. Liquid Capacity Measures.—The units of standards of measures of capacity for liquids, from which all other measures shall be derived and ascertained, shall be the standard liquid measures designated in this chapter. The liquid gallon shall be divided by continual division by the number 2 so as to make half-gallons, quarts, pints, half-pints and gills. (Id. § 2565.)

265. Metric System Legal.—The weights and measures of the metric system shall be legal weights and measures in the state of Idaho. (Id. § 2567.)

266. Standard Weights Established.—Whenever any of the following articles shall be contracted for, or sold, or delivered, and no special contract or agreement shall be made to the contrary, such sale and all computations for payment or settlement therefor shall be by weight.

The net weight per barrel or bushel, or divisible merchantable quantities of a barrel or bushel, shall be as follows:

Wheat flour, per barrel, 196 pounds; per half-barrel, 98 pounds; per quarter-barrel sack, 49 pounds; per one-eighth barrel sack, 24 pounds; per one-sixteenth barrel sack, 12 pounds.

Corn meal, per bushel sack, 48 pounds; per half-bushel sack, 24 pounds; per quarter-bushel sack, 12 pounds.

Of the following articles per bushel:

	Lbs.
Wheat	60
Rye	56
Indian corn, in the ear	70
Kaffir corn	56
Rice corn	56
Corn, shelled	56
Sorghum seed	50
Buckwheat	50
Sweet potatoes	50
Turnips	55
Flaxseed	56
Onions	57
Salt	80
Castor beans	46
Hemp seed	44
Native blue-grass seed	14
English blue-grass seed	22

*Chapter 118, entitled "Weights and Measures," included in Nos. 255-277.

Timothy seed	45
Dried peaches	33
Dried apples	24
Barley	48
Malt	32
Oats	32
Bran	20
Beans	60
Clover seed	60
Hungarian and millet seed	50
Potatoes	60
Green apples	48
Unslacked lime	80
Plastering hair, unwashed	8
Plastering hair, washed	4
Parsnips	50
Carrots	50
Beets	56
Tomatoes	56
Peaches	48
Shelled dried peas	60
Alfalfa seed	60

(Id. § 2568, as amended L. 1921, c. 167.)

267. Contract Weights and Measures.—All contracts, sales or purchases hereafter made for work to be done, or for anything to be sold or delivered or done, by weight or measure, within this state, shall be taken and construed in terms of, and according to, the standards of weights and measures adopted by this chapter, except where parties have agreed upon any other calculations or measurements; and all statements and representations of any kind referring to the weights or measures of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid. (C. S. 1919, § 2571.)

268. Dry Commodities.—All dry commodities, not otherwise specified in this chapter, shall be sold only by standard and dry measure, standard weight, or numerical count, except where parties otherwise agree. (Id. § 2572.)

269. Apple Boxes.—A box or packet of apples shall contain 2,150.42 cubic inches. (Id. § 2573.)

270. Berry Boxes.—Berries and small fruits, whenever sold in boxes, shall be sold in boxes containing a standard dry quart or dry pint, and if said boxes contain less than this amount, the information must be given to the purchaser, and such packages must be labeled with a statement of the net contents. (Id. § 2574.)

271. Milk and Cream.—All milk or cream that shall be sold in bottles shall be sold only in bottles containing half-pints, pints, quarts, half-gallons or gallons. All other liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree. (Id. § 2575.)

272. Lard Pails.—Each pail or bucket of lard, lard-compound or lard substitute offered or exposed for sale in the state of Idaho, shall have the net weight plainly stamped upon the label in letters not less than a quarter-inch high. (Id. § 2576.)

273. Bread: Standard Loaf.—A whole loaf of bread for sale shall be not less than 16 ounces in weight, 24 hours after baking. Bread, unless composed in chief parts of rye or maize, shall be sold only in whole and half loaves, and not otherwise. Bread, when sold, shall, upon the request of the buyer, be weighed in his presence, and if found deficient in weight, additional bread shall be delivered to make up the legal weight, except that this section shall not apply to rolls or to fancy bread weighing less than one-quarter of a pound. Every loaf or half loaf of bread which does not weigh the full weight required by this section shall be plainly labeled with the exact weight. (Id. § 2577.)

274. Butter Packages.—A print or package of butter shall contain 16 ounces avoirdupois, and when a print or package of butter containing less than 16 ounces avoirdupois shall be sold, its net weight shall be disclosed by the seller to the buyer and a statement of the net weight be distinctly printed on the wrapper thereof. (Id. § 2578.)

275. Sale and Delivery Prima Facie Representation.—The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of representations on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary leakage, evaporation or waste that may take place from the time the

package is filled by the vendor until the selling of the same; a slight variation from the stated weight, measure or quantity for individual packages is permissible, provided this variation is as often above as below the weight, measure or quantity stated or represented, except that this section shall not apply to meats packed in sacks, crates or boxes. (Id. § 2579.)

276. Penalty for Interference.—Whoever hinders, obstructs, or in any way interferes with any sealer or other person authorized to inspect weights and measures, while in the performance of said inspection, or whoever fails to produce, upon demand by such authorized sealer or inspector, all weights and measuring devices in or upon his place of business or in his possession for use in manufacture or trade, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than \$5 nor more than \$100. (Id. § 2580.)

277. Penalty for Using False Weights and Measures.—Any person, persons, firm or corporation, who shall use any false scales, beam, weight or measure, or who shall mark or stamp false weight or measure on any container, package or cast, or who shall sell, offer for sale, or have in his possession for sale, any article which does not conform to the United States standards or the standards designated in this chapter, or neglects, fails to conform with, or violates any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be fined not to exceed \$300 for each offense, or imprisoned in the county jail not exceeding 90 days. (Id. § 2581.)

278. False Weights Defined.—A false weight or measure is one which does not conform to the standard established by the laws of the United States of America. (Id. § 8491.)

279. Use of False Weights or Measures.—Every person who knowingly sells any goods, wares or merchandise, or any valuable thing, by false weight or measure, or knowingly uses false measures at any mill in taking toll for grinding corn, wheat, rye, or other grain, is guilty of a misdemeanor. (Id. § 8492.)

280. Defrauding Another by False Weight or Measure.—Every person who uses any weight or measure, knowing it to be false, by which use another is defrauded or otherwise injured, is guilty of a misdemeanor. (Id. § 8493.)

281. Stamping False Weight on Packages.—Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor. (Id. § 8494.)

282. Sales by the Ton and Pound.—In all sales of coal, hay and other commodities, usually sold by the ton or fractional parts thereof, the seller must give to the purchaser full weight, at the rate of 2,000 pounds to the ton; and in all sales of articles which are sold in commerce by avoirdupois weight the seller must give to the purchaser full weight, at the rate of 16 ounces to the pound. Any person violating this section is guilty of a misdemeanor. (Id. § 8495.)

283. Sacked Products to be Sold by Net Weight.—The buyer of grains, vegetables or other farm products sold by weight in sacks shall have the right to deduct the net weight of the sacks from the total weight before settling for the same: Provided, That when the weight of the said sacks are so deducted said sacks shall belong to the seller, and the buyer shall so mark the said sacks as to identify them properly and return them to the seller within 60 days thereafter upon the seller paying the return freight charges on the same from the point of unsacking: Provided further, That this law shall not apply where no deduction is made for the weight of the sacks. (Id. § 2057.)

284. Civil Liability.—Any buyer, as mentioned in the preceding section, who violates the provisions thereof shall pay to the seller named therein the retail price of all sacks not returned within the 60 days, as provided, and if suit shall be started to recover the same he shall pay 10 per cent in addition as liquidated damages and also a reasonable attorney's fee and costs. (Id. § 2058.)

NOTE: See also Nos. 22, 28a; the dairy law, No. 30 et seq.; the farm products law, No. 104 et seq.

PART V.

Cases.

1. Special Food Laws.

Fruits—Horticultural Act: *State to Use of McFarland et al. v. Pioneer Nurseries Co. & Fidelity & Deposit Co. of Maryland, 26 Idaho 332, 143 Pac. 405 (1914); *Ingard v. Barker, 27 Idaho 124, 147 Pac. 293 (1915).

Lard—Weight: State v. Schweitzer, 18 Idaho 609, 111 Pac. 130 (1910).

Meat—License: In re Luther Snyder, 10 Idaho 682, 79 Pac. 819, 68 L. R. A. 708 (1905).

2. Special Drug Laws.

Narcotic Addicts: *In re Hinkle, 33 Idaho 605, 196 Pac. 1035 (1921).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Use of Product.

Insecticide: Kloepper v. Forch, 32 Idaho 415, 184 Pac. 477 (1919).

4. Miscellaneous.

Cigarettes: State v. Johnson & Castle, 42 Idaho 381, 246 Pac. 531 (1926).

Weights and Measures: State v. Schweitzer, 18 Idaho 609, 111 Pac. 130 (1910).

ILLINOIS.*

PART I.

General Food and Drug Law.

General Food Law.

1. **Offices, Board, Commissions and Agencies Abolished.**—The following offices, boards, commissions, arms, and agencies of the State Government heretofore created by law, are hereby abolished, viz; * * * State Board of Health, secretary and executive officer of the State Board of Health, Board of Pharmacy, secretary of the Board of Pharmacy, * * * State Food Commissioner, Assistant State Food Commissioner, State Analyst, chief clerk of the State Food Commissioner, assistant clerk of the State Food Commissioner, stenographers of the State Food Commissioner, inspectors of the State Food Commissioner, bacteriologist of the State Food Commissioner, analytical chemists of the State Food Commissioner, laboratory janitor for the State Food Commissioner, Food Standard Commission, * * * (Stats. 1924, c. 24a, ¶ 35.)

2. **Powers of Department of Agriculture in General.**—The Department of Agriculture shall have power:

1. To exercise the rights, powers and duties vested by law in the Board of Live Stock Commissioners, its officers and employees, except under the Act regulating the practice of veterinary medicine and surgery; * * *

5. To exercise the rights, powers and duties vested by law in the State Food Commissioner, Food Standard Commission, and the other officers and employees of the State Food Department; * * *

8. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture, the live stock industry, dairying, cheese making, poultry, bee keeping, forestry, the production of wool, and all other allied industries;

9. To promote improved methods of conducting these several industries with a view to increasing the production and facilitate the distribution thereof at the least cost;

10. To collect and publish statistics relating to crop production and marketing, the production of and marketing beef, pork, poultry, mutton, wool, butter, cheese and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the State; * * *

12. To produce and manufacture biological products to be distributed to live stock producers at the actual cost thereof. * * * (Supp. 1926, c. 24a, ¶ 41.)

2a. **Director of Agriculture—Promulgation of Standards for Food Products.**—The Director of Agriculture shall promulgate no standard of quality, purity and strength of food products for this State except that determined by the Food Standard Commission. (Stats. 1924, c. 24a, ¶ 42.)

2b. **Powers of Department of Public Health in General.**—The Department of Public Health, shall have power:

1. To exercise the rights, powers and duties vested by law in the State Board of Health, its secretary and executive officer, other officers and employees, except the rights, powers and duties vested by law in the State Board of Health under the Act to regulate the practice of medicine, and the Act to regulate the practice of embalming, * * * (Id. ¶ 56.)

3. **Appointment of State Food Commissioner—Term—Salary and Expenses—Duties—Seal—Food Standard Commission—Duties—Compensation and Expenses—Seal—Certificates—State Analyst and Other Officers—Salaries—Reports and Bulletins by Commissioner—Office and Laboratory—Analysis and Examinations for State Charitable Institutions.**†—The Governor shall appoint a com-

*CITATIONS: "Stats. 1924" refers to Callaghan's Illinois Statutes Annotated, 1924. "Supp. 1926" refers to the 1926 supplement thereto.

†The Department of Agriculture now enforces the food laws. (See Nos. 1 and 2.) Hence they are to be corrected accordingly.

missioner who shall be known as the State Food Commissioner who shall be a citizen of the State of Illinois, and who shall hold his office for a term of four years and until his successor is appointed and qualified, and who shall receive a salary of thirty-six hundred dollars per annum, and his necessary expenses incurred by him in the discharge of his official duties, and who shall be charged with the enforcement of all laws that now exist or that hereafter may be enacted in this State regarding the production, manufacture, sale and labeling of food as herein defined, and to prosecute or cause to be prosecuted any person, firm or corporation, or agent thereof, engaged in the manufacture or sale of any article manufactured or sold in violation of the provisions of any such law or laws. The commissioner shall provide himself with a seal for the authentication of his orders, records or other proceedings, upon which shall be inscribed the words, STATE FOOD COMMISSIONER ILLINOIS—SEAL.

The Governor shall also appoint from time to time, as required, a Food Standard Commission, for the purpose of determining and adopting standards of quality, purity or strength, for food products, for the State of Illinois to consist of three members, one of whom shall be the State Food Commissioner or his representative, who shall serve without extra pay; one of whom shall be a representative of the Illinois food manufacturing industries, and one of whom shall be an expert food chemist of known reputation; all to be citizens of the State of Illinois, who shall receive fifteen (\$15) dollars per day for a period not exceeding thirty (30) days in one year, and necessary expenses incurred during the time employed in the discharge of their duties. The said commission shall provide itself with a seal for the authentication of its standards, records or other proceedings, upon which shall be inscribed the words, FOOD STANDARD COMMISSION—ILLINOIS—SEAL. A certified copy of the records of Food Standard Commission, showing the standard of quality, purity and strength adopted and promulgated by it for food products shall be received in all courts as evidence that such standard was adopted.

A certificate in the following form shall be sufficient:

"I, ... secretary (or member) of the Food Standard Commission of Illinois, and the custodian of the records thereof, do hereby certify that the attached is a true, correct and complete copy of the standard for adopted and promulgated by the Food Standard Commission on the day of 19...., and published in"

Given under my hand and the seal of said commission this day of.....

The said commissioner is hereby authorized to appoint, with the advice and consent of the Governor, one assistant commissioner, who shall be a practical dairyman, whose salary shall be three thousand (\$3,000.00) per annum and expenses incurred in official duties. One chief chemist, who shall be known as State Analyst, whose salary shall be twenty-five hundred dollars (\$2,500.00) per annum and expenses incurred in the discharge of official duties. One attorney, whose salary shall be eighteen hundred dollars (\$1,800.00) per annum and expenses incurred in the discharge of official duties. One chief clerk, whose salary shall be eighteen hundred dollars (\$1,800.00) per annum and expenses incurred in the discharge of official duties. One assistant clerk, whose salary shall be twelve hundred dollars (\$1,200.00) per annum and expenses incurred in the discharge of official duties. Three stenographers at one thousand [dollars] (\$1,000.00) each per annum. Twelve inspectors, whose salaries shall be as follows: For the first two years of service, twelve hundred dollars each annually; for the third year of service, fourteen hundred dollars each annually, and for each succeeding year of service an additional increase of one hundred dollars per year each until the maximum of eighteen hundred dollars a year each is attained, and expenses incurred in the discharge of their official duties. Said commissioner shall also have authority to appoint one bacteriologist at eighteen hundred dollars (\$1,800.00) per annum and expenses incurred in the discharge of his official duties, and seven analytical chemists whose salaries shall be as follows: For the first two years of service, twelve hundred dollars each annually; for the third year of service, fourteen hundred dollars each annually; for the fourth year of service, fifteen hundred dollars each annually, and for each succeeding year of service, an additional increase of one hundred dollars per year each, until the maximum of eighteen hundred dollars per year is attained, and expenses incurred in the discharge of their official duties, and one laboratory janitor at seven hundred and twenty (\$720.00) dollars per annum.

The said commissioner shall make annual reports to the Governor not later than the 15th of January of his work and proceedings, and shall report in detail the number of inspectors he has appointed and employed, with their expenses and

disbursements and the amount of salary paid the same, and he may from time to time issue bulletins of information when, in his judgment, the interests of the State would be promoted thereby.

The said commissioner shall maintain an office and laboratory, where the business of said department may be conducted. This section shall not effect [affect] the term of office of the present commissioner, and he shall be regarded as having been appointed under the provisions of this Act.

The Food Commissioner shall make analyses and examinations for the State charitable institutions of foods, drugs and such other supplies as the laboratory of the State Food Commission is equipped and prepared to examine and analyze. (Stats. 1924, c. 56b, ¶ 1.)

4. Power of Commissioner and Inspectors Making Inspection.—The State Food Commissioner, and such inspectors and agents as shall be duly authorized for the purpose, when and as often as they may deem it necessary for the purpose of determining whether any manufactured food complies with the law, shall examine the raw materials used in the manufacture of food products and determine whether any filthy, decomposed or putrid substance is used in their preparation. They may also examine all premises, carriages or cars where food is manufactured, transported, stored or served to patrons, for the purpose only of ascertaining their sanitary condition and examining and taking samples of the raw material and finished products found therein; but nothing in this Act shall be construed as permitting such officers to inquire into, or examine methods or processes of manufacture, or requiring or compelling proprietors or manufacturers, or packers of proprietary or other food products, to disclose trade rights, or secret processes, or methods of manufacture. Said commissioner, inspectors and agents shall also have power and authority to open any package, can or vessel, containing or supposed to contain, any article manufactured, sold or exposed for sale, or held in possession with intent to sell, in violation of the provisions of this Act, or laws that now exist, or that may hereafter be enacted in this State, and may inspect the contents thereof, and may take samples therefrom for analysis. The employees of railroads, express companies, or other common carriers, shall render to them all the assistance in their power, when so requested, in tracing, finding, or disclosing the presence of any article prohibited by law, and in securing samples thereof as herein provided for. (Id. ¶ 2.)

5. Refusal to Assist Inspector a Misdemeanor.—Whoever, by himself, his agent, employee, or servant, hinders, obstructs or in any way interferes with any inspector, analyst, or officer appointed hereunder, in the performance of his duty, or in the exercise of his powers as defined in this Act, or whoever being an employee of a railroad, express company, or other common carrier refuses or fails upon request to assist the State Food Commissioner, the assistant commissioner, the State Analyst, or any inspector appointed hereunder in tracing, finding or disclosing the presence of any article of food prohibited by law and in securing samples thereof as provided for in section 2 [¶ 2] of this Act, shall be deemed guilty of a misdemeanor and shall be punished as hereinafter provided for. (Id. ¶ 3.)

6. Samples—To be Divided and Sealed—Analysis—Prima Facie Proof.—The person taking such sample as provided for in section 2 [¶ 2] of this Act, shall in the case of bulk or broken package goods, divide the same into two equal parts, as nearly as may be, and in the case of sealed and unbroken packages, he shall select two of said packages, which two said packages shall constitute the sample taken, and properly to identify the same, he shall, in the presence of the person from whom the same is taken, mark or seal each half or part of such sample with a paper seal or otherwise, and shall write his name thereon and number each part of said sample with the same number, and also write thereon the name of the said dealer in whose place of business the same is found, and the person from whom said sample is taken shall also write his own name thereon, and at the same time the person taking the sample shall give notice to such person from whom said sample is taken that said sample was obtained for the purpose of examination by the State Food Commissioner. One part of said sample shall be taken by the person so procuring the same to the State Analyst or other competent person appointed for the purpose of making examinations or analyses of samples so taken, and the person taking such sample shall tender to the person from whom it is taken the value of that part thereof so retained by the person taking said sample; the other part of said sample shall be delivered to the person from whom said sample is taken. If the person from whom said sample is taken has recourse upon the manufacturer or guarantor either by operation of law or under contract for any failure on the part of said sample to comply with the provisions of this Act, then said person

from whom said sample is taken shall retain for the period of six months that part of said sample so delivered to him in order that said manufacturer or guarantor may have the same examined or analyzed if he so desires: Provided, that the person procuring said sample may securely pack and box that part thereof retained by him and send the same to the State Analyst or other competent person appointed hereunder, and the testimony of the person procuring said sample that he did procure the sample and that he sealed and numbered the same as herein provided, and that he wrote his name thereon, and that he packed and boxed said part thereof and sent the same to the State Analyst or other competent person appointed hereunder, and the testimony of the person analyzing said sample that he received the same in apparent good order, that said sample was sealed, and that the number thereof and the name of the sender, as herein provided for, was on said sample, and that the seal at the time the same was received was unbroken, shall be prima facie evidence that the sample so received is the sample that was sent, and that the contents thereof are the same and in the same condition as the time the person so procuring said sample parted with the possession thereof, and the testimony of said two witnesses as above shall be sufficient to make such prima facie proof. (Id. ¶ 4.)

7. Manufacturing Adulterated or Misbranded Food Misdemeanor.—It shall be unlawful for any person to manufacture for sale within the State of Illinois any article of food or drink which is adulterated and misbranded within the meaning of this Act. It shall be unlawful for any person to use filthy, decomposed, putrid, rotten, deleterious or poisonous substances as a constituent part of manufactured food, or in the manufacture of any food. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished according to the provisions of this Act: Provided, that no article of food shall be deemed misbranded or adulterated within the provisions of this Act when intended for export to any foreign country or purchaser, and prepared or packed according to the specifications or directions of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not except said article from the operations of any of the other provisions of this Act. (Id. ¶ 5.)

8. Possession or Control of Unlawful Food.—The having in possession or control of any food which violates any of the provisions of this Act with intent to sell the same or to use the same in violation of this Act is hereby prohibited; and whoever shall have in his possession or control with intent to sell or offer for sale any food which violates any of the provisions of this Act or with intent to use any such food in violation of the provisions of this Act shall be guilty of a misdemeanor and punished as herein provided. The possession or control of any food which violates any of the provisions of this Act shall [be] held to be prima facie evidence that such possession or control is or was with intent to sell or use such food in violation of this Act.

Whoever shall have possession or control with intent to sell of any food which violates any of the provisions of this Act shall be held to have known the true character, quality and name of such food. (Id. ¶ 6.)

9. Term Food Defined.—The term "food," as used herein, shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound, and any substance used as a constituent in the manufacture thereof. (Id. ¶ 7.)

10. Defines Adulteration.—For the purpose of this act, an article shall be deemed to be adulterated—

In case of confectionery:

First—If it contains terra alba, barytes, talc, chrome yellow, paraffin, mineral fillers, or poisonous substances, or poisonous color or flavor.

Second—If it contains any ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound, or narcotic drug.

In case of food:

First—If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality, strength, or purity.

Second—If any substance has been substituted wholly or in part for the article.

Third—If any valuable constituent of the article has been wholly or in part abstracted or left out: Provided, that in the manufacture of skim or separated cheese the whole or part of the butter fats in the milk may be abstracted.

Fourth—If it be mixed, colored, powdered, coated, polished, or stained in any manner whereby damage or inferiority is concealed, or it is made to appear better or of greater value than it really is.

Fifth—If it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health: Provided, that when in the preparation of food products for shipment they are preserved by an external application, applied in such a manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservatives shall be printed on the covering of the package, the provisions of this Act shall be construed as applying only when such products are ready for consumption; and formaldehyde, hydrofluoric acid, boric acid, salicylic acid and all compounds and derivatives thereof are hereby declared unwholesome and injurious.

Sixth—If it consists in whole or in part of a filthy, decomposed, or putrid, infected, tainted, or rotten animal or vegetable substance or article or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. (Id. ¶ 8.)

11. **Misbranded Defined.**—The term "misbranded," as used herein, shall apply to all articles of food or drink, or articles which enter into the composition of food or drink, the packages or labels of which bear any statement, design or device regarding such article, or the ingredients or substance contained therein which shall be false or misleading in any particular; and to any such products which are falsely branded as to manufacturer, packer, or dealer who sells the same or as to the state, territory, or country in which it is manufactured or produced. That for the purpose of this Act an article shall also be deemed to be misbranded—

In case of food:

First—If it be an imitation of or offered for sale under the distinctive name of another article, or if it does not conform to the standards set forth in this Act.

Second—If it be so labeled or branded as to make the identity of the manufacturer, packer, or dealer who sells or offers the same for sale uncertain or doubtful; or which is so labeled or branded as to indicate on the receptacle, vessel, or container the name of any firm or corporation other than the firm or corporation actually manufacturing, packing, or dealing in the article or product so sold or offered for sale; or if it be labeled or branded so as to deceive or mislead the purchaser, or purports to be a foreign product when not so, or if the contents of a package as originally put up shall have been removed in whole or in part and refilled by contents of a different quality, or of a different manufacturer, packer or dealer, or if it shall fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilid, or any derivative or preparation of any such substance contained therein.

Third—If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count: Provided, however, that reasonable variation shall be permitted and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 38 of this Act.

Fourth—If it be a manufactured article of food or food sold in package form, and is not distinctly labeled, marked, or branded with the true name of the article and with either the name of the manufacturer and place of manufacture, or the name and address of the packer or dealer who sells the same, or if its label does not conform to the regulations set forth in this Act.

Fifth—If the package containing it or its label shall bear any statement, design, or device regarding the ingredients of the substance contained therein, which statement, design, or device shall be false or misleading in any particular: Provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in following cases:

First—In case of mixture or compounds which may be now or from time to time hereafter known as articles of food under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where the article has been manufactured or produced.

Second—In case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: Provided, that the term "blend" as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and as applied to alcoholic beverages, only those distilled spirits shall be regarded as "like substances" which are distilled from the fermented mash of grain and are of the same alcoholic strength:

And provided, further, that nothing in this Act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this Act may require to secure freedom from adulteration or misbranding.

Third—In the case of mixtures of corn syrup (glucose) or corn sugar (dextrose) or corn sugar syrup, with cane or beet sugar (sucrose) or cane or beet sugar syrup, in food, if the maximum percentage of corn syrup (glucose), or corn sugar (dextrose), or corn syrup, in such article of food be plainly stated on the label. (Id. ¶ 9.)

12. Condemnation and Confiscation of Illegal Foods.—Any article of food or drink or liquor that is adulterated or misbranded within the meaning of this Act, or that is made, labeled, or branded contrary to the provisions of this Act, or that does not conform to the definition or analytical requirements provided in this Act, shall be liable to be proceeded against in any court of record or before any judge thereof, or before any justice of the peace within whose jurisdiction the same may be found, and seized for condemnation and confiscation; and authority and jurisdiction are hereby vested in the several courts of record, the judges thereof in vacation, and the several justices of the peace, to issue the warrant and to hear and determine the proceedings herein provided for. Such proceedings shall be by complaint, verified by affidavit, and in the name of the People of the State of Illinois against the article or articles proceeded against, particularly describing the same, the place where they are located, the name of the person, firm, or corporation in whose possession they are found, and wherein they violate the provisions of this Act. Thereupon said court, judge, or justice of the peace shall issue a warrant directed to the sheriff, bailiff, or any constable of the county, commanding such officer to seize, and take into his possession the article or articles described in the complaint, and bring the same before the court, judge, or justice of the peace who issued the warrant, and to summon the person, firm, or corporation named in the warrant, and any other person who may be found in possession of the said articles to appear at the time and place therein specified, which service shall be made in the same manner as service of process in civil cases in such court or before such justice of the peace. The warrant shall be returnable not less than five (5) days nor more than fifteen (15) days from the date of issuing the same, and may be executed and served at any time before the return day thereof; and the hearing shall be at the time and place therein specified unless good cause is shown for a continuance. Upon the hearing the complaint may be amended, and any person, firm, or corporation that appears and claims the said article or articles shall be required to file its claim in writing. The hearing shall be summary in its nature, and except as herein otherwise provided, shall conform, as near as may be, to the proceedings in civil cases before such court, judge, or justice of the peace: Provided, that either party may demand a trial by jury, and an appeal or writ of error shall lie at the instance of either party to the proper court and no bond shall be required of the people. And if such article is condemned as being adulterated or misbranded, or of a poisonous or deleterious character within the meaning of this Act, or as made, labeled, or branded contrary to the provisions of this Act, or as not conforming to the definitions or analytical requirements provided in this Act, the same shall be confiscated and disposed of by destruction or sale, as the court, judge, or justice of the peace may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the treasury of the State of Illinois, but such article shall in no instance be sold contrary to the provisions of this Act: Provided, however, if the food seized consists of a number of separate and distinct articles assembled together in containers, or in lots, or otherwise, and it shall appear to the court that certain of said articles violate the provisions of this Act and certain other of said articles do not violate the provisions of this Act, then in such cases, if the articles can be conveniently separated, the court may order that such articles be separated and the costs of such separation shall be taxed as other costs of suit. The court may order such articles as are not in violation of this Act be released to the claimant or owner thereof, and in cases where the claimant or owner does not appear or refuses to accept such articles the court shall order such articles sold, and the proceeds thereof, after the payment of all costs and charges shall be held subject to the order of the court, and if the claimant or owner thereof do not appear and demand the same within thirty days after said order, the court may at any time thereafter order the proceeds of said sale forfeited and confiscated and paid into the treasury of the State of Illinois, but that part of the articles which violated the provisions of this Act shall be disposed of or destroyed as herein directed: Provided, further, that upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the State Food

Commissioner for the use of the people of the State of Illinois to the effect that such articles shall not be used, sold, or otherwise disposed of contrary to the provisions of this Act and under such other conditions or supervision as may appear necessary, the court may, by order, direct that such articles be delivered to the owner therefor. (Id. ¶ 10.)

13. Mutilating Label Prohibited.—Whoever shall deface, change, erase, or remove any mark, label, or brand provided for by this Act with intent to mislead, deceive, or to violate any of the provisions of this Act, shall be held liable to the penalties of this Act. (Id. ¶ 15.)

14. Not to Manufacture Food With Impure or Unclean Milk or Cream.—No person, firm or corporation shall manufacture from unclean, impure, unhealthful or unwholesome milk, or from cream from the same, any article of food. (Id. ¶ 18.)

15. Sale of Preservatives Prohibited.—No person, firm or corporation shall manufacture for sale, advertise, offer or expose for sale, or sell, any mixture or compound intended for use as a preservative or other adulterant of milk, cream, butter or cheese, nor shall he manufacture for sale, advertise, offer or expose for sale, or sell any unwholesome or injurious preservative or any mixture or compound thereof intended as a preservative of any food: Provided, however, that this section shall not apply to pure salt added to butter and cheese. (Id. ¶ 23.)

16. Illegal Foods to be Seized.—Whenever the Commissioner or his agents shall have ground for suspicion that any article of food, found in possession of any person, firm or corporation, is adulterated or misbranded within the meaning of this Act, he may seize such article of food and make an inventory thereof and shall leave a copy of such inventory with the party holding such suspected goods and tag the same "suspected"; and he shall notify in writing the person, firm or corporation in whose possession it may be found, not to offer the same for sale or sell or otherwise dispose of the same until further notice in writing from the commissioner. Whereupon the commissioner shall forthwith cause a sample of said article of food to be examined or analyzed, and if the same shall be found to be adulterated or misbranded within the meaning of this Act the commissioner shall proceed with a hearing and subsequent proceedings as provided in this Act. If, however, such examination or analysis shall show that such article of food complies with the provisions of this Act, the person, firm or corporation, in whose possession such article of food is found shall forthwith be notified in writing that said seizure is released, and authority given to dispose of such article of food. Such seizure may be had without a warrant and said commissioner, and all inspectors and agents appointed pursuant to law are hereby given full power and authority of "policemen." Any court having jurisdiction, upon receiving proof of probable cause for believing in the concealment of any food or dairy products or substitutes therefor, or imitation thereof, kept for sale or for a purpose, or had in possession or under control, contrary to the provisions of this Act, or other laws which now exist or may be hereafter enacted, shall issue a search warrant and cause a search to be made in any place therefor and to that end may cause any building, enclosure, wagon or car to be entered, and any apartment, chest, box, locker, tub, jar, crate, basket or package to be broken open and the contents thereof examined. (Id. ¶ 30.)

17. Search Warrants to be Issued for Illegal Food.—All warrants issued pursuant to section 29 [¶ 30] hereof shall be directed to the sheriff bailiff or some constable of the county where such food or dairy products may be supposed to be concealed, commanding such officer to search the house or place where such food or dairy product, or substitutes thereof, or imitation thereof, for which he is required to search, is believed to be concealed, which place and the property to be searched for, shall be designated in the warrant, and to bring such food or dairy product or substitute therefor or imitation thereof, when found, and the person in whose possession the same is found, before the magistrate who issued the warrant, or before some other court or magistrate having jurisdiction of the case, to be proceeded against as hereinbefore provided for in section 10 [¶ 10] of this Act. (Id. ¶ 31.)

18. State's Attorney to Assist.—It shall be the duty of the State's Attorney in any county of this State when called upon by the commissioner or any of his assistants, to render any legal assistance in his power to execute the law and to prosecute cases arising under the provisions of this Act: Provided, that no person shall be prosecuted under the provisions of this Act for selling or offering for sale any article of food or drugs as defined herein, when the same is found to be adulterated or misbranded within the meaning of this Act, in the original unbroken package in which it was received by said person when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in this State, from whom he purchased such article, to the effect that the same is not adulterated or misbranded in the original unbroken package in which said article was received

by said dealer, within the meaning of this Act, designating it. Said guaranty to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties as provided for in this Act: Provided, that no such guaranty shall operate as a defense to prosecutions for the violations of this Act; first, if the dealer shall continue to sell after notice by the State Food Commissioner that such article is adulterated or misbranded within the meaning of this Act; second, if the dealer shall fail to preserve for the manufacturer or guarantor and deliver to him upon demand the sample left with him by the commissioner or his agent. (Id. ¶ 32.)

19. State Board of Health* to Furnish Samples.—The State Board of Health may submit to the commissioner or any of his assistants samples of food or drink for examination or analysis, and shall receive special reports showing the results of such examination or analysis. (Id. ¶ 33.)

20. State Analyst† Shall Not Furnish Certificate of Purity.—It shall be unlawful for the State Analyst or any assistant State Analyst to furnish to any individual, firm, or corporation any certificate as to the purity or excellence of any article manufactured or sold by them to be used as food or in the preparation of food. (Id. ¶ 34.)

21. Using Shift or Device.—The use of any shift or device to evade any of the provisions of this Act shall be deemed a violation of such provision and punishable as herein provided. (Id. ¶ 35.)

22. Master's Liability, Etc.—Whoever shall, by himself, or another, either as principal, clerk, or servant, directly or indirectly, violate any of the provisions of this Act, shall be guilty of a misdemeanor and punished as herein provided. (Id. ¶ 36.)

23. Penalties, License Fees and Proceeds Paid to State Treasurer.—All fines, penalties, and all proceeds collected from goods confiscated and sold under the provisions of this Act and other laws relating to dairy and food products, and all license fees collected hereunder, shall be paid into the State Treasury. (Id. ¶ 37.)

24. Label—Size of Type.—The principal label on any package of food, as defined by this Act, shall be printed plainly and legibly in English with or without the foreign label in the language of the country where the product is produced or manufactured and the size of type, if not otherwise described in this Act, shall be not smaller than eight-point (brevier) caps: provided, that in case the size of the package will not permit the use of eight-point cap type, the size of the type may be reduced proportionately. (Id. ¶ 38.)

25. Food Commissioner to Make Rules and Regulations.—The State Food Commissioner shall make rules and regulations for carrying out the provisions of this Act, and shall have power to make rules and regulations for the analyzing and reporting the results thereof, of articles submitted for analysis by the State Board of Health, and regulating the analyzing and reporting thereon of samples taken under any law or laws of the United States by any person hereunder, or furnished by any officer or employee charged with the enforcement of the laws of the United States relative to the manufacture, sale, or transportation of adulterated, misbranded, poisonous, or deleterious foods, dairy products, or articles manufactured from dairy products or liquors. (Id. ¶ 39.)

26. Standard of Purity and Strength.—(a) In the enforcement of this Act, and in the construction thereof, the following named articles of foodstuffs, when offered for sale or exposed for sale, or sold, shall conform to the analytical requirements set opposite each respectively:

Milk shall contain not less than three (3) per cent of milk fat and not less than eight and one-half (8½) per cent of solids, not fat.

Cream shall contain not less than eighteen (18) per cent of milk fat.

Maple sugar shall contain not less than sixty-five one hundredths (0.65) per cent of maple ash in the water-free substance.

Honey is a leavo-rotatory [lævo rotary], contains not more than twenty-five (25) per cent of water, not more than twenty-five hundredths (0.25) per cent of ash, and not more than eight (8) per cent of sucrose.

Cloves shall contain not more than five (5) per cent of clove stems, not less than ten (10) per cent of volatile ether extract, not less than twelve (12) per cent of quercitannic acid, not more than eight (8) per cent of total ash, not more than

*See Nos. 1 and 2b.

†See Nos. 1 and 2.

five-tenths (0.5) per cent of ash insoluble in hydrochloric acid, and not more than ten (10) per cent of crude fiber.

Black pepper shall contain not less than six (6) per cent of nonvolatile ether extract, not less than twenty-five (25) per cent of pepper starch, nor more than seven (7) per cent of total ash, nor more than two (2) per cent of ash insoluble in hydrochloric acid, and not more than fifteen (15) per cent of crude fiber.

Lemon extract shall contain not less than five (5) per cent of oil of lemon by volume.

Orange extract shall contain not less than five (5) per cent of oil of orange by volume.

Vanilla extract shall contain in one hundred (100) cubic centimeters the soluble matters from not less than ten (10) grams of vanilla bean.

Olive oil has a refractive index (25°C) not less than one and forty-six hundred and sixty ten thousandths (1.4660) and not exceeding one and forty-six hundred and eighty ten-thousandths (1.4680), and an iodine number not less than seventy-nine (79) and not exceeding ninety (90).

All vinegars shall contain four (4) grams of acetic acid in one hundred (100) cubic centimeters (20°C).

Cider vinegar shall contain not less than one and six tenths (1.6) grams of apple solids, and not less than twenty-five hundredths (0.25) grams of apple ash in one hundred (100) cubic centimeters (20°C).

Malt vinegar shall contain in one hundred (100) cubic centimeters (20°C) not less than two (2) grams of solids and not less than two-tenths (0.2) grams of ash.

Wine vinegar shall contain not less than one (1) gram of grape solids and not less than thirteen-hundredths (0.13) gram[s] of grape ash in one hundred cubic centimeters (20°C).

(b) Ice cream is a frozen substance, made from cream, or milk and cream, and sugar, with or without the additions of such other wholesome substances as have customarily been used in making ice cream and contains not less than eight per cent (8%) milk fat, and manufactured, stored, distributed, and dispensed in a sanitary manner. The following other substances have customarily been used in making ice cream: Eggs, flour, starches, butter, gelatin, flavoring, harmless colors, nuts, fruits, pastries, and condensed milks.

In the enforcement of this Act and in the construction thereof all articles of food not defined in this Act, when offered for sale or exposed for sale, or sold, shall conform to the definition and analytical requirements of the standard adopted and promulgated from time to time by the Food Standards Commission: Provided, that standards of quality, purity or strength, for food products, adopted from time to time by the Food Standards Commission and the regulations concerning the labeling of food products, adopted from time to time by the State Food Commissioner shall constitute *prima facie* evidence in the trial of all cases in court of the proper standard or of the proper labeling: Provided, that nothing in this section shall be construed to prevent the sale of any wholesome food product which is below such standard, if such article of food be labeled so as to clearly indicate such variation: Provided, further, that in all places where foods below such standards are sold in bulk or have been removed from its original package, there shall be placed in a prominent position a placard in large letters of not less than one inch in length which shall clearly indicate such variation so as to be easily read by customers.

(c) All persons, firms, or corporations in the State of Illinois now engaged in the manufacture of ice cream, water ices, frozen puddings, or any other food products made in part from milk or cream and frozen, for sale shall, before the first day of September, 1919, make application to the Department of Agriculture for a license; and all persons, firms, or corporations that hereafter engage in the manufacture of ice cream, water ices, frozen puddings, or any other food product made in part from milk or cream and frozen, for sale, except churches, charitable institutions, picnics, chautauquas, or other social gatherings which are not regularly engaged in such business, shall, before engaging in such business, apply to the Department of Agriculture, for a license. Thereupon the Director of the Department of Agriculture, or his agents, shall inspect the establishment, equipment, and utensils, and shall also ascertain if the building and equipment comply with the sanitary law and the rules and regulations of the Department of Agriculture that shall be made from time to time governing these establishments.

After the inspectors of the Department of Agriculture have examined the premises and have been satisfied that the places now in existence or about to be established comply with the sanitary law of the State, the Department of Agriculture shall notify the applicant that his place does comply, and the applicant shall then

mail a check to the State Treasurer covering the amount of license fee. Upon receipt of same the State Treasurer shall notify the Director of the Department of Agriculture of the receipt of said license fee and thereupon the Director of the Department of Agriculture shall issue a license to such applicant.

The license fee for persons, firms, or corporations who manufacture ice cream, water ices, frozen puddings, or any other food products made in part from milk or cream and frozen, for their own retail purposes, except churches, charitable institutions, picnics, chautauquas, or other social gatherings which are not regularly engaged in such business shall be one dollar annually, which shall be paid into the State Treasury before the first of September of each year.

All persons, firms, or corporations who manufacture ice cream, water ices, frozen puddings, or any other food products made in part from milk or cream, and frozen, in a wholesome manner, for sale to persons, firms, or corporations who re-sell the same, shall pay a license fee of ten dollars annually.

(d) Whoever shall violate any of the provisions of Paragraph (c) of this section shall be guilty of a misdemeanor and shall be punished as provided in Section 41 [¶ 44] of this Act; and in addition thereto, the Director of the Department of Agriculture may, after three days' notice in writing, revoke such offender's license, or he may suspend it for such time as may be necessary for such offender to put his place in order to comply with the law. Upon request, the Director of Agriculture shall reinspect, and if the legal requirements are found fulfilled, he shall be reinstated. (Id. ¶ 40.)

27. The Sale of Illegal Food Prohibited.—The sale of food which violates any of the provisions of this Act is hereby prohibited; and whoever offers for sale, exposes for sale or sells any food that violates any of the provisions of this Act shall be guilty of a misdemeanor and punished as herein provided. (Id. ¶ 41.)

28. Preliminary Hearing by the Commissioner.—When it appears from the examination or analysis that the provisions of this Act have been violated, the Food Commissioner shall cause notices of such fact, together with a copy of the findings, to be given to the party or parties from whom the sample was obtained; and to the party, if any, whose name appears upon the label as manufacturer, packer, wholesaler, retailer, or other dealer by registered mail. The party or parties so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed as aforesaid. Notices shall specify the date, hour, and place of the hearing. The hearing shall be private and the parties interested therein may appear in person or by attorney. If, after such hearing, the Superintendent shall believe this Act has been violated, he shall cause the party or parties whom he believes to be guilty, to be prosecuted forthwith, under the provisions of this Act.

In all proceedings or prosecutions brought under this Act, it shall not be necessary to allege in the pleadings that a hearing was had before the Commissioner. A certified copy of the records of the State Food Commissioner's office, showing that notice of hearing was sent by registered mail together with a copy of such notice of hearing and the receipt of the post office department for such registered notice shall be received as evidence that such notice of hearing was given.

A certificate in the following form shall be sufficient:

"I, ..., chief clerk (or other employee) in the State Food Commissioner's office, do hereby certify that the attached is a true, correct and complete copy or copies of the notice of hearing on Inspector's Sample No.

That the said notice of hearing was enclosed by me in an envelope, properly stamped and addressed to of and was deposited and registered in the post office department at Chicago, Illinois, on the day of, A. D. 19...., and that the attached receipt of the post office department is the receipt received by this office for the said notice.

.....
....."

I hereby certify that is the chief clerk (or clerk) having custody of the records of Inspector's Sample No. in the State Food Commissioner's office and that the above, and the attached papers are a true, correct and complete record of the matters therein certified as appears by the records of my office.

Given under my hand and seal this day of

(Id. ¶ 42.)

.....
State Food Commissioner.

29. Prosecutions—Limitations.—No action or prosecution shall be instituted against any person for a violation of the provisions of this Act, unless the same shall have been commenced within six months from the taking

of said sample or unless begun by and with the advice and consent of the State's Attorney of the proper county, first had and obtained therefor; and such prosecution shall at all times be under and within the control of said State's Attorney. (Id. ¶ 43.)

30. Penalty.—Any person convicted of violating any of the provisions of the foregoing Act shall, for the first offense, be punished by a fine in a sum not less than fifteen (15) dollars and not more than one hundred (100) dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment, in the discretion of the court, and for the second and each subsequent offense by a fine of not less than twenty-five (25) dollars and not more than two hundred (200) dollars, or by imprisonment in the county jail not exceeding one year, or both, in the discretion of the court; or the fine above may be sued for and recovered before any justice of the peace or any other court of competent jurisdiction in the county where the offense shall have been committed, at the instance of the State Food Commissioner or any other person in the name of the people of the State of Illinois as plaintiff and shall be recovered in an action of debt. (Id. ¶ 44.)

31. Judgment—Issuing Capias.—When the rendition of the judgment imposes a fine as provided in any of the sections of this Act, it shall be the duty of the justice of the peace or other court rendering such judgment also to render a judgment for costs and such justice of the peace or other court shall forthwith issue a capias or warrant of commitment against the body of the defendant, commanding that unless the said fine and costs be forthwith paid the defendant shall be committed to jail of the county, and the constable or other officer, to whose hands said capias or warrant shall come, shall, in default of such payment, arrest the defendant and commit him to the jail of the county, there to remain as provided in section 171 of "An Act to revise the law in relation to criminal jurisprudence," in force July 1, 1885, unless such fines and costs shall sooner be paid. (Id. ¶ 45.)

General Drug Law.

See Nos. 33, 35-39; also the pharmacy law, No. 220 et seq.

Miscellaneous General Provisions.

32. Adulteration of Food, Candy—Sale of Flesh of Diseased Animal.—Whoever fraudulently adulterates, for the purpose of sale, bread or any other substance intended for food, or any candy or confection, with any substance which is poisonous or injurious to health, and whoever sells or offers or keeps for sale any adulterated bread or other substance intended for food, or candy or confection, knowing the same to be so adulterated, or shall sell or offer to sell or keeps for sale any flesh of any diseased animal or other corrupt or unwholesome provision, shall be confined in the county jail not exceeding one year, or be fined not exceeding \$1,000 or both, in the discretion of the court. (Stats. 1924, c. 38, ¶ 19.)

33. Adulteration of Medicine.—Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells or offers or keeps for sale any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000, and such adulterated drugs and medicines shall be forfeited and destroyed. (Id. ¶ 22.)

34. Adulteration of Food—Not to Sell.—No person shall mix, color, stain or powder, or order or permit any other person in his or her employ to mix, color, stain or powder any article of food with any ingredient or material, so as to render the article injurious to health, or depreciate the value thereof, with intent that the same may be sold; and no person shall sell or offer for sale any such article so mixed, colored, stained or powdered. (Stats. 1924, c. 56b, ¶ 47.)*

35. Adulteration of Drugs.—No person shall, except for the purpose of compounding in the necessary preparation of medicine, mix, color, stain or powder, or order or permit any other person to mix, color, stain or powder, any drug or medicine with any ingredient or material, so as to affect injuriously the quality or potency of such drug or medicine with intent to sell the same, or shall sell or offer for sale any such drug or medicine so mixed, colored, stained or powdered. (Id. ¶ 48.)

*"Much of this Act (Nos. 34-39) is undoubtedly repealed by the Act of May 14, 1907 (No. 1 et seq.)." Note by compiler.

36. Stamp on Mixed Food, Drink or Medicine.—No person shall mix, color, stain or powder any article of food, drink or medicine, or any article which enters into the composition of food, drink or medicine, with any other ingredient or material, whether injurious to health or not, for the purpose of gain or profit, or sell, or offer the same for sale, or order or permit any other person to sell or offer for sale any article so mixed, colored, stained or powdered, unless the same be so manufactured, used or sold, or offered for sale under its true and appropriate name, and notice that the same is mixed or impure is marked, printed or stamped upon each package, roll, parcel or vessel containing the same, so as to be and remain at all times readily visible, or unless the person purchasing the same is fully informed by the seller of the true name and ingredients (if other than such as are known by the common name thereof) of such article of food, drink or medicine, at the time of making sale thereof or offering to sell the same. (Id. ¶ 49.)

37. Penalties.—Any person convicted of violating any provisions of any of the foregoing sections of this Act shall, for the first offense, be fined not less than twenty-five dollars (\$25.00), nor more than two hundred dollars (\$200.00); for the second offense he shall be fined not less than one hundred dollars (\$100.00), nor more than two hundred dollars (\$200.00), or confined in the county jail not less than one month nor more than six months, or both, at the discretion of the court; and for the third and all subsequent offenses he shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand (\$2,000.00), and imprisoned in the penitentiary not less than one year nor more than five years. (Id. ¶ 51.)

38. Defense—Ignorance of Law.—No person shall be convicted under any of the foregoing sections of this Act, if he shows to the satisfaction of the court or jury that he did not know that he was violating any of the provisions of this Act, and that he could not, with reasonable diligence, have obtained the knowledge. (Id. ¶ 52.)

39. State's Attorney to Prosecute.—The State's attorneys of this State are charged with the enforcement of this Act, and it is hereby made their duty to appear for the People and to attend to the prosecution of all complaints under this Act, in their respective counties, in all courts. (Id. ¶ 53.)

40. Willful Destruction or Waste of Food—Punishment.—Any person who shall wilfully destroy or permit to waste any food fit for human or animal consumption, of the original value of twenty-five dollars (\$25) or more, so that such food becomes unfit for such use, with the intent to cause scarcity or to increase, control, maintain or influence the market price of such food, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25) or more than five hundred dollars (\$500) or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Id. ¶ 118.)

NOTE: See also No. 304.

PART II.

Special Food Laws.

Apples.

41. Grading of Apples Sold in Closed Packages.—Apples grown in Illinois when packed in closed packages shall be graded as follows:

1—"Illinois Fancy" grade shall consist of hand picked, properly packed apples, of one variety, which are uniform in size, of good color for the variety, and which are free from insect injury, diseases, and other defects except such bruises and defects as are necessarily caused in the operation of packing. However, a variation from this standard as to freedom from diseases, insect injuries and other defects is allowed not to exceed five (5) per centum of any one such defect or a total of ten (10) per centum of all such defects. Apples in a closed package are uniform in size if they do not vary more than one-half inch in diameter.

2—"Illinois Number One" grade shall consist of hand picked, properly packed apples, of one variety, of fair color for the variety, which are free from insect injury, diseases, and other defects except such bruises and defects as are necessarily

caused in the operation of packing. A variation, however, from this standard as to freedom from insect injury, diseases, and other defects, is allowed not to exceed ten (10) per centum of any one such defect or a total of twenty (20) per centum of all such defects.

3.—“Illinois Commercial” grade shall consist of hand picked, properly packed apples, of one variety, which are free from insect injury, diseases, and other defects, except such insect injuries, diseases and other defects as do not materially deform, disfigure or discolor the fruit, and such bruises and defects as are necessarily caused in the operation of packing. However, a variation from the said standard as to freedom from insect injury, diseases, and other defects, is allowed not to exceed twenty (20) per centum of material defects.

4.—“Private Brand” grades shall consist of all apples not conforming to the foregoing classification. (Stats. 1924, c. 5, § 33.)

42. **Marks or Brand on Package—What Must Appear.**—Every closed package containing apples grown in the State of Illinois, sold, offered or exposed for sale, shall bear upon the outside, in plain letters and figures, the name and address of the packer or of the person by whose authority the apples were packed, the true name of the variety, the grade of the apples therein contained, and the minimum size or the numerical count of the apples in the package. If the true name of the variety is not known to the packer, or to the person by whose authority the apples are packed or branded, then such variety shall be designated as “unknown.” The letters and figures used in marking or branding closed packages of apples under this Act shall be of a size not less than one-half inch high. (Id. § 34.)

43. **Definitions—“Closed Package”—Minimum Size—Variations From Standard.**—“Closed package” means any package which is constructed in such manner as to require the removal of the cover or head for an inspection of the contents. The minimum size of the fruit in all grades is determined by taking the transverse diameter of the smallest fruit in the package. Minimum sizes may be designated by figures or words and the word “minimum” may be abbreviated to “mim”. Variations from the standard are determined by counting or weighing the specimens judged to be below the grade standard in any respect. (Id. § 35.)

44. **Other Marks or Brands.**—The marks and brands prescribed in this Act may be accompanied by additional marks or brands which are not inconsistent with, or more conspicuous than and which do not in any way obscure, the marks and brands prescribed. (Id. § 36.)

45. **Enforcement—Duty of Department of Agriculture.**—It shall be the duty of the Department of Agriculture to enforce this Act, and its inspectors, agents and employees are authorized to enter and inspect places where apples are produced, packed, stored, shipped, delivered for shipment, sold or offered for sale, and apples and apple containers in such places. (Id. § 37.)

46. **Packing, Shipping or Selling in Violation of Act Prohibited—Interference With Officers—Penalty for Violation—Disposition of Fines.**—No person shall pack for sale, ship for sale, offer or consign for sale or sell, in closed packages, apples grown in this State which are not graded, packed and marked or branded in accordance with the provisions of this Act.

No person shall pack for sale, ship for sale, offer or consign for sale or sell any apples in closed packages unless the face or shown surface fairly represents the size and quality of the apples in the package, color excepted. This provision applies to all grades specified in this Act.

No person shall refuse admittance to premises or otherwise obstruct the Department of Agriculture, its inspectors, agents and employees in the proper performance of the duties vested in that department by this Act.

The violation of any of the provisions of this section is a misdemeanor punishable by a fine of not more than twenty-five dollars for the first offense and by a fine of not more than one hundred dollars for any subsequent offense. The said Department of Agriculture shall certify all violations of this Act to the State’s attorney of the county in which the violators reside; and it shall be the duty of such attorney to proceed against the person or persons violating the same, for the collection of the fines provided in this Act. All fines collected under the provisions of this Act shall be paid into the county treasury of the county in which the prosecution is brought. (Id. § 38.)

47. **Packing and Branding in Accordance With Federal Rules.**—The provisions of this Act shall not apply to apples packed and branded in accordance with the rules and regulations of the Department of Agriculture of the United States relating to apple grading. (Id. § 39.)

NOTE: See also No. 161 et seq.

Baking Powder.

48. Baking Powder—How Labeled.—No person by himself, his servant, or his agent, or as the servant of any other person, shall: first, make or manufacture baking powder or any other mixture or compound intended for use as baking powder; second, or sell, exchange, deliver, or offer for sale or exchange such baking powder or any mixture or compound intended for use as baking powder, unless the same shall contain not less than ten per cent available carbon dioxide and unless the common names of all the ingredients be printed on the label. (Stats. 1924, c. 56b, ¶ 13.)*

Beverages.

49. Adulteration of Liquor.—Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, with cocculus indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health; and whoever sells or offers or keeps for sale any such liquor so adulterated, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000, or both. (Stats. 1924, c. 38, ¶ 20.)

50. Adulterated Spirituous, Malt or Vinous Liquors, Prohibited.—No person shall, within this State, by himself, his servant or agent, or as a servant or agent of any other person or corporation, manufacture, brew, distill, have or offer for sale, or sell any spirituous or fermented or malt liquor, containing any drug, substance, or ingredient not healthful or not normally existing in said spirituous, fermented, or malt liquor, or which may be deleterious or detrimental to health when such liquors are used as a beverage, and the following drugs substances, or ingredients shall be deemed to be not healthful and shall be deemed to be deleterious or detrimental to health when contained in such liquors, to wit: Cocculus indicus, copperas, opium, cayenne pepper, picric acid, Indian hemp, strychnine, arsenic, tobacco, daniel seed, extract of logwood, salts of zinc, copper, or lead, alum, methyl alcohol and its derivatives, and any extracts or compounds of any of the above drugs, substances, or ingredients and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor. (Stats. 1924, c. 56b, ¶ 14.)*

NOTE: See also Nos. 243-244, and 245 et seq.

Bread.

See Nos. 32, 194 et seq. and 306.

Canned and Soaked Goods.

51. Canned Goods Must be Labeled After January, 1886.—It shall hereafter be unlawful in this State for any packer or dealer in preserved or canned fruits and vegetables or other articles of food to offer such canned articles for sale after January 1, 1886, with the exception of goods brought from foreign countries, or packed prior to the passage of this Act, unless such articles bear a mark to indicate the grade or quality together with the name and address of such firm, person or corporation that pack the same or dealer who sells the same. The firm, person or corporation labeling such goods shall be considered the packer or packers. (Stats 1924, c. 56b. ¶ 55.)

52. "Soaked" Goods Marked.—All soaked goods put up from products dried before canning, shall be plainly branded on the face of the label, in letters not less than one-half inch high and three-eighths inch wide, of solid and legible type, the word "soaked." (Id. ¶ 56.)

53. Penalties for False Labeling.—Any person, firm or corporation, who shall falsely stamp or label such cans or jars containing preserved fruit or food of any kind, or knowingly permit such false stamping or labeling, and any person, firm or corporation who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and punished with a fine of not less than fifty dollars (\$50) in the case of vendors, and in the case of manufacturers and those falsely or fraudulently stamping or labeling such cans or jars a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000); and it shall be the duty of any board of health in this State cognizant of any

*For penalty, see No. 30.

violation of this Act to prosecute any person, firm or corporation, which it has reason to believe has violated any of the provisions of this Act, and after deducting the cost of trial and conviction to retain for the use of such board the balance of the fine or fines recovered. (Id. ¶ 57.)

NOTE: See also No. 194 et seq.

Cloves.

See No. 26.

Cold Storage.

54. Definitions.—For the purpose of this Act, "cold storage" shall mean the storage or keeping of articles of food at or below a temperature above zero of 45 degrees Fahrenheit in a cold storage warehouse; "cold storage warehouse" shall mean any place artificially cooled to or below a temperature above zero of 45 degrees Fahrenheit, in which articles of food are placed and held for thirty days or more; "article of food" shall mean fresh meat and fresh meat products and all fish, game, poultry, eggs, and butter. (Stats. 1924, c. 56b, ¶ 119.)

55. License to Maintain Cold Storage Warehouse—Issuance, Fee, Etc.—No person, firm, or corporation shall maintain or operate a cold storage warehouse without a license so to do issued by the Department of Agriculture. Any person, firm, or corporation desiring such a license shall make written application to the Department of Agriculture for that purpose, stating the location of the warehouse. The Department of Agriculture thereupon shall cause an examination to be made of said warehouse, and, if it be found by him to be in a proper sanitary condition and otherwise properly equipped for its intended use, he shall issue a license authorizing the applicant to operate the same as a cold storage warehouse during one year. The license shall be issued upon payment of the applicant of a license fee of \$25.00 per annum to the Department of Agriculture. (Id. ¶ 120.)

56. Unsanitary Condition of Warehouse—Revocation of License.—In case any cold storage warehouse, or any part thereof, shall at any time be deemed by the Department of Agriculture to be in an unsanitary condition, or not properly equipped for its intended use, he shall notify the licensee of such condition and upon the failure of the licensee to put such cold storage warehouse in a sanitary condition or to properly equip the same for its intended use, within a time to be designated by the Department of Agriculture, he shall revoke such license. (Id. ¶ 121.)

57. Records of Food Stored—Reports—Inspection.—Every such licensee shall keep accurate records of the articles of food received in and of the articles of food withdrawn from his cold storage warehouse, and the Department of Agriculture shall have free access to such records at any time. Every such licensee shall submit a monthly report to the Department of Agriculture, setting forth in itemized particulars the quantities and kinds of articles of food in his cold storage warehouse. Such monthly reports shall be filed on or before the fifth day of each month, and the reports so rendered shall show the conditions existing on the last day of the preceding month reported, and a summary of such reports shall be prepared by the Department of Agriculture and shall be open to public inspection on or before the tenth day of each month. (Id. ¶ 122.)

58. Inspection and Supervision of Warehouses.—The Department of Agriculture shall inspect and supervise all cold storage warehouses and make such inspection of articles of food therein as he may deem necessary to secure the proper enforcement of this Act, and he shall have access to all cold storage warehouses at all reasonable times. The Department of Agriculture may appoint such persons as he deems qualified to make any inspection under this Act. (Id. ¶ 123.)

59. Food Unfit for Human Consumption Not to be Stored—Marking of Articles for Use Other Than Human Consumption.—No article of food intended for human consumption shall be placed, knowingly received, or kept in any cold storage warehouse, if diseased, tainted, otherwise unfit for human consumption, or in such condition that it will not keep wholesome for human consumption. No article of food for use other than for human consumption, shall be placed, received, or kept in any cold storage warehouse unless previously marked, in accordance with forms to be prescribed by the Department of Agriculture, in such a way as to indicate plainly the fact that such article of food is not to be sold or used for human food. (Id. ¶ 124.)

60. Stored Food to be Marked With Date of Storage and Date of Removal From Storage.—No person, firm, or corporation shall place, receive, or keep in any cold storage warehouse in this State articles of food unless the same shall be plainly marked, stamped, or tagged, either upon the container in which they are packed, or

upon the article of food itself, with the date when placed therein; and no person, firm, or corporation shall remove, or allow to be removed, such article of food from any cold storage warehouse unless the same shall be plainly marked, stamped, or tagged, either on the container in which it is enclosed or upon the article of food itself, with the date of such removal, and such marks, stamps, and tags shall be prima facie evidence of such receipt and removal and of the dates thereof. All articles of food in any cold storage warehouse at the time this Act goes into effect shall, before being removed therefrom, be plainly marked, stamped, or tagged with the date when this Act goes into effect and the date of removal therefrom. (Id. ¶ 125.)

61. Time Limit of Storage—Power to Order Removal of Food.—No person, firm, or corporation shall hereafter keep or permit to remain in any cold storage warehouse any article of food which has been held in cold storage either within or without the State, for a longer aggregate period than twelve months, except with the approval of the Director of the Department of Agriculture as hereinafter provided. The Director of the Department of Agriculture may, from time to time, upon application in writing, extend the period of storage beyond twelve months for any particular article of food provided the same is found upon examination by the Department of Agriculture to be in wholesome condition for further cold storage. The length of time for which such further storage is allowed shall be specified in the order granting the extension. A report on each case in which such extension of storage may be permitted, including information relating to the reason for the action of the said Director, the kinds and amounts of the articles of food for which the storage period was extended, and length of time for which this extension was granted, shall be filed, open to public inspection, in the office of said Director. The Director of Agriculture shall have power to order any article of food held in cold storage to be removed therefrom before the expiration of the first period of twelve months or before the expiration of any period of extension granted by him for any of the following reasons:

(1) That the storage of the article of food beyond the time fixed by the Director of the Department of Agriculture in his order of removal will render such article of food unwholesome;

(2) That the person, firm, or corporation storing such article of food has entered into a contract, agreement, or understanding for the purpose or with the intent of fictitiously increasing the price of such article of food;

(3) That the storage of such article of food is for the purpose or with the intent of fictitiously increasing the price thereof;

(4) That the storage of such article of food tends to create a monopoly;

(5) That the storage of such article of food tends to restrain or prevent competition in this State in the supply or price of such article. Before such article of food shall be ordered removed from storage, the Director of Agriculture shall give at least five days' notice in writing of his intention to make such order, and shall accord the person, firm, or corporation receiving such notice a full hearing thereon. (Id. ¶ 126.)

62. Cold Storage Goods to be so Marked When Sold.—It shall be unlawful to sell, or to offer for sale, any article of food which has been held for a period of thirty days or over in cold storage either within or without the State, without notifying persons purchasing, or intending to purchase the same, that it has been so held, by the display of a placard plainly and conspicuously marked, "Cold Storage Goods," on the bulk mass or articles of food; and it shall be unlawful to represent or advertise as fresh any article of food which has been held in cold storage for a period of thirty days or over. (Id. ¶ 127.)

63. Unlawful to Return Food to Storage.—It shall be unlawful to return to any cold storage warehouse any article of food which has been once released from storage for the purpose of placing it on the market for sale. It shall be unlawful to transfer any article of food from one cold storage warehouse to another if such transfer is made for the purpose of avoiding any provision of this Act, and such transfer shall be unlawful unless all prior stampings, markings and taggings upon such article shall remain thereon. (Id. ¶ 128.)

64. Rules to Enforce Act.—The Department of Agriculture may make all necessary rules and regulations to carry this Act into effect. Such rules shall be filed in the Director's office, and shall not take effect until five (5) days after such filing. (Id. ¶ 129.)

65. Violation of Act—Penalties.—Any person, firm, or corporation violating any provision of this Act shall be guilty of a misdemeanor and shall upon conviction be punished for the first offense by a fine not exceeding one hundred (\$100.00) dollars and for the second or any subsequent offense by a fine not exceeding five hundred

(\$500.00) dollars, or by imprisonment of not more than six months, or by both such fine and imprisonment in the discretion of the court. (Id. ¶ 130.)

66. Construction of Act.—This Act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those States which enact it. (Id. ¶ 131.)

67. Act Cited as Uniform Cold Storage Act.—This act may be cited as the Uniform Cold Storage Act. (Id. ¶ 132.)

Confectionery.

See Nos. 10, 32 and 194 et seq.

Dairy Products—Substitutes for Dairy Products.

68. Buildings for Manufacture of Butterine and Ice Cream—Sanitary Condition—Duty of Factory Inspector—Basements.—All buildings or rooms occupied by butterine and ice cream manufacturers shall be drained and plumbed in a manner conducive to the proper and healthful sanitary condition thereof, and shall be constructed with air shafts, windows and ventilating pipes sufficient to insure ventilation. The factory inspector shall direct the proper drainage, plumbing and ventilation of such rooms or buildings. No cellar or basement now used for the manufacture of butterine or ice cream shall be so occupied or used unless the proprietor shall comply with the sanitary provisions of this Act. (Stats. 1924, c. 48, ¶ 118.)

69. Construction of Rooms—Furniture and Utensils—Domestic Animals to be Excluded—Ash Pits.—Every room used for the manufacture of butterine and ice cream shall be at least eight feet in height, and shall have, if deemed necessary by the factory inspector, an impermeable floor, constructed of cement, or of tiles laid in cement, or an additional flooring of wood, properly saturated with linseed oil. The side walls of such room shall be plastered and wainscoted. The factory inspector may require the side walls and ceiling to be white-washed at least once in three months. He may also require the woodwork of such walls to be painted. The furniture and utensils shall be so arranged as to be readily cleansed, and not prevent the proper cleaning of any part of the room. The manufactured butterine and ice cream shall be kept in dry and airy rooms, so arranged that the floors, shelves and all other facilities for storing the same can be properly cleaned. No domestic animal shall be allowed to remain in a room where butterine or ice cream is manufactured or stored, and no water closets or ash pit shall be within or connected with the rooms used in the manufacture of butterine or ice cream. (Id. ¶ 119.)

70. Duty of Factory Inspector—Inspection Certificate.—The State factory inspector shall cause such manufactories to be inspected. If it be found, upon such inspection, that the manufactories so inspected are constructed and conducted in compliance with the provisions of this Act, the factory inspector shall issue a certificate to the persons owning or conducting such manufactories. (Id. ¶ 120.)

71. Alterations—Written Notice.—If, in the opinion of the State factory inspector, alterations are required in or upon premises occupied and used as butterine and ice cream manufactories, in order to comply with the provisions of this Act, a written notice shall be served by him upon the owner, agent or lessee of such premises, either personally or by mail, requiring such alterations to be made within sixty days after such service, and such alterations shall be made accordingly. (Id. ¶ 121.)

72. Penalties.—Any person who violates any of the provisions of this Act, or refuses to comply with any of the requirements as provided herein, of the factory inspector or his deputy, who are hereby charged with the enforcement of this Act, shall be guilty of a misdemeanor, and, on conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred (\$200.00) nor more than five hundred dollars (\$500.00) for the second offense, or imprisonment for not more than thirty days, and for a third offense by a fine of not less than five hundred dollars (\$500.00) nor more than sixty (60) days imprisonment, or both. (Id. ¶ 122.)

73. Sale of Unclean or Unwholesome Milk for Consumption and Unsanitary Containers Prohibited.—No person, firm or corporation, shall offer for sale or sell to any person, firm or corporation, creamery or cheese factory, any unclean, unhealthful, unwholesome, or adulterated milk or cream or any milk or

cream which has not been well cooled or to which water or any foreign substance has been added, or milk or cream which has been handled or transported in unclean or unsanitary vessels or containers: Provided, that nothing in this section shall be construed to prevent the sale of skim milk to factories engaged in the manufacture of skim milk products, nor the sale of skim milk under the provisions of section 19 [¶ 19] of this Act. (Stats. 1924, c. 56b, ¶ 16.)*

74. Persons Receiving Milk to Wash Cans.—Any person, firm or corporation who receives from any other person, firm or corporation, any milk or cream, or ice cream, in cans, bottles, or vessels which have been transported over any railroad or boat line, where such cans, bottles, or vessels are to be returned, shall cause the said cans, bottles, or vessels to be emptied before the said milk or cream, or ice cream contained therein shall become sour, and shall cause said cans, bottles, or vessels to be immediately washed and thoroughly cleansed and aired. (Id. ¶ 17.)*

75. Not to Manufacture Food With Impure or Unclean Milk or Cream.—No person, firm, or corporation shall manufacture from unclean, impure, unhealthful, or unwholesome milk, or from cream from the same, any article of food. (Id. ¶ 18.)*

76. Sale of Skim Milk—Cans—How Labeled.—No person, firm or corporation shall sell, or expose for sale, or have in his possession with intent to sell, in any store or place of business, or on any wagon or other vehicle, used in transporting milk from which cream has been removed, any such milk or milk commonly called "skim milk" without first attaching to the can, vessel or other package containing said milk, a tag with the words "skim milk" printed on both sides of said tag in large letters, each letter being at least three-fourths of an inch high and one-half inch wide. Said tag shall be attached to the top or side of said can, vessel, or package where it can be easily seen. (Id. ¶ 19.)*

77. Filled Milk.—No person shall manufacture, sell or exchange, or have in his possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. (Id. ¶ 19(1).)*

78. Instruments for Measuring Milk and Cream Standards.—The State standard milk measure or pipettes shall have for milk a capacity of seventeen and six-tenths cubic centimeters, and the State standard test tube or bottles for milk shall have a capacity of two cubic centimeters, at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale marked on the necks thereof. For cream nine or eighteen grams shall be used, and the standard test tubes or bottles for cream shall have a capacity of three or six cubic centimeters, respectively, at a temperature of sixty degrees Fahrenheit between "zero" and thirty on the graduated scale marked on the necks thereof, and it is hereby made a misdemeanor to use any other measure, pipette, test tube, or bottle to determine the per cent of butter fat where milk or cream is purchased by, or furnished to creameries or cheese factories, and where the value of said milk is determined by the per cent of butter fat contained in the same. Any manufacturer, merchant, dealer, or agent in this State who shall offer for sale or sell a cream or milk pipette or measure, test tube or bottle which is not correctly marked or graduated as herein provided, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in this Act. (Id. ¶ 20.)*

79. License to Operate Milk Tester—Application and Examination—Fee—Revocation of License—Disposition of Fees.—No person shall operate a milk or cream testing apparatus to determine the percentage of butter fat in milk or cream for the purpose of purchasing the same either for himself or for another without first securing a license from the Dairy and Food Commissioners of this State, authorizing such person to so operate such tester. Any person desiring to secure such license shall make application therefor on a blank to be prepared and provided by the Dairy and Food Commissioner, and such applicant, before being issued such license, shall pass a satisfactory examination in person and prove by actual demonstration that he is competent and qualified to properly use such tester and make an accurate test with the same.

Such license shall be issued for a period of two (2) years from and after the date of its issuance and a fee of one dollar (\$1.00) shall be paid for such license by the licensee upon the issuance thereof. The Dairy and Food Commissioner for just cause shall have authority to revoke any license issued under the provisions of this Act.

The fees collected under the provisions of this section shall be paid into the State Treasury monthly by the Dairy and Food Commissioner. (Id. ¶ 21.)*

*For penalty, see No. 30.

80. Analyses and Tests of Milk and Cream.—A buyer of milk or cream buying of the producer on a butter fat basis, shall, in the presence of the producer or his agent, after having been petitioned in writing by one or more of its patrons so to do, take a fair sample of the producer's milk, of not less than two (2) ounces, and immediately deliver the same to the producer or his agent in a sealed receptacle to be furnished by the Department of Agriculture suitable for mailing or expressing. The receptacle shall be plainly marked with the producer's factory number and the name of the producer, and may be mailed or expressed by the producer or his agent to the Department of Agriculture for test.

The Department of Agriculture shall receive and make prompt analysis of all such samples of milk or cream, wash and sterilize the containers, and return to the plant or person from whom received, the producer to pay the transportation charges.

The Department of Agriculture shall, not later than the fifth day of each month, mail to the buyer a tabulated sheet, showing the result of each individual producer's test, for the preceding month, the average of which shall be the basis of settlement between the buyer and individual producer.

The Department of Agriculture shall, not later than the eighth day of each month, mail to the individual producer at his post office address, the result of each of his tests for the preceding month.

Samples of milk or cream, for the purpose of this Act, shall be taken not less than two (2) or more than four (4) times during each monthly period at the option of the buyer.

It shall be unlawful for the owner, manager, agent, or any employee of a creamery or cheese factory, to manipulate, underread, or overread the Babcock test, or any other contrivance used for determining the quality or value of milk or cream, or to falsify the record thereof, or to pay for such milk or cream on the basis of any measurement except the true measurement as thereby determined. (Id. ¶ 22.)*

81. Sale of Preservatives Prohibited.—No person, firm, or corporation shall manufacture for sale, advertise, offer or expose for sale, or sell, any mixture or compound intended for use as a preservative or other adulterant of milk, cream, butter or cheese, nor shall he manufacture for sale, advertise, offer or expose for sale, or sell any unwholesome or injurious preservative or any mixture or compound thereof intended as a preservative of any food: Provided, however, that this section shall not apply to pure salt added to butter and cheese. (Id. ¶ 23.)*

82. Vehicles to be Marked.—Any person, firm, or corporation, who shall in any of the cities, incorporated towns or villages of this State, which contains a population of 5,000 or over, engage in or carry on a retail business in the sale or exchange of, or any retail traffic in milk or cream, shall have each and every carriage or vehicle from which the same is vended conspicuously marked with the name of such vendor on both sides of such carriage or vehicle. (Id. § 24.)*

83. Sale of Process Butter Not Branded Prohibited.—No person, firm, or corporation, agent, or employee, shall manufacture for sale, sell or offer or expose for sale, in this State, any butter that is produced by taking original packing stock butter, or other butter, or both, and melting same so that the butter fat can be drawn off or extracted, then mixing the said butter fat with skimmed milk, or milk, or cream, or other milk product, and reurning or reworking the said mixture, or that produced by any process that is commonly known as boiled, process, or renovated butter, unless the same is branded or marked, as provided in section 28 [¶ 29] of this Act. (Id. ¶ 28.)*

84. Process Butter—How Branded.—No person, firm, or corporation, agent, or employee, shall sell, or offer or expose for sale, or deliver to a purchaser, any boiled, process or renovated butter, as defined in section 27 [¶ 28] of this Act, unless the words "Renovated Butter" shall be plainly branded with gothic or bold face letters at least three-fourths of an inch in length on the top and sides of each tub, or box, or pail, or other kind of case or package, or on the wrapper of prints or rolls or bulk packages in which it is put up. If such butter is exposed for sale uncovered, or not in a case or package, a placard containing the label so printed shall be attached to the mass of butter in such a manner as to be easily seen and read by the purchaser. The branding or marking of all packages shall be in the English language, and in a conspicuous place so as to be easily seen and read by the purchaser. (Id. ¶ 29.)*

85. Analytical Requirements of Various Kinds of Cheese.—In the enforcement of this Act and in the construction thereof, the following named articles of food-

*For penalty, see No. 30.

stuffs, when offered for sale or exposed for sale, or sold, shall conform to the analytical requirements set opposite each respectively:

(a) Cheese is a sound, solid and ripened product made from milk or cream by coagulating the casein with rennet, pepsin or lactic acid, with or without the addition of ripening ferments, seasoning, or added coloring matter.

Cheddar or American cheese shall contain not more than thirty-nine per cent. (39%) of moisture and, in the water free substance not less than fifty per cent (50%) of milk fat; cheese of the type known as brick cheese shall contain not more than forty-two per cent (42%) of moisture, and, in the water free substance not less than fifty per cent (50%) of milk fat; Emmenthaler cheese, commonly known as Swiss cheese, shall contain not more than thirty-nine per cent (39%) of moisture, and, in the water free substance not less than forty-five per cent (45%) of milk fat. With all said standards of fat and moisture a tolerance of not to exceed one per cent (1%) shall be permitted, so that in no case or event shall the milk fat of said cheese fall below a standard one per cent (1%) of butter fat lower than the standards above stated nor the moisture of said cheeses exceed by more than one per cent (1%) of moisture the standards above stated. In the event seasoning such as pimentos, mustard, chile peppers, shall be added to any of the before-mentioned types of cheese either in process of manufacture or later, in determining whether said cheese complies with the above standards, deduction shall first be made of the moisture and substances added by the aforesaid seasoning.

(b) Skim milk cheese is the sound and ripened product made from skim milk by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning. The addition of harmless coloring matter is permitted. When offered for sale or sold it must be correctly labeled.

(c) Goat's milk cheese, ewe's milk cheese, are the sound, ripened products made from the milks of the animals specified by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning. The addition of harmless coloring matter is permitted.

(d) Where the ultimate cheese product is obtained by pasteurizing, mixing, blending and uniting with the aid of heat one or more cheese of different lots, sizes, forms, weights, flavors, age and quality, different fat and moisture content, said pasteurized or blended cheese may contain added seasoning, water, harmless coloring matter and an added harmless emulsifying agent, i. e., bi-sodium phosphate, sodium citrate, or similar harmless substances, or mixtures of the same, but shall be governed by the same standards and tolerances above imposed on the original cheese from which said pasteurized or blended cheese is made, with an additional allowance of one per cent (1%) on moisture so that, for example, pasteurized or blended American cheese shall contain not less than fifty per cent (50%) of butter fat in the water free substance and not more than forty per cent (40%) of moisture with a tolerance of one per cent (1%); pasteurized or blended Swiss cheese shall contain not less than forty-five per cent (45%) butter fat in the water free substance and not more than forty per cent (40%) of moisture with a tolerance of one per cent (1%); pasteurized or blended brick cheese shall contain not less than fifty per cent (50%) of butter fat in the water free substance and not more than forty-three per cent (43%) of moisture with a tolerance of one per cent (1%). When offered for sale or sold, such pasteurized or blended cheese, or the container thereof, must bear either the word "Pasteurized" or the word "Blended" or both said words. (Supp. 1926, c. 56b, ¶ 39(1).)

86. Adulterated Butter or Cheese to be Marked.—No person shall mix oleomargarine, suine, butterine, beef-fat, lard, or any other foreign substance, with any butter or cheese intended for human food, without distinctly marking, stamping or labeling the article, or the package containing the same, with the true and appropriate name of such article, and the percentage in which such oleomargarine or suine enters into its composition; nor shall any person sell or offer for sale, or order or permit to be sold or offered for sale, any such article of food into the composition of which oleomargarine or suine has entered, without at the same time informing the buyer of the fact, and the proportions in which such oleomargarine, suine, or butterine, beef-fat, lard, or any other foreign substance has entered into its composition: Provided, that nothing in this Act shall be so construed as to prevent the use of harmless coloring matter in butter and cheese, or other articles of food. (Stats. 1924, c. 56b, ¶ 50.)*

87. Right to Adopt Mark, Stamp or Brand for Food Containers.—In order to protect the public against frauds and imitations in the sale of dairy products, and prevent the public from being deceived in the purchase and use of adulterated foods

*For penalty, see No. 37.

and to protect the manufacturers from being wrongfully charged with the manufacture, storage, transportation, or sale of impure or adulterated foods, any person, firm, or corporation engaged in the manufacture or transportation of any dairy products, including milk, cream, and ice cream may adopt a suitable mark, stamp, or brand for use upon any can, bottle, or other container used in the handling and transporting any of said products and may file in the office of the Secretary of State a description of such mark, stamp, or brand so desired to be used. (Id. ¶ 61.)

88. What Brand, Stamp or Mark May Consist of—Affixing.—Such brand, stamp, or mark may consist of a name, design, or device, either in color, enamel, or otherwise and shall be registered by the Secretary of State, provided, it can be suitably distinguished from any other mark stamp, or brand theretofore registered; and such registered mark, stamp, or brand may be fixed in any suitable and permanent manner to the can, bottle, or other container, but nothing in this Act shall be construed as permitting the registration or use by any person, firm, or corporation, of any brand, stamp, mark, name, design, or device which but for this Act, such person, firm or corporation would not be entitled to use. (Id. ¶ 62.)

89. Unlawful to Use Brand, Etc., Selected and Registered.—It shall be unlawful for any person firm, or corporation to use any brand, stamp, or mark which has already been selected and registered under the provisions of this Act upon any can, bottle, or other container for any commodity. (Id. ¶ 63.)

90. Marked Containers—Owners Alone May Use.—It shall be unlawful for any person, firm, or corporation other than the rightful owner thereof, to use any can bottle, or other container marked, stamped or branded as herein provided. (Id. ¶ 64.)

91. Unlawful to Deface Marked Containers.—It shall be unlawful for any person, firm, or corporation, other than the rightful owner thereof, to deface, remove, or injure any such brand, stamp or mark upon any such can, bottle, or other container referred to herein. (Id. ¶ 65.)

92. Violation of Act—Penalties.—Any person, firm, or corporation who shall violate any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be fined for each such offense by a fine not less than five (\$5.00) dollars, nor more than one hundred (\$100.00) dollars, or by imprisonment in the county jail not to exceed thirty (30) days. (Id. ¶ 66.)

93. Enforcement of Act.—It is hereby made the duty of the Food and Dairy Commissioner to enforce all of the provisions of this Act. (Id. ¶ 67.)

94. Milk—Adulteration of—Skimming—Strippings—Diseased Cows—Penalty.—Whoever shall, for the purpose of sale for human food, adulterate milk with water or any foreign substance, or whoever shall knowingly sell for human food, milk from which cream has been taken, without the purchaser thereof being informed or knowing the fact, or whoever shall knowingly sell for human food, milk from which what is commonly called "strippings" has been withheld, without the purchaser thereof being informed or knowing the fact, or whoever shall knowingly sell for human food milk drawn from a diseased cow, knowing her to be so diseased as to render her milk unwholesome, or whoever shall knowingly sell for human food, milk so tainted or corrupted as to be unwholesome, or whoever shall knowingly supply, or bring to be manufactured into any substance for human food, to any cheese or butter factory or creamery, without all interested therein knowing or being informed of the fact, milk which is adulterated with water or any foreign substance, or milk from which cream has been taken, or milk from which what is commonly called "strippings" has been withheld, or milk drawn from a diseased cow, knowing her to be so diseased as to injure her milk, or milk so tainted or corrupted as to be unwholesome, or whoever shall knowingly, with intent to defraud, take from milk after it has been delivered to a cheese factory, or butter factory, or creamery, to be manufactured into any substance for human food, for or on account of the person supplying the milk or cream, or shall, with like intent, knowingly add any foreign substance to the milk or cream, whereby it, or the products thereof shall become unwholesome for human food, shall be guilty of a misdemeanor, and for each and every such misdemeanor shall be fined not less than twenty-five (25) nor more than one hundred dollars (\$100) or confined in the county jail not exceeding six (6) months, or both, in the discretion of the court. (Id. ¶ 78.)

95. Keeping Diseased Cows.—Any person who shall adulterate milk, with the view of offering the same for sale or exchange, or shall keep cows for the production of milk for market, or for sale or exchange, in an unhealthy condition, or knowingly feed the same on food that produces impure, diseased, or unwholesome milk, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished

by a fine of not less than fifty dollars (\$50), nor more than two hundred dollars (\$200), for each and every offense. (Id. ¶ 79.)

96. Cans, Vehicles, to be Marked.—Any person or persons who shall in any of the cities of this State, engage in or carry on a retail business in the sale, exchange of, or any retail traffic in milk, shall have each and every can in which the milk is carried or exposed for sale or exchange, and the carriage or vehicle from which the same is vended, conspicuously marked with his, her, or their name or names, also indicating by said mark the locality from which said milk is obtained or produced, and for every neglect of such marking, the person or persons so neglecting, shall be subject to the penalties expressed in section 2 [¶ 79] of this Act, but for every violation of this Act, by so marking said cans, carriage or vehicle, as to convey the idea that said milk is produced or procured from a different locality than it really is, the person or persons so offending, shall be subject to a fine of one hundred dollars (\$100). (Id. ¶ 80.)

97. Selling Skimmed Milk Unless so Marked—Penalty.—Any person who shall, in any of the cities in this State, offer for sale any milk from which the cream or any part thereof shall have been taken, shall offer for sale and sell the same as skimmed milk, and not otherwise, and shall have each can or vessel in which such milk is carried, or exposed for sale, plainly and conspicuously marked with the words, "Skimmed Milk." Any person violating this section shall be subject to a fine not exceeding fifty dollars (\$50) for each and every violation. (Id. ¶ 81.)

98. Judgment—Capias.—Upon the rendition of judgment imposing a fine provided in the foregoing sections, it shall be the duty of the justice of the peace or other court rendering said judgment, also, to render a judgment for the costs, and forthwith to issue a capias or warrant of commitment against the body of the defendant, commanding that, unless the said fine and costs be forthwith paid, the defendant shall be committed to the jail of the county, and the constable or other officer to whose hands said capias or warrant shall come, shall in default of such payment, arrest the defendant and commit him to the jail of the county, there to remain, as provided by section 308 of "An Act to revise the law in relation to criminal jurisprudence," in force July 1, 1874; unless such fine and costs shall sooner be paid (Id. ¶ 82.)

99. Adulteration Defined.—The addition of water or any foreign substance to milk or cream intended for sale, or exchange, is hereby declared an adulteration. Any milk that is obtained from cows fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction, is hereby declared to be impure, and unwholesome. Nothing in this Act shall be construed to prevent the addition of sugar in the manufacture of condensed or preserved milk. (Id. ¶ 83.)

100. Terms Defined.—"Pasteurization" as used herein shall be taken to refer to the process of heating milk or milk products to a temperature of not less than 142 degrees Fahrenheit and holding at such temperature for not less than thirty minutes. "Pasteurization plant" as used herein shall be taken to include the building, machinery, apparatus, and other equipment and appurtenances necessary and essential in the work of pasteurizing milk or milk products, tanks and other equipment essential to the storing or handling of the milk while being held for pasteurization, the equipment, machinery, apparatus, and appurtenances for cooling the milk and milk products, and placing the milk and milk products in bottles or other suitable containers, and storing such bottles and containers following pasteurization. (Supp. 1926, c. 56b, ¶ 84(1).)

101. Pasteurization Plants—Certificate of Approval.—All persons, firms or corporations doing business in the State of Illinois and now engaged in the business of operating a pasteurization plant shall, before the first day of September, 1925, make application to the State Department of Public Health for a certificate of approval, except as hereinafter provided, and all person, firms or corporations that hereafter engage in the business of operating a pasteurization plant shall upon engaging in such business apply to the State Department of Public Health for a certificate of approval.

As promptly as convenient after filing of such an application the State Department of Public Health shall inspect said pasteurization plant, and in all cases where buildings, equipment or operating methods are found to be insanitary, defective, or in any way so unsatisfactory as to prohibit issuance of a certificate of approval, the State Department of Public Health shall make recommendations for correction or improvement. (Id. ¶ 84(2).)

102. Issuance of Certificate—Fee—Renewal.—After inspecting any pasteurization plant which is found to comply with the provisions of this Act, the Department of Public Health shall notify the applicant and on payment of the required fee, shall issue to the applicant a certificate of approval.

The certificate of approval fee shall be ten dollars (\$10.00), if the certificate is for more than six months and five dollars (\$5.00) if the certificate is for six months or less. A certificate shall be good until January first of the year following the date of its issue, and subject to annual renewal upon payment of renewal fee of ten dollars (\$10.00). Such renewal being subject to approval on reinspection or on information submitted by the owner or operator of a plant in answer to a standard questionnaire sent to him by State Department of Public Health, or both. (Id. ¶ 84(3).)

103. Construction and Remodeling of Plants—Approval of Plans.—Any persons, firms or corporations contemplating the construction or remodeling of a pasteurization plant may submit plans, specifications and information relative thereto to the State Department of Public Health for review. The State Department of Public Health shall promptly review such plans, specifications, and information and shall advise in writing whether or not such proposed construction or remodeling meets with the approval of the department. (Id. ¶ 84(4).)

104. Printed Regulations.—The State Department of Public Health shall prepare and have printed the minimum requirements for the construction, equipment, maintenance, and operation for a pasteurization plant for which a certificate of approval will be issued. (Id. ¶ 84(5).)

105. Automatic Devices for Recording Temperature.—All approved pasteurization apparatus must be equipped with automatic devices for recording the pasteurization temperature and holding time; such records to appear on standard charts of approved design which must be properly dated and filed in the office of the plant and submitted for examination to the State Department of Public Health at any time upon request except in those municipalities where such charts are filed with the local boards or departments of health. (Id. ¶ 84(6).)

106. Milk Containers.—Pasteurized milk shall be stored, sold or delivered in bottles, cans or other containers that have been washed, rinsed and sterilized by some efficient means approved by the State Department of Public Health. (Id. ¶ 84(7).)

107. Sediment and Stains on Filtering—Tests—Filing.—All milk or milk products to be pasteurized shall not yield more than a perceptible amount of sediment or stain other than that of natural butter fat when a pint sample of the same is filtered through a pledget of cotton one inch in diameter and such test shall be made by the operator of a pasteurization plant of each producer's milk at least once each month. The cotton pledgets of this test shall be properly filed in the office of the pasteurization plant and shall be submitted for examination to the State Department of Public Health at any time upon request. (Id. ¶ 84(8).)

108. Health Certificate for Employees—Medical Examination.—Every person employed in any pasteurization plant coming in contact with pasteurization or bottling processes shall annually furnish the State Department of Public Health a health certificate, after a thorough examination by a competent physician, that he is free of tuberculosis, venereal disease, or any other disease capable of being carried in or with the milk or milk products of such plant. Examinations must be conducted at least once each year and at such other times as the State Department of Public Health may deem necessary or advisable. A special examination may be required in any case where the State Department of Public Health deems such examination necessary. (Id. ¶ 84(9).)

109. Automobile Laboratory.—In orders to carry out more effectively the provisions of this Act there shall be provided and maintained by the State Department of Public Health an enclosed automobile laboratory for the purpose of making bacteriological, chemical, and other scientific analyses. (Id. ¶ 84(10).)

110. Revocation of Certificate—Reissue.—The State Department of Public Health may, after 10 days written notice sent by registered mail to any person, firm or corporation operating a pasteurization plant that does not comply with any of the provisions of this Act or any of the requirements of the State Department of Public Health issued under the provisions of this Act, revoke the certificate of approval, and such certificate shall remain void and shall not be displayed to public view until such time as the plant has been put in such condition as to comply with this Act. The State Department of Public Health may cause any such offender to cease immediately the labeling of any container or containers in which milk from such plant is sold or offered for sale with any word or words stating or indicating that the milk or milk products are pasteurized or to state or indicate by any other means that the milk or milk products from such plant are pasteurized.

Upon written statement from the offender whose certificate has been revoked that the provisions of this Act have been and are being complied with and upon request of such offender for a re-issue of the certificate, the State Department of

Public Health shall promptly re-inspect and if the provisions of this Act are found to be complied with said certificate of approval shall be reissued. (Id. ¶ 84(11).)

111. Penalty for Violation.—Any person, association, firm, corporation, or partnership violating any of the provisions of this Act shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each day such violation continues. (Id. ¶ 84(12).)

112. Cities in Which Act Inapplicable.—The provisions of this Act do not apply to pasteurization plants located in and furnishing milk or milk products for consumption in municipalities containing 500,000 or more inhabitants, according to the last census, which have established a system of regulation and inspection of the pasteurization plants supplying milk for consumption in such municipalities or to any pasteurization plant which supplies milk or milk products solely for consumption in such municipalities. (Id. ¶ 84(13).)

113. Appropriation.—The sum of five thousand dollars (\$5,000), or so much thereof as may be necessary, is appropriated to the Department of Public Health to carry out the provisions of this Act. (Id. ¶ 84(14).)

114. Provisions Governing.—This appropriation is subject to the provisions of "An Act in relation to State finance," approved June 10, 1919, as amended. (Id. ¶ 84(15).)

115. Substances Similar to Butter or Cheese—Mark.—Whoever manufactures, sells, or offers for sale, or causes the same to be done, any substance purporting to be butter or cheese, or having the semblance of butter or cheese, which substance is not made wholly from pure cream or pure milk, unless the same be manufactured under its true and appropriate name, and unless each package, roll or parcel of such substance, and each vessel containing one or more packages of such substance, have distinctly and durably painted, stamped or marked thereon the true and appropriate name of such substance, in ordinary bold faced capital letters not less than five-lines pica, shall be punished as provided in section 3 [¶ 87] of this Act. (Stats. 1924, c. 56b, ¶ 85.)*

116. Labels.—Whoever shall sell any such substance as is mentioned in section 1 of this Act, to consumers, or cause the same to be done, without delivering with each package, roll or parcel so sold, a label on which is plainly and legibly printed, in Roman letters, the true and appropriate name of such substance, shall be punished as is provided in section 3 [¶ 87] of this Act. (Id. ¶ 86.)*

117. Penalties.—Whoever knowingly violates section 1 [¶ 85] or section 2 [¶ 86] of this Act, shall be fined in any sum not less than ten nor more than three hundred dollars, or imprisoned in the county jail not less than ten nor more than ninety days, or both, in the discretion of the court: Provided, that nothing contained in this Act shall be construed to prevent the use of skimmed milk, salt rennet, or harmless coloring matter, in the manufacture of butter or cheese. (Id. ¶ 87.)*

118. Adulteration of Butter or Cheese.—Whoever manufactures out of any oleaginous substances, or any compound of the same other than that produced from unadulterated milk, or cream from the same, any article designed to take the place of butter or cheese produced from pure, unadulterated milk, or cream of the same, and shall sell, or offer for sale, the same as butter or cheese, or give to any person the same as an article of food, as butter or cheese, shall, on conviction thereof, be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200). (Id. ¶ 88.)*

119. Imitation of Butter Defined.—For the purpose of this Act, every article substitute or compound other than [that] which is produced from pure milk or cream therefrom, made in the semblance of butter and designed to be used as a substitute for butter made from pure milk or its cream, is hereby declared to be imitation butter: Provided, that the use of salt and harmless coloring matter for coloring the product of pure milk or cream shall not be construed to render such product an imitation. (Id. ¶ 90.)

120. Coloring and Dealing in Imitation Butter Prohibited—Construction.—No person shall coat, powder, or color with annato or any coloring matter whatever any substance designed as a substitute for butter whereby such substitute or product so colored or compounded shall be made to resemble butter, the product of the dairy.

No person shall combine any animal fat or vegetable oil or other substance with butter, or combine therewith, or with animal fat or vegetable oil, or com-

*"While as to butter this act is undoubtedly superseded by the Act of June 14, 1897, ¶¶ 90-100, post, the latter act does not cover cheese." Note by compiler.

bination of the two, or with either one, any other substance or substances, for the purpose or with the effect of imparting thereto a yellow color or any shade of yellow so that such substitute shall resemble yellow or any shade of genuine yellow butter, nor introduce any such coloring matter or such substance or substances into any of the articles of which the same is composed.

Provided, nothing in this Act shall be construed to prohibit the use of salt, rennet, and harmless coloring matter for coloring the products of pure milk or cream from the same.

No person shall, by himself, his agents, or employees produce or manufacture any substance in imitation or semblance of natural butter, nor sell, nor keep for sale, nor offer for sale any imitation butter, made or manufactured, compounded or produced in violation of this section, whether such imitation butter shall be made or produced in this State or elsewhere.

This section shall not be construed to prohibit the manufacture and sale, under the regulations hereinafter provided, of substances designed to be used as a substitute for butter and not manufactured or colored as herein provided. (Id. ¶ 91.)

121. Packages Containing Substitutes for Butter to be Marked.—Every person who lawfully manufactures any substance designed to be used as a substitute for butter, shall mark by branding, stamping, or stenciling upon the top and side of each box, tub, firkin, or other package in which such article shall be kept, and in which it shall be removed from the place where it is produced, in a clear and durable manner in the English language, the word "Oleomargarine," or the word "Butterine," or the words "Substitute for Butter," or the words "Imitation Butter," in printed letters in plain Roman type, each of which shall not be less than three-quarters of an inch in length. (Id. ¶ 92.)

122. Unlawful to Sell Imitation Butter Without Informing the Purchaser.—It shall be unlawful to sell or offer for sale any imitation butter without informing the purchaser thereof, or the person or persons to whom the same is offered for sale, that the substance sold or offered for sale is imitation butter. (Id. ¶ 93.)

123. Unlawful to Ship Packages Containing Substitutes for Butter Unless Marked.—No person by himself or others, shall ship, consign, or forward by any common carrier, whether public or private, any substance designed to be used as a substitute for butter unless it shall be marked or branded on each tub, box, firkin or jar, or other package containing the same, as provided in this Act, and unless it be consigned by the carriers and receipted for by its true name: Provided, that this Act shall not apply to any goods in transit between foreign States across the State of Illinois. (Id. ¶ 94.)

124. Unlawful to Have in Possession Substitutes for Butter Unless Marked.—Presumption.—No person shall have in his possession or under his control any substance designed to be used as a substitute for butter, unless the tub, firkin, jar, box or other package containing the same be clearly and durably marked as provided in this act: Provided, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves [or] their families. Every person who shall have possession or control of any imitation butter for the purpose of selling the same, which is not marked as required by the provisions of this act, shall be presumed to have known during the time of such possession or control the true character and name, as fixed by this act, of such product. (Id. ¶ 95.)

125. Intent Presumed From Possession.—Whoever shall have possession or control of any imitation butter or any substance designed to be used as a substitute for butter, contrary to the provisions of this Act, for the purpose of selling the same, or offering the same for sale, shall be held to have possession of such property with intent to use it in violation of this Act. (Id. ¶ 96.)

126. Actions by Persons to Wrongful Sales or Contracts Barred.—No action shall be maintained on account of any sale or contract made in violation of, or with intent to violate, this Act, by or through any person who was knowingly a party to such wrongful sale or contract. (Id. ¶ 97.)

127. Defacing Mark.—Whoever shall deface, erase or remove any mark provided by this Act, with intent to mislead, deceive, or to violate any of the provisions of this Act, shall be guilty of a misdemeanor. (Id. ¶ 98.)

128. Penalties.—Whoever shall violate any of the provisions of this Act shall be punished by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the county jail not to exceed sixty days for each offense or by both fine and imprisonment, in the discretion of the court, or the fine alone may be sued for and recovered before any justice of the peace in the county

where the offense shall be committed, at the instance of any person in the name of the People of the State of Illinois as plaintiff. (Id. ¶ 99.)

129. State's Attorney to Prosecute.—It is hereby made the duty of the State's Attorney of each county in this State to prosecute all violations of this Act upon complaint of any person, and there shall be taxed as his fees in the case the sum of ten dollars (\$10), which shall be taxed as costs in the case. (Id. ¶ 100.)

130. Use of Words Restricted.—No person, firm or corporation shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "Butter," "Creamery," or "Dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter, other than in the corporate or trade name of such person, firm or corporation heretofore incorporated, that is actually engaged in the manufacture of butter. (Id. ¶ 100(1).)

131. Penalty—Enforcement of Act.—Whoever violates the provisions of this Act, shall, upon conviction, be liable to a fine of not less than ten dollars nor more than one hundred dollars. The enforcement of this Act shall be charged to the Division of Foods and Dairies of the Department of Agriculture. (Id. ¶ 100(2).)

132. Fines—To Whom and When Remitted—Embezzlement.—All fines imposed and collected for violations hereof shall be remitted to the Department of Agriculture within thirty days after the collection thereof by the justice of the peace, police magistrate or clerk of the court in which the prosecution was brought. All fines imposed and collected for violations hereof and not remitted to the Department of Agriculture within thirty days from such collection shall be deemed to have been embezzled and the justice of the peace, police magistrate or clerk of the court responsible for such failure to remit shall be subject to prosecution for embezzlement. (Id. ¶ 100(3).)

133. Co-operative Butter and Cheese Factories to File Bonds.—It shall be unlawful for any person or persons, company or corporation, within this State, to operate, carry on, or conduct the business of manufacturing butter or cheese, on the co-operative or dividend plan, until such person or persons, company or corporation, shall have filed with the circuit clerk, or recorder of deeds of the county in which it is proposed to carry on such business, a good and sufficient bond, to be approved by such circuit clerk, or recorder of deeds, in the penal sum of six thousand dollars (\$6,000), with one or more good sureties, conditioned that such person or persons, company or corporation, proposing to carry on such business, will, on or before the first day of each month, make, acknowledge, subscribe and swear to a report in writing, showing the amount of products manufactured, the amount sold, the prices received therefor, and the dividends earned and declared for the third month preceding the month in which such report is made; and will file a copy of such report with the clerk of the town or precinct in which such factory is located; and will also keep publicly posted in a conspicuous place in such factory a copy of such report for the inspection of the patrons thereof, and that such dividends shall be promptly paid to the persons entitled thereto. (Stats. 1924, c. 5, ¶ 41.)

134. Suits on Bond.—Such bond shall run to the People of the State of Illinois, and shall be for the benefit and protection of all patrons of such factory; and suit may be had thereon by any person or persons injured by a breach of the conditions thereof, by an action of debt for the use of the person or persons interested, for all damages sustained by them. (Id. ¶ 42.)

135. Bond to be Recorded.—Such bond shall be recorded by the Circuit clerk, or recorder, with whom the same is filed; and all such reports so filed with any town or precinct clerk, shall be preserved by him and held subject to the inspection of any person or persons interested. (Id. ¶ 43.)

136. Penalties.—Any person who shall willfully violate any provisions of this Act, shall be liable to a fine of not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500), or imprisonment in the county jail for not less than thirty days, nor more than six months, or both, in the discretion of the court. (Id. ¶ 44.)

136a. Powers of Department of Public Health in General.—The Department of Public Health shall have power:

6. To maintain chemical, bacteriological and biological laboratories, to make examinations of milk, water, sewage, waste, and other substances, and to make such diagnosis of diseases as may be deemed necessary for the protection of the people of the State; . . . (Stats. 1924, c. 24a, ¶ 56.)

NOTE: See also Nos. 10, 26, 54 et seq., 161 et seq., 194 et seq., 212, 305 and 307.

Eggs.

137. Eggs Unfit for Food—Candling—Record.—For the purposes of this Act an egg shall be deemed unfit for human food if it be addled or moldy, a black rot, a white rot, or a blood ring; or if it has an adherent yolk, or a bloody or green white; or if it be incubated beyond the blood ring stage; or if it consist in whole or in part of a filthy, decomposed, or putrid substance.

It shall be unlawful for a person, firm, or corporation to sell, offer for sale, or have in possession with intent to sell, eggs for human food purposes which are not fit for human food within the meaning of this Act and the pure food laws as so known in this State.

Every person, firm, or corporation who purchases eggs from the producer, for sale at retail or wholesale, shall candle all eggs offered to him, them, or it and shall refuse to buy eggs unfit for human food as in this Act defined, and such producer so tendering for sale any egg or eggs so unfit shall be docked accordingly. Such candling shall be done in the presence of the producer if he so requests.

All eggs excluded by the candling or other method as unfit for human food may only be sold and used for mechanical purposes or destroyed as shall be from time to time prescribed by the rules and regulations of the Department of Agriculture. All licensees shall keep an accurate record of candling and dockage of eggs unfit for human food purposes subject to inspection of said Department of Agriculture. (Stats. 1924, c. 56b, ¶ 68.)

138. Licensing of Dealers.—On and after November 1, 1919, every person, firm, or corporation who buys eggs from producers and sells eggs to other merchants, dealers, or for storage or shipment, shall first obtain a license therefor as in this Act provided, to be known as Class One (1).

On and after November 1, 1919, every person, firm, or corporation dealing in, buying or selling eggs (buying in whole or in part from other merchants, dealers, hucksters, or from storage, even if also buying from producers), shall first obtain a license therefor as is in this Act provided, to be known as Class Two (II). Provided, this shall not apply to the retailer who only sells to the retail trade for consumption and not for resale or storage: Provided, however, producers shall not as such be required to procure a license. (Id. ¶ 69.)

139. License Year—Fees—Issuance and Revocation.—The license year shall begin November 1, 1919, and each year thereafter. All licenses shall be to the end of the license year and the fee shall be the same although the license is for a fractional part instead of a full year. Licenses in Class One (1) shall be one dollar (\$1) for the year or fraction of a year; in Class Two (II) it shall be five dollars (\$5) for the year or fraction of a year.

Applications for license shall be upon forms prescribed by the Department of Agriculture of Illinois and licenses issued by it shall be under its rules and regulations. It shall be a provision of each and every license issued under this Act that the same be revoked and canceled for a violation of this Act or the rules and regulations of the said Department of Agriculture, and a renewal of license may be refused for violations of this Act and the rules and regulations of the said Department of Agriculture. (Id. ¶ 70.)

140. Candling Certificate—"Candling" Defined—Place of.—There shall be placed by all licensees on the top layer under the top flat of every case of eggs, a candling certificate, as shall be required by the rules and regulations of the Department of Agriculture showing that all the eggs in the case in which is placed said certificate have been candled in compliance with the provisions of this Act and rules and regulations adopted for the enforcement of this Act by the said Department of Agriculture.

The term "candling" as used herein shall be construed to mean the careful examination, in a partially dark room or place, of the whole egg by means of a strong light, the apparatus and method employed to be such as shall be approved by the said Department of Agriculture. Every licensee under this Act shall, in accordance with the rules and regulations of said Department of Agriculture, provide and maintain an adequate place for the accurate candling of eggs and a suitable place for the proper handling of eggs which are intended to be used for human food. (Id. ¶ 71.)

141. Enforcement of Act—Rules.—The Department of Agriculture shall enforce the provisions of this Act and shall make suitable rules and regulations for the same and tolerances on account of weather, labor, and transportation conditions for carrying out its provisions, and shall determine the conditions under which eggs previously candled shall be recandled for resale or sale,

in order to safeguard the purchaser against buying as a lot, or a part of a lot, eggs unfit for human food. (Id. ¶ 72.)

142. Candling of Eggs From Other States.—All eggs coming into this State from other states which do not have an egg candling law or from a state that does not have an egg candling law as rigid as this Act, must be candled by the first receiver in this state according to the provisions of this Act. Eggs coming into this State from States that do candle and which are not provided with egg candling certificates, shall be candled by the first receiver in this State and the candling certificate shall be placed in the case and all other provisions of this act complied with from then on. (Id. ¶ 73.)

143. Removing Eggs From Shells—Licenses.—No person, firm, or corporation shall engage in the State of Illinois, in the business of removing eggs from their shells, in the manufacture or preparation of frozen, liquid, desiccated, or any other forms of whole eggs, yolks, whites, or any mixture of yolks and whites for food purposes, with or without the addition of any other wholesome ingredients, without first obtaining a license from the Department of Agriculture. Before such license shall be granted, the Department of Agriculture shall inspect the establishment and the equipment to be used in said egg breaking establishment, and shall also ascertain if the said establishment complies in method and equipment with the sanitary law and the rules and regulations in regard to sanitation which shall from time to time be established by the Department of Agriculture to govern these establishments. If, after such inspection, it shall appear that such establishment complies with the provisions of the sanitary law and the rules and regulations in regard to sanitation governing egg breaking establishments, then the Department of Agriculture shall issue an annual license to said establishment upon payment annually of a fee of \$300.00.

That every egg breaking establishment shall include its license number as a part of the proper labeling of all cans or other receptacles in which frozen or desiccated egg products are sold or offered for sale for human food. The form and manner of placing or affixing said license number on containers shall be in accordance with regulations promulgated by the Department of Agriculture. (Id. ¶ 74.)

144. Violation of Act—Penalties.—Any person, firm, or corporation failing to comply with the requirements of, or violating any of the provisions of this Act or the rules and regulations for the enforcement of this Act made by the Department of Agriculture, shall be guilty of a misdemeanor, and shall upon conviction for the first offense be fined not less than \$15.00 nor more than \$50.00. For the second offense he shall be fined not less than \$50.00 nor more than \$100.00, and for the third or any subsequent offense, he shall be fined not less than \$100.00 nor more than \$200.00, and in addition to such fines, in the discretion of the court, for the first offense his license may be suspended for not more than thirty days; for the second offense not more than sixty days, and for the third or any subsequent offense his license may be revoked. (Id. ¶ 75.)

145. Construction of Act.—The words used in this Act shall be construed to import the plural or singular, as the case demands. (Id. ¶ 76.)

NOTE: See also No. 54 et seq.

Extracts.

146. Extracts to be Labeled.—Extracts made of more than one principle shall be labeled in a conspicuous manner with the name of each principle, or else with the name of the inferior or adulterant; and in all cases when an extract is labeled with two or more names, such names must be in a conspicuous place on said label, and in no instance shall such mixture be called imitation, artificial, or compound, and the name of one of the articles used shall not be given greater prominence than another: Provided, that all extracts which cannot be made from the fruit, berry, bean, or other part of the plant, and must necessarily be made artificially as raspberry, strawberry, etc., shall be labeled "imitation" in letters similar in size and immediately preceding the name of the article: Provided, further, that prepared cocoanut, containing nothing other than cocoanut, sugar, and glycerine, shall be labeled as prepared cocoanut, and when so made need not be labeled "compound" or "mixture." Any such extract not labeled as herein provided for shall [be] deemed to be misbranded within the meaning of this Act. (Stats. 1924, c. 56b, ¶ 12.)*

NOTE: See also Nos. 26 and 248.

*For penalty, see No. 30.

Feeding Stuffs.

147. Commercial Feed Stuffs to be Labeled—Placard or Certified Statement When Sold in Bulk.—Every lot or parcel of concentrated commercial feeding stuffs, as defined in section 2 [¶ 135] of this Act, used for feeding live stock or poultry, sold or offered or exposed for sale within this State, shall have affixed thereto, in a conspicuous place on the outside thereof, a plainly printed statement in the English language clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and principal address of the manufacturer, or the person or persons responsible for placing the commodity on the market;
- (d) The minimum per centum of crude protein; the minimum per centum of crude fat; and the maximum per centum of crude fibre (to be determined by the methods adopted by the Association of Official Agricultural Chemists of the United States);
- (e) The specific name of each ingredient used in its manufacture. A copy of said statement shall be filed with the State Food Commissioner during the month of December of each year, or before any concentrated commercial feeding stuffs is offered for sale, exposed for sale or sold.

If the feeding stuffs is sold in bulk, there shall be placed in a prominent position upon the bin or other container in which such feeding stuffs is contained a placard in large letters of not less than one-half inch in length which shall clearly set forth the requirements contained in sub-sections b, c, d and e of this section, so as to be easily read by customers, or if it is put up in packages belonging to the purchaser, the agent or dealer shall furnish him with a certified statement described in this section. (Stats. 1924, c. 56b, ¶ 134.)

148. "Concentrated Commercial Feeding Stuffs" Defined—"Different Brands" Defined.—The term "concentrated commercial feeding stuffs," as used in this Act, shall include cottonseed meals, linseed meals, pea meals, bean meals, peanut meals, cocoanut meals, gluten meals, gluten feeds, maize feeds, starch feeds, sugar feeds, sucrene feeds and oil meals of all kinds, dried distillers' grains, wet distillers' grains, dried brewers' grains, wet brewers' grains, malt sprouts, malt refuse, dried beet pulp, dried meat refuse, ground meat or fish scraps, meat and bone meals, blood meals, tankage, chop feeds, hominy feeds, cereline feeds, rice meals, rice bran, oat middlings, rye bran, rye middlings, corn bran, oat feeds, corn and oat feeds, corn, oat and barley feeds, which are not composed of the whole and entire grains of corn, oats and barley or to which other substances have been added, wheat middlings and wheat bran which contain screenings or other substances, all mixed feeds, except as otherwise provided in section 3 [¶ 136] of this Act—clover and alfalfa meals, and any mixture of any of the before mentioned substances with each other or with any other substance, condimental stock and poultry feeds, medicinal stock and poultry feeds consisting of or containing any of the substances included as concentrated commercial feeding stuffs as defined in this section, patented, proprietary or trade marked stock and poultry feeds and all other materials of a similar nature intended for stock or poultry, not included in section 3 [¶ 136] of this Act.

That for the purpose of this Act, concentrated commercial feeding stuffs shall be held to be different brands, if said concentrated commercial feeding stuffs shall differ one from the other in one or more ingredients, or if being of similar composition said commercial feeding stuffs are sold, offered for sale or exposed for sale under different names or brands. (Id. ¶ 135.)

149. Continued.—The term "concentrated commercial feeding stuffs," as used in this Act, shall not include wheat flour and other flours, hays, straws, the whole seeds nor the unmixed meals made directly from and composed of the whole and entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, kaffir corn, milo maize and broom corn, and not containing other substances, neither shall it include pure wheat bran or pure wheat middlings not containing screenings or other substances, but sold separately as distinct articles of commerce, nor pure wheat bran and pure wheat middlings mixed together and not containing screenings or other substances and known to the trade as "mixed feed." (Id. ¶ 136.)

150. Violations of Act—Penalty.—Any manufacturer, importer, agent or other person or persons who shall offer for sale, expose for sale, or sell any concentrated commercial feeding stuffs within the meaning of this Act without filing with the State Food Commissioner the statement required by section 1 [¶ 134] of this Act, or any concentrated commercial feeding stuffs included in section 2 [¶ 135] of this Act without the printed statement required by section 1 [¶ 134] of this

Act or with a label or tag stating that the said feeding stuffs contain a larger percentage of either crude protein or crude fat than is actually present therein, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for each subsequent offense. (Id. ¶ 137.)

151. State Food Commissioner Authorized to Take Samples of Commercial Feed Stuff—Penalty for Obstructing Commissioner—Analysis of Sample.—The State Food Commissioner is hereby authorized, in person or by deputy, to enter any premises where feed stuffs are stored and to take a sample, not exceeding two pounds in weight, from any lot or package of any commercial feed stuff used for feeding any kind of farm live stock or poultry as defined in section two [¶ 135] or of excepted materials, named in section three [¶ 136], of this Act, which may be in possession of any manufacturer, importer, agent or dealer. Any sample so taken shall be put in a suitable vessel and a label signed by the State Food Commissioner or his deputy, placed on or within the vessel, stating the name or brand of the feed stuff or material sampled, the guaranty, the name of the manufacturer, importer or dealer, the name of the person, firm or corporation from whose stock the sample was taken, and the date and place of taking: Provided, however, that whenever a request to that effect is made the sample shall be taken in duplicate and carefully sealed in the presence of the person or persons in interest, or their representative, in which case one of the said duplicate samples shall be signed and retained by the person or persons whose stock was sampled. Any person who shall obstruct the State Food Commissioner or his deputy while in the discharge of his duty under this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense. The aforesaid State Food Commissioner shall cause at least one analysis of each feed stuff collected as herein provided to be made annually. Said analysis shall include the determinations of crude protein, of crude fat, of crude fiber, and of such other ingredients as it is deemed advisable at any time to determine. Said State Food Commissioner shall cause the results of the analysis of the sample to be furnished the Agricultural Experiment Station from time to time, to be published in annual bulletins or special circulars, together with such additional information concerning the character, composition and use thereof as circumstances may require. (Id. ¶ 138.)

152. Adulterations—Penalty.—Any person who shall adulterate any whole or ground grain with milling or manufacturing offals, or with any foreign substance whatever, or adulterate any bran or middlings or mixtures of wheat bran or wheat middlings known in the trade as "mixed feed," or any other standard by-product made from the several grains or seeds with any foreign substance whatever, for the purpose of sale, unless the true composition, mixture or adulteration thereof is plainly marked or indicated upon the package containing the same or in which it is offered for sale, and any person who knowingly sells or offers for sale any whole or ground grain, bran or middlings, or mixture of wheat bran and wheat middlings known in the trade as "mixed feed," or other standard by-product, which has been so adulterated, unless the true composition, mixture or adulteration is plainly marked or indicated upon the package [containing] the same or in which it is offered for sale, shall on conviction, be fined not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00) for each offense, and such fines shall be paid into the treasury of the State. (Id. ¶ 139.)

153. Prosecutions by State Food Commissioner.—It shall be the duty of the State Food Commissioner to prosecute the person or persons violating any provisions of this Act, and for this purpose the State Food Commissioner may, if necessary, employ experts, and may further designate some person connected with his office, or some other suitable person, to make complaints in his behalf; and in making complaints for violations of this act, the persons so designated shall not be required to enter into any recognizance or to give security for the payment of costs: Provided, however, that there shall be no prosecution in relation to the quality of any unadulterated commercial feed stuff if the same shall be found to be substantially equivalent to the statement of analysis made by the manufacturers or importers. (Id. ¶ 140.)

154. Licenses—Fee—Revocation of License—Sale Without License—Penalty—Certificate of Non-Payment of License.—Each manufacturer, importer, agent or seller of any concentrated commercial, feeding stuffs shall pay annually during the month of December in each year, to the treasurer of the State of Illinois, a licensee fee of twenty-five dollars (\$25.00) for each and every brand of con-

centrated commercial feeding stuffs offered for sale, exposed for sale or sold. Said treasurer shall in each case at once certify to the State Food Commissioner the payment of such license fee. Each manufacturer, importer, person or persons who has complied with the provisions of this section shall be entitled to receive a certificate from the State Food Commissioner setting forth said facts. For violation of any of the provisions of this Act the State Food Commissioner shall have the authority to revoke any such license.

It shall be unlawful to offer for sale, expose for sale or sell any concentrated commercial feeding stuffs, unless the manufacturer, importer, agent or seller shall have paid the license fee as herein provided, and whoever shall offer for sale, expose for sale or sell any concentrated commercial feeding stuffs without first securing a license as herein required, shall be guilty of a separate and distinct misdemeanor for each and every sale made without such license, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or the fine may be sued for and recovered before any court of competent jurisdiction in the county where the offense shall have been committed at the instance of the State Food Commissioner or any other person in the name of the People of the State of Illinois as plaintiff in an action of debt: Provided, however, when the manufacturer, importer or shipper of concentrated commercial feeding stuffs shall have filed the statement required by section 1 of this Act and paid the license fee as prescribed in this section, no agent or seller for such manufacturer, importer or shipper shall be required to file such statement or pay such fee.

In all proceedings or prosecutions brought under this section a certificate from the Treasurer of the State of Illinois, stating that the defendant has not paid into the State treasury the license fee required by this section, shall be received in all courts as evidence that such license fee has not been paid.

A certificate in the following form shall be sufficient:

I, ..., Treasurer of the State of Illinois, hereby certify that the records of my office show that has not paid the license fee on brand of concentrated commercial feeding stuffs in December nor at any time since for the year of

Given under my hand and seal this day of

.....
State Treasurer.

(Id. ¶ 141.)

155. Act Not to Affect Persons Manufacturing, Etc., Feed Stuffs for Their Own Use.—This Act shall not affect persons manufacturing, importing or purchasing feed stuffs for their own use and not to sell in this State. (Id. ¶ 142.)

156. "Importer" Defined.—The term "importer," for all the purposes of this Act, shall be taken to include all who procure or sell concentrated commercial feed stuffs. (Id. ¶ 143.)

157. Fines—Costs—Capias.—When the rendition of the judgment imposes a fine, as provided in any of the sections of this Act, it shall be the duty of the justice of the peace or other court rendering such judgment, also to render a judgment for costs, and such justice of the peace or other court shall forthwith issue a capias or warrant of commitment against the body of the defendant, commanding that unless the said fine and costs be forthwith paid, the defendant shall be committed to the jail of the county, and the constable or other officer to whose hands said capias or warrant shall come, shall, in default of such payment, arrest the defendant and commit him to the jail of the county, there to remain, as provided by section 171 of "An act to revise the law in relation to criminal jurisprudence," in force July 1, 1895, unless such fine and costs shall sooner be paid. (Id. ¶ 144.)*

Fish.

158. Transportation and Shipment.—Whenever the words "transport" and "ship" are used in this Act, they shall mean by parcel post, express, freight, baggage or by a common carrier of any description; or by automobile, motor cycle or other vehicle of any kind; or by water or air craft of any kind.

*The Compiler's note to this section is as follows: "The reference in the section above is erroneous, since 'An Act to revise the law in relation to criminal jurisprudence' became effective July 1, 1874, and section 171 of such act concerns larceny of beasts and birds 'feræ naturæ.' Chapter 79, Art XVIII, § 8, concerns the issuance of a capias, and is probably the section intended."

159. Transportation of Fish.—* * * There shall be attached to every box, barrel, crate or other receptacle containing fish shipped, or offered for shipment, a tag on which shall be printed or written, or partly printed and partly written, the different varieties of fish contained therein, the number of pounds of each variety, the name and place of business of the consignor, and of the consignee, and the number of wholesale fish market or dealer's license of the consignor.

It shall be unlawful to falsely label any tag attached to any box, barrel, crate or other receptacle in which fish are shipped, or cause the same to be done or to conceal or to attempt to conceal the information herein above provided to be placed upon such tag. * * * (Id. ¶ 33.)

160. Fines.—* * * Any person who shall be found guilty of violating any of the provisions of section * * * 33 [¶ 33] of this Act shall be fined not less than twenty-five (\$25) dollars, nor more than one hundred (\$100) dollars for each offense or imprisoned in the county jail not less than fifteen (15) days nor more than thirty (30) days, or both fined and imprisoned, in the discretion of the court. * * *

Each and every person found guilty of violating any of the provisions of this Act, and who is fined only, shall be imprisoned until the amount of the fine and costs imposed against him or her has been paid, but such imprisonment shall in no case exceed twenty (20) days. (Id. ¶ 51.)

NOTE: See also No. 54 et seq.

Flour—Meal.

See No. 315.

Fruits, Vegetables, Etc.

161. Definitions—Apple Grading Act Not Affected.—As used in this Act, the word "Director" means the Director of the Department of Agriculture, and the term "agricultural products" includes all farm, dairy, bee, viticultural and horticultural products. Nothing in this Act shall be construed as repealing or in any way modifying any provision of "An Act to regulate the grading, packing, branding and sale of apples in closed packages," approved June 27, 1921: Provided, however, that apples may be inspected and certificates issued under the provisions of this Act in accordance with the standards established by said Act. (Stats. 1924, c. 5, ¶ 93.)

162. Authority to Fix Standards for Grading and Containers.—In order to promote, protect, further and develop the agricultural interests of this State, the director is hereby authorized, after investigation and public hearing, to fix and promulgate official standards for grading and classifying any or all agricultural products grown or produced in this State, and to fix and promulgate official standards for containers of farm products, and to change any of them from time to time. The director shall promulgate regulations prescribing such tolerances as may be deemed necessary permitting such variations from standards fixed under this Act, as are reasonably incident to the proper grading of agricultural products, or to the manufacture of containers for such products. (Id. ¶ 94.)

163. Promulgation of Standards.—In promulgating the standards or any alterations or modifications of such standards, the director shall specify the date or dates when the same shall become effective, and shall give public notice not less than thirty days in advance of the date when the standard for any agricultural product shall become effective and one year in advance of the date when a standard for any container shall become effective by such means as he deems proper, and he is hereby authorized to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container. (Id. ¶ 95.)

164. Adoption of Federal Standards—Co-operation With Federal Government.—The director is authorized to fix and promulgate as the official standard for this State for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this Act the director is authorized to co-operate with the United States or any department thereof in accomplishing the matters and things provided for herein. (Id. ¶ 96.)

165. Inspection—Fees—Revocation of License.—The director is hereby authorized to designate any competent employee or agent of the Department of Agriculture, and upon satisfactory evidence of competency may license any other

person, and charge and collect a reasonable fee for such license, to inspect or classify agricultural products in accordance with such regulations as he may prescribe at such places as the volume of business may be found to warrant the furnishing of such inspection service, at the request of persons having an interest in such products, and to ascertain and certify to such person the grade, classification, quality or condition thereof, and such other pertinent facts as the director may require. The director is authorized to fix, assess and collect or cause to be collected fees for such services when they are performed by employees or agents of the Department of Agriculture. Licensed inspectors may charge and collect as compensation for such services only such fees as may be approved by the director. The director may suspend or revoke any license whenever, after an opportunity for hearing has been afforded to the licensee, the director shall determine that such licensee is incompetent or has knowingly or carelessly failed to grade or classify any agricultural product in accordance with such standards, or has knowingly or carelessly failed to correctly certify the grade, classification, quality or condition of any agricultural product, or has violated any provisions of this Act or of the regulations made hereunder. Pending investigations the directors may suspend a license temporarily without a hearing. (Id. ¶ 97.)

166. Disputes as to Grading—Appeal.—Whenever any quantity of any agricultural product shall have been inspected hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classifications, quality or condition of such product, any interested person, subject to such regulations as the director may prescribe, may appeal the question to him and he is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and issue a finding of the true grade or classification of the product or of the quality or condition thereof. Whenever an appeal shall be taken to the director under this Act, he shall charge and assess and collect or cause to be collected, a reasonable fee, to be fixed by him, which shall be refunded if the appeal is sustained. (Id. ¶ 98.)

167. Certificate as Prima Facie Evidence.—A certificate when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any agricultural product, issued under this Act and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality or condition of agricultural products shall be accepted in any court of this State as prima facie evidence of the true grade, classification, condition or quality of such agricultural product at the time of its inspection. (Id. ¶ 99.)

168. Regulations for Carrying Out Act—Disposition of Fees.—The director is hereby authorized to promulgate regulations for carrying out the purposes and provisions of this Act. All fees and moneys collected or received by employees or agents of the Department of Agriculture under this Act and the regulations which may be promulgated hereunder and all fines collected for violations of any provisions of this Act, shall be covered into the treasury to be there maintained in a separate fund to be known as a revolving fund, which fund shall be appropriated only for the purpose of carrying out the provisions of this Act. (Id. ¶ 100.)

169. Agents and Employees—Bond—Action on.—The director may appoint employees and agents to assist in carrying out the provisions of this Act, and may fix their compensation. He may require any such employees or agent and any inspector licensed under this Act to execute and file with him a good and sufficient bond, payable to the State, in such sum, not exceeding one thousand dollars, and with such surety or sureties, as he may prescribe, conditioned upon the faithful performance by such employee, agent or licensed inspector of his duties as such employee, agent or licensed inspector. Any person injured by the failure of such employee, agent or licensed inspector faithfully to perform such duties shall be entitled to sue on such bond in his own name in any court of competent jurisdiction for the recovery of such damages as he may have sustained by reason of such failure. (Id. ¶ 101.)

170. Offenses by Agents or Employees.—Any employee or agent employed under this Act or any inspector licensed hereunder who shall knowingly inspect, grade or classify improperly any agricultural product or shall knowingly give any incorrect certificate of grade, classification, quality or condition or shall accept money or other consideration directly or indirectly for any incorrect or improper performance of duty and any person who shall improperly influence or attempt to improperly influence any such agent, employee, or licensed inspector in the performance of his duty shall be guilty of a misdemeanor and upon conviction

thereof shall be fined not more than \$500.00 or be imprisoned not more than one year, or both. (Id. ¶ 102.)

171. Misrepresentation of Grade—Use of Other Standards.—If any quantity of any agricultural product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof, no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate.

Whenever any standard for the grading or classification of any agricultural product becomes effective under this Act, it shall be unlawful, in or in connection with any transaction or transactions involving such product in commerce subject to the jurisdiction of this State or in any publication in this State of a price or prices for or in connection with such transaction or transactions, for any person to indicate the grade of any agricultural product which is of or within the grades fixed in said standard for such product by any name, description or designation or any system of names, descriptions or designations not used in said standards.

Whenever any standard for a container for an agricultural product becomes effective under this Act, no person thereafter shall manufacture for commerce within the jurisdiction of this State, or sell, ship, or offer for sale in such commerce any container, either filled or unfilled, to which the standard is applicable, which does not comply with such standard subject to such tolerances as may be permitted under this Act.

Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) or be imprisoned not more than one year, or both. (Id. ¶ 103.)

172. Products of Other States.—It shall be unlawful for any person, to sell or offer for sale as Illinois products, fruits, vegetables or other farm products grown in other States or to brand the same with the grade name fixed by any Illinois law or determined by the Director of Agriculture in accordance with the terms of this Act. Any violation of this provision shall be punishable by a fine of not more than five hundred dollars (\$500.00) for each offense, or by imprisonment for not more than one year, or both. (Id. ¶ 104.)

173. Appropriations.—There is hereby appropriated to the Department of Agriculture, the sum of fifteen thousand dollars (\$15,000), or so much thereof as may be necessary, for carrying out the provisions of this Act. (Id. ¶ 105.)

174. Application of State Finance Act.—The appropriation herein made is subject to the provisions of "An Act in relation to State finance," approved June 10, 1919, as amended. (Id. ¶ 106.)

NOTE: See also Nos. 41-47, 51 et seq., 303, 308, 309 and 315.

Grain—Grain Products.

175. Offense Created.—No person shall subject, or cause to be subjected, any barley, wheat or other grain to fumigation, by sulphur, or other material, or to any chemical or coloring process, whereby the color, quality or germ of such grain is affected. (Stats. 1924, c. 38, ¶ 108.)

176. Not to be Offered for Sale.—No person shall offer for sale, or procure to be sold, any barley, wheat, or other grain, which shall have been subject to such fumigation, or other process, as provided in section one (1) [¶ 108] of this Act, knowing such barley, wheat, or other grain to have been so subjected. (Id. ¶ 109.)

177. Penalty.—Any person violating the provisions of this Act shall, upon conviction, be punished by fine of not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000.00) dollars, and imprisonment not exceeding three months in the county jail, and shall also be liable for all damages sustained by any person injured by such violation. (Id. ¶ 110.)

178. Jurisdiction—Collection of Fines.—Any court of record shall have jurisdiction over this Act, and all fines under this Act, shall be collected as the statute provides in other criminal cases. (Id. ¶ 111.)

Honey.

See No. 26.

Maple Sugar.

See No. 26.

Meat—Meat Products.

179. Animals Intended for Human Food—Inspection.—For the purpose of preventing the use of meat or meat food products for human food which are unsound, unhealthful, unwholesome or otherwise unfit for human food, the Board of Live Stock Commissioners* may, at their discretion, make or cause to be made, by the State veterinarian or his assistants, or any duly authorized live stock inspector in the employ of the State of Illinois, an examination of any animal intended for human food which he or they believe is afflicted with any contagious or infectious disease or any disease or ailment which would render the carcass of said animal unfit for human food. (Stats. 1924, c. 8, ¶ 87.)

180. Disposition of Carcass.—In event any animal shall be inspected by any person herein authorized to make said inspection, and in his judgment found to be afflicted with any disease or ailment which would render said animal unfit for human food, it shall be the duty of the person making said examination to forthwith take possession or control of said animal, and notify the owner or person or corporation in control or possession of such animal that such animal is unfit for human food; whereupon said animal shall immediately be killed and the carcass examined by some person or persons authorized to make inspection of such animals. If upon examination of the carcass, it shall appear to the examiner that the same is suitable for human food, he shall allow the person or corporation from whom said animal was taken to make disposition of the carcass, or such examiner shall cause the same to be sold; but if, in the opinion of such inspector, any such carcass is unwholesome or unfit for human food, then the same shall be, by him stamped, marked, tagged or labeled "inspected and condemned," and every such condemned carcass shall be destroyed for the purposes of human food and such examiner shall cause the offal thereof to be sold: Provided, that if such carcass shall be disposed of for food purposes by such inspector and the offal sold, the proceeds thereof shall be accounted for as the Board of Live Stock Commissioners may provide. (Id. ¶ 88.)

181. Penalty.—Any person, firm or corporation who shall, in any manner, fail, neglect or refuse to comply with any provision in this Act contained, shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or confined in the county jail not exceeding one year, or both. (Id. ¶ 89.)

182. Fraudulent Sale or Misrepresentation.—A person who, with intent to defraud, sells, or exposes for sale any meat or meat preparations and falsely represents the same to be kosher, whether such meat or meat preparations be raw or prepared for human consumption, or as having been prepared under and of a product or products sanctioned by the orthodox Hebrew religious requirements; or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, either raw or prepared for human consumption, who fails to indicate on his window signs and all display advertising, in block letters at least four inches in height, "kosher and nonkosher meat sold here"; or who exposes for sale in any show window or place of business as both kosher and nonkosher or meat preparations, either raw or prepared for human consumption, who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least four inches in height reading "kosher meat" or "non-kosher meat," as the case may be, is guilty of a misdemeanor. (Stats. 1924, c. 38, ¶ 379(1).)

183. Penalty.—Any person convicted of violating section 1 [¶379(1)] of this Act shall for the first offense, be punished by a fine in a sum of not less than fifteen (\$15.00) dollars, and not more than one hundred (\$100.00) dollars, or by imprisonment in the county jail not exceeding thirty days, or by both such fine and imprisonment, in the discretion of the court, and for the second and each subsequent offense by a fine of not less than twenty-five (\$25.00) dollars, or more than two hundred (\$200.00) dollars, or by imprisonment in the county jail, not exceeding one year, or by both fine and imprisonment, in the discretion of the court. (Id. ¶ 379(2).)

184. Prohibits Sale of Veal From Calf Less Than Four Weeks Old—Penalties.—If any person kills, or causes to be killed, for the purposes of sale, any immature calf, or any calf less than four weeks old, or knowingly sells, or has in his possession with intent to sell, for food, the meat of any immature calf, or of any calf killed when less than four weeks old, he shall be guilty of a misdemeanor, and

*See No. 2.

upon conviction shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, or by both fine and imprisonment; and all such meat exposed for sale, or kept with intent to sell, may be seized and destroyed by any health officer, or any sheriff, deputy sheriff, constable, or police officer. (Stats. 1924, c. 56b, ¶ 103.)

185. Illegal Lard.—No person shall, within this State, manufacture for sale, have in his possession with intent to sell, offer or expose for sale, or sell, as lard, any substance not the legitimate and exclusive product of the fat of the hog. (Id. ¶ 25.)†

186. Lard Substitute.—No person shall manufacture for sale within this State, or have in his possession with intent to sell, offer or expose for sale, or sell, as lard, or as a substitute for lard, or as an imitation of lard, any mixture or compound which is designed to take the place of lard and which is made from animal or vegetable oil or fats other than the fat of the hog, or any mixture or combination with any animal or vegetable oils or fats, unless the tierce, barrel, tub, pail, or package containing the same shall be distinctly and legibly branded or labeled with the name of the person, firm, or corporation making the same, together with the location of the manufactory and the words "Lard Substitute" or "Adulterated Lard" or "compound", "imitation", or "blend" as the case may be, or unless the same shall be sold under its own distinctive name as provided for in section 9 of this Act.* (Id. ¶ 26.)‡

187. Person Selling Imitation or Substitute for Lard to Inform Purchaser.—It shall be unlawful to sell or offer for sale any "lard substitute" or "adulterated lard" or "compound," "imitation" or "blend" as herein defined, without informing the purchaser thereof, or the person or persons to whom the same is offered for sale that the substance sold or offered for sale is "lard substitute" or "adulterated lard" or "compound," "imitation," or "blend," as the case may be. (Id. ¶ 27.)‡

188. "Compound Lard" or "Lard Compound" Must be so Labeled.—No manufacturer or other person or persons shall sell, deliver, prepare, put up, expose or offer for sale any lard or any article intended for use as lard, which contains any ingredient but the pure fat of healthy swine, in any tierce, bucket, pail, package or other vessel or wrapper or under any label bearing the words "pure," "refined, family," or either of said words alone or in combination with other words of like meaning or import, unless every tierce, bucket, pail, package or other vessel, wrapper or label, in or under which said article is sold, delivered, prepared, put up, exposed, or offered for sale bears on the top or outer side thereof in letters not less than one-half inch in length and plainly exposed to view the words "Compound Lard," or "Lard Compound." (Id. ¶ 58.)

189. Penalties.—Any person who violates any provisions hereof shall be deemed guilty of a misdemeanor for each violation, and, upon conviction thereof, shall be fined for the first offense not less than twenty dollars (\$20) nor more than fifty dollars (\$50), and every subsequent offense under this Act shall be fined not less than seventy-five dollars (\$75) nor more than two hundred dollars (\$200). (Id. ¶ 59.)

190. State's Attorneys to Execute Act—Fines and Penalties.—The State's attorneys of this State are charged with the enforcement of this act and it is hereby made their duty to appear for the People, and to attend to the prosecution of all complaints under this Act in their respective counties in all courts. Fifty per cent. of the amount received in any penal action, under the provisions of this Act, shall go to the county superintendent of schools in the county where the said fine is assessed, to be distributed by him as other school funds of such county, and fifty per cent. of the fine shall be given to the informer. (Id. ¶ 60.)

NOTE: See also Nos. 10, 32, 54 et seq., 86 and 194 et seq.

Olive Oil.

See No. 26.

Pepper.

See No. 26.

Spices.

See No. 26.

Sugar.

See Nos. 11 and 26.

†For penalty, see No. 30.

*See No. 11.

Syrup.

See Nos. 11 and 26.

Vinegar.

191. Vinegar to be Branded.—All vinegar made by fermentation and oxidation without the intervention of distillation, shall be branded with the name of the fruit or substance from which the same is made. All vinegar made wholly or in part from distilled liquor shall be branded "distilled vinegar," and shall not be colored in imitation of cider vinegar. All vinegar shall be made wholly from the fruit or grain from which it purports to be or is represented to be made, shall contain no foreign substance, and shall contain not less than four per cent by weight, of absolute acetic acid. Any vinegar made or manufactured contrary to the provisions of this section shall be deemed to be adulterated within the meaning of this Act. Any vinegar which is not branded as herein provided shall be deemed to be misbranded within the meaning of this Act. (Stats. 1924, c. 56b, ¶ 11.)*

192. Cider Vinegar—Manufacture or Sale of Adulterated.—Every person who shall manufacture for sale, or shall offer or expose for sale, as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively of said apple cider, shall, for each such offense, be punished by a fine of not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50). (Id. ¶ 101.)

193. Vinegar.—Every person who shall manufacture for sale, or who shall offer or expose for sale, any vinegar found upon test to contain any preparation of lead, copper, sulphuric acid or other ingredients injurious to health, shall, for such offense be punished by a fine of not less than one hundred dollars (\$100). (Id. ¶ 102.)

NOTE: See also No. 26.

Sanitation.

194. Establishments Used for Preparation of Food to be Adequately Lighted, Drained, Etc.—Every building, room, basement, enclosure or premises, occupied, used or maintained as a bakery, confectionery, cannery, packing house, slaughterhouse, creamery, cheese factory, restaurant, hotel, grocery, meat market or as a factory, shop, warehouse, any public place, or manufacturing establishment used for the preparation, manufacture, packing, storage, sale, or distribution of any food as defined by statute which is intended for sale, shall be properly and adequately lighted, drained, plumbed, and ventilated and shall be conducted with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks, or other persons therein employed, and the purity and wholesomeness of the food therein produced, prepared, manufactured, packed, stored, sold, or distributed. (Stats. 1924, c. 56b, ¶ 104.)

195. Care of Rooms, Implements, Etc.—When Unhealthful Condition is Deemed to Exist.—The floors, side walls, ceilings, furniture, receptacles, implements, and machinery, of every such establishment or place where such food intended for sale is produced, prepared, manufactured, packed, stored, sold, or distributed, and all cars, trucks, and vehicles used in the transportation of such food products shall at no time be kept or permitted to remain in an unclean, unhealthful, or unsanitary condition; and for the purpose of this Act, unclean, unhealthful, and unsanitary conditions shall be deemed to exist if food in the process of production, preparation, manufacture, packing, storing, sale, distribution, or transportation is not securely protected from flies, dust, dirt, and as far as may be necessary, by all reasonable means, from all other foreign or injurious contamination; or if the refuse, dirt, or waste products subject to decomposition and fermentation, incident to the manufacture, preparation, packing, storing, selling, distributing, or transportation of such food are not removed daily or if all trucks, trays, boxes, buckets, or other receptacles, or the chutes, platforms, racks, tables, shelves, and knives, saws, cleavers, or other utensils, or the machinery used in moving, handling, cutting, chopping, mixing, canning, or other processes are not thoroughly cleaned daily; or if the clothing of operatives, employees, clerks, or other persons therein employed, is unclean. (Id. ¶ 105.)

196. Construction and Care of Side Walls, Ceilings, and Floors.—The side walls and ceilings of every bakery, confectionery, creamery, cheese factory, and

*For penalty, see No. 30.

hotel or restaurant kitchen shall be so constructed that they can easily be kept clean; and every building, room, basement, or enclosure occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food shall have an impermeable floor made of cement or tile laid in cement, brick, wood, or other suitable material which can be flushed and washed clean with water. (Id. ¶ 106.)

197. Doors and Screens.—All such factories, buildings, and other places containing food shall be so provided with proper doors and screens adequate to prevent contamination of the product from flies. (Id. ¶ 107.)

198. Toilet Rooms—Construction—Ventilation.—Every such building, room, basement, enclosure, or premises occupied, used, or maintained for the production, preparation, manufacture, canning, packing, storage, sale, or distribution of such food, shall have adequate and convenient toilet rooms, lavatory, or lavatories. The toilet rooms shall be separate and apart from the room or rooms where the process of production, preparation, manufacture, packing, storing, canning, selling and distributing is conducted.

The floors of such toilet rooms shall be of cement, tile, wood, brick or other non-absorbent material, and shall be washed and scoured daily. Such toilet or toilets shall be furnished with separate ventilating flues and pipes discharging into soil pipes or shall be on the outside of and well removed from the building. Lavatories and wash rooms shall be adjacent to toilet rooms, or when the toilet is outside of the building, the wash room shall be near the exit to the toilet and shall be supplied with soap, running water and towels and shall be maintained in a sanitary condition. (Id. ¶ 108.)

199. Nuisances—Penalty.—If any such building, room, basement, enclosure, or premises occupied, used, or maintained for the purposes aforesaid, or if the floors, sidewalls, ceilings, furniture, receptacles, implements, appliances, or machinery of any such establishment, shall be constructed, kept, maintained, or permitted to remain in a condition contrary to any of the requirements or provisions of the preceding five (5) sections of this Act, the same is hereby declared a nuisance, and any toilet, toilet room, lavatory, or wash room, as aforesaid, which shall be constructed, kept, maintained, or permitted to remain in a condition contrary to the requirements of provisions of section five (5) [¶ 108] of this Act, is hereby declared a nuisance; and any car, truck, or vehicle used in the moving or transportation of any food product as aforesaid, which shall be kept or permitted to remain in an unclean, unhealthful or unsanitary condition is hereby declared a nuisance. Whoever unlawfully maintains, or allows or permits to exist a nuisance as herein defined shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished as herein provided. (Id. ¶ 109.)

200. Cuspidors.—Every person, firm, or corporation operating or maintaining an establishment or place where food is produced, prepared, manufactured, packed, stored, sold, or distributed shall provide the necessary cuspidors for the use of the operatives, employees, clerks, and other persons, and each cuspidor shall be thoroughly emptied and washed out daily with water or a disinfectant solution, and five ounces thereof shall be left in each cuspidor while it is in use. Whoever fails to observe the provisions of this section shall be guilty of a misdemeanor and punished as hereinafter provided. (Id. ¶ 110.)

201. Expectoration on Floors, Etc., Prohibited—Washing Hands.—No operative, employee, or other persons shall expectorate on the food or on the utensils or on the floors or sidewalls of any building, room, basement, or cellar where the production, preparation, manufacture, packing, storing, or sale of any such food is conducted. Operatives, employees, clerks, and all other persons who handle the material from which such food is prepared or the finished product before beginning work, or after visiting toilet or toilets, shall wash their hands thoroughly in clean water. Whoever fails to observe or violates the provisions of this section, shall be guilty of a misdemeanor and punished by a fine of not more than twenty-five dollars. (Id. ¶ 111.)

202. Sleeping in Work Rooms Prohibited.—It shall be unlawful for any person to sleep, or to allow or permit any person to sleep in any work room of a bake shop, kitchen, dining room, confectionery, creamery, cheese factory, or any place where food is prepared for sale, served, or sold, unless all foods therein handled are at all times in hermetically sealed packages. (Id. ¶ 112.)

203. Unlawful for Persons Affected With Contagious or Venereal Diseases to Work, Etc.—It shall be unlawful for an employer to require, suffer, or permit any person who is affected with any contagious or venereal disease to work, or for any person so affected to work, in a building, room, basement, enclosure, premises, or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution, or transportation of food. (Id. ¶ 113.)

204. Duty of State Food Commissioner* to Enforce Act—Powers—Order to Make Changes in Building, Etc.—Hearing—Prosecution.—It shall be the duty of the State Food Commissioner and those appointed by him to enforce this Act and for that purpose the State Food Commissioner and his appointees shall have full power at all times to enter every such building, room, basement, inclosure or premises occupied or used or suspected of being occupied or used for the production, preparation or manufacture for sale, or the storage, sale, distribution or transportation of such food, to inspect the premises and all utensils, fixtures, furniture and machinery used as aforesaid; and if upon inspection any such food producing or distributing establishment, conveyance, or employer, employe, clerk, driver or other person is found to be violating any of the provisions of this Act, or if the production, preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees and operatives, or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the inspection or examination shall report such conditions and violations to the State Food Commissioner. The State Food Commissioner or the assistant commissioner shall thereupon issue a written order to the person, firm or corporation responsible for the violation or condition aforesaid to abate such condition or violation or to make such changes or improvements as may be necessary to abate them, within such reasonable time as may be required in which to abate them. Notice of such order may be served by delivering a copy thereof to said person, firm or corporation, or by sending a copy thereof by registered mail, and the receipt thereof through the post office shall be prima facie evidence that notice of said order has been received. Such person, firm or corporation shall have the right to appear in person or by attorney before the State Food Commissioner, or the person appointed by him for such purposes, within the time limited in the order, and shall be given an opportunity to be heard and to show why such order or instructions should not be obeyed. Such hearing shall be under such rules and regulations as may be prescribed by the State Food Commissioner. If after such hearing it shall appear that the provisions or requirements of this Act have not been violated, said order shall be rescinded. If it shall appear that the requirements or provisions of this Act are being violated, and that the person, firm or corporation notified as aforesaid is responsible therefor, said previous order shall be confirmed or amended, as the facts shall warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with said final order. If such person, firm or corporation is not present or represented when such final order is made, notice thereof shall be given as above provided. On failure of the party or parties to comply with the first order of the State Food Commissioner within the time prescribed, when no hearing is demanded, or upon failure to comply with the final order, within the time specified, the State Food Commissioner shall certify the facts to the State's Attorney of the county in which such violation occurred, and such State's Attorney shall proceed against the party or parties for the fines and penalties provided by this Act, and also for the abatement of the nuisance: Provided, that the proceedings herein prescribed for the abatement of nuisances as defined in his Act shall not in any manner relieve the violator from prosecution in the first instance for every such violation, nor from the penalties for such violation prescribed by section 13 [¶ 116] of this Act. (Id. ¶ 114.)

205. Fines to be Paid Into County Treasury—Prosecutions.—All fines collected under the provisions of this Act shall be paid into the county treasury of the county in which the prosecution is brought, and it shall be the duty of the State's Attorneys in the respective counties to prosecute all persons violating or refusing to obey the provisions of this Act. (Id. ¶ 115.)

206. Penalties.—Whoever violates any of the provisions of this Act, or who refuses to comply with any lawful order or requirement of the State Food Commissioners, duly made in writing as provided by section 11 [¶ 114] of this Act, shall be guilty of a misdemeanor and on conviction shall be punished for the first offense by a fine of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00), and for the second and subsequent offenses by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or by imprisonment in the county jail for not more than ninety days, or both, in the discretion of the court; and each day after the expiration of the time limit for abating insanitary conditions and completing improvements to abate such conditions, as ordered by the State Food Commissioner, as aforesaid, shall constitute a distinct and separate offense. (Id. ¶ 116.)

*See Nos. 1 and 2.

NOTE: See also No. 4 et seq.; No. 26; the cold storage law, No. 54 et seq.; the dairy law, No. 68 et seq.; the meat law, No. 179 et seq.

PART III.

Special Drug Laws.

Abortifacients.

207. Ecbohic or Abortifacient Drugs.—If any druggist, dealer in medicine, or other person, sells to any person any drug or medicine, known or presumed to be ecbohic or abortifacient, except upon the written prescription of some well known and respectable practicing physician, or keeps on hand, or advertises or exposes for sale, or sells any pills, powders, drugs or combination of drugs designed especially for the use of females, without keeping the certificate as required in the next succeeding section, he shall for each offense be fined not less than \$50.00 nor more than \$500.00, or be confined in the county jail not less than thirty days nor more than six months, or both: Provided, this section shall not be construed to apply to compounds known as "Official." (Stats. 1924, c. 38, ¶ 16.)

208. Certificate Required.—Before any pills, powders, drugs or combination of drugs designed expressly for the use of females, shall be kept or exposed for sale or sold, the proprietor thereof shall submit under oath a true statement of the formula by which the same is compounded, to five well known and respectable practicing physicians, in the county where the same is proposed to be sold, and shall procure their certificate, signed and verified by the affidavit of each of them, that such combination is not abortifacient; and every person keeping on hand, or in any manner advertising or exposing for sale or selling such combination, shall keep such certificate, or a sworn copy thereof, with the formula attached, for the inspection of any person desiring to see the same. (Id. ¶ 17.)

209. Advertising Abortifacient Drugs.—Whoever advertises, prints, publishes, distributes or circulates, or causes to be advertised, printed, published, distributed or circulated any pamphlet, printed paper, book, newspaper, notice, advertisement or reference, containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop or office where any poison, drug, mixture, preparation, medicine, or noxious thing or any instrument or means whatever or any advice, information, direction or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child, shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than three years, or [by a] fine not exceeding \$1,000. (Id. ¶ 18.)

Anti-Toxin, Tuberculin, Etc.

210. Powers of Department of Public Health in General.—The Department of Public Health shall have power: * * *

7. To purchase and distribute free of charge to citizens of the State diphtheria anti-toxin, typhoid vaccine, smallpox vaccine and other sera, vaccines and prophylactics such as are of recognized efficiency in the prevention and treatment of communicable diseases; * * * (Stats. 1924, c. 24a, ¶ 56.)

211. Agent for Distribution of Anti-Toxin.—It shall be the duty of the Board of Health of the State of Illinois* to appoint one agent in the county seat of each county in the State who shall have for distribution, as herein provided, diphtheria anti-toxin, certified to by the Board of Health of the State of Illinois, it being the duty of such agents to sell such anti-toxin at a fair and reasonable price to all physicians and others applying for and needing the same unless the person applying for and needing the same shall be unable to purchase the same, in which case such anti-toxin shall be furnished on an order from the overseer of the poor or supervisor of township, to be paid for by the respective counties in which such order is

*See Nos. 1 and 2b.

made: And, provided, further, that more than one agent may be appointed in counties where necessary for the convenience of the people, at the discretion of the Board of Health of the State of Illinois: Providing, further, that any necessary expense incurred by the Board of Health of the State of Illinois, in the appointment of agents and in supplying such anti-toxin shall be paid from the funds appropriated for the making of investigations and the prevention of the spread of diphtheria and other contagious diseases: Providing, further, that the Board of Health of the State of Illinois be and is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this section. (Stats. 1924, c. 65a, ¶ 16.)

212. Sale, Distribution and Use of Tuberculin.—The Department of Agriculture shall have the control of the sale, distribution, and use of all tuberculin in the State, and shall formulate rules for its distribution and use. Only a licensed veterinarian shall apply a tuberculin test to cattle within this State. (Supp. 1926, c. 8, ¶ 75(13).)

213. Tuberculin Test—Establishment of Test by Cities, Unlawful.—It shall be unlawful for any city, village, incorporated town, county or other corporate authority in the State of Illinois, by ordinance, rule or regulation other than may be established by the law of this State, to demand, fix, establish or require the tuberculin test to be applied to dairy animals as a means or measure of regulating and purifying milk, skimmed milk, cream and dairy products of said animals in any manner whatever, and every such ordinance, rule, by-law or regulation heretofore or hereafter passed, demanded, fixed, established or required by any such city, village, incorporated town, county or other corporate authority other than the State of Illinois, is hereby declared to be void and of no effect. (Stats. 1924, c. 8, ¶ 76.)

Embalming Fluids.

214. Embalming Fluids Containing Arsenic or Strychnine to be Labeled.—No person, firm, corporation or co-partnership shall manufacture, give away, sell, expose for sale or deliver any embalming fluid or other fluid of whatsoever name, to be used for or intended for use in the embalming of dead human bodies, which contains arsenic or strychnine, without having the words "Arsenic contained herein" or "Strychnine contained herein" (as the case may be) written or printed upon a label pasted on the bottle, cask, flask or carboy in which said fluid shall be contained. (Stats. 1924, c. 38, ¶ 183.)

215. Undertakers Not to Use Fluid Containing Arsenic or Strychnine.—No undertaker or other person shall embalm with, inject into, or place upon, any dead human body, any fluid or preparation of any kind which contains arsenic or strychnine. (Id. ¶ 184.)

216. Penalty.—Any person, firm, corporation or co-partnership who shall violate any provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00). (Id. ¶ 185.)

NOTE: See also No. 2b.

Insecticides.

217. Paris Green to be Labeled—Standard.—Every lot or parcel of Paris green sold, or offered or exposed for sale, within the state shall have affixed thereto in a conspicuous place a printed label bearing the words, "High grade, for insecticide purposes," or the words, "Not for insecticide purposes," and every package labeled as of high grade for insecticide purposes shall have affixed thereto a plainly printed statement, clearly and truly certifying the name, brand, or trademark under which the article is sold, the name and address of the manufacturer, importer or dealer, the net weight of the package and the percentage of arsenic in combination with copper which the Paris green in said package contains. If the Paris green is sold in bulk for insecticide purposes, or if it is put up in packages and sold at retail to the purchaser, the agent or dealer shall furnish the purchaser with the label and statement described in this section, and it shall be unlawful to sell, or to offer or expose for sale as of high grade for insecticide purposes any Paris green which does not contain arsenic in combination with copper equivalent to at least fifty (50) per cent. of arsenious trioxide, or which contains arsenic in water-soluble forms equivalent to more than three and one-half (3½) per cent of arsenious trioxide. (Stats. 1924, c. 38, ¶ 479.)

218. Penalty.—Any manufacturer, importer, agent or other person selling, offering, or exposing for sale, any Paris green without the label required by section one of this act, or selling, offering, or exposing for sale as of high grade for insecti-

cide purposes, any Paris green without the printed statement required by section one of this act, or with a label stating that the said Paris green contains substantially a larger percentage of arsenic in combination with copper than is actually present therein, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each offense. (Id. ¶ 480.)

219. Prosecutions by State's Attorney.—It shall be the duty of the State's attorney of each county to prosecute the person or persons violating any provisions of this act. (Id. ¶ 481.)

Pharmacy, Poisons and Narcotics.

220. Who May Acquire or Establish Drug Store—Exceptions—Penalty.—After the first day of January, 1926, no person may purchase, lease, acquire or establish a drug store or pharmacy except:

1. A registered pharmacist in good standing;
2. A partnership, each active member of which is a registered pharmacist in good standing; or,
3. A corporation, the officers of which are each registered pharmacists in good standing.

The violation of this section is a misdemeanor punishable upon conviction by a fine of not less than \$25 nor more than \$100 for a first offense and not less than \$50 nor more than \$200 for each succeeding offense.

Nothing herein contained shall apply to or in any manner interfere with the practice of any physician or prevent him from supplying to his patients such articles as may seem to him proper, or with the exclusive wholesale business of any wholesale druggist; Provided, further, that nothing contained in this Act shall apply to the sale of patent or proprietary preparations and remedies which do not contain opium or coca leaves, or any compound, manufacture, salt, derivative or preparations thereof when sold in original and unbroken packages only. (Supp. 1926, c. 91, ¶ 51.)

221. None But Registered Pharmacist to Compound or Retail Drugs, Etc.—It shall be unlawful for the proprietor of any drug store or pharmacy to allow any person in his employ, except a registered pharmacist or registered assistant pharmacist, to compound, recommend, dispense, or sell at retail, drugs, medicines or poisons, or except an apprentice under the immediate supervision of a registered pharmacist as hereinafter provided. Any person violating the provisions of this section shall be liable to a fine of not less than twenty nor more than one hundred dollars for each and every such offense. (Stats. 1924, c. 91, ¶ 52.)

222. Drug Store or Pharmacy Defined—Authority to Use Words—Penalty.—The term drug store or pharmacy shall for all purposes of this Act be construed to mean a shop, store or other place of business where drugs, medicines or poisons are compounded, dispensed or sold at retail.

No person except persons authorized by section 1 [¶ 51] of this Act to own or operate a drug store or pharmacy, shall take, use or exhibit the title "drug store," "pharmacy," or "apothecary" or any combination of such titles, or any title or description of like import. The violation of this section is a misdemeanor punishable upon conviction by a fine of not less than \$20 nor more than \$100. (Supp. 1926, c. 91, ¶ 53.)

223. Persons Entitled to Registration as Pharmacists; Examinations—Educational Requirements of Schools—Fees.—Any person shall be entitled to registration as a registered pharmacist who is of the age of twenty-one years or over, of good moral character and temperate habits, a graduate from a college of pharmacy, school of pharmacy, or department of pharmacy of a university which is recognized by the Department of Registration and Education, and who shall furnish proof of four years' experience and who shall have passed a satisfactory examination before the Department of Registration and Education. Actual time of attendance at a recognized college of pharmacy, school of pharmacy, or department of pharmacy of a university, but not to exceed two years, shall be accredited upon the required experience of four years. The remainder of the experience required must have been in compounding and dispensing drugs, medicines and poisons under the supervision of a registered pharmacist, in a drug store or pharmacy where the prescriptions of medical practitioners are compounded.

Provided, and [an] applicant for registration as a registered pharmacist who was registered by the Board of Pharmacy as an apprentice, assistant pharmacist or local registered pharmacist prior to July 1, 1917, shall be exempt from the requirement of graduation from a recognized college of pharmacy, school of pharmacy,

or department of pharmacy of a university, but actual time of attendance at such colleges, schools, or departments, not to exceed two years, shall be accredited upon the required experience of four years.

Provided further, that a physician who holds a license issued by the State Board of Health or by the Department of Registration and Education shall not be required to furnish any proofs of drug store experience or proofs of having graduated from a recognized college of pharmacy, school of pharmacy, or department of pharmacy of a university.

The Department of Registration and Education shall make rules to establish a uniform and reasonable standard of educational requirements to be observed by colleges of pharmacy, schools of pharmacy or departments of pharmacy of universities, and may determine the reputability of such colleges, schools and departments of pharmacy by reference to their compliance with such rules.

Every applicant for registration as a registered pharmacist shall pay to the Department of Registration and Education the sum of \$10.00 at the time of filing an application. The payment of said \$10.00 shall entitle the applicant to take a second examination in case he failed in the first, but no more; provided, said second examination is taken within six months after the first; and upon the payment of an additional \$5.00 in case the applicant passes a successful examination, the Department of Registration and Education shall issue to him a certificate as a registered pharmacist. (Stats. 1924, c. 91, § 54.)

224. Certificates of Registration to Persons Registered in Other States.—The Department of Registration and Education may, in its discretion, grant certificates of registration as registered pharmacist to such persons as shall furnish with their applications satisfactory proofs that they have been registered by examination in some other state requiring a degree of competency equal to that required of applicants in this State: Provided, that an applicant shall have filed proofs of experience in the State in which he is registered by examination which would have entitled him at that time, to take an examination for registered pharmacist in this State; and, provided, further, that such other States shall accord like privileges to applicants who hold registered pharmacist certificates issued by examination in this State. (Id. § 55.)

225. Local Registered Pharmacists.—Any person shall be entitled to registration as a local registered pharmacist and shall be deemed a registered pharmacist within the meaning of this Act who is of the age of 21 years or over, of good moral character and temperate habits, and who shall have had four years' service under a registered pharmacist and shall pass a satisfactory examination before the State Board of Pharmacy. Each applicant for registration as local registered pharmacist shall pay to the said board the sum of ten dollars when his application is filed. The payment of said sum of money as aforesaid shall entitle the applicant to take a second examination in case he failed in the first, but no more: Provided, that said second examination is taken within six months of the first, and upon the payment of an additional five dollars, in case the applicant passes a satisfactory examination, the secretary of the State Board of Pharmacy shall issue to him a certificate as a local registered pharmacist. Said board shall have the right to refuse registration to applicants whose examinations and credentials are not satisfactory evidence of their competency. Said certificates shall be operative in and apply to the village, town, city, place or locality for which granted and no other.

Actual time of attendance, but not to exceed two years, at any reputable school of pharmacy, college of pharmacy or department of pharmacy of a university, shall be accredited on the above required service under a registered pharmacist: Provided, that applicants are to show by proper certificate from the school of pharmacy, college of pharmacy or department of pharmacy of a university which they have attended that their school work was satisfactory: Provided, that no local registered pharmacist certificate shall be granted under this section for any village, town, or city, the population of which exceeds 1,500 according to the Federal census next preceding: Provided, further, that any and all persons holding registered pharmacist time service certificates heretofore issued may have the same renewed from year to year in the same manner and under the same conditions as are provided herein for the renewal of registered pharmacist certificates. (Id. § 56.)

226. Assistant Pharmacist.—Any person shall be entitled to registration as an assistant pharmacist who is of the age of 18 years or over, of good moral character and temperate habits, and who shall have had three years' service under a registered pharmacist and shall pass a satisfactory examination before the State

Board of Pharmacy. Each applicant for registration as assistant pharmacist shall pay to the said board the sum of five dollars when his application is filed. The payment of said sum of money as aforesaid shall entitle the applicant to take a second examination, in case he failed in the first, but no more: Provided, that said second examination is taken within six months of the first; and upon the payment of an additional five dollars, in case the applicant passes a satisfactory examination, the secretary of the Board of Pharmacy shall issue to him a certificate as a registered assistant pharmacist. Said board shall have the right to refuse registration to applicants whose examinations and credentials are not satisfactory evidence of their competency. Any assistant pharmacist shall have the right to act as clerk or salesman in a drug store or pharmacy during the temporary absence of the registered pharmacist.

Actual time of attendance, but not to exceed one year, at any reputable school of pharmacy, college of pharmacy or department of pharmacy of a university, shall be accredited on the above required service under a registered pharmacist: Provided, that applicants are able to show by proper certificate from the school of pharmacy, college of pharmacy or department of pharmacy of a university which they have attended that their school work was satisfactory. (Id. ¶ 57.)

227. Apprentices.—It shall be the duty of registered pharmacists who take into their employ an apprentice for the purpose of becoming a pharmacist to instruct said applicant to apply to said Board of Pharmacy for registration as apprentice, and the said Board of Pharmacy shall have the right to require such an examination as shall establish the educational qualifications of the applicant, and the date of experience required of applicants for assistant, or registered pharmacists, shall be computed from the date of registration as apprentice. The Board of Pharmacy shall furnish proper blanks for this purpose and issue a certificate of registration as a registered apprentice upon the payment of two dollars. (Id. ¶ 58.)

228. Annual Registration—Fee—Certificates.—All certificates issued by the State Board of Pharmacy shall expire on the thirty-first day of December following the date of the issuance of same.

Every registered pharmacist engaged in the active practice of his profession shall annually, during the time he continues in such active practice, pay to the State Board of Pharmacy a renewal fee, to be fixed by said board, but which shall in no case exceed \$1.50 if paid between the first day of January and the first day of March of each year, nor \$3.00 if paid between the first day of March and the first day of April of each year, nor \$5.00 if paid between the first day of April and the first day of May of each year. The payment of such renewal fee shall entitle him to a renewal of his certificate.

Every assistant pharmacist engaged in the active practice of his profession shall annually, during the time he continues in such active practice, pay to the State Board of Pharmacy a renewal fee, to be fixed by said board, but which shall in no case exceed \$1.00 if paid between the first day of January and the first day of March of each year, nor \$2.00 if paid between the first day of March and the first day of April of each year, nor \$4.00 if paid between the first day of April and the first day of May of each year. The payment of such renewal fee shall entitle him to a renewal of his certificate. If the renewal fee for any certificate the holder of which is actively engaged in the practice of his profession be not paid by the first day of May of each year, such certificate is hereby declared null and void and the holder thereof may be reinstated as a registered pharmacist or assistant pharmacist only by passing a successful examination before the State Board of Pharmacy: Provided, that actual retirement from the profession of any registered pharmacist or assistant pharmacist for a period not exceeding five years, shall not deprive him of the right to renew his registration upon the payment of all lapsed fees. The Board of Pharmacy may refuse registration, or renewal of certificates to, or may suspend the certificates of registered pharmacists, or assistant pharmacists, who are proven to be so addicted to the excessive use of stimulants or narcotics as to render them unsafe to handle or sell drugs, medicines and poisons, or who are proven not to be of good moral character.

If the holder of every certificate of pharmacy granted under the provisions of this Act shall refuse or neglect to conspicuously display the same in the drug store, pharmacy or department to which it applies, or if the registered pharmacist who conducts the drug store, pharmacy or department shall neglect or refuse to conspicuously display his name over the door or department, he shall be liable on conviction thereof to pay a penalty of not less than twenty dollars nor more than fifty dollars. (Id. ¶ 59.)

229. State Board of Pharmacy*—Appointment.—The Governor, with the advice and consent of the Senate, shall appoint five persons from among such competent registered pharmacists in the State as have had ten years' practical experience in the dispensing of physicians' prescriptions since such registration, who shall constitute the Board of Pharmacy. The persons so appointed shall hold their offices for five years: Provided, that the terms of office shall be so arranged that the term of one shall expire on the thirty-first day of December of each year, and the vacancies so created, as well as all vacancies otherwise occurring, shall be filled by the Governor. The Illinois Pharmaceutical Association shall annually report directly to the Governor, recommending the names of at least three persons whom said association shall deem best qualified to fill any vacancies which shall occur in said board. (Id. ¶ 60.)

230. Organization—Compensation of Secretary—Bond—Duties of Officers—Meetings.—The Board of Pharmacy shall elect a president from among its members, and a secretary, who shall not be a member of said board. Said secretary shall receive a salary of \$3,000.00 per annum. He shall also receive his traveling and other expenses incurred in the performance of his official duties. The board shall require the secretary to give a good and sufficient bond for the faithful performance of his duties. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this Act; to cause the prosecution of all persons violating its provisions; to prescribe the duties of the secretary and to make an annual report to the Governor and to the Illinois Pharmaceutical Association of all monies received and disbursed under the provisions of this Act, which report shall also include a record of the proceedings of the board and also the names of all registered pharmacists, assistant pharmacists and apprentices to whom certificates were granted during the time covered by the report. The board is also empowered to employ such clerks, stenographers, inspectors and other assistants as may be necessary to fully carry out the provisions of this Act. The board shall hold meetings for the examination of applicants for registration and the transaction of such other business as shall pertain to its duties, at least once in six months: Provided, that said board shall hold meetings at least once in every year in the city of Chicago and in the city of Springfield, and it shall give thirty days' public notice of the time and place of such meeting; shall have the power to make by-laws for the proper fulfillment of its duties under this Act, and shall keep a book of registration in which shall be entered the names and places of business of all persons registered under this Act, which book shall also specify such facts as said persons shall claim to justify their registration. Three members of said board shall constitute a quorum (Id. ¶ 61.)

231. Compensation of Members.—The members of the board shall receive as compensation for their services the sum of eight dollars for each day actually engaged in this service. The compensation of the members of the board shall be payable upon bills of particulars certified to as correct by the president of the Board of Pharmacy and approved by the Governor and the Auditor of Public Accounts shall pay such compensation out of any monies which may from time to time be appropriated for that purpose. Each member of the board shall receive his traveling and other expenses incurred in the performance of his official duties, payable out of any appropriation which may be made for such purpose. (Id. ¶ 62.)

232. Packages Containing Drugs—Labels—Exceptions—Record of Prescriptions—Penalty.—No person shall sell at retail any drug, medicine or poison without affixing to the box, bottle, vessel, or package containing the same a label bearing the name of the articles distinctly shown, with the name and place of business of the registered pharmacist from whom the article was obtained: Provided, that nothing contained in this section shall apply to the sale of patent or proprietary preparations and remedies which do not contain opium or coca leaves, or any compound, manufacture, salt, derivative or preparation thereof, when sold in original and unbroken packages only, or to the dispensing of prescriptions of licensed physicians, licensed dentists, or licensed veterinarians, or with the sale of paris green or lead arsenate, or other poisonous substances or mixtures of poisonous substances, in unbroken packages, for use in the arts or for insecticide purposes: Provided, they bear a label with the name, or names, of such poisonous substances and the word "poison" printed thereon in prominent type and the names of at least two readily obtainable antidotes with directions for their administration.

*See Nos. 1 and 240.

Every proprietor or manager of a drug store or pharmacy shall keep in his place of business a suitable book or file, in which shall be preserved for a period of not less than two years, the original of every prescription compounded or dispensed at such store or pharmacy, numbering, dating and filing them in the order in which they were compounded, and shall produce the same in court or before any grand jury whenever thereto lawfully required. Said book or file of original prescriptions shall at all times be open for inspection by the prescriber, the Board of Pharmacy and all officers of the law. Any person failing to comply with the requirements of this section shall be liable to a penalty of twenty dollars for every such violation. (Id. ¶ 63.)

233. False Representation to Procure Registration—Penalty.—Any person who shall willfully make any false representation to procure registration for himself or any other person, or who shall make false representation as to his registration as an apprentice, assistant pharmacist or registered pharmacist, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than fifty dollars or more than one hundred dollars for every such offense. (Id. ¶ 64.)

234. Adulteration, Alteration, of Drugs, Etc.—Penalty.—No druggist or other person shall manufacture, compound, or sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale any medicine or preparation under or by a name recognized in the United States Pharmacopoeia or National Formulary for internal or external use, which differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopoeia or National Formulary official at the time of such manufacture, compounding, sale or offering for sale. Nor shall any druggist or other person manufacture, compound, sell or offer for sale or cause to be manufactured, compounded, sold or offered for sale, any drug, medicine, chemical or pharmaceutical preparation, the strength or purity of which shall fall below the professed standard of strength or purity under which it is sold. Nor shall any druggist or other person being requested by means of prescription, or in any manner, to sell, furnish or compound any drug, medicine, chemical or pharmaceutical preparation, substitute or cause to be substituted therefor, without notification to the purchaser, any other drug, medicine, chemical or pharmaceutical preparation.

Any person violating any provision of this section upon conviction shall be liable to all the costs of the action and all the expenses incurred by the State Board of Pharmacy in connection therewith, and for the first offense shall be fined not less than ten dollars nor more than one hundred dollars, and for each subsequent offense shall be fined not less than seventy-five dollars nor more than one hundred and fifty dollars. The State Board of Pharmacy is hereby empowered to employ an analyst or chemist expert, whose duty it shall be to examine into any claimed adulteration, substitution or alteration, or other violation hereof, and report upon the result of his investigation, and, if such report justify such action, the board shall cause the offender to be prosecuted. (Id. ¶ 65.)

235. Unlawful to Sell, Etc., Cocaine, Etc., Except Upon Prescription of Licensed and Registered Physician, Etc.—Regulations as to Prescriptions—Exceptions—False Representation as Physician, Etc.—It shall be unlawful for any person, firm or corporation to sell, barter, exchange, distribute or give away any opium or coca leaves, or any compound, manufacture, salt, derivative or preparation thereof, except in pursuance of the written prescription of a licensed physician, licensed dentist or licensed veterinarian, who is registered with the United States collector of internal revenue in the district in which he resides, in accordance with the provisions of an act of Congress entitled, "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914; said prescription shall contain the name and address of the person for whom prescribed (or if prescribed by a veterinarian, shall state the kind of animal for which prescribed and the name of the owner thereof), shall be dated as of the day it is signed, and shall also be dated as of the day it is filled, shall not be altered or changed by any person except the physician, dentist or veterinarian by whom it is signed, and shall be retained on file by the person, firm or corporation by whom the same is filled for a period of not less than two years and it shall be filled but once, and of it no copy shall be made by any person except for the purpose of record by the physician, dentist or veterinarian by whom it is signed, or by the department of registration and education and officers of the law, and it shall at all times be

open to the inspection of the prescriber, the department of registration and education and all officers of the law.

Nothing contained in this section shall apply:

(a) To the dispensing or distribution of any of the substances mentioned in this section to a patient by a licensed physician, licensed dentist, or licensed veterinarian, who is registered under the act of Congress herein mentioned, in the course of his professional practice only: Provided, that such physician, dentist or veterinarian shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such substances are dispensed or distributed (if a veterinarian, the kind of animal for which such substances are dispensed or distributed and the name of the owner thereof), except such as may be dispensed or distributed to a patient upon whom such physician, dentist or veterinarian shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such substances, subject to inspection by the department of registration and education and all officers of the law. The making of any record required by any other law of this state, or of the United States, which record shall set forth the facts above required to be stated shall be deemed sufficient compliance with the provisions of this section.

(b) To sales made by a manufacturer of any of the drugs mentioned, or a wholesale dealer in drugs, or a retail druggist, to other such manufacturers, wholesale dealers in drugs, or retail druggists; or to sales made to manufacturers of medicinal preparations for use in such preparations only, or to sales made to hospitals, colleges, scientific or public institutions, or to licensed physicians, licensed dentists or licensed veterinarians, in accordance with the provisions of the act of Congress herein mentioned.

(c) To the sale, distribution, giving away or dispensing by persons registered under the provisions of the act of Congress herein mentioned, of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth grain of morphine, or more than one-eighth grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or if a solid or semi-solid preparation in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts, or alpha or beta eucaine, or any of their salts: Provided, that all such preparations shall contain other active drugs in sufficient proportions to confer upon them other and additional medicinal properties than those possessed by the unmixed drugs, salts or alkaloids specified in this section; and provided, further, that all such drugs, preparations or mixtures are sold, dispensed or distributed for use as medicines, and not for the purpose of evading the intentions of this section.

(d) To the sale of decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine, or to constituents or derivatives of opium or coca leaves or to synthetic substitutes therefor, which do not possess narcotic or habit-forming properties.

It shall be unlawful for any person to falsely assume or use the title licensed physician, licensed dentist or licensed veterinarian or to falsely assume or use any other professional title or degree or abbreviation thereof, or to counterfeit or forge the name of a licensed physician, licensed dentist or licensed veterinarian to a prescription, or order, or to falsely represent himself to be a manufacturer of drugs and medicines, wholesale dealer in drugs or retail druggist for the purpose of obtaining any of the substances specified in this section. (Id. ¶ 66.)

236. Unlawful to Prescribe, Etc., Cocaine, Etc., to Habitual User—Exceptions—Record of Prescriptions.—It shall be unlawful for any licensed physician or licensed dentist, or other person, to furnish or prescribe for the use of any habitual user any of the substances mentioned in section 14a [¶ 66] of this Act, or for any licensed dentist to furnish or prescribe any of the said substances for the use of any person not under his immediate treatment as a dentist, or for any other purpose than as a part of such treatment, or for any veterinarian to prescribe or furnish any of the said substances for the use of any human being.

The provisions of this section shall not be construed to prevent any licensed physician from prescribing for the use of any patient under his care for the treatment of a drug habit, or dispensing to such patient, such substances as he may deem necessary for such treatment: Provided, that such prescriptions and treatments are given in good faith, and not for the purpose of evading the intentions of this Act: And provided, further, that such physician shall keep a record in a suitable book of all such drugs so prescribed, dispensed or given, showing in each instance the amount so prescribed, dispensed or given, the date when and the name

and address of the patient for or to whom such drugs are so prescribed, dispensed or given, which record shall be preserved for a period of two years from the date of such prescribing, dispensing or giving, in such a manner as to be readily accessible to inspection by the Board of Pharmacy and all officers of the law. (Id. ¶ 67.)

237. Penalty.—Any person, firm or corporation violating any of the provisions of the foregoing sections 14a [¶ 66] and 14b [¶ 67] shall be guilty of a misdemeanor, and for the first offense shall be fined not more than one thousand (\$1,000) dollars, or imprisoned in the county jail not more than one year, or both, and for each succeeding offense fined not less than two hundred (\$200) dollars nor more than one thousand (\$1,000) dollars, or imprisoned not less than three months nor more than twelve months in the county jail, or both, and if the person so offending shall have a license or certificate as a physician, dentist, pharmacist, or veterinarian, such license or certificate may be suspended or revoked by the Board or officer of the State duly empowered to issue such license or certificate, after a fair hearing held upon a reasonable notice. Prosecutions for the violation of the foregoing sections 13, 14a and 14b [¶ 64, 66 and 67] shall be carried on in the same manner as for violations of the criminal code, and all fines collected in prosecutions shall inure to the Board of Pharmacy: Provided, that a person, firm or corporation authorized by law to compound and dispense physicians' prescriptions shall not be held liable for the innocent compounding and dispensing of any of the substances specified in section 14a [¶ 66] of this Act, in consequence of a false, fraudulent or forged prescription, which he, in good faith, believed to be the prescription of a licensed physician, licensed dentist or licensed veterinarian, issued for a lawful purpose: And provided, further, that suits for the recovery of the penalties prescribed in the other sections of this Act shall be prosecuted as provided in section 15 [¶ 69]. (Id. ¶ 68.)

238. Suits for Penalties.—All suits for the recovery of the several penalties prescribed in this act shall be prosecuted in the name of the "People of the State of Illinois," in any court having jurisdiction, and it shall be the duty of the State's Attorney of the county where such offense is committed to prosecute all persons violating the provisions of this act upon proper complaint being made. All penalties collected under the provisions of this act shall inure to the Board of Pharmacy. (Id. ¶ 69.)

239. Moneys to be Paid Into State Treasury.—All moneys, received by the Board of Pharmacy from whatsoever source shall be paid into the State Treasury on the thirtieth day of September and the thirty-first day of March of each year following the adoption of this act. (Id. ¶ 70.)

240. Powers of Department of Registration and Education in General.—The Department of Registration and Education shall have power: * * *

8. To exercise the rights, powers and duties vested by law in the State Board of Pharmacy; * * * (Stats. 1924, c. 24a, ¶ 59.)

241. Drugs and Poisons to be Labeled.—Every druggist or other person who shall sell and deliver any arsenic, strychnine, corrosive sublimate, prussic acid or other substance or liquid usually denominated as poisonous, without having the word "poison" written or printed upon a label attached to the phial or parcel in which such drug is contained, or shall sell and deliver any drug or medicine other than upon the prescription of a physician, without having the name of such drug or medicine printed or written upon a label attached to the phial or parcel containing the same, shall be fined not exceeding \$25.00. (Stats. 1924, c. 38, ¶ 169.)

242. Selling Poison—Record—Penalty.—If any druggist or other person sells or gives away any arsenic, strychnine, corrosive sublimate or prussic acid without the written prescription of a physician, and fails to keep a record of the date of such sale or gift, the article, and amount thereof sold or given away, and the person to whom delivered, he shall be fined not exceeding \$50.00 for each neglect. Whoever purchases any such poison and gives a false or fictitious name shall be punished in the same manner. (Id. ¶ 170.)

Serums.

See Nos. 2 and 210 et seq.

Wood Alcohol.

243. Food, Drink or Preparation Containing Wood Alcohol—Possession or Sale—Label—Penalty.—No person, firm or corporation shall have in posses-

sion, sell, or offer for sale, any food or drink which contains methyl alcohol (commonly known as wood alcohol) or any preparation or mixture of any kind whatsoever, containing methyl alcohol, which shall be intended for internal use by man. Methyl alcohol by any name, or any preparation or mixture containing methyl alcohol, shall, when offered for sale, sold, delivered or used, be conspicuously labeled "Wood Alcohol" or: "This preparation contains wood alcohol" and the word "Poison" together with a skull and cross bones. The word "Poison" and the skull and cross bones shall be printed in red ink and shall be at least one-quarter ($\frac{1}{4}$) of an inch in height.

Any person, firm or corporation violating the provisions of this section shall be fined not less than five dollars (\$5.00), nor more than one hundred dollars (\$100.00), for each such offense. (Stats. 1924, c. 38, § 171.)

244. Death From Wood Alcohol Sold for Beverages Purposes.—Whoever knowingly and willfully sells, barter or furnishes any wood alcohol, or any compound or preparation containing wood alcohol, or any poisonous liquor, to be used for beverage purposes, and death results from such use, shall be guilty of murder and punished accordingly. (Id. § 352(1).)

Intoxicating Liquors.

245. How Act Cited.—This Act shall be known and cited as the "Illinois Prohibition Act." (Stats. 1924, c. 43, § 1.)

246. Definition of Terms.—(1) When used in this Act, the word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter and wine, and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of one per centum or more of alcohol by volume which are fit for use for beverage purposes: Provided, that the foregoing definition shall not extend to dealcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of one per centum of alcohol by volume, and is made as prescribed in section 45 [§ 46] of this Act, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from such sealed and labeled bottles, casks, or containers as the Attorney General, but in case the office of Commissioner of Prohibition shall be created, then said commissioner, may by regulation prescribe.

(2) The word "person" shall mean and include natural persons, associations, co-partnerships and corporations.

(3) The term "application" shall mean a formal written request supported by a verified statement of facts showing that the Attorney General or officer authorized to do so may grant the request.

(4) The term "permit" shall mean a formal written authorization by the Attorney General, or in case the office of Commissioner of Prohibition shall be created, then by such Commissioner, setting forth specifically therein the things that are authorized.

(5) The term "bond" shall mean an obligation authorized or required by or under this Act or any regulation, executed in such form and for such a penal sum as may be required by a court or other competent authority, or prescribed by regulation.

(6) The term "still" wherever used in this Act shall be construed to include any mechanism, apparatus or device kept or maintained for the purpose of distilling, making or manufacturing intoxicating liquors which by any process of evaporation, separates alcoholic liquor from grain, molasses, fruit or any other fermented substance, or that is capable of any such use.

(7) The phrase "industrial alcohol" shall be construed to mean that substance known as ethyl alcohol, hydrated-oxide of ethyl, or spirits of wine, from whatever source or whatever process produced. . . . (Id. § 2.)

247. Manufacture, Sale, Transporting, Delivery, Possession, Etc., of Liquor Prohibited—Construction of Act—Non-beverage Liquors and Sacramental Wines.—No person shall on or after the date when this Act goes into effect, manufacture, sell, barter, transport, deliver, furnish or possess any intoxicating liquor except as authorized in this Act, and all the provisions of this Act shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented.

Liquor for non-beverage purposes and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, delivered, furnished and possessed, but only as herein provided, and the Attorney General may, upon application, issue permits therefor, but in case the office of Commissioner of Prohibition shall

be created, then such Commissioner shall issue said permits: Provided, that nothing in this Act shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposit in government bonded warehouses. (Id. ¶ 3.)

248. Excepted Articles—Permits for Alcohol—Sale for Beverage Purposes—Notice to Desist from Selling—Sale After Notice Unlawful—Bond—Record and Report of Sales.—The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this Act if they correspond with the following descriptions and limitations, namely:

(a) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force.

(b) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary of the American Institute of Homœopathy, that are unfit for use for beverage purposes.

(c) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

(d) Toilet, medicinal and antiseptic preparations and solutions that are unfit for beverage purposes.

(e) Flavoring extracts, and sirups that are unfit for use as a beverage or for intoxicating beverage purposes.

(f) Vinegar and preserved sweet cider.

A person who manufactures any of the articles mentioned in this section may purchase and possess alcohol for that purpose, but he shall secure permits from the Attorney General, or in case the office of Commissioner of Prohibition shall be created, then from such Commissioner, to manufacture such articles and to purchase such alcohol, keep the records, and make the reports specified in this Act. No such manufacturer shall sell, use, or dispose of any alcohol otherwise than as an ingredient of the article authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, sirup, or the articles named in paragraphs b, c and d of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article.

Any person who shall knowingly sell any of the articles mentioned in paragraphs a, b, c and d of this section for beverage purposes, or any extract or sirup for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes, or shall sell any beverage containing one-half of one per centum or more of alcohol by volume in which any extract, sirup, or other article is used as an ingredient, shall be subject to the penalties provided in paragraph (A) of section 33 [¶ 34] of this Act. If the Attorney General, but in case the office of Commissioner of Prohibition shall be created then such commissioner, shall find, after notice and hearing as provided for in section 6 [¶ 6] of this Act, that any person has sold flavoring extract, sirup, or beverage in violation of this paragraph, he shall notify such person, and any known principal for whom the sale was made, to desist from selling such article; and it shall thereupon be unlawful for a period of one year thereafter for any person so notified to sell any such extract, sirup, or beverage without making an application for, giving a bond, and obtaining a permit so to do, which permit may be issued upon such condition as the said official may deem necessary to prevent such illegal sales, and in addition said official shall require a record and report of sales: Provided, nothing contained in this paragraph shall be construed to apply to the person absolutely prohibited from selling, as contained in section 5 [¶ 5] hereof. (Id. ¶ 4.)

249. Sales Certain Places Prohibited—Exceptions.—No person shall sell, barter, furnish, give away, or possess any of the articles enumerated in paragraphs b, c and d of section 4 [¶ 4] which contain one-half of one per centum or more of alcohol by volume, whether fit or unfit for beverage use, in any restaurant, pool-room, shoe-shining parlor, bowling alley, ice-cream parlor, soft drink establishment or public place where liquid refreshments of any kind are served: Provided, that nothing in this section shall be construed to prohibit the sale of any of the articles enumerated in paragraphs b, c and d of section 4 [¶ 4], which are unfit for beverage purposes, in a bona fide drug store, bona fide general store, or bona fide grocery store. Any person violating this section shall be punished as provided for in paragraph (A) of section 33 [¶ 34] of this Act. (Id. ¶ 5.)

250. Analysis—Revocation of Permit—Notice—Hearing—Review by Courts—Restraint.—Whenever the Attorney-General, but in case the office of Commissioner of Prohibition shall be created, then such Commissioner, has reason to believe that any article mentioned in section 4 [¶ 4] does not correspond with the descriptions and limitations therein provided, he shall cause an analysis of said article to be made,

and if, upon such analysis, said officer shall find that said article does not so correspond he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered mail, as such officer may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear. If the manufacturer of said article fails to show to the satisfaction of the Attorney General or Commissioner of Prohibition as the case may be, that the article corresponds to the descriptions and limitations provided in section 4 [¶ 4] of this Act, his permit to manufacture and sell such article shall be revoked. The manufacturer may by appropriate proceedings in a court of equity have the action of said officer reviewed, and the court may affirm, modify or reverse his finding as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale or other disposition of such article. (Id. ¶ 6.)

251. Prescriptions—Hospitals—Permits — Expiration — Extension — Persons Disqualified—Pharmacists—Physicians—Qualifications—Contents of Permit—Review of Refusal of Permit—Blanks—Compliance with Federal Law—Sacramental Wines—Manufacture and Sale.—No one shall manufacture, sell, purchase, transport, or prescribe any liquor unless for some purpose expressly permitted by this Act, and in every such case a permit must first be obtained from the Attorney General, but in case the office of Commissioner [of] Prohibition shall be created, then from such Commissioner, except that a person may without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided, and except that any person who in the opinion of the Attorney General, but in case the office of Commissioner of Prohibition shall be created, then in the opinion of such Commissioner, is conducting a bona fide hospital or sanitarium engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations, and conditions as said officer shall prescribe, purchase and use in accordance with the methods in use in such institutions, liquor, to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

All permits to manufacture, prescribe, sell, or transport liquor, may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof: Provided, that said officer may, without formal application or new bond, extend any permit granted under this Act or laws now in force after August 31st in any year to December 31st of the succeeding year: Provided, further, that permits to purchase liquor for the purpose of manufacturing or selling as provided in this Act shall not be in force to exceed ninety days from the day of issuance. A permit to purchase liquor for any other purpose shall not be in force to exceed thirty days. Permits to purchase liquor shall specify the quantity and kind to be purchased and the purpose for which it is to be used. No permit shall be issued to any person who, within one year prior to the application therefor or issuance thereof shall have violated the terms of any permit issued under this Act or any law of the United States regulating traffic in liquor. No permit shall be issued to anyone to sell liquor at retail, unless the sale is to be made through a registered pharmacist, local registered pharmacist, or registered assistant pharmacist designated in the permit and duly licensed under the laws of this State to compound and dispense medicine prescribed by a duly licensed physician. No one shall be given a permit to prescribe liquor unless he is a physician duly licensed to practice medicine in this State and is actively engaged in the practice of such profession in this State. Every permit shall be in writing, dated when issued, and signed by the Attorney General, or in case the office of Commissioner of Prohibition shall be created, then by such Commissioner, or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the liquor is to be used.

In the event of the refusal of any application for any permit, provided for in this Act, the applicant may have a review of his decision before a court of equity in the manner provided in section 6 [¶6] hereof.

All blanks and forms for applications, returns, permits, prescriptions, etc., which may be required under the provisions of this Act shall, whenever feasible, be similar to the blanks and forms for applications, returns, permits, prescriptions, etc., required by the laws of the United States: Provided, that in every case where any prescription, label or record is required to be written, or written and kept, or cancelled and kept, under this Act, and a like record or act is required under the laws of the United States, it shall be deemed sufficient for the purposes of this Act, if

the person so required to write, or write and keep, or cancel and keep such prescription, label or record shall comply with the requirements of the Federal Government in regard thereto: Provided, further, that nothing contained in this paragraph shall be construed to relieve any such person from the duties imposed by section 41 [¶ 42] hereof, but the provisions of said section are hereby made to expressly apply to every such person and to all such prescriptions, labels and records.

Nothing in this Act shall be held to apply to the manufacture, sale, transportation, possession, or distribution of wine for sacramental purposes, or like religious rites, except section 7 [¶ 7] (save as the same requires a permit to purchase) and section 10 [¶ 10] hereof, and the provisions of this Act prescribing penalties for the violation of either of said sections. No person to whom a permit may be issued to manufacture, transport, or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange, or furnish any such to any person not a rabbi, minister of the gospel, priest, or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister, or priest or supervise the manufacture of wine to be used for the purposes and rites in this section mentioned, and the person so designated may, in the discretion of the officer empowered to grant permits, be granted a permit to supervise such manufacture. (Id. ¶ 7.)

252. Prescriptions—Necessity for Permit—Wine and Beer Prohibited—Examination—Amount to Be Prescribed—Cancellation by Pharmacist—Physician's Record.—No one except a physician holding a permit shall prescribe liquor. Such permit shall be granted by the Attorney General, unless the office of Commissioner of Prohibition shall be created, then such commissioner shall grant said permit. It shall be unlawful to prescribe wine, beer or any alcoholic malt liquor. And no physician shall prescribe any liquor unless after careful physical examination of the person for whose use such prescription is sought. Not more than a total quantity of one pint of intoxicating liquor shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once, and no person shall procure or accept or have filled any prescription for more than one pint of liquor within said period of ten days. Any registered pharmacist, local registered pharmacist, or registered assistant pharmacist filling a prescription for liquor shall at the time endorse upon it over his own signature the word "canceled," together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided.

Every physician who issues a prescription for liquor shall keep a record, alphabetically arranged in a book prescribed by the officer empowered to grant permits to physicians which shall show the date of issue, amount prescribed, to whom issued, the purpose or ailment for which it is to be used and directions for use, stating the amount and frequency of the dose. (Id. ¶ 8.)

253. Revocation of Permit—Citation—Hearing—Review by Court.—If at any time there shall be filed with the Attorney General, but in case the office of Commissioner of Prohibition shall be created, then before such Commissioner, a complaint under oath setting forth facts showing, or if the said officer has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this Act, or has violated the laws of the State relating to intoxicating liquor, such officer or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the Attorney General or Commissioner of Prohibition with statement of the facts constituting the violation charged, at which time a hearing shall be held unless continued for cause. Such hearing shall be held within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it is found that such person has been guilty of wilfully violating any such laws, as charged, or has not in good faith conformed to the provisions of this Act, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the officer granting it, the permittee may have a review of his decision before a court of equity in the manner provided in section 6 [¶ 6] hereof. During the pendency of such action such permit shall be temporarily revoked. (Id. ¶ 9.)

254. Record of Manufacture, Sale, Purchase for Sale, or Transportation of Liquor.—No person shall manufacture, purchase for sale, sell or transport any liquor without making at the time a permanent record thereof showing in detail the amount and kind of liquor manufactured, purchased, sold, or transported, together

with the names and addresses of the persons to whom sold, in case of sale, and the consignor and consignee in case of transportation, and the time and place of such manufacture, sale or transportation. The Attorney General, or in case the office of Commissioner of Prohibition shall be created, then such Commissioner may prescribe the form of such record, which shall at all times be open to inspection as in this Act provided. (Id. ¶ 10.)

255. Copies of Permits to be Kept by Manufacturers and Druggists.—Wholesale Sales.—All manufacturers and wholesale or retail druggists shall as a part of the records required of them keep a copy of all permits to purchase on which a sale of any liquor is made, and no manufacturer or wholesale druggist shall sell or otherwise dispose of any liquor except at wholesale and only to persons having permits to purchase in such quantities. (Id. ¶ 11.)

256. Label on Container—Necessity and Contents.—All persons manufacturing liquor for sale under the provisions of this Act shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorizing the manufacture thereof; and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon; and all persons selling at wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the person to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale was authorized. (Id. ¶ 12.)

256a. Advertising—What Prohibited.—It shall be unlawful to advertise anywhere, or by any means or method, liquor, or the manufacture, sale, keeping for sale or furnishing of the same, or where, how, from whom, or at what price the same may be obtained. No one shall permit any sign or billboard containing such advertisement to remain upon one's premises. But nothing herein shall prohibit manufacturers and wholesale druggists holding permits to sell liquor from furnishing price lists, with descriptions of liquor for sale, to persons permitted to purchase liquor, or from advertising alcohol in business publications or trade journals circulating generally among manufacturers of lawful alcoholic perfumes, toilet preparations, flavoring extracts, medicinal preparations, and like articles: Provided, however, that nothing in this Act shall apply to newspapers published in foreign countries when mailed to this country. (Id. ¶ 17.)

257. Seized Liquors—Delivery for Medicinal, Mechanical or Scientific Uses, or Sale on Permit.—In all cases in which intoxicating liquors may be subject to be destroyed under the provisions of this Act, the court shall have jurisdiction upon the application of the State's attorney to order them delivered to any department or agency of the State for medicinal, mechanical, or scientific uses, or to order the same sold at private sale for such purposes to any person having a permit to purchase liquor, the proceeds to be covered into the treasury of the county in which the violation occurred and all liquor heretofore seized in any suit or proceeding brought for violation of law may likewise be so disposed of, if not claimed within sixty days from the date this section takes effect. (Id. ¶ 33.)

258. Punishment for Violation of Act.—(A) Any person who manufactures, transports, or sells liquor in violation of this Act shall for a first offense be fined not less than \$100.00 nor more than \$1,000.00, or be imprisoned not less than sixty days nor more than six months or both and for a second or subsequent offense shall be fined not less than \$500.00 nor more than \$1,500.00 and be imprisoned in the State penitentiary not less than one year nor more than two years.

(B) Any person violating the provisions of any permit, or who makes any false record or report required by this Act, or violates any of the provisions of this Act, for which offense a special penalty is not prescribed, shall be fined for a first offense not less than \$100.00 nor more than \$1,000.00, or be imprisoned not less than sixty days, nor more than six months; for any subsequent offense he shall be punished by a fine of not less than \$500.00 nor more than \$1,500.00 and be imprisoned in the State penitentiary not less than one year nor more than two years. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information or indictment. The penalties provided in this Act against the manufacture of liquor without a permit shall not apply to a person for manufacturing non-intoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar. (Id. ¶ 34.)

259. Records and Reports—Right to Inspection of—Evidence.—All records and reports kept or filed under the provisions of this Act shall be subject to inspection at any reasonable hour by any public prosecutor or by any person designated by him, or by any peace officer in the State, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the original thereof, and verified copies of such records shall be furnished to the Attorney General or Commissioner of Prohibition, if such office shall be created, or State's Attorney when called for. (Id. ¶ 42.)

260. Storage in Bonded Warehouses—Transportation.—Nothing herein shall prevent the storage in United States bonded warehouses of liquor manufactured prior to January 17, 1920, or prevent the transportation of such liquor to such warehouses or to any wholesale druggist for sale to such druggist for purposes not prohibited when the tax is paid, and permits may be issued therefor. (Id. ¶ 45.)

261. Legal Beverages—Excessive Alcoholic Content in Course of Manufacture—Reduction—Violation—Burden of Proof—Expense of Analysis.—A manufacturer of any beverage containing less than one-half of one per centum of alcohol by volume may, on making application and giving such bond as the Attorney General shall prescribe, but in case the office of Commissioner of Prohibition shall be created, then as shall be prescribed by such Commissioner, be given a permit to develop in the manufacture thereof by the usual methods of fermentation and fortification or otherwise a liquid such as beer, ale, porter, or wine, containing more than one-half of one per centum of alcohol by volume, but before any such liquid is withdrawn from the factory or otherwise disposed of the alcoholic contents thereof shall under such rules and regulations as the said officer may prescribe be reduced below such one-half of one per centum of alcohol. Provided, that such liquid may be removed and transported, under bond and under such regulations as the officer granting the permit as aforesaid may prescribe, from one bonded plant or warehouse to another for the purpose of having the alcohol extracted therefrom. And such liquids may be developed under permit by persons other than the manufacturers of beverages containing less than one-half of one per centum of alcohol by volume, and sold to such manufacturers for conversion into such beverages.

In any case where the manufacturer is charged with manufacturing or selling for beverage purposes any malt, vinous, or fermented liquids containing one-half of one per centum or more of alcohol by volume, or in any case where the manufacturer, having been permitted as aforesaid to develop a liquid such as ale, beer, porter, or wine containing more than one-half of one per centum of alcohol by volume in the manner and for the purpose herein provided, is charged with failure to reduce the alcoholic content of any such liquid below such one-half of one per centum before withdrawing the same from the factory, then in either such case the burden of proof shall be on such manufacturer to show that such liquid so manufactured, sold, or withdrawn contains less than one-half of one per centum of alcohol by volume. In any suit or proceeding involving the alcoholic content of any beverage, the reasonable expense of analysis of such beverage shall be taxed as costs in the case. (Id. ¶ 46.)

262. Federal Permit to Operate Industrial Alcohol Plant or Warehouse—Filing Duplicate—Investigation—Countersigning.—Any person holding a permit from the government of the United States to operate an industrial alcohol plant or warehouse shall, within at least fifteen days after this Act becomes effective or within three days after receiving any such permit, file duplicate copies thereof with the Attorney General, but in case the office of Commissioner of Prohibition shall be created, then with such Commissioner, who, within thirty days after receipt of such copies shall cause an inspection to be made of the premises described in such permit, and, if he finds that said premises conform to the laws of this State, he shall countersign such copies and return one copy to the holder named in the permit which shall be his authority for doing the acts specified in said permit within the State of Illinois, and the officer aforesaid shall retain the other copy on file in his office. (Id. ¶ 48.)

263. Industrial Alcohol Plant or Warehouse—Operation in Violation of Act—Penalty—Nuisance—Abatement.—Whoever operates an industrial alcohol plant or warehouse or a denaturing plant without complying with the provisions of this Act, or in violation of the terms of the permit countersigned as provided in section 47, [¶ 48], or without complying with all lawful regulations made herein, in reference thereto shall be liable for the first offense to a penalty of not exceeding one thousand (\$1,000.00) dollars, or imprisonment not exceeding thirty days, or both, and for a second or a subsequent offense to a penalty of not less than one hundred (\$100.00) dollars or more than ten thousand (\$10,000.00) dollars and to imprisonment of not less than thirty days nor more than one year, and the officer authorized to grant permits as aforesaid, after a second or subsequent offense, may refuse for a period of

one year thereafter to countersign a permit for the manufacture or use of alcohol upon the premises of any person responsible in any degree for the violation. Any industrial alcohol plant or warehouse operated in this State without the owner or operator thereof holding a permit from the Federal government, duly countersigned as herein provided, is hereby declared to be a common nuisance which nuisance shall be abated by proceedings as provided for in section 22* of this Act. (Id. ¶ 49.)

264. Permits Issued to Citizens and American Corporations Only—Medicinal or Scientific Use—Permits to Own Stills—Denatured Alcohol Plants—Rules for Administration of Act.—No permit or other authority to manufacture, store, sell, prescribe, or otherwise deal in the articles, liquors or beverages for which a permit or other authority is required by this Act shall be issued to nor countersigned for, any person not a citizen of the United States, or a corporation incorporated under the laws of the United States or the several States.

Provided, that spirituous liquor may be used, in any bona fide hospital or sanitarium, for strictly medicinal or scientific purposes, or by any duly licensed physician or dentist for such purposes, or in any laboratory for strictly scientific purposes, on application being made to the Attorney General, but in case the office of Commissioner of Prohibition shall be created, then to said Commissioner. Permits shall be granted by said official to such applicants to purchase, transport and use the amount of such liquors which shall be reasonably necessary for such purposes. Provided, further, that permits to own stills shall only be granted to persons who are authorized under the laws of the United States to own stills or are authorized to manufacture liquor requiring the use of a still under this Act, or are legitimate dealers in or users of stills.

All provisions of sections 47 [¶ 48] and 48 [¶ 49] hereof shall apply to all denatured alcohol plants whether operated on the premises of an industrial alcohol plant or elsewhere, and permits to operate same shall be filed and countersigned, after inspection, as provided in section 47 [¶ 48].

The Attorney General, but in case the office of Commissioner of Prohibition shall be created, then such Commissioner, shall have power to make reasonable rules and regulations for the administration of the provisions of this Act. (Id. ¶ 50.)

PART IV.

Miscellaneous Laws.

False Advertising.

265. False Advertising as to Quality, Value, Motive of Sale, Prizes, Source of Purchase, Etc.—Whoever, being any person, firm, corporation or association, in a newspaper, periodical, circular, form, letter, or other publication, published, distributed or circulated in this commonwealth, in any advertisement in this commonwealth, knowingly makes or disseminates, or causes to be made or disseminated, any statement or assertion concerning the quantity, the quality, the value, the merit, the ability, the use, the present or former price, the cost, the reason for the price, or the motive or purpose of a sale, of any merchandise, securities or services or anything of value; or concerning the method or cost of production or manufacture of such merchandise; or the possession of rewards, prizes, or distinctions, conferred on account of such merchandise, securities, services or thing of value; or the manner of source of purchase of such merchandise or securities, or thing of value with intent to sell, or in any wise dispose of such merchandise, securities, services or thing of value; which is untrue or calculated to mislead, and known to be so by said person at said time, shall be guilty of a misdemeanor, and on conviction be sentenced to pay a fine of not more than one thousand dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment. (Stats. 1924, c. 38, ¶ 224.)

Flag Desecration.

266. Improper Use of Flags—Mutilation—Penalty.—Any person who in any manner, for exhibition or display, shall after this act takes effect, place or cause to be

*Section relates to injunction to abate liquor nuisance.

placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color or ensign of the United States or State flag of this State or ensign, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign upon which after this act takes effect, shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design or drawing or any advertisement of any nature or who shall, after this act takes effect, expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale or to give away or for use for any purpose, any article or substance, being an article of merchandise, or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which after this act takes effect, shall have been printed, painted, attached, or otherwise placed a representation of any such flag, standard, color, or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon or cast contempt, either by words or act, upon any flag, standard, color or ensign, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars and costs, or by imprisonment for not more than thirty days, or both in the discretion of the court. (Stats. 1924, c. 38, ¶ 256.)

267. Definitions.—The words flag, standard, color or ensign, as used in this act, shall include any flag, standard, color, ensign or any picture or representation of either thereof, made of any substance or represented on any substance and of any size, evidently purporting to be either of said flag, standard, color or ensign of the United States of America, or a picture or a representation of either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number of either thereof, of the flag, colors, standard, or ensign of the United States of America. (Id. ¶ 257.)

268. Presumption of Violation of Act.—The possession after this Act takes effect, by any person other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be anything made unlawful at any time by this act, or of any article or substance or thing on which shall be anything made unlawful at any time by this act, shall be presumptive evidence that the same is in violation of this act and was made, done or created after this act takes effect and that such flag, standard, color, ensign, or article, substance or thing, did not exist when this Act takes effect. (Id. ¶ 258.)

269. Prosecution—Disposition of Penalties Collected.—All prosecutions under the provisions of this Act shall be brought by any person in the name of the People of the State of Illinois, against any person or persons violating any of the provisions of this Act, before any court of competent jurisdiction; and it is hereby made the duty of the State's Attorneys to see that the provisions of this Act are enforced in their respective counties, and they shall prosecute all offenders on receiving information of the violation of any of the provisions of this Act; and it is made the duty of the sheriffs, deputy sheriffs, bailiffs, constables and police officers to inform against and prosecute all persons whom there is probable cause to believe are guilty of violating the provisions of this Act.

One-half of the amount recovered in any penal action under the provisions of this Act shall be paid to the person making and filing the complaint in such action, and the remaining one-half to the school fund of the county in which the said conviction is obtained. (Id. ¶ 259.)

270. Limitations.—All prosecutions under this Act shall be commenced within six months from the time such offense was committed, and not afterwards. (Id. ¶ 260.)

Tobacco—Tobacco Products.

271. Sale of Tobacco to Minors Under Sixteen Years Prohibited, Except.—Hereafter no person or persons in this State shall sell, buy for, or furnish any cigar or cigarette, or tobacco in any of its forms, to any minor under sixteen years of age, unless upon the written order of parent or guardian. (Stats. 1924, c. 38, ¶ 578.)

272. Penalties for Violation of This Act.—If any person or persons, in this State, shall violate the provisions of this Act, he, she or they shall, on conviction thereof, forfeit and pay for each and every offense the sum of twenty dollars. (Id. ¶ 579.)

273. Cigarettes—Unlawful to Sell, Etc.—Penalty.—Every person who shall manufacture, sell or give away any cigarette containing any substance deleterious to health, including tobacco, shall be punished by a fine not exceeding one hundred dollars (\$100.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days. (Id. ¶ 580.)

274. Smoking in Public, by Minors, Prohibited—Penalty.—Every person under the age of eighteen (18) years and over the age of seven years, who shall smoke or use cigarettes, on any public road, street, alley or park or other lands used for public purposes, or in any public place of business or amusement, shall be guilty of a misdemeanor and punished for each offense by a fine of not more than ten dollars (\$10.00). (Id. ¶ 581.)

275. Penalty for Furnishing, Etc.—Every person who shall furnish any cigarettes in any form to any such person, or who shall permit any such person to frequent the premises owned by him for the purpose of indulging in the use of cigarettes, in any form, shall be guilty of a misdemeanor and punished by a fine not exceeding fifty dollars (\$50.00) for the first offense, and not exceeding one hundred (\$100.00) for the second and every additional offense, or imprisonment in the county jail for a period not exceeding thirty (30) days for each offense. (Id. ¶ 582.)

Trade-Marks.

276. Imitation of Label, Trade-Mark, Term, Design, Device or Form of Advertisement Unlawful.—Whenever any person, or any association or union of workmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade-mark, term, design, device or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement. (Stats. 1924, c. 140, ¶ 1.)

277. Penalties for Counterfeiting, Etc.—Whoever counterfeits or imitates any such label, trade-mark, term, design, device or form of advertisement, or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device, or form of advertisement, or knowingly uses any such counterfeit or imitation, or knowingly sells or disposes of or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which any such counterfeit or imitation is attached or affixed, or on which any such counterfeit or imitation is printed, painted, stamped or impressed or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor, in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not less than one hundred (100) dollars, nor more than two hundred (200) dollars, or by imprisonment for not less than three (3) months nor more than one (1) year, or by both such fines and imprisonment. (Id. ¶ 2.)

278. Trade-Mark to be Filed With Sworn Statement—Fee.—Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device or form of advertisement, as provided in section one (1) [¶ 1] of this Act shall file the same for record in the office of the Secretary of State, by leaving two (2) copies, counterparts or facsimiles thereof with said secretary, and by filing therewith a sworn statement specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, the class of merchandise and a particular description of the goods to which it has been or is intended to be appropriated, that the party so filing, or on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same, and that no other person, firm, association, union or corporation has the right to such use either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile copies or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one (1) dollar.

Penalties for False Entry of Trade-Mark.—Any person who shall for himself, or on behalf of any other person, associations or union, procure the filing of any label, trade-mark, term, design, device or form of advertisement in the office of the Secretary of State, under the provisions of this Act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means,

shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding two hundred (\$200) dollars or by imprisonment not exceeding one year, or both such fine and imprisonment.

Certificate from Secretary of State—Certificate Evidence.—The Secretary of State shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said Secretary shall receive a fee of one (1) dollar. Any such certificate of record shall in all suits and prosecutions under this Act be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement. Said Secretary of State shall not record for any person, union or association, any label, trade-mark, term, design, device or form of advertisement that would reasonably be mistaken for any label, trade-mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association. (Id. ¶ 3.)

279. Right to Injunction—Other Remedies.—Every such person, association or union adopting a label, trade-mark, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeits or imitations; and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such suit, such damages, resulting from such wrongful manufacture, use, display or sale, as may by said court be deemed just and reasonable, and shall require the defendants to pay to such person, association or union the profits derived from such wrongful manufacture, use, display or sale; and said court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant to be destroyed. (Id. ¶ 4.)

280. Unauthorized Use of Genuine Trade-Mark—Penalty.—Every person who shall use or display the genuine label, trade-mark, or form of advertisement of any such person, association or union, in any manner not authorized by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than two hundred dollars, or both. In all cases where such association or union is not incorporated, suits under this Act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union. (Id. ¶ 5.)

281. Unauthorized Use of Name or Seal—Penalty.—Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not less than three months nor more than one year, or by fine of not less than one hundred dollars nor more than two hundred dollars, or both. (Id. ¶ 6.)

282. Jurisdiction of Justice—Summons—First Process—Warrant for Arrest, When to Issue.—The fines provided for in this act may be enforced before a justice of the peace in all cases where the party complaining shall so elect, and in case of conviction before such justice of the peace, the offender shall stand committed to the county jail until the fine and costs are fully paid under the provisions of section 8, Article IX, of an act to revise the law in regard to criminal jurisprudence, in force July 1, 1874, or otherwise. The first process under this section in all prosecutions for the recovery only of the fines shall be a summons: Provided, however, that a warrant for the arrest of the offender, as in other cases when justices of the peace have original criminal jurisdiction, may issue upon the affidavit of any person that any of the provisions of this act have been violated, and that the person making the complaint has just and reasonable grounds to believe the party charged is guilty thereof. (Id. ¶ 7.)

283. Trade-Marks.—Whoever knowingly and willfully counterfeits or causes to be counterfeited any private stamp, label or trade-mark, used by a merchant or manufacturer about the sale of his goods, with intent to defraud the purchaser or manufacturer, or sells such goods with such counterfeit stamps, labels or trade-marks thereon, knowing them to be counterfeit, shall for each offense be fined not exceeding \$200.00. (Stats. 1924, c. 38, ¶ 271.)

284. Penalty.—When a person uses any peculiar name, letters, mark, device or figures, cut, stamped, cast or engraved upon, or in any way attached to or connected

with any article manufactured or sold by him, to designate it as an article of peculiar kind, character or quality, or as manufactured by him, whoever shall, without his consent, use the same or any similar names, letters, marks, devices or figures for the purpose of falsely representing any articles to have been manufactured by him, or to be of the same kind, character or quality as that manufactured or sold by the party rightfully using the same, shall for each offense be fined not exceeding \$200.00. (Id. ¶ 272.)

NOTE: See also No. 87 et seq.

Weights and Measures.

285. Standards.—The weights and measures received from the United States under joint resolutions of Congress approved June 14, 1836, and July 27, 1866, to wit: One yard measure, one standard half bushel containing one thousand and seventy-five and twenty-one hundredths standard cubic inches, one standard wine gallon containing two hundred and thirty-one standard cubic inches, one-half gallon, one wine quart, one wine pint, one wine half-pint, one set of avoirdupois weights, consisting of fifty, twenty-five, twenty, ten, five, four, three, two and one pounds, and from eight ounces down to one dram; one set of troy weights, from five thousand pennyweights down to half a grain and from one pound down to the ten-thousandth part of an ounce, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards of weights and measures. (Stats. 1924, c. 147, ¶ 1.)

286. Copies—Office Standards—Working Standards.—In addition to the State standards of weights and measures, provided for above, there shall be supplied by the State at least one complete set of copies of these, to be kept at all times in the office of the Director of Trade and Commerce, and to be known as office standards; and such other weights, measures and apparatus as may be found necessary to carry out the provisions of this Act, to be known as working standards. Such weights, measures, and apparatus shall be verified by the Director of Trade and Commerce upon their initial receipt, and at least once in each year thereafter the office standards shall be verified by direct comparison with the State standards, the working standards by comparison with the office standards. When found accurate upon these tests, the office and working standards shall be sealed by stamping on them the letter "ILL" and the last two figures of the year with seals which the Director of Trade and Commerce shall have and keep for that purpose. The office standards shall be used in making all comparisons of weights, measures, and weighing or measuring devices submitted for test in the office of the Director of Trade and Commerce, and the State standards shall be used only in verifying the office standards and for scientific purposes. (Id. ¶ 2.)

287. Custody—Certification—Record.—The Director of Trade and Commerce shall take charge of the standards adopted by this Act as the standards of the State and cause them to be kept in a fireproof building belonging to the State (or in a safe and suitable place in the office of the Director of Trade and Commerce), from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safekeeping. He shall maintain the State standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification. He shall keep a complete record of the standards, balances and other apparatus belonging to the State and shall take a receipt for the same from his successor in office. (Id. ¶ 3.)

288. City Standards—Inspection—Regulations for City Inspectors.—It shall be the duty of all cities in this State required to appoint inspectors as provided for herein, at least once in five years, to forward to the office of standards at Springfield, Illinois, all standard weights, measures, and apparatus which may belong to said cities, for the purpose of having the same tried and proved by the office standards of this State, and upon receipt of same, the Director of Trade and Commerce shall try and prove said apparatus as herein required, and he shall seal said weights, measures and apparatus when found to be accurate by stamping on them the letters "ILL" and the last two figures of the year with seals which he shall have and keep for that purpose.

The Director of Trade and Commerce shall inspect all standard weights, measures, and other apparatus used by such cities, at least once in two years, and shall keep a record of the same. He shall, at least once in two years, visit the cities for the purpose and in order to inspect the work of the city inspectors, and

in the performance of such duties he may inspect the weights, measures, balances, or any other weighing or measuring devices of any citizen, firm or corporation, and shall have the same power as the city inspectors of weights and measures.

The Director of Trade and Commerce shall issue from time to time regulations for the guidance of city inspectors, and the said regulations shall govern the procedure to be followed by the aforesaid inspectors in the discharge of their duties. (Id. ¶ 4.)

289. Supervision Over Weights and Measures—Tests.—The Director of Trade and Commerce shall have and keep a general supervision of the weights and measures, and weighing or measuring devices offered for sale, sold, or in use in the State. He shall, upon the written request of any citizen, firm, or corporation, or educational institution in the State, test or calibrate weights, measures, and weighing or measuring devices used as standards in the State. He shall at least once annually test all scales, weights, and measures used in checking the receipts or disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, and he shall report in writing his findings to the Director having jurisdiction over the institution whose measuring devices are tested, and, at the request of such director, the Director of Trade and Commerce shall appoint in writing one or more employees then in the actual service of the institution who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies. (Id. ¶ 5.)

290. Inspection Fees.—No person shall be required to pay more than two inspection fees for any one scale in any one year when found to be accurate. Whenever such inspection shall be made upon the complaint of any person, other than the owner of the scale, and upon examination the scale is found by the inspector to be accurate for weighing, the inspection fee for such inspection shall be paid by the person making complaint. Whenever a special request is made for an inspection of a scale, the actual expenses of the same shall be paid by the owner of said scale, or by the person making the complaint, as herein provided. (Id. ¶ 6.)

291. Inspection of Weights and Measures in Places Where no City Sealer Appointed.—When not otherwise provided by law, the Director of Trade and Commerce shall have the power, and it shall be his duty, in those parts of the State in which a city sealer is not required to be appointed by the provisions of this Act, to inspect, test, try, and ascertain if they are correct, all weights, measures, and weighing or measuring devices kept, offered or exposed for sale, sold, or used or employed by any proprietor, agent, lessee, or employee in proving the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption purchased or offered or submitted by such person or persons for sale, hire, or award; and he shall have the power to and shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind for the purpose of sale, offered or exposed for sale, or sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they are offered for sale or sold in a manner in accordance with law. He shall, at least one each year and as much oftener as he may deem necessary, see that all weights, measures, and weighing or measuring devices used are correct. He may, for the purpose above mentioned, and in the general performance of his official duties, enter and go into or upon, and without formal warrant, any stand, place, building or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any person whatsoever, and require him, if necessary, to proceed to some place which the Director of Trade and Commerce may specify, for the purpose of making the proper tests. Whenever the Director of Trade and Commerce finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. (Id. ¶ 7.)

292. Sealing.—Whenever the Director of Trade and Commerce compares weights, measures, or weighing or measuring devices and finds that they correspond, or causes them to correspond, with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring devices with appropriate devices. (Id. ¶ 8.)

293. Inspection on Complaint.—Whenever complaint shall be made to the Director of Trade and Commerce that any false or incorrect scales, weights or measures are being made use of by any person, firm or corporation in the purchase or sale of merchandise or other commodities or in weighing any article or commodity, the piece price paid for producing which is determined by weight or measure, it shall be his duty to cause the same to be inspected as soon as the duties of his office will permit, and he shall make such other inspection of weights and measures as in his judgment is necessary or proper to be made. (Id. ¶ 9.)

294. Condemnation, Seizure or Destruction of Incorrect Weight, Weights or Measures.—The Director of Trade and Commerce shall condemn and seize, and may destroy, incorrect weights, measures, or weighing or measuring devices which, in his best judgment, are not susceptible of satisfactory repair; but such as are incorrect and yet, in his best judgment, may be repaired, he shall mark or tag as "Condemned for repairs." The owners or users of any weights, measures, or weighing or measuring devices of which such disposition is made shall have the same repaired and corrected within ten days; and they may neither use nor dispose of the same in any way, but shall hold the same at the disposal of the Director of Trade and Commerce. Any weights, measures, or weighing or measuring devices which have been "condemned for repairs" and have not been repaired as required above, shall be confiscated by the Director of Trade and Commerce. (Id. ¶ 10.)

295. Superintendent of Standards—Powers and Duties.—The powers and duties given to and imposed upon the Director of Trade and Commerce herein are hereby also given to and imposed upon the Superintendent of Standards and assistants, when acting under his instructions and at his direction. (Id. ¶ 11.)

296. City Inspectors—Appointment.—There shall be an inspector of weights and measures in each city of this State having a population of 25,000 or more inhabitants, according to the last official Federal census, who shall be appointed by the council of said city in the manner in which other city officers or employees are appointed; and power is hereby conferred upon such council to pass such ordinance relative thereto and the duties to be performed by such inspector as it may deem proper, the provisions of which ordinance shall not be in conflict with the provisions of this Act: Provided, that nothing in this section contained shall be construed to minimize the powers or curtail the duties of any city inspector of weights and measures in any city of more than two hundred thousand inhabitants, as provided by ordinances or regulations of such city, nor to modify or repeal any such ordinance. (Id. ¶ 12.)

297. City Standards—Procuring, Sealing and Custody.—The council of each city of this State required hereunder to appoint an inspector of weights and measures shall procure, at the expense of the city, and shall keep at all times, a set of weights and measures, and other apparatus, as complete and of such materials and construction as the Director of Trade and Commerce may from time to time direct. All such weights, measures, and other apparatus, having been tried and accurately proved by the Director of Trade and Commerce, shall be sealed and certified to by him as hereinbefore provided, and shall then be deposited with and preserved by the city inspector of weights and measures as public standards for such city. Whenever the council of such city shall neglect to procure such standards for six months, the city clerk of said city, on notification and request by the Director of Trade and Commerce, shall provide such standards and cause the same to be tried, sealed and deposited at the expense of the city. (Id. ¶ 13.)

298. Powers and Duties of City Inspectors.—Where not otherwise provided by law, the city inspector of weights and measures shall have the same powers and shall perform the same duties within his city as are granted to and imposed upon the Director of Trade and Commerce by sections 7, 8, 9 and 10 [¶7 8, 9 and 10] of this Act. (Id. ¶ 14.)

299. Records—Report.—The city inspector of weights and measures shall keep a complete record of all of his official acts and shall make an annual report to the council of the city, and an annual report, duly sworn to, on the first day of July, to the director of Trade and Commerce, on blanks furnished by him, and also any special reports that the Director of Trade and Commerce may request. (Id. ¶ 15.)

300. Police Powers of Inspectors, Etc.—Liability to Owner for Seizure—Destruction on Conviction.—The Director of Trade and Commerce, his representatives, and the city inspectors of weights and measures are hereby made special policemen and are authorized and empowered to arrest, without formal warrant, any violator of the statute in relation to weights and measures, and to seize and hold for use as evidence in any action brought under the statute of this State, or under any ordinances of a municipality, any short measure or faulty and incorrect weight, scale or other instrument used for weighing or measuring, or any commodity or article of merchandise sold, offered or exposed for sale which is of less weight or measure than it is represented to be by the vendor, his agent, or employee. Such short measure, faulty or incorrect weight, scale or other instrument used for weighing or measuring, or such commodity or article of merchandise (except perishable commodities or articles which shall have become of no value) shall be re-

leased and returned to the owner thereof if no suit is commenced against such owner within fifteen days of the date of such seizure.

Any person herein authorized, who shall make any such seizure, shall not be liable to the owner of the property seized for damages caused by such seizure in any case where in fact any such measure seized is short, or reasonable grounds exists for believing it so to be; or any weight, scale or other instrument used for weighing is faulty or incorrect, or reasonable grounds exists for believing it so to be; or any such scale, weight or measure, or any commodity or article of merchandise, is of less weight or measure than it is represented, or reasonable grounds exists for believing it so to be.

Upon the conviction of the defendant the court shall cause any scale, weight or measure in respect whereof the defendant stands convicted and which remains in the possession or under the control of the prosecutor or other person duly authorized, to be destroyed. (Id. ¶ 16.)

301. Obstruction of Inspectors—Penalty.—Any person who shall hinder or obstruct in any way the Director of Trade and Commerce, or any city inspector of weights and measures, in the performance of his official duties shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$20.00 nor more than \$200.00, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment. (Id. ¶ 17.)

302. Impersonation of Inspectors—Seal—Penalty.—Any person who shall impersonate in any way the Director of Trade and Commerce, or any city inspector of weights and measures, by the use of his seal or counterfeit of his seal, or otherwise, shall be guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than one year, or by both such fine and imprisonment. (Id. ¶ 18.)

303. Commodities, How to be Sold—Fruits and Vegetables—Package Goods—Definitions.—It shall be unlawful to sell, except for immediate consumption on the premises, liquid commodities in any other manner than by weight or liquid measure, or commodities not liquid in any other manner than by measure of length, by weight, or by numerical count, unless otherwise agreed in writing by the mutual consent of the buyer and seller: Provided, however, that nothing in this section shall be construed to prevent the sale of fruits, vegetables, and other dry commodities in the standard barrel provided for in section 26 [¶ 26]; or of berries and small fruits in boxes as provided for in section 27 [¶ 27]; or of vegetables or fruits usually sold by the head or bunch in this manner; Provided, further, that nothing in this section shall be construed to apply to foodstuffs put up in original packages, nor to proprietary or package medicines which are not sold or offered for sale as of any specific quantity of the commodity.

For the purpose of this section, the term "original package" shall be construed to include a commodity in a package, carton, case, can, barrel, bottle, box, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, which may be labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "original package" shall be construed to include both the wholesale and the retail package.

For the purposes of this section the term, "commodities not liquid" shall be construed to include goods, wares, and merchandise, which are not in liquid form and which have heretofore been sold by measure of length, by weight, by measures of capacity, or by numerical count, or which are susceptible of sale in any of these ways. (Id. ¶ 19.)

304. Packaged Goods—Net Quantity to be Marked—Variations—Definitions.—It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any commodity in package form unless the net quantity of the contents be plainly and conspicuously marked on the outside of the package, in terms of weight, measure, or numerical count: Provided, however, that reasonable variations or tolerances shall be permitted, and that these reasonable variations or tolerances and exemptions shall be established by rules and regulations made and promulgated by the Director of Trade and Commerce: And, provided, further, that this section shall not be construed to apply to those commodities in package form, the manner of sale of which is specifically regulated by the provisions of other sections of this Act.

The words "in package form" as used in this section shall be construed to include a commodity in a package, carton, case, can, box, barrel, bottle, phial, or other receptacle, or in coverings or wrappings of any kind, put up by the manufacturer, or, when put up prior to the order of the commodity, by the vendor, which may be

labeled, branded, or stenciled, or otherwise marked, or which may be suitable for labeling, branding, or stenciling, or marking otherwise, making one complete package of the commodity. The words "in package form" shall be construed to include both the wholesale and the retail package. "Package" as used in this section, does not include any container in which are packed or contained packages of a smaller size of a commodity, but the provisions of this section apply only to the container directly enclosing the commodity. (Id. ¶ 21.)

305. Butter and Oleomargarine—How to be Sold—Sizes of Prints, Bricks or Rolls—Weight to Be Shown.—It shall be unlawful for any person to sell, or offer to sell, any butter or renovated or process butter or oleomargarine in any other manner than by weight. It shall be unlawful for any person to put up, pack, or keep for the purpose of sale, offer or expose for sale, or sell any butter or renovated or process butter, or oleomargarine, in the form of prints, bricks, or rolls in any other than the following sizes, to wit: One-quarter pound, one-half pound, one pound, one and one-half pounds, or multiples of one pound. Each print, brick, or roll shall bear a definite, plain and conspicuous statement of its true net weight, on the principal label, where there be such a label, otherwise on the outside wrapper thereof; such statement shall be in Gothic type not less than one-quarter inch square.

The prints, bricks, or rolls referred to in this section shall be construed to include those prints, bricks or rolls put up by the manufacturer or producer; or, when put up prior to the order of the commodity, by the vendor. (Id. ¶ 23.)

306. Bread—How to be Sold.—All bread kept for the purpose of sale, offered or exposed for sale, or sold, shall be sold by weight, and cities required by this Act to appoint inspectors of weights and measures may enact and enforce ordinances regulating the same. (Id. ¶ 24.)

307. Milk Bottles—Sizes—What to Appear on Bottle—Identification of Manufacturer—Serial Number—When Provisions in Force—Violations—Penalty—Tests by City Inspectors.—Bottles used for the sale of milk or cream shall be of the capacity of one-half gallon, three pints, one quart, one pint, one-third quart, one-half pint, and one gill when filled to the bottom of the cap, ring or stopple. The following variations on individual bottle or jars may be allowed, to wit: six drams above and six drams below on the half gallon, five drams above and five drams below on the three pint, four drams above and four drams below on the quart, three drams above and three drams below on the pint, two and one-half drams above and two and one-half drams below on the one-third quart, two drams above and two drams below on the one-half pint, and two drams above and two drams below on the gill. Bottles or jars used for the sale of milk or cream shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "sealed;" and in the side or bottom of the bottle the name, initials, or trade-mark of the manufacturer and a designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the Director of Trade and Commerce upon application by the manufacturer, and upon the filing by the manufacturer of a bond in the sum of \$1,000.00, with sureties, to be approved by the Director of Trade and Commerce, conditioned upon their conformance with the requirements of this section. A record of the bonds furnished and the designating numbers and to whom furnished shall be kept in the office of the Director of Trade and Commerce.

Provided, the requirement that the word "sealed" and the designating number to be placed upon the bottle shall not be enforced as to any such bottles in use at the time of the passage of this Act until the first day of January, A. D., 1923; and provided, further, such requirement for the marking of bottles shall not be construed as modifying or repealing any other laws of this State with reference to this subject.

Any manufacturer who sells or offers to sell milk or cream bottles to be used in this State that do not comply, as to size and markings, with the provisions of this section shall suffer a penalty of \$500.00, to be recovered by the Attorney General in an action against the offender's bondsmen to be brought in the name of the People of the State. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles purchased after this law takes effect that do not comply with the requirements of this section as to markings and capacity, shall be deemed guilty of using a false or insufficient measure.

City inspectors of weights and measures are not required to seal bottles or jars for milk or cream marked as in this section provided, but they shall have the power to, and shall from time to time, make tests on individual bottles used by the various persons, firms, or corporations, in the territory over which they have jurisdiction in order to ascertain if the above provisions are being complied with, and they shall immediately report violations found to the Director of Trade and Commerce. (Id. ¶ 25.)

308. Standard Barrel for Fruits and Dry Commodities—Cranberries.—The standard barrel for fruits, vegetables and dry commodities other than cranberries shall be of the following dimensions when measured without distention of its parts; length of staves, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch: Provided, that any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts: length of staves, twenty-eight and one-half inches; diameter of heads, sixteen and one-fourth inches; distance between heads, twenty-five and one-fourth inches; circumference of bulge, fifty-eight and one-half inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch.

It shall be unlawful for any person to offer or expose for sale, sell, or ship any other barrels for fruits, vegetables, or other dry commodities, or to offer or expose for sale, sell, or ship any fruits, vegetables, or other dry commodities in other barrels than the standard barrels as defined in this section, or subdivisions thereof known as the third, half, or three-quarters barrel: Provided, however, that nothing in this section shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count: And, provided, further, that no barrel shall be deemed below standard within the meaning of this section when shipped to any foreign country and constructed according to the specifications or directions of the foreign country to which the same is intended to be shipped. (Id. ¶ 26.)

309. Baskets and Open Containers for Berries and Small Fruits—Size.—It shall be unlawful to procure or keep for the purpose of sale, offer or expose for sale, sell, or give away baskets or other open containers for berries or small fruits, holding one quart or less, or to procure or keep for the purpose of sale, offer or expose for sale, or sell berries or small fruits in baskets or other open containers, holding one quart or less, of any other than the following capacities, when level full; one quart, one pint, or one-half pint, standard dry measure. (Id. ¶ 27.)

310. Net Weights as Controlling.—Whenever any commodity is sold on a basis of weight, it shall be unlawful to employ any other weight in such sale than the net weight of the commodity; and all contracts concerning goods sold on a basis of weight shall be understood and construed accordingly. Whenever the weight of a commodity is mentioned in this Act, it shall be understood and construed to mean the net weight of the commodity. (Id. ¶ 28.)

311. Units of Weight—Pound—Ounce—Hundredweight—Ton.—The units or standards of weight from which all the other weights shall be derived and ascertained shall be the standard avoirdupois and troy weights designated in this Act, an avoirdupois pound to bear to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty grains. Therefore, the avoirdupois pound bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, and is divided into sixteen equal parts called ounces. The hundred weight consists of one hundred avoirdupois pounds, and twenty hundred weights are a ton. The troy ounce is equal to a twelfth part of a troy pound. (Id. ¶ 30.)

312. Units of Measure of Capacity for Liquids—Gallon—Barrel—Hogshead—Non-Liquids—Bushel and Its Divisions.—The units or standards of measure of capacity for liquids from which all other measures shall be derived and ascertained shall be the standard gallon and its parts designated in this Act. The barrel is equal to thirty-one and one-half gallons, and two barrels shall constitute a hogshead. All other measures of capacity for liquids shall be derived from the liquid gallon by continual division by the number two, so as to make half gallons, quarts, pints, half pints and gills. The unit or standard measure of capacity for substances not liquids, from which all measures of such substances shall be derived and ascertained, is the standard half bushel mentioned in this Act. The peck, half peck, quarter peck, quart and pint measure for measuring commodities which are not liquids shall be derived from the half bushel by successively dividing that measure by two. (Id. ¶ 31.)

313. Heaped Measures—Struck Measure.—All commodities sold by heaped measure shall be duly heaped up in the form of a cone, the outside of the measure by which the same shall be measured to be the limit of the base of such cone, and such cone to be as high as the article to be measured will admit.

The measures used for measuring dry commodities not heaped shall be stricken with a straight stick or roller. (Id. ¶ 32.)

314. Contracts Construed According to Standard.—Contracts hereafter to be executed, made within this State, for any work to be done, or for anything to be sold, delivered, done or agreed for, by weight or measure, shall be taken and con-

strued to be made according to the standard weight and measure ascertained as hereinbefore provided unless there is an express provision to the contrary. (Id. ¶ 33.)

315. Weight Per Barrel or Bushel—Weight for Cubic Yard.—Whenever any of the following articles shall be contracted for, or sold, or delivered, and when no special contract or agreement shall be made to the contrary, the weight per bushel or barrel or divisible merchantable quantities of a bushel or barrel shall be as follows:

Wheat flour, per barrel, 196 pounds.
 Wheat flour, per half barrel, 98 pounds.
 Wheat flour, per quarter barrel sack, 49 pounds.
 Wheat flour, per eighth barrel sack, $24\frac{1}{2}$ pounds.
 Corn meal, per bushel sack, 48 pounds.
 Corn meal, per half bushel sack, 24 pounds.
 Corn meal, per quarter bushel sack, 12 pounds.
 Alfalfa seed, per bushel, 60 pounds.
 Apples, green, per bushel, 47 pounds.
 Apples, dried, per bushel, 24 pounds.
 Barley, per bushel, 48 pounds.
 Beans, green or string, per bushel, 24 pounds.
 Beans, wax, per bushel, 24 pounds.
 Beans, white, per bushel, 60 pounds.
 Beans, castor, per bushel, 46 pounds.
 Beets, per bushel, 60 pounds.
 Blue grass seed, per bushel, 14 pounds.
 Bran, per bushel, 20 pounds.
 Buckwheat, per bushel, 52 pounds.
 Carrots, per bushel, 50 pounds.
 Charcoal, per bushel, 20 pounds.
 Clover seed, per bushel, 60 pounds.
 Coal, per bushel, 80 pounds.
 Coke, per bushel, 40 pounds.
 Corn seed, broom, per bushel, 48 pounds.
 Corn meal, unbolted, per bushel, 48 pounds.
 Corn, in the ear, per bushel, 70 pounds.
 Corn, kaffir, per bushel, 56 pounds.
 Corn, shelled, per bushel, 56 pounds.
 Cotton seed, per bushel, 32 pounds.
 Cranberries, per bushel, 33 pounds.
 Cucumbers, per bushel, 48 pounds.
 Emmer, per bushel, 40 pounds.
 Flax seed, per bushel, 56 pounds.
 Gooseberries, per bushel, 40 pounds.
 Hair, plastering, unwashed, per bushel, 8 pounds.
 Hair, plastering, washed, per bushel, 4 pounds.
 Hemp seed, per bushel, 44 pounds.
 Hickory nuts, per bushel, 50 pounds.
 Hungarian grass seed, per bushel, 50 pounds.
 Indian corn or maize, per bushel, 56 pounds.
 Lime, per bushel, 80 pounds.
 Malt, per bushel, 38 pounds.
 Millet, per bushel, 50 pounds.
 Millet, Japanese barnyard, per bushel, 35 pounds.
 Oats, per bushel, 32 pounds.
 Onions, per bushel, 57 pounds.
 Onion sets, top, per bushel, 30 pounds.
 Onion sets, bottom, per bushel, 32 pounds.
 Orchard grass seed, per bushel, 14 pounds.
 Osage orange seed, per bushel, 33 pounds.
 Parsnips, per bushel, 50 pounds.
 Peaches, per bushel, 48 pounds.
 Peaches, dried, per bushel, 33 pounds.
 Peanuts, green, per bushel, 22 pounds.
 Peanuts, roasted, per bushel, 20 pounds.
 Pears, per bushel, 58 pounds.
 Peas, dried, per bushel, 60 pounds.
 Peas, green in pod, per bushel, 32 pounds.
 Popcorn, in the ear, per bushel, 70 pounds.

Popcorn, shelled, per bushel, 56 pounds.
 Potatoes, Irish, per bushel, 60 pounds.
 Potatoes, sweet, per bushel, 50 pounds.
 Quinces, per bushel, 48 pounds.
 Rape seed, per bushel, 50 pounds.
 Red top seed, per bushel, 14 pounds.
 Rough rice, per bushel, 45 pounds.
 Rutabagas, per bushel, 50 pounds.
 Rye meal, per bushel, 50 pounds.
 Rye, per bushel, 56 pounds.
 Salt, coarse, per bushel, 55 pounds.
 Salt, fine, per bushel, 50 pounds.
 Shorts, per bushel, 20 pounds.
 Sorghum seed, per bushel, 50 pounds.
 Spelt, per bushel, 40 pounds.
 Spinach, per bushel, 12 pounds.
 Sweet clover seed, unhulled, per bushel, 33 pounds.
 Timothy seed, per bushel, 45 pounds.
 Tomatoes, per bushel, 56 pounds.
 Turnips, per bushel, 55 pounds.
 Walnuts, per bushel, 50 pounds.
 Wheat, per bushel, 60 pounds.

Whenever any of the following named articles are sold by the cubic yard and the same are weighed, the following weights shall govern:

Crushed stone, 2,500 pounds, 1 cubic yard.
 Bank sand, 2,500 pounds, 1 cubic yard.
 Torpedo sand, 3,000 pounds, 1 cubic yard.
 Gravel, 3,000 pounds, 1 cubic yard. (Id. ¶ 34.)

316. Violation of Preceding Section—Double Damages.—Whoever, in buying any of the articles of property mentioned in the preceding section, shall take any greater number of pounds thereof to the bushel, barrel, or cubic yard or divisible merchantable quantity of a bushel, barrel or cubic yard, or in selling any of said articles, shall give any less number of pounds thereof to the bushel, barrel or cubic yard or divisible merchantable quantity of a bushel, barrel or cubic yard than is allowed by said section, with intent to gain an advantage thereby, except expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount of the property so wrongfully taken or not given and ten dollars in addition thereto, to be recovered in any form of action in any court of competent jurisdiction. (Id. ¶ 35.)

317. Fees.—The Director of Trade and Commerce and each city inspector of weights and measures shall be entitled to receive and collect fees for the use of the State or city as the case may be for service at the following rates:

For inspecting and sealing scales of the capacity of 40,000 pounds and upwards, each	\$5.00
For inspecting and sealing scales of the capacity of 24,000 pounds up to 40,000 pounds, each	2.50
For inspecting and sealing scales of the capacity of 6,000 pounds up to 24,000 pounds, each	1.50
For inspecting and sealing scales of the capacity of 2,500 pounds up to 6,000 pounds, each	.75
For inspecting and sealing scales of the capacity of 240 pounds up to 2,500 pounds, each	.50
For inspecting and sealing scales of the capacity of 2 pounds up to 240 pounds, each	.30
For inspecting and sealing Hopper scales, each	2.00
For inspecting and sealing two-bushel, one-bushel and one-half-bushel measures, each	.10
For inspecting and sealing any other dry measure, each	.10
For inspecting and sealing every automatic weighing machine, or every instrument or device of a capacity of less than three tons used for weighing or measuring any person or animal, for hire or reward, each	.75
For inspecting and sealing liquid measures of the capacity of one gallon and upwards, each	.15
For inspecting and sealing any other liquid measures not used for compounding and manufacturing purposes, each	.10
For inspecting and sealing yard measures, each	.10
For inspecting and sealing any linear measure, for each three feet	.10

For inspecting and sealing any tape line exceeding 50 feet in length, each	.75
For inspecting and sealing any automatic machine used for lineal measuring, each	.75
For inspecting and sealing any automatic pump used for measuring gasoline, oils, etc., each	1.00

They shall also be entitled to, for the use of the State or city, as the case may be, a reasonable compensation for making such weights and measures conform to the standards established by this Act; provided, however, that no charge shall be made by the Department of Trade and Commerce for inspecting and sealing any weights, measures, scales or beams which may belong to any city and which may be sent or brought to the Department of Trade and Commerce for that purpose by the inspector of weights and measures of such city. (Id. ¶ 37.)

318. Gasoline, Kerosene, Wood Alcohol or Other Oils—How Sold—Automatic Pumps—Inspection—Penalty.—It shall be unlawful to sell or offer to sell any gasoline, naphtha, kerosene, wood alcohol or other oils or liquids used in producing light or heat or generating gas or power by any measure other than that provided in section 31 [¶ 31] hereof for liquids.

It shall be unlawful for any person, firm or corporation to use any automatic or mechanical pump or device for the purpose of measuring any liquid commodity to be sold or offered for sale unless such automatic or mechanical pump or device shall have been inspected and approved by the proper authority under this law. The owner or user of every automatic or mechanical pump or device shall provide proper tested standard measures, and shall at least once each day, and always before commencing to use a new supply of liquid, test the accuracy of the pump or device in use. The Director of Trade and Commerce is authorized to examine and inspect all automatic or mechanical devices used for the purpose of measuring any liquid commodity to be sold or offered for sale, and condemn for repairs or seize any such device found to be inaccurate or incorrect.

Any person, firm or corporation using any such automatic or mechanical device without having obtained the certificate of approval as hereinbefore provided for, or any person using such automatic or mechanical device knowing the same to be incorrect or defective, shall, upon conviction, be fined not less than five dollars nor more than five hundred dollars. (Id. ¶ 38.)

319. Penalties.—Any person who, by himself or by his servant or agent, or as the servant or agent of another person, shall offer or expose for sale, sell, use in buying or selling of any commodity or thing or for hire or award, or retain in his possession a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device which has not been sealed by the Director of Trade and Commerce, or by a city inspector of weights and measures, within one year, or shall dispose of any condemned weight, measure, or weighing or measuring device contrary to law, or remove any tag placed thereon by the Director of Trade and Commerce or by a city inspector of weights and measures; or who shall sell or offer or expose for sale less than the quantity he represents, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of commodity is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall violate any provision of this Act for which a specific penalty has not been provided; or who shall sell or offer for sale, or use or have in his possession for the purpose of selling or using any device or instrument to be used to or calculated to falsify any weight or measure, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$20.00 nor more than \$200.00, or by imprisonment for not more than three months, or by both such fine and imprisonment, upon a first conviction, in any court of competent jurisdiction; and upon a second or subsequent conviction in any court of competent jurisdiction he shall be punished by a fine of not less than \$50.00 nor more than \$500.00, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. (Id. ¶ 39.)

320. Definitions.—The word "person" as used in this Act shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies, and associations.

The words "weights, measures, or (and) weighing or (and) measuring devices," as used in this Act, shall be construed to include all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any or all such instruments.

The words "sell" or "sale" as used in this Act, shall be construed to include barter and exchange. (Id. ¶ 40.)

321. Inspectors Not to be Interested in or Sell Weighing or Measuring Devices.—No person authorized by this Act to inspect weights, measures, scales, beams or other measuring devices shall vend any weights, measures, scales, weighing or measuring devices of any kind whatsoever to be used for weighing or measuring, or offer or expose the same for sale, or be interested, directly or indirectly in the sale of the same. (Id. ¶ 41.)

322. Tables of Specifications and Tolerances—Preparation.—The Department of Trade and Commerce shall promulgate tables of specifications and tolerances, for the guidance of the local sealers, or inspectors of weights and measures, in conformity with those approved by the National Bureau of Standards, to which all weights, scales, measures, and weighing and measuring devices, used within the State shall conform. (Id. ¶ 42.)

323. False Weights and Measures.—If any person shall knowingly sell by false weights or measures, or shall knowingly use false measures at any mill, in taking toll for grinding corn, wheat, rye or other grain, he shall be deemed a common cheat, and, on conviction, shall be fined not less than \$200.00, and imprisoned not exceeding three months. (Stats. 1924, c. 38, ¶ 233.)

324. Powers of the Department of Trade and Commerce.—The Department of Trade and Commerce shall have power: * * *

3. To exercise the rights, powers and duties vested by law in the chief inspector of grain, deputy grain inspectors, deputy chief grain inspector, and the warehouse registrar, the assistant warehouse registrars, State weighmasters, assistant State weighmasters and other officers and employees of the grain inspection service; * * *

6. To execute and administer all laws and regulations, now or hereafter enacted, relating to weights and measures;

7. To execute and administer all laws and regulations, now or hereafter enacted, relating to standards of quantity and quality of and for commodities. * * * (Stats. 1924, c. 24a, ¶ 57.)

325. Miller's Duties—Punctual Attendance—Measures—Penalty.—It shall be the duty of each and every owner and occupier of every public mill, to give due and punctual attendance when his mill shall not be out of repair, and to aid and assist in loading and unloading all grain which shall be brought to him to be ground. And he shall keep in his mill an accurate half-bushel measure, and an accurate set of toll dishes, or scales for weighing the grain. And for a failure to perform any of the duties required by this Act, every occupier of a public mill shall forfeit and pay the sum of \$5 to the use of any person who shall sue for the same. (Stats. 1924, c. 92, ¶ 7.)

NOTE: See also No. 11; the apple law, No. 41 et seq.; the dairy law, No. 68 et seq.; the agricultural products law, No. 161 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Boric Acid Preservative—Power to Prohibit Sale: *People v. Price, 257 Ill. 587, 101 N. E. 196, Ann. Cas. 1914 A, 1154 (1913), affirmed in *Price v. Illinois, 238 U. S. 446, 35 S. Ct. 892, 59 L. Ed. 1400 (1915).

Drugs—Adulteration: Siegel, Cooper & Co. v. People, 85 Ill. App. 301 (1899).

Eggs—Unwholesome: People v. Fifty Cases Containing 30 Dozen Each, More or Less, of Shell Eggs, Perfection Egg Co., claimant, 198 Ill. App. 319 (1916); People v. Fourteen Cases Containing 30 Dozen Each, More or Less, of Shell Eggs, Perfection Egg Co., claimant, 198 Ill. App. 324 (1916).

Municipal Ordinance—Sale of Food by Druggists and Others Prohibited: *City of Chicago v. Netcher, 183 Ill. 104, 55 N. E. 707, 75 Am. St. Rep. 93, 48 L. R. A. 261 (1899).

Municipal Ordinance—State Food Law: City of Chicago v. Union Ice Cream Manufacturing Co., 252 Ill. 311, 96 N. E. 872, Ann. Cas. 1912 D, 675 (1911).

Seizure and Condemnation of Unwholesome Food: *North American Cold Storage Co. v. City of Chicago et al., 151 Fed. 120 (1907), decree modified and affirmed in *Same, 211 U. S. 306, 29 S. Ct. 101, 53 L. Ed. 195, 15 Ann. Cas. 276 (1908). See

also: *California Reduction Co. v. Sanitary Reduction Works, 199 U. S. 306, 26 S. Ct. 100, 50 L. Ed. 204 (1905); *Gardiner v. Michigan, 199 U. S. 325, 26 S. Ct. 106, 50 L. Ed. 212 (1905); *Eggs—Unwholesome*, ante.

Vinegar—Distilled Vinegar: *People v. William Henning Co., 260 Ill. 554, 103 N. E. 530, 49 L. R. A. (N. S.) 1206 (1913).

2. Special Food Laws.

Beverages—Lemon Extract: Holcomb v. People, 49 Ill. App. 73 (1892); Walker v. Dailey, 101 Ill. App. 575 (1902).

Beverages—Soft Drinks—License: City of Chicago v. Murphy, 313 Ill. 98, 144 N. E. 802 (1924).

Beverages—Tincture of Ginger: Village of Bolton v. Lewis, 194 Ill. App. 71 (1915).

Bread—Weight: *City of Chicago v. Schmidinger, 243 Ill. 167, 90 N. E. 369, 44 L. R. A. (N. S.) 632, 17 Ann. Cas. 614 (1909); *Same, 243, Ill. 190, 90 N. E. 372 (1909); *Same, 245 Ill. 317, 92 N. E. 244 (1910), affirmed in *Schmidinger v. City of Chicago, 226 U. S. 578, 33 S. Ct. 182, 57 L. Ed. 364 (1913); *City of Chicago v. Schweinfurth & Schweinfurth, 174 Ill. App. 64 (1912). See also *Sanitation—Bakeries*, post.

Butter and Cheese Factories—Bond: *Hawthorn et al. v. People, 109 Ill. 302, 50 Am. Rep. 610 (1883).

Fish—Inspection: City of Chicago v. Hobson et al., 52 Ill. 482 (1869). See also: *People v. Booth Fisheries Co., 253 Ill. 423, 97 N. E. 837 (1912).

Flour—Inspection: City of Chicago v. Quimby, 38 Ill. 274 (1865).

Fruits, Vegetables, Etc.—Colored Netting as Cover: *Frost v. City of Chicago, 178 Ill. 250, 52 N. E. 869, 69 Am. St. Rep. 301, 49 L. R. A. 657 (1899).

Markets: *Caldwell v. Alton, 33 Ill. 416 (1864).

Meat, Etc.—License: *Kinsley v. City of Chicago, 124 Ill. 359, 16 N. E. 260 (1888); Herb Bros. et al. v. City of Alton et al., 264 Ill. 628, 106 N. E. 434 (1914).

Meat—Market: *City of Bloomington v. Wahl, 46 Ill. 489 (1868).

Meat—Packing and Slaughter Houses: *City of Chicago v. Rumpff, *Same v. Turner, 45 Ill. 90, 92 Am. Dec. 196 (1867); Chicago Packing & Provision Co. v. City of Chicago, 88 Ill. 221, 30 Am. Rep. 545 (1878); *Huesing v. City of Rock Island et al., 128 Ill. 465, 21 N. E. 558, 15 Am. St. Rep. 129 (1889), reversing *City of Rock Island et al. v. Huesing, 25 Ill. App. 600 (1888); Harmison et al. v. City of Lewistown, 153 Ill. 313, 38 N. E. 628, 46 Am. St. Rep. 893 (1894), affirming Harmison & Sheets v. City of Lewistown, 46 Ill. App. 164 (1892).

Meat—Unwholesome: See Voorhees v. Reed, 17 Ill. App. 21 (1885); Greenwood v. John R. Thompson Co., 213 Ill. App. 371 (1919).

Milch Cows—Care of: *Ringelstein v. City of Chicago, 128 Ill. App. 483 (1906).

Milk—Adulteration: Phillips v. Meade, 75 Ill. 334 (1874); Dilley v. People, 4 Ill. App. 52 (1879).

Milk—Bottles—Marking Capacity: *City of Chicago v. Bowman Dairy Co., 234 Ill. 294, 84 N. E. 913, 123 Am. St. Rep. 100, 17 L. R. A. (N. S.) 684, 14 Ann. Cas. 700 (1908).

Milk—Dairymen—License: City of Chicago v. Bartee, 100 Ill. 57 (1881); *Pierce v. City of Aurora, 81 Ill. App. 670 (1899); City of Quincy v. Burgdorf, 235 Ill. App. 560 (1924).

Milk—Pasteurization: Koy v. City of Chicago et al., 263 Ill. 122, 104 N. E. 1104, Ann. Cas. 1915 C, 67 (1914).

Milk—Peddler—License: City of Quincy v. Burgdorf, 235 Ill. App. 560 (1924).

Milk—Temperature: *City of Chicago v. Chicago and Northwestern Railway Co., 275 Ill. 30, 113 N. E. 849 (1916).

Oleomargarine—Butter Substitutes: *People v. Freeman, 242 Ill. 373, 90 N. E. 366, 17 Ann. Cas. 1098 (1909); People v. Anderson Tea Co., 178 Ill. App. 124 (1913); People v. Waskow Butter Co., 239 Ill. App. 604 (1926).

Sanitation—Bakeries: *City of Chicago v. Drogasawacz, 256 Ill. 34, 99 N. E. 869 (1912).

Vinegar—Distilled Vinegar: *People v. William Henning Co., 260 Ill. 554, 103 N. E. 530, 49 L. R. A. (N. S.) 1206 (1913).

3. Special Drug Laws.

Itinerant Drug Vendors: *People, for use of State Board of Health v. Blue Mountain Joe, 129 Ill. 370, 21 N. E. 923 (1889).

Narcotics: Brendecke v. People, 118 Ill. App. 42 (1905); People, for use of State Board of Pharmacy v. Zito et al., 237 Ill. 434, 86 N. E. 1041 (1908), affirming Zito et al. v. People, 140 Ill. App. 611 (1908); People v. Zito et al., 141 Ill. App. 534 (1908); City of Chicago v. Kline, 161 Ill. App. 16 (1911); *City of Chicago v. Brendecke, 170 Ill. App. 25 (1912); People v. Hustion, 178 Ill. App. 293 (1913); Same, 178 Ill. App. 296 (1913); Same, 178 Ill. App. 297 (1913); City of Chicago v. Truax Greene & Co., 192 Ill. App. 524 (1915); City of Chicago v. Montgomery, 191 Ill. App. 558 (1915); Same, 194 Ill. App. 515 (1915); People v. Montgomery, 271 Ill. 580, 111 N. E. 578 (1916), affirming Same, 194 Ill. App. 483 (1915); People v. Montgomery, 195 Ill. App. 640 (1915).

Pharmacy: People v. Nedrow, 16 Ill. App. 192 (1885); People v. Nedrow, 122 Ill. 363, 13 N. E. 533 (1887), affirming Same, 25 Ill. App. 28 (1887); Cook v. People, 125 Ill. 278, 17 N. E. 849 (1888); Haas v. People, 27 Ill. App. 416 (1888); Carberry v. People, 39 Ill. App. 506 (1891); People v. John York Co., 80 Ill. App. 162 (1899); Siegel, Cooper & Co. v. People, 85 Ill. App. 301 (1899); Good v. People, 184 Ill. 396 (1900); Moeller et al. v. People, 92 Ill. App. 152 (1900); Mothers' Remedies Co. v. People, 99 Ill. App. 570 (1902); Galpin v. City of Chicago, 249 Ill. 554, 94 N. E. 961 (1911), affirming Same, 159 Ill. App. 135 (1910) and Same, 159 Ill. App. 176 (1910); Galpin v. City of Chicago et al., 269 Ill. 27, 109 N. E. 713 (1915); People, ex rel. Sucherman v. State Board of Pharmacy, 275 Ill. 236, 114 N. E. 22 (1916); *Lowenthal et al. v. City of Chicago, 313 Ill. 190, 144 N. E. 829 (1924). See also: Watkins Medical Co. v. Paul & Korf, 87 Ill. App. 278 (1900); *People v. Witte, 315 Ill. 282, 146 N. E. 178, 37 A. L. R. 672 (1924).

Pharmacy—Proprietary Medicines—Domestic Remedies: People v. Fisher, 83 Ill. App. 114 (1899); *Noel v. People, 187 Ill. 587, 58 N. E. 616, 79 Am. St. Rep. 238, 52 L. R. A. 287 (1900); *Saddler et al. v. People, 188 Ill. 243 (1900).

Poisons: Hackett, Administrator v. Pratt & Kuechler, 52 Ill. App. 346 (1893); Ankenbrandt v. Joachim, 173 Ill. App. 158 (1912).

Wood Alcohol: See Powell v. Kempton, 231 Ill. App. 380 (1923); People v. Tokoly, 313 Ill. 177, 144 N. E. 808 (1924).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Drugs: Smith et al. v. Hays, 23 Ill. App. 244 (1887); Hackett, Administrator v. Pratt & Kuechler, 52 Ill. App. 346 (1893); Faulkner v. Birch, 120 Ill. App. 281 (1905); Ankenbrandt v. Joachim, 173 Ill. App. 158 (1912); Powell v. Kempton, 231 Ill. App. 380 (1923). See also: Murdock v. Walker, 43 Ill. App. 590 (1892).

Food: Sheffer v. Willoughby et al., 163 Ill. 518, 45 N. E. 253, 54 Am. St. Rep. 483, 34 L. R. A. 464 (1896), affirming Same, 61 Ill. App. 263 (1895); Wiedeman v. Keller, 171 Ill. 93, 49 N. E. 210 (1897), reversing Same, 58 Ill. App. 382 (1895); Salmon v. Libby, McNeill & Libby, 219 Ill. 421, 76 N. E. 573 (1905), reversing Same, 114 Ill. App. 258 (1904); Chapman v. Roggenkamp, 182 Ill. App. 117 (1913); Sloan v. F. W. Woolworth Co., 193 Ill. App. 620 (1915); Martin v. Chicago, Duluth & Georgian Bay Transit Co., 194 Ill. App. 480 (1915); Greenwood v. John R. Thompson Co., 213 Ill. App. 371 (1919); Rost v. Kee & Chapell Dairy Co., 216 Ill. App. 497 (1920). See also: Deason v. McNeill, 133 Ill. App. 304 (1907).

Hog Remedy: See Moorman Mfg. Co. v. Wilson, 209 Ill. App. 104 (1918).

Stove Polish: Neigenfind v. Singer & Singer Grocery Co., 227 Ill. App. 493 (1923).

5. Miscellaneous.

Cigarettes: *Gundling v. City of Chicago, 176 Ill. 340, 52 N. E. 44, 48 L. R. A. 230 (1898), affirmed in *Same, 177 U. S. 183, 20 S. Ct. 633, 44 L. Ed. 725 (1900); Breitung et al. v. City of Chicago et al., 92 Ill. App. 118 (1900); Kappes et al. v. City of Chicago, 119 Ill. App. 436 (1905); *People ex rel. Berlitzheimer v. Busse et al., 231 Ill. 251, 83 N. E. 175 (1907); *City of Zion v. Behrens, 262 Ill. 510, 104 N. E. 836, 51 L. R. A. (N. S.) 562, Ann Cas. 1915 A. 1157 (1914).

Flag Desecration: *Ruhstrat v. People, 185 Ill. 133, 57 N. E. 41, 76 Am. St. Rep. 30, 49 L. R. A. 181 (1900); *Myers v. People, 185 Ill. 342 (1900).

Gift Enterprise: Dunn v. People, 40 Ill. 465 (1866); Gilbert et al. v. Houck Piano Co., 159 Ill. App. 347 (1911); Loveland v. Bode, 214 Ill. App. 399 (1919).

Trade-Marks: Candee, Swan & Co. v. Deere & Co., 54 Ill. 439, 5 Am. Rep. 175 (1870); Ball et al. v. Siegel et al., 116 Ill. 137, 4 N. E. 667, 56 Am. Rep. 766

(1886); *Frazer et al. v. Frazer Lubricator Co.*, 121 Ill. 147, 13 N. E. 639, 2 Am. St. Rep. 73 (1887), affirming *Same*, 18 Ill. App. 450 (1886); *Bolander v. Peterson*, 136 Ill. 215, 26 N. E. 603, 11 L. R. A. 350 (1891), affirming *Same*, 35 Ill. App. 551 (1890); *Hazelton Boiler Co. v. Hazelton Tripod Boiler Co. et al.*, 142 Ill. 494, 30 N. E. 339 (1892), affirming *Same*, 40 Ill. App. 430 (1891); **Cohn v. People*, 149 Ill. 486, 37 N. E. 60, 23 L. R. A. 821, 41 Am. St. Rep. 304 (1894); *Vogt v. People*, 59 Ill. App. 684 (1895); *N. K. Fairbank Co. v. Swift & Co.*, 64 Ill. App. 477 (1896); *Mossler et al. v. Jacobs et al.* 66 Ill. App. 571 (1896); *Eckhart et al. v. Consolidated Milling Co.*, 72 Ill. App. 70 (1897); *Nokes v. Mueller*, 72 Ill. App. 431 (1897); **Lippman v. People*, 175 Ill. 101, 51 N. E. 872 (1898); *The Fair v. Jose Morales & Co.*, 82 Ill. App. 499 (1899); *White v. Wagar*, 185 Ill. 195, 57 N. E. 26, 50 L. R. A. 60 (1900), affirming *Same*, 83 Ill. App. 592 (1899); *Wm. J. Moxley Co. v. Braun & Fitts Co.*, 93 Ill. App. 183 (1901); **Hirsh-Horwich et al. v. Walker-Gordon Laboratory Co.*, 205 Ill. 497, 68 N. E. 938, 98 Am. St. Rep. 254 (1903); *Imperial Mfg. Co. et al. v. Schwartz*, 105 Ill. App. 525 (1903); *Job Printers' Union of Chicago, Ill. v. Kinsley*, 107 Ill. App. 654 (1903); *Wormser v. Shayne*, 111 Ill. App. 556 (1903); *Vincendeau v. People*, 219 Ill. 474, 76 N. E. 675 (1906), reversing *Same*, 119 Ill. App. 603 (1905); **People v. Dantuma*, 252 Ill. 561, 96 N. E. 1087 (1911); *Rothschild & Co. v. Steger & Sons Piano Manufacturing Co. et al.*, 174 Ill. App. 381 (1912); *People v. Stricker*, 258 Ill. 618, 102 N. E. 216 (1913), reversing *Same*, 170 Ill. App. 485 (1912); *Fitzpatrick Bros. v. Culhane & Culhane*, 204 Ill. App. 203 (1917); *Klantz v. Marx et al.*, 205 Ill. App. 376 (1917); *Auto Parts Co. v. Silverstein & Goodman*, 211 Ill. App. 436 (1918); *Yellow Cab Co. v. Ensler*, 214 Ill. App. 607 (1919); *DeLong Hook & Eye Co. v. Hump Hairpin Manufacturing Co.*, 297 Ill. 359, 130 N. E. 765 (1921), reversing *Same*, 216 Ill. App. 230 (1919); *Ambassador Hotel Corp. et al. v. Hotel Sherman Co.*, 226 Ill. App. 247 (1922); *Nestor Johnson Manufacturing Co. v. Alfred Johnson Skate Co.*, 313 Ill. 106, 144 N. E. 787 (1924), reversing *Same*, 229 Ill. App. 549 (1923). See also: *Ottoman Cahvey Co. v. Dane et al.*, 95 Ill. 203 (1880); *Olin v. Bate et al.*, 98 Ill. 53, 38 Am. Rep. 78n (1881); *Merchants' Detective Association v. Detective Mercantile Agency*, 25 Ill. App. 250 (1888); *Clark et al. v. Aetna Iron Works et al.*, 44 Ill. App. 510 (1892); *Elgin Butter Co. v. Elgin Creamery Co. et al.*, 155 Ill. 127, 40 N. E. 616 (1895), affirming *Same*, 51 Ill. App. 231 (1893); *Van Auken Co. v. Van Auken Steam Specialty Co.*, 57 Ill. App. 240 (1895); *O'Kane & Eagan v. West End Dry Goods Store*, 72 Ill. App. 297 (1897); *Allegretti et al. v. Allegretti Chocolate Cream Co.*, 177 Ill. 129, 52 N. E. 487 (1898), affirming *Rubel et al. v. Allegretti Chocolate Cream Co.*, 76 Ill. App. 581 (1898); *Allegretti Chocolate Cream Co. v. Rubel et al.*, 83 Ill. App. 558 (1899); *Allegretti, Rubel & Rubel v. Allegretti Chocolate Cream Co.*, 85 Ill. App. 416 (1899); *Allegretti Chocolate Cream Co. v. Rubel et al.*, 86 Ill. App. 600 (1900); *Same*, 86 Ill. App. 604 (1900); *International Committee of Young Women's Christian Associations v. Young Women's Christian Association of Chicago*, 194 Ill. 194, 62 N. E. 551, 56 L. R. A. 888 (1901), affirming *Young Women's Christian Association v. International Committee of Young Women's Christian Associations*, 86 Ill. App. 607 (1900); *Ranft v. Reimers et al.*, 200 Ill. 386, 65 N. E. 720, 60 L. R. A. 291 (1902); *Hopkins Amusement Co. v. Frohman*, 202 Ill. 541, 67 N. E. 391 (1903), affirming *Same*, 103 Ill. App. 613 (1902); *McFell Electric & Telephone Co. et al. v. McFell Electric Co.*, 110 Ill. App. 182 (1903); *Koebel et al. v. Chicago Landlords' Protective Bureau*, 210 Ill. 176, 71 N. E. 362, 102 Am. St. Rep. 154 (1904), affirming *Chicago Landlords' Protective Bureau v. Koebel et al.*, 112 Ill. App. 21 (1904); *People ex rel. Power et al. v. Rose*, 219 Ill. 46, 76 N. E. 42 (1905); *Austin v. Yott et al.*, 171 Ill. App. 327 (1912); *Chicago Railway Equipment Co. v. National Hollow Brake Beam Co. & Laughlin*, 173 Ill. App. 595 (1912); *Thompson v. Marks*, 186 Ill. App. 92 (1914); *Great Western Live Stock Commission Co. v. Great Western Commission Co. & Ward Commission Co.*, 187 Ill. App. 196 (1914); *Chicago Directory Co. v. Herringshaw*, 187 Ill. App. 489 (1914); *Svenska National Förbundet i Chicago v. Swedish National Association et al.*, 205 Ill. App. 428 (1917); *Hughes v. West Publishing Co.*, 225 Ill. App. 58 (1922); *Stevens-Davis Co. v. Mather & Co. & Mather*, 230 Ill. App. 45 (1923).

Trading Stamps: *Sperry & Hutchinson Co. v. Siegel, Cooper & Co.*, 309 Ill. 193, 140 N. E. 864 (1923), affirming *Same*, 225 Ill. App. 540 (1922).

Weights and Measures: *Ruddy v. Philadelphia & Reading C. & I. Co.* 70 Ill. App. 320 (1897); **City of Spring Valley v. Spring Valley Coal Co.*, 71 Ill. App. 432 (1897); *City of Savanna v. Robinson*, 81 Ill. App. 471 (1899); **City of*

Chicago v. Bowman Dairy Co., 234 Ill. 294, 84 N. E. 913, 123 Am. St. Rep. 100, 17 L. R. A. (N. S.) 684, 14 Ann. Cas. 700 (1908); *City of Chicago v. Schmidinger, 243 Ill. 167, 90 N. E. 369, 44 L. R. A. (N. S.) 632, 17 Ann. Cas. 614 (1909); *Same, 243 Ill. 190, 90 N. E. 372 (1909); *Same, 245 Ill. 317, 92 N. E. 244 (1910), affirmed in *Schmidinger v. City of Chicago, 226 U. S. 578, 33 S. Ct. 182, 57 L. Ed. 364 (1913); City of Chicago v. Bartels, 146 Ill. App. 180 (1909); City of Chicago v. Miller, 146 Ill. App. 530 (1909); City of Chicago v. Berry's, 159 Ill. App. 522 (1911); City of Chicago v. Hiltwein, 161 Ill. App. 32 (1911); *City of Chicago v. Schweinfurth & Schweinfurth, 174 Ill. App. 64 (1912); City of Chicago v. Alwart Bros. Coal Co., 177 Ill. App. 40 (1913); *City of Chicago v. Wisconsin Lime & Cement Co., 312 Ill. 520, 144 N. E. 3 (1924), writ of error dismissed in Wisconsin Lime & Cement Co. v. City of Chicago, 270 U. S. 626, 46 S. Ct. 206, 70 L. Ed. 236 (1926); *City of Chicago v. Kautz, 313 Ill. 196, 144 N. E. 805, 35 A. L. R. 1050 (1924). See also: National Linseed Oil Co. v. Heath & Milligan Co., 191 Ill. 75, 60 N. E. 834 (1901), reversing Heath & Milligan Mfg. Co. v. National Linseed Oil Co., 93 Ill. App. 13 (1901); Heath & Milligan Mfg. Co. v. National Linseed Oil Co., 197 Ill. 632, 64 N. E. 732 (1902), affirming Same, 99 Ill. App. 90 (1901); M. A. Rogers & Co. v. Leach, 127 Ill. App. 199 (1906); Same, 138 Ill. App. 44 (1907); Davis Bros. v. Vandalia Railroad Co., 168 Ill. App. 621 (1912).

INDIANA. *

PART I.

General Food and Drug Law.

1. Drugs or Foods, Adulteration; Definitions.—It shall be unlawful for any person, firm or corporation, within this State to manufacture for sale within this State, offer for sale therein, or sell within this State, any drug or article of food which is adulterated or misbranded within the meaning of this act. That the term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals. The term "food," as used herein, shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound. (Burns' Anno. Stats. 1926, § 8224.)

2. Adulteration; What Constitutes.—For the purpose of this act, an article shall be deemed as adulterated:

In case of drugs—

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity, as determined in the test laid down in the United States Pharmacopœia or National Formulary, official at the time of investigation; provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

Second. If its strength or purity fall below the professed standard or quality under which it is sold.

In case of food—

First. If any substance or substances have been mixed with it so as to reduce, or lower, or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent has been wholly or in part abstracted from it.

Fourth. If it consists in any proportion of a filthy, diseased, decomposed, putrid or rotten animal or vegetable substance, whether manufactured or not, or, in the case of milk, if it is the product of a diseased animal.

Fifth. If it is mixed, colored, coated, polished, powdered or stained in a manner whereby damage or inferiority is concealed, or whereby it is made to appear better or of greater value than it really is.

Sixth. If it contains any added poisonous or other added deleterious ingredient.

Seventh. If it contains any added antiseptic or preservative substance except common table salt, saltpetre, cane sugar, vinegar, spices, or, in smoked food, the natural products of the smoking process, or other harmless preservatives whose use is authorized by the State Board of Health. (Id. § 8225.)

3. Insanitary Meats, Eggs, Poultry.—It shall be unlawful for any person or persons, firm or corporation, to sell within this State, or to have in his or their possession to sell within this State for human food, the carcass or parts of carcasses of any animal which has been slaughtered, prepared, handled or kept under insanitary conditions; and insanitary conditions shall be deemed to exist wherever and whenever any one or more of the following conditions appear or are found, to wit: If the slaughterhouse is dilapidated and in a state of decay, if the floors or side walls are soaked with decaying blood or other animal matter, if efficient fly screens are not provided, if the drainage of the slaughterhouse or

*CITATION: "Burns' Anno. Stats. 1926" refers to Watson's revision of Burns' Annotated Indiana Statutes of that year.

slaughterhouse yard is not efficient, if maggots or filthy pools or hog wallows exist in the slaughterhouse yard or under the slaughterhouse; if the water supply used in connection with the cleansing or preparing of carcasses is not pure and unpolluted; if hogs are kept in the slaughterhouse yard or fed therein on animal offal, or if the odors of putrefaction plainly exist therein; if carcasses or parts of carcasses are transported from place to place when not covered with clean white cloths, or if kept in unclean or bad smelling refrigerators, or if kept in unclean or bad smelling cold storage rooms. It shall be the duty of all peace and all health officers to seize any animal carcass or parts of carcasses, or any domestic or wild fowl, eggs, game or fish found to be unwholesome and which are intended for sale or offered for sale for human food which has been slaughtered and prepared, handled or kept under insanitary conditions as herein defined, and to deliver the same forthwith to and before the nearest circuit or city judge or justice of the peace, together with all information obtained, and said judge or said justice of the peace, upon a proper affidavit being filed, shall issue [a] warrant for the arrest of all persons shown to have violated the provisions of this section and said cause shall be tried at an early date thereafter. Any person, persons, firm or corporation found guilty of violating any of the provisions of this section shall be fined as provided in section 10 of this act [8233], and the meat, fowl, eggs, game or fish in question shall be drenched with kerosene oil or rendered into grease and tankage or otherwise made unfit for food, as the court may direct. (Id. § 8227.)

4. Misbranded; Definition; Drugs; Food.—The term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food and drugs, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, territory or country in which it is manufactured or produced. That for the purposes of this act an article shall also be deemed to be misbranded:

In the case of drugs—

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package, as originally put up, shall have been removed, in whole or in part, and other contents differing in quality or quantity from such original contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, phenacatine, antipirine, or any derivative or preparation of any such substance or substances contained therein: Provided, That the said requirements as to statement of contents shall not be operative until March 1, 1908: Provided, that the requirements of this section shall not apply in the case of medicinal prescriptions written by licensed physicians resident in the State of Indiana.

In the case of food—

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package, as originally put up, shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity, or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, phenacatine or antipirine, or any derivative or preparation of any such substance or substances contained therein: Provided, That such statement shall not be required as to articles of food in the hands of wholesale or retail dealers on or prior to March 1, 1908:

Third. If in the package form and the contents are stated in the terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another

article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and, provided, further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 8228.)

5. Unbroken Packages; Guarantee of Maker.—No dealer shall be prosecuted under the provisions of this act for selling or offering for sale any article of food or drugs, as defined herein, when same is found to be adulterated or misbranded within the meaning of this act in the original, unbroken package in which it was received by said dealer, when he can establish a guarantee, signed by the wholesaler, jobber, agent or other party residing in the United States from whom he purchased such article, or if a proper printed guarantee of the manufacturer with his address be upon the package or container, to the effect that the same is not adulterated or misbranded in the original unbroken package in which said article was received by said dealer, within the meaning of this act, designating it, or within the meaning of the food and drugs act, enacted by the Senate and House of Representatives of the United States of America, in Congress assembled June 30th, 1906. Said guarantee, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, or of the manufacturer thereof as herein specified, and, in such case, said party or parties shall be amenable to the prosecution, fines and other penalties which would attach in due course to the dealer, under the provisions of this act. (Id. § 8229.)

6. Board of Health; Food and Drug Commissioner.—It shall be the duty of the State Board of Health to enforce the laws of the State governing food and drug adulteration, and the chemist of the State Board of Health appointed by said board shall be the State Food and Drug Commissioner. The State Board of Health shall make all necessary investigations and inquiries in reference to the manufacture and sale of food and drugs, and, for these purposes, the State, county, city and town health officers shall be food and drug inspectors, subordinate to the State Board of Health. The State Board of Health shall adopt such rules as may be necessary to enforce this act, and shall adopt rules regulating minimum standards for food and drugs, defining specific adulteration and declaring the proper methods of collecting and examining drugs and articles of food, and the violation of said rules shall be punished, on conviction, as set forth in section 10 of this act [8233]. Every person offering or exposing for sale or delivering to a purchaser any drug or article of food included in the provisions of this act shall furnish to any inspector or other officer or agent appointed hereunder who shall apply to him for the purpose and shall tender to him the value of the same a sample sufficient for the purpose of the analysis of any such drug or article of food which is in his possession. Whoever hinders, obstructs or in any way interferes with any inspector or other officer or agent appointed hereunder in the performance of his duty, shall, upon conviction, be fined in any sum not exceeding \$100. (Id. § 8230.)

7. Appropriation.—The sum of \$15,000 is hereby appropriated annually from the treasury of the State of Indiana to be expended by the State Board of Health for the purpose of meeting expenses incurred in the enforcement of this act, including the salaries of the State Food and Drug Commissioner, chemists, inspectors and clerks, the cost of collection of samples, purchase of laboratory supplies, aid in prosecuting offenders against this act, publication and distribution of bulletins and other expenses incident to the enforcement of this law, all payments to be paid out by certificates issued by the State Board of Health and attested by the secretary, and, on presentation of said certificates, the auditor of the State shall draw his warrants for the amount certified on the State Treasurer, who shall pay the same from the appropriation for the enforcement of this act and the appropriation herein provided for shall be available at the taking effect of this act; provided, however, that nothing herein contained shall be considered to repeal or in anywise affect the appropriations heretofore made for the establishment and maintenance of the State Laboratory of Hygiene, by an act of the general assembly entitled "An act to establish a State Laboratory of Hygiene, providing an appropriation for its establishment and maintenance, forbidding the teaching of adulteration,

prescribing penalties, repealing all conflicting acts, and declaring an emergency," approved February 25, 1905. (Id. § 8231.)

8. Salary of Commissioner.—The State Food and Drug Commissioner, who is also chemist to the State Board of Health, shall receive an annual salary of \$2,500, to be paid out by certificates issued by the State Board of Health and attested by the secretary; and, on presentation of said certificates, the Auditor of State shall draw his warrant for the amount certified on the State Treasurer, who shall pay the same from the appropriations for the enforcement of this act, which sum shall constitute the entire salary of said officer, both as State Food and Drug Commissioner and chemist to the State Board of Health. (Id. § 8232.)

9. Penalties.—Except as elsewhere provided in this act, any person, persons, firm or corporation violating any of the provisions of this act shall, upon conviction for the first offense, be punished by a fine of not less than \$10.00 nor more than \$30.00; for the second offense, by a fine of not less than \$25.00 nor more than \$100.00; and for the third and subsequent offenses, by a fine of \$100.00 and imprisonment in the county jail for not less than thirty nor more than ninety days. (Id. § 8233.)

10. Prosecuting Attorneys; Duties.—Whenever the State Board of Health, the State Food and Drug Commissioner or other authorized officer of the State Board of Health shall furnish evidence to district prosecutors, said prosecutors shall prosecute all persons violating any of the provisions of this act, and such cases may be brought before police judges or justices of the peace; provided, that the powers and jurisdiction of such police judges and justices of the peace and the practice in such cases shall be the same as in other prosecutions before such officers for crimes and misdemeanors, who shall have jurisdiction to hear and determine actions arising for violation of the provisions of this act, and to hold for court or to impose the penalties imposed therein, subject to appeal as the law shall direct. (Id. § 8234.)

Miscellaneous General Provisions.

11. Adulterated Drug or Food; Standards.—No person shall, within this State, manufacture for sale, offer for sale, or sell any drug or article of food which is adulterated. The term drug shall be deemed to include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term food shall be deemed to include confectionery, condiments and all articles used by man for food or drink. An article shall be deemed to be adulterated within the meaning of this section:

A. In case of drugs. (1) If, when sold under or by a name recognized by the United States Pharmacopœia, it differs from the standard of strength, quality or purity laid down therein, unless the order calls for an article inferior to such standard, or unless such difference be made known or so appear to the purchaser at the time of such sale. (2) If, when sold under or by a name not recognized in the United States Pharmacopœia, but which is found in some other pharmacopœia, or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work. (3) If its strength or purity falls below the professed standard under which it is sold.

B. In case of food. (1) If any substance or substances have been mixed with it, so as to reduce, or lower or injuriously affect its quality or strength. (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it. (3) If any valuable constituent has been wholly or in part abstracted from it. (4) If it be an imitation of or sold under the name of another article. (5) If it consists wholly or in part of a diseased, corrupt, decomposed or rotten animal or vegetable substance, whether manufactured or not, or, in the case of milk, if it be the product of a diseased animal. (6) If it be colored, coated, polished or powdered, whereby damage is concealed, or if it be made to appear better or of greater value than it really is. (7) If it contains any added poisonous ingredient, or any ingredient which may render it injurious to the health of the person consuming it.

The provisions of this section shall not apply to mixtures or compounds recognized as ordinary articles of food or drink; provided, that such mixtures or compounds be not injurious to health, and be distinctly labeled as mixtures or compounds, and no prosecution shall at any time be maintained hereunder concerning any drug, the standard of strength or purity whereof has been raised since the issue of the last edition of the United States Pharmacopœia, unless and until such change of standard shall have been published throughout the State. It shall be the duty of the State Board of Health to enforce the laws of the

State governing food and drug adulteration, including the provisions of this section, and the State health officer shall be State Inspector of Foods and Drugs: The State Board of Health shall take cognizance of the interests of the public health relating to the sale of drugs and foods and the adulteration of the same, and shall make all necessary investigations and inquiries in reference thereto; and for these purposes the State, county, city and town health officers shall be food and drug inspectors, subordinate to the State Board of Health. The State Board of Health shall adopt such measures as may be necessary to facilitate the enforcement of the provisions of this section, and shall prepare rules declaring the proper methods of collecting and examining drugs and articles of food. Every person offering or exposing for sale or delivery to a purchaser any drug or article of food included in the provisions of this section, shall furnish to any analyst or other officer or agent named herein or appointed hereunder, who shall apply to him for the purpose, and shall tender to him the value of the same, a sample sufficient for the purpose of the analysis of any such drug or article of food which is in his possession. Whoever hinders, obstructs or in any way interferes with any inspector, analyst or other officer named herein or appointed hereunder in the performance of his duties, and whoever violates any of the provisions of this section, shall, on conviction, be fined not exceeding one hundred dollars. Whoever fraudulently adulterates, for the purpose of sale, any bread or other substance intended for food with any substance injurious to health, or knowingly barter, gives away, sells or has in his possession with intent to barter, give away, or sell any substance injurious to health, shall, on conviction, be fined not exceeding one hundred dollars, and the article so adulterated shall be forfeited and destroyed under the direction of the court. Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, and whoever knowingly sells such liquor so adulterated, shall, on conviction, be fined not less than one hundred dollars nor more than five hundred dollars, and the article so adulterated shall be forfeited and destroyed under the direction of the court. (Burns' Anno. Stats. 1926, § 2655.)

12. Adulteration Formulas; Penalty to Furnish or Teach.—Any person who shall sell, offer for sale or give away, barter or trade any receipt or formula for the adulteration or imitation of food, or teach or offer to teach any method or means of adulterating any article of food or means of producing or manufacturing any imitation of any article of food within this State shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined any sum not exceeding one thousand dollars (\$1,000), to which may be added imprisonment in the county jail for a period not exceeding six month[s] in the discretion of the court or jury trying the case. (Id. § 2656.)

13. Use of Adulterants Injurious to Health; Arsenic; Formaldehyde.—It shall be unlawful for any person, firm or corporation to sell, or to have in his or its possession for sale, any article of food or food product intended for the use of man, or any compound, substance, preparation or material used as such food, or intended to be used as such food as [or] food product, or used or intended to be used as an ingredient of any such food or food product, or used or intended to be used in the preparation of any such food or food product, if any such article, compound, substance, preparation or material contains any arsenic, formaldehyde or antiseptic injurious to health. Any person, firm or corporation violating any of the provisions of this section shall, on conviction, be fined not exceeding one hundred dollars for each offense. (Id. § 2664.)

14. Laboratory of Hygiene; Establishment.—A State laboratory of hygiene is hereby established as a department of the State Board of Health, the same to be under the general control of said board. (Id. § 8142.)

15. Location; Purpose.—The State laboratory of hygiene shall be at Indianapolis and shall be used for making analysis of foods and drugs for the purpose of enforcing the pure food and drug laws, for making sanitary analysis, pathological examinations and studies in hygiene and preventive medicine to aid in the enforcement of the health laws, and for no other purpose. All work done in the State laboratory of hygiene shall be done exclusively and entirely for the public benefit, and no fees shall be charged. (Id. § 8143.)

16. Superintendent; Chemist; Salaries.—For the conduct of the State laboratory of hygiene, the State Board of Health shall employ and appoint a superintendent other than the secretary of such board of health, and such superintendent shall have charge of and superintend and manage such State laboratory of hygiene, and he shall receive a salary not to exceed two thousand dollars (\$2,000) per annum. Such superintendent shall be learned and skilled in bacteriology and pathology. The State Board of Health shall also employ a skilled chemist, whose salary shall not exceed fifteen hundred (\$1,500) dollars per annum, and both appointees shall be

temperate, healthy, well recommended and of good moral character. The board may employ such minor employees as it may deem necessary for the successful conduct of such laboratory, and define the duties and fix the compensation of such employees' which employment shall be with the consent of the Governor. A report of all work done in the laboratory of hygiene, together with an account of all expenditures of each year ending October 31st, shall be made to the Governor not later than the first day of December following. Such report shall be published in the regular annual report of the State Board of Health. (Id. § 8144.)

17. Appropriations; Equipment and Maintenance.—Five thousand dollars, or so much thereof as is found necessary, are hereby appropriated for equipping the State laboratory of hygiene with all necessary apparatus, books, appliances and furniture, the same to be paid out by certificates issued by the State Board of Health and attested by the secretary; and on presentation of such certificates, the Auditor of the State shall draw his warrant for the amount certified on the State Treasurer, who shall pay the same, and all certificates shall have attached itemized bills for their face amount. For maintenance of the laboratory, purchase of food and drug samples, salaries of employees, transportation and hotel expenses of those necessary to conduct inspections, collect samples and attend prosecutions, and for the incidental expenses, ten thousand dollars (\$10,000) per annum are hereby appropriated, the same to be paid out on certificates, as provided in this section. The appropriations herein provided for shall be available at the taking effect of this act. The State Board of Health shall locate and establish said laboratory in a room in the State House building in the city of Indianapolis, Indiana, and the custodian of such State House shall set apart a room for such purpose. (Id. § 8145.)

17a. Prescribing Secret Medicines.—Whoever prescribes any drug or medicine to another, the true nature and composition of which he does not, if inquired of, truly make known, but avows the same to be a secret medicine or composition, and thereby endangers the life of such other person, shall, on conviction, be fined not less than thirty dollars, nor more than one hundred dollars, and be imprisoned in the county jail not less than sixty days nor more than six months. (Id. § 2434.)

17b. Seizure of Adulterated Food.—Whenever the State Board of Health, the State Food and Drug Commissioner or other authorized officer of the State Board of Health shall ascertain that any article, or articles of food other than raw fruits and vegetables are found in this State, which articles or article of food are adulterated, as that term is defined in section 2 of chapter 104 of the acts of the General Assembly of 1907,* it shall then be the duty of the State Food and Drug Commissioner, hereinafter called the "commissioner," to seize and hold the same under embargo and immediately thereupon to notify, in writing, the person who was in possession of such article or articles at the time of such seizure. If, within ten days, it is found that the food can not be reconditioned to the approval of the commissioner, then the commissioner shall institute proceedings for the condemnation and destruction of said adulterated food, in the manner herein provided. (Act of Mar. 9, 1927, § 1.)

17c. Libel for Condemnation of Goods.—The commissioner shall cause to be filed in the Circuit Court of the county in which the goods are situated, a libel for condemnation against said goods. The proceeding shall be brought in the name of the State of Indiana by the prosecuting attorney of such county against the goods, and libel shall be verified by the commissioner. The libel shall describe the goods, state their location, state the name of the person, firm, or corporation in actual possession, state the name of the owner, if known to the commissioner, and allege the particular adulteration which is claimed to exist, and otherwise conform to the requirements of a libel for condemnation of adulterated food in the United States courts. (Id. § 2.)

17d. Duty of Sheriff to Seize Goods.—Upon the filing of such a libel, the judge of the court, or, if in vacation, the clerk thereof, shall promptly cause process to issue to the sheriff commanding him to seize the goods described in the libel and to hold the same for further order of the court. The sheriff shall, at the time of seizure, serve a copy of said process upon the owner of said goods. (Id. § 3.)

17e. When Seized Goods May be Destroyed.—At the expiration of thirty days after such seizure, if no claimant has appeared to defend said libel, the court shall order the sheriff to destroy said seized goods. (Id. § 4.)

17f. Appearance; Answer or Demurrer.—Any person, firm or corporation having an interest in said goods, or any person, firm or corporation against whom a civil or criminal liability would exist if said goods are adulterated, may, at any time before destruction of the goods, appear and file answer or demurrer to the

*See No. 2.

libel. Such appearance and answer or demurrer shall be filed in open court, or if in vacation, with the clerk thereof. The answer or demurrer shall allege the interest or liability of the party filing it. In all other respects the issues shall be made up as in other civil actions. (Id. § 5.)

17g. Change of Venue, Etc.—The right of change of venue from the county and the right of change of judge and the right of trial by jury shall exist as in civil cases. (Id. § 6.)

17h. Proceedings.—At any time before trial, the defense may file with the court, or the clerk thereof in vacation, a written election to divide the libeled goods into lots, each of said lots to be described in the election in such way as to enable it to be distinguished. If different parties are defending as to separate lots, the court shall proceed to docket as many separate actions as there are separate defenders. The commissioner may dismiss as to any lot or lots without prejudice to his proceeding against all other lots in the same seizure. Those defending may consent to the destruction of any lot or lots without prejudice to their right to defend against the condemnation of all other lots in the same seizure. (Id. § 7.)

17i. Determination of Adulterated Goods.—The court or jury trying the cause shall determine whether the contents of each separate lot are adulterated and the judgment shall so specify and further order the destruction by the sheriff of all lots found to be adulterated, and the return by the sheriff of all lots not found to be adulterated. (Id. § 8.)

17j. Personal Judgment May Not be Rendered; Exception.—Under no condition shall any personal judgment be rendered against any defender, except that, when any goods are ordered destroyed, the court may give judgment against the person, firm or corporation defending as to such condemned goods, for that part of the costs occasioned by such defender. (Id. § 9.)

17k. When Sheriff to Return Libeled Goods.—Whenever any libeled goods are ordered returned, it shall be the duty of the sheriff to immediately return them to the place of seizure. The sheriff and his bondsmen shall be liable for any damage to said goods while in the custody of the sheriff, which damage was due to negligence, willfulness or carelessness upon the part of the sheriff or his deputies or agents. No subsequent proceeding in said cause, or new trial, shall in any way involve any returned goods. (Id. § 10.)

17l. Appeals.—Any defender may move for a new trial and may appeal to the Appellate Court in the manner provided by law for appeals in civil actions. In a term time appeal the bond shall be fixed in such amount as to cover the reasonable costs of preserving the condemned goods for the probable time of appeal and the court costs. If an appeal is not prosecuted to determination, or if the judgment of the trial court is affirmed, the defender or defenders praying the appeal shall be liable for the costs adjudged against them in the trial court, the costs of appeal, and, if a term time appeal, the actual reasonable cost of preserving the condemned goods during the appeal period. (Id. § 11.)

17m. Duty of Appellate Court.—In all term time appeals provided for herein, the Appellate Court shall advance such causes and dispose of them as speedily as possible with due regard to the rights of the parties. (Id. § 12.)

17n. Judgment Inadmissible in Evidence.—No judgment in a proceeding provided for by this act shall be admissible as evidence in any other legal proceeding. (Id. § 13.)

17o. Determination of Costs.—All costs not adjudicated against the defenders in accordance with the provisions herein, shall be determined and collected in the manner provided by law for the determination and collection of costs in unsuccessful criminal prosecutions. (Id. § 14.)

17p. Procedure and Practice to Conform to Civil Actions.—Where not otherwise herein provided, the procedure and practice shall conform, as nearly as possible, to the procedure and practice of civil actions. (Id. § 15.)

17q. Duty of Food and Drug Commissioner.—The State Food and Drug Commissioner upon examination of any article or articles of food as defined in section 1 of this act, and finding them as complying with the requirements of the food and drugs act of 1907,* said commissioner shall then be required to issue to owner of said goods a certificate showing his approval thereof. (Id. § 16.)

NOTE: See also No. 93.

*See No. 1 et seq.

PART II.

Special Food Laws.

Bakeries—Bakery Products.

18. Bakeries; Sanitation.—Any building, or portion of any building, occupied or used as a bakery, wherein is carried on the business of the production, preparation, storage or display of bread, cakes, pies and other bakery products, intended for sale for human consumption, shall be clean, properly lighted, drained and ventilated. Every such bakery shall be provided with adequate plumbing and drainage facilities, including suitable wash sinks, toilets and water-closets. All toilets and water-closets shall be separate and apart from the rooms in which the bakery products are produced or handled. All wash sinks, toilets and water-closets shall be kept in a clean and sanitary condition and shall be in well lighted and ventilated rooms. The floors, walls and ceilings of the rooms in which the dough is mixed and handled, or the pastry prepared for baking, or in which the bakery products or ingredients of such products are otherwise handled or stored, shall be kept and maintained in a clean, wholesome and sanitary condition. All openings into such rooms, including windows and doors, shall be properly screened or otherwise protected to exclude flies. No working rooms shall be used for purposes other than those directly connected with the preparing, baking, storage and handling of food, and shall not be used as washing, sleeping or living rooms, and shall, at all times, be separate and closed from any living or sleeping rooms. Rooms shall be provided for the changing and hanging of wearing apparel apart and separate from such workrooms; and such rooms, as so provided for the changing and hanging of wearing apparel, shall be kept clean at all times. (Burns' Anno. Stats. 1926, § 8212.)

19. State Board of Health; Rules; Inspection; Appeal.—The Indiana State Board of Health shall make all necessary rules for carrying into effect the foregoing section and for the enforcement of the provisions thereof. If, after inspection, such board shall find that any bakery is being operated in violation of the provisions hereof, notice in writing shall be given to the proprietor, wherein shall be stated the particulars in which such bakery is not being properly conducted, and fixing a reasonable time, not less than thirty days, in which such conditions shall be remedied. If the requirements of such notice shall not be complied with, said board shall order such bakery closed and it is hereby empowered to take all necessary steps to enforce such order; provided, that if any person, firm or corporation shall feel aggrieved by any order of said board, it shall have the right to appeal to the Circuit or Superior Court in the county in which is located said bakery; provided, further, that on the taking of said appeal the owner or operator of said bakery shall furnish bond to the approval of the boards; and, provided, further, that said appeal shall be taken within a period of thirty days from the order of said board. (Id. § 8213.)

20. Cleanliness; Precautions; Health Certificate.—No employee or other person shall sit or lie upon any of the tables, benches, troughs, shelves, etc., which are intended for the dough or bakery products. No animals or fowls shall be kept or allowed in any bakery or other place where bread or other bakery products are produced or stored. Before beginning the work of preparing, mixing and handling the ingredients used in baking, every person engaged in the preparation or handling of bakery products shall wash the hands and arms thoroughly and then rinse in clean water; and, for this purpose, sufficient wash basins and soap and clean towels shall be provided. Every person engaged in such work shall wash the hands and arms after using toilet rooms or water-closets. Employees or other persons affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis or consumption, bubonic plague, Asiatic cholera, leprosy, trachoma, typhoid fever, epidemic dysentery, measles, mumps, whooping cough, chickenpox, or any other cutaneous or infectious disease, shall not work or be permitted to work in any such bakeries or be permitted to handle any of the products therein or delivered therefrom. The freedom of said bakery employees from any such disease shall be evidenced by a certificate of medical examination, made at such times and such certificate shall be in such form and so kept, as shall be prescribed by the State Board of Health. Such medical examinations may be made by any competent physician, including State, city, town and county health officials, or their agents, of recognized standing, and whose

qualifications for making such examinations are approved by the State Board of Health. Any such physician or health officer who gives such certificate of freedom from disease without thorough examination, or who gives such certificate knowing or suspecting the employee to have, or to be infected with, any of the diseases specified in this section, and any employee or other person engaged in any of the work above mentioned, without first procuring a certificate, as herein prescribed, showing freedom from any such contagious or infectious disease, shall be deemed guilty of a violation of this act and subject to the penalties provided for violation thereof. The State Board of Health shall prescribe such reasonable time after the taking effect of this act within which the provisions of this section for the physical examination of employees shall become effective. (Id. § 8214.)

21. Examination of Employees; Fees.—The State Board of Health shall make all necessary rules for carrying into effect the foregoing section, including the forms of certificates and the time and place for examination of such employees, and including reasonable and uniform fees for the said examination. The analysis or examination of any specimens necessary in connection with such medical examination of employees shall be made free at the laboratories of the State Board of Health, or any city or town department of health, as the State Board of Health may designate. The State Board of Health, or any city, town or county board of health, may order any such medical examination, through its own qualified officers or agents, at any time deemed necessary, which examination shall be free and at the expense of the board making the examination; provided, however, that any employee or employer may have his or her own physician present at any such examination. (Id. § 8215.)

22. Water Used; Certificate.—All water used for mixing the dough or used in the mixing of any other bakery products shall be pure and wholesome. In case the water supply is taken from a well, the baker shall have a certificate of the purity of said water supply from the State Board of Health, or from any city or county health board within the State of Indiana. Bakers shall not use the water from wells the water of which is not certified to be pure and wholesome. (Id. § 8216.)

23. Sanitary Receptacles, Show Cases, Wagons.—The wagons, boxes, baskets and other receptacles in which bread, cakes, pies or other bakery products are transported shall be kept in a clean and wholesome condition at all times and free from dust, flies and other contamination. All show cases, shelves, or other places where bakery products are sold shall be kept well covered, properly ventilated, well protected from dust and flies, and shall be kept in a sweet, clean and wholesome condition at all times. Boxes or other receptacles for the storing or receiving of bread and other bakery products, before and after the retail stores and selling places are open, shall be so constructed and placed as to be free from the contamination of streets, alleys and sidewalks, and shall be raised at least ten inches from the sidewalk or street, and shall be kept clean and sanitary, and no bread shall be placed in any such box along with any other articles of food other than bakery products. (Id. § 8217.)

24. Materials Used; Labels.—All materials used in the production or preparation of bakery products shall be stored, handled and kept in a way to protect them from spoiling and contamination, and no material shall be used which is spoiled or contaminated, or which may render the bread or other bakery products unwholesome or unfit for food. The ingredients used in the production of bread and other bakery products and the sale or offering for sale of bread and other bakery products shall comply with the provisions of the Indiana laws against adulteration and misbranding. No ingredients shall be used which may render the bread or other bakery products injurious to health. No ingredients shall be used which may deceive the consumer, or which lessens the nutritive value of the bakery product, without being plainly labeled, branded or tagged, or having a sign making such facts plain to the purchaser or consumer under rules to be prescribed by the State Board of Health; provided, however, that in case of bread to be sold by the loaf, such labeling shall be, in the case of unwrapped bread, placed upon the same sticker as hereinafter provided to show the name of the manufacturer and the net weight or measure of the loaf. (Id. § 8218.)

25. Handling and Sale; Return of Purchase; Permanent Containers.—All handling or sale of bread or other bakery products and all practices connected therewith shall be conducted at all times so as to prevent the distribution of contamination or diseases among consumers, so as to prevent the distribution of the infection in bread commonly known as "rope," or other bakery infections, and so as to protect the food supply against waste. No bread or other bakery products, except as hereinafter provided, shall be returned from any consumer or other purchaser to the dealer or baker, nor from any dealer to the baker, and no baker or dealer shall, directly or indirectly, accept any returns or make any exchange of bread or other bakery products from any dealer, restaurant or hotel keeper, consumer or other person, and all

bread and all other bakery products shall be kept moving to the consumer in as direct a line as may be practicable and without unreasonable delay and without any exchange, return or practice whatsoever which may disseminate contamination, disease or fraud among consumers or infection among bake shops, or which may cause waste in the food supply. The Indiana State Board of Health shall make such reasonable rules as may be necessary for carrying into effect the foregoing provisions of this section; provided, that this section shall not be construed to apply to crackers or to such other bakery products as are packed at the place of production in cartons, cans, boxes, or similar permanent containers, and where the product is so packed or sealed at the place of production as to fully protect the freshness and wholesomeness of the product from contamination, adulteration, deterioration and fraud in the channels of trade, and which remains in the original unbroken package in which such bakery product has been packed, except in so far as may be necessary to prevent waste in the food supply. Provided, further, the State Board of Health may, by rules, establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bread or other bakery products, but any such exemptions or sales shall not be in violation of the expressed purposes of this section. Provided, further, that the phrase "permanent containers" shall not be construed to include the paper or parchment wrappers as used in wrapping loaves of bread. (Id. § 8219.)

26. Standard Weights of Bread Sold by the Loaf.—Bread to be sold by the loaf, made by bakers engaged in the business of wholesaling and retailing bread, shall be sold based upon any of the following standard weights and no other; namely, a loaf weighing three-quarters of a pound, a loaf weighing one pound, a loaf weighing one and one-half pounds and loaves weighing two pounds, or some other multiple of one pound. These shall be the standard weights for bread to be sold by the loaf and such bread shall not be sold of other weights. The State Commissioner of Weights and Measures shall adopt and establish by rules such reasonable tolerances or variations within which these weights of standard loaves shall be kept. Provided, however, that such tolerances and variations shall not exceed one ounce per pound over and one ounce per pound under the standard unit weight. Every loaf of bread made or procured for the purpose of sale, sold or offered for sale, shall have affixed thereon, in a conspicuous place, a label upon which there shall be printed, in plain type, the weight of the loaf, stated in pounds or fraction of pounds, or both, as the case may be, together with the business name of the baker or manufacturer of the loaf. In the case of wrapped bread, such information shall be stated in a plain position upon the wrapper of each loaf, and, in the case of unwrapped bread, shall be stated upon a label no larger than one by one and one-half inches in size and not smaller than one inch by three-quarters of an inch, and such label affixed to an unwrapped loaf shall not be affixed in any manner, or with any gums or pastes, which are insanitary or unwholesome. It shall be the duty of the Commissioner of Weights and Measures, and of the sealers of weights and measures of any city, town or county, or any agent thereof responsible for the enforcement of weight and measure laws and ordinances under regulations prescribed by the Commissioner of Weights and Measures, to enforce the provisions of this section. (Id. § 8220.)

27. Penalty For Violation.—Any person, firm or corporation who shall violate any of the provisions of this act shall be subject to a fine of not less than ten dollars nor more than one hundred dollars, and each day's continuance of any practice, act or condition prohibited herein shall constitute a separate offense within the meaning of this act. (Id. § 8221.)

28. Application of Act; City Ordinance.—Except as in this act provided, no city or town, or any board or officer thereof, shall have power to enact or make any ordinance, law, resolution, rule or order affecting the matters covered by this act. (Id. § 8222.)

NOTE: See also Nos. 11 and 104 et seq.

Beverages.

29. Native Wines; Adulterating.—Whoever adulterates any wine or juice made or expressed from grapes, by mixing therewith any drugs, chemicals, cider, whisky or other liquor, and sells, or offers to sell, any such adulterated wine or grape-juice, knowing the same to be adulterated, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars. (Burns' Anno. Stats. 1926, § 2666.)

30. Liquors; Adulterating.—Whoever adulterates any spirituous, malt or other intoxicating liquor by the admixture of any deleterious substance therewith, and knowingly sells, or offers for sale, any such liquors which have been so adulterated, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars. (Id. § 2667.)

31. Liquors; Making or Selling Poisonous.—Whoever uses any poison in the manufacture or preparation of any intoxicating liquor, or knowingly sells, or offers for sale, in any quantity, any intoxicating liquor so manufactured or prepared, shall, on conviction, be imprisoned in the State Prison not less than one year nor more than seven years, and fined not exceeding five hundred dollars. (Id. § 2668.)

NOTE: See also Nos. 11, 32 et seq., 159 et seq., and 209 et seq.

Bottled Waters.

32. Public Drinking Water; Analysis Required.—Any person, firm or corporation offering for sale, for public consumption, any drinking water, bottled water, or mineral water, shall, once each year, on or before the first day of July, submit to the water and sewage laboratories of the Indiana State Board of Health samples of such drinking water, bottled water or mineral water, natural or treated, for analysis; to determine its potability and availability for the purpose for which it is intended. (Burns' Anno. Stats. 1926, § 8138.)

33. Cost of Analysis.—For each sample of such water so analyzed and tested, there shall be paid into the treasury of the State a sum equivalent to the cost of such analysis; said cost to be determined by the chemist's records and, in no instance to be less than ten dollars. All money so collected shall be applied to enforcement of this act and shall be paid out in the manner prescribed by law. (Id. § 8139.)

34. Sale of Impure Drinking Water Unlawful.—It shall be unlawful for any person, firm or corporation to offer for sale, for human consumption, any water which, upon analysis, shows a bacteriological or chemical content deleterious to the public health. (Id. § 8140.)

35. State Board of Health to Prohibit Sale; Appeal.—It shall be the duty of the State Board of Health, upon a showing of such unfit condition of said drinking water, bottled water or mineral water, to prohibit the further distribution or consumption of such unfit water; provided, however, that any person, firm or corporation who feels himself aggrieved by any order of the State Board of Health or any decision said State Board of Health may make, may, within ten days after the making of such order or decision by the said State Board of Health, and not afterwards, unless time is extended in writing by the said Board of Health, file his petition with the Circuit Court of the proper county, praying a review of such order or decision, and it shall be the duty of such court to hear the same at the first convenient day, and to make such order in the premises as right and justice may require, and such decision shall be final. Such parties so appealing to the Circuit Court shall file with said court a bond, in an amount to be fixed by said court or by the clerk of said court, with at least two sufficient sureties to be approved by the judge of said court or the clerk of said court, conditioned to pay all costs on such appeal in case such appellant fails to sustain his appeal or the case be dismissed for any cause. Any person, firm or corporation who shall offer, furnish or distribute, for human consumption, any such unfit water, or who shall violate any other of the provisions of this act, shall be deemed guilty of a misdemeanor and shall, upon conviction, for the first offense, be punished by a fine of not less than ten dollars nor more than thirty dollars; for a second or subsequent offense, by a fine of not less than twenty-five dollars nor more than one hundred dollars, and imprisonment in the county jail for not less than thirty days nor more than ninety days. (Id. § 8141.)

35a. Mineral Springs and Wells, Pumping Prohibited.—It shall be unlawful for any person, firm, company or corporation, by pumping, or by any artificial contrivance whatever, to accelerate the natural flow or produce an unnatural flow of that class of mineral medicinal waters known as sodic, saline sulphuretted waters, and containing in one liter, twenty or more cubic centimeters of hydrogen sulphid gas, and five or more cubic centimeters of carbonic acid gas; and in one million parts of water, one thousand or more parts of chlorine, and sixteen hundred or more parts of sulphuric anhydride in combination with sodium, calcium, magnesium and other elements, from any well made by boring or drilling into the earth or rock, whereby the natural flow from any mineral medicinal spring belonging to any other person, firm, company or corporation is impeded, retarded, diminished, diverted or endangered, or the quality of its waters is impaired, or the quantity of its hydrogen sulphid gas, carbonic acid gas or mineral ingredients diminished: Provided, that said natural mineral medicinal spring shall contain in one liter not less than twenty cubic centimeters of hydrogen sulphid gas, and not less than five cubic centimeters of carbonic acid gas, and in one million parts of water, not less than one thousand parts of chlorine, and not less than sixteen hundred parts of

sulphuric anhydride in combination with sodium, calcium, magnesium and other elements. (Id. § 14564.)

35b. Injunction by Taxpayer.—Any taxpaying citizen of the State may maintain an action to restrain any person, firm, company or corporation from committing any of the unlawful acts specified in section one [14564] of this act, in any Circuit Court where such citizen resides and is assessed for taxes. (Id. § 14565.)

35c. Misdemeanor, Penalty.—Whoever maliciously or mischievously violates any of the provisions of section one [14564] of this act shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding one hundred dollars, and, for a second offense, may be fined in any sum not exceeding one thousand dollars. (Id. § 14566.)

Coffee.

See No. 275.

Cold Storage.

36. Cold Storage of Foods; Regulations.—All food products which are placed or stored in any cold storage or refrigerating warehouse in this State shall be marked, stamped or tagged, either upon the product itself or on the original package in which it is enclosed, with the date when it is placed or stored in any such cold storage or refrigerating warehouse; and all such food products, when removed from any such cold storage or refrigerating warehouse, shall in addition be marked, stamped or tagged with the date when such product was removed from any such cold storage or refrigerating warehouse; provided, however, that when such products are removed for interstate shipment, such marking, stamping or tagging shall not be required. And, for the purpose of this act, a cold storage or refrigerating warehouse shall be defined as one employing refrigerating machinery or ice for the purpose of refrigeration, whether for public or private use, and shall not apply to ice boxes used for temporary protection only. (Burns' Anno. Stats. 1926, § 8235.)

37. Storage; Limit as to Time.—All food products which shall be placed or stored in any cold storage or refrigerating warehouse after the passage of this act shall not be kept in such cold storage or refrigerating warehouse for a longer period than nine months after the same has first been placed or stored therein, nor placed or stored in any other cold storage or refrigerating warehouse after nine months from the time when such food products were first placed in a cold storage or refrigerating warehouse; provided, however, that any meat, fish, butter, cheese, eggs, poultry, game, fruits, farm or garden produce, or any other perishable foodstuffs which shall have been held in cold storage or refrigerating warehouse for more than nine months shall be reported by the person, firm or corporation operating such cold storage or refrigerating warehouse to the State Board of Health, and any such food product shall be inspected and, if found to be unfit for human food, shall be delivered forthwith to and before the nearest circuit or city judge or justice of the peace, who shall order that such food product shall be drenched with kerosene oil or rendered into grease and tankage or otherwise made unfit for food, as the court may direct. (Id. § 8236.)

38. Non-resident Storage Mark.—No food product shall be sold or offered for sale in this State which shall have been placed or stored in any cold storage or refrigerating warehouse outside of this State unless it shall have been marked, stamped or tagged as provided for in section 1 of this act [8235]. (Id. § 8237.)

39. Sales, When Lawful, Eggs.—It shall be unlawful for any person, firm or corporation to sell, or have in its possession with the intent of selling, or offering or exposing for sale, any package, box, bale, barrel, tub or other receptacle in which any meats, fish, eggs, butter, cheese, poultry, game, fruits, farm or garden produce, or any other perishable foodstuffs are packed or contained and which has been taken or removed from any cold storage or refrigerating warehouse where the stamp showing the date such articles of food were placed in any such cold storage or refrigerating warehouse has been removed, defaced, altered or destroyed, or is not plainly legible, nor shall such person, firm or corporation sell, either at wholesale or retail, any storage eggs as fresh eggs, and all invoices shall plainly state whether such eggs are storage or fresh, and when such eggs are sold at retail, in case eggs so sold have been in storage for thirty days, there shall be placed in or on the receptacle containing them, in full view of the public, a card

not smaller than six inches in width by six inches in length, upon which shall be printed the words "cold storage," in plain Gothic letters not less than two inches in length, and the wrapper, bag or container in which said eggs are delivered to the purchaser by the retailer shall be plainly stamped with the words "cold storage." (Id. § 8238.)

40. Record, Receipts and Withdrawals.—It shall be the duty of any person, firm or corporation carrying on, engaged in, or conducting a business of storing perishable food or keeping or maintaining a cold storage or refrigerating warehouse where meats, fish, butter, cheese, eggs, poultry, game, fruits, farm or garden produce or any other perishable foodstuffs are stored, to keep an accurate record of the receipts and withdrawals of all products so received or withdrawn, and the State Board of Health shall have free access to these records at any time. (Id. § 8239.)

41. License Required; Fee; Revocation.—Any person, firm or corporation desiring to carry on, engage in or conduct a business of storing perishable food, or to keep, maintain or operate a cold storage or refrigerating warehouse where meats, fish, eggs, butter, cheese, poultry, game, fruits, farm or garden produce, or any other perishable foodstuffs are stored, shall make application in writing to the State Board of Health for that purpose, in which application shall be declared the location at which said business is proposed to be carried on. Upon receipt of the application the State Board of Health shall cause an examination to be made into the sanitary condition of the place of business occupied by the applicant. If, upon examination, said place of business is found to be in a sanitary condition, clean and suitable for said purpose, the State Board of Health shall cause a license to be issued such applicant, authorizing such applicant to carry on said business for and during the period of one year. The said license shall be issued upon the payment by such applicant of a license fee of ten dollars (\$10) to the Treasurer of State. The license fees so paid shall be held by the Treasurer of State as a fund for the enforcement of this act and, at the end of each fiscal year, the unexpended balance shall revert to the general fund. All disbursements necessary for the carrying out of this act shall be paid by warrant drawn upon the Treasurer of State after the filing with the Auditor of State all vouchers and bills as now provided for by law.

In the event that said place of business shall be conducted in an insanitary manner or in a manner contrary to the provisions of this act, it shall be the duty of the State Board of Health to revoke said license and to close the cold storage or refrigerating warehouse until such time as it may again be in a sanitary condition, clean and suitable for use. (Id. § 8240.)

42. State Board of Health; Duties.—It shall be the duty of the State Board of Health to enforce the provisions of this act and, for this purpose, the State Food and Drug Commissioner, the food inspector of the State Board of Health, and the State, county and city and town health officers shall have full power at all times to enter every building, room, basement or cellar occupied or used or suspected of being occupied or used as a cold storage or refrigerating warehouse, and to inspect the premises, and if, upon such inspection, any cold storage or refrigerating warehouse or any employer, employee or other person is found to be violating any of the provisions of this act, or if the meats, fish, eggs, butter, cheese, poultry, game, fruit, farm or garden products [produce] or any other perishable foodstuffs stored therein, are not marked, stamped or tagged in accordance with the provisions of this act, or are found to be unfit for food, the officer or inspector making the inspection shall furnish evidence of said violation to the prosecuting attorney of the county or circuit wherein such violations occur, who shall prosecute all persons violating any of the provisions of this act. The State Board of Health shall adopt such rules as may be necessary to enforce this act and violation of said rules shall be punished on conviction as set forth in section 9 of this act [8242]. (Id. § 8241.)

43. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall, upon conviction, be punished, for the first offense, by a fine of not less than \$25.00 nor more than \$50.00; for the second offense, by a fine of not less than \$50.00 nor more than \$100.00, and for the third and subsequent offenses, by a fine of \$200.00 and imprisonment in the county jail for not less than thirty (30) nor more than ninety (90) days, and each day on which the cold storage or refrigerating warehouse is found to be in violation thereof, or the employer, employee, or other person is found to be violating any of the provisions of this act, shall constitute a distinct and separate offense. (Id. § 8242.)

Confectionery.

44. Candy, Adulteration.—No person shall, by himself, servant or agent, nor as the servant or agent of any other person, firm or corporation, manufacture for sale, or knowingly sell or offer for sale any candy adulterated by the admixture of terra alba, barytes, talc or any other mineral substance, or by poisonous colors or flavors, or by other ingredients deleterious or detrimental to health. Any person or corporation violating any of the provisions of this section shall, on conviction, be fined not less than fifty dollars nor more than one hundred dollars; and the candy so adulterated shall be confiscated and destroyed under the direction of the court. (Burns' Anno. Stats. 1926, § 2659.)

NOTE: See also Nos. 11, 104 et seq. and 275.

Dairy Products—Substitutes For Dairy Products.

45. Renovated Butter; Branding.—No person, firm, corporation, association, or agent of the person, firm, corporation or association, shall sell any butter made by taking the original packing stock, or other butter, and melting the same, extracting the butter fat and mixing such fat with skim milk, or cream or other milk products and rechurning or reworking such mixture, or any butter produced by any process commonly known as "boiled process" or renovated butter, unless the words "Renovated Butter" or "Process Butter" shall be plainly branded with bold-faced letters at least three-fourths of an inch high, on the top and sides of the receptacle, package or wrapper in which it is kept for sale or sold. And if such butter is exposed for sale uncovered or not in a receptacle, package or wrapper, then a placard containing the words "Renovated Butter" or "Process Butter" printed as aforesaid, shall be attached to the mass of butter in such manner as to be easily seen and read. (Burns' Anno. Stats. 1926, § 2657.)

46. Penalty.—Any person, firm, corporation, association, or agent of any person, firm, corporation, or association violating any of the provisions of section 1 [2657] of this article [act] shall be deemed guilty of [a] misdemeanor; the punishment thereof shall be a fine of not less than twenty-five [dollars] (\$25.00) nor more than two hundred and fifty dollars (\$250.00) or imprisonment for not less than thirty days nor more than five months or both. (Id. § 2658.)

47. Oleomargarine; Sale of.—Whoever sells, or has in his possession with the intent to sell or expose for sale, or whoever keeps on any table at any hotel, or at any public or private boarding house, any butter other than that made from pure milk, without first labeling the same in large letters "oleomargarine," shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than fifty dollars nor less than ten dollars. (Id. § 3037.)

47a. "Butter" Defined.—For the purposes of this act the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter. (Act of Mar. 10, 1927, § 1.)

47b. "Oleomargarine" Defined.—For the purposes of this act, certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and lard extracts, and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat; made in imitation or semblance of butter, or when so made, calculated or intended to be sold as butter or for butter. (Id. § 2.)

47c. Sale of Oleomargarine Prohibited Unless Packages Stamped.—No person shall sell, expose or offer for sale or exchange, or have in his possession with intent to sell or exchange any oleomargarine or other substance made in imitation of butter, and which is intended to be used as a substitute for butter, unless each and every vessel, package, roll, carton or parcel of such substance has distinctly and durably printed, stamped or stenciled thereon the true name of such substance in plain gothic letters of not less than twenty-point type, and the name and address of the manufacturer in plain gothic letters of not less than nine-point type. (Id. § 3.)

47d. Display of Signs by Restaurant, Etc.; Proviso.—Every person, firm, or corporation conducting any hotel dining room, restaurant, lunchroom, public or private boarding house, dining room, or any other public eating place where oleomargarine,

butterine or other substitute is served, shall print in plain English in a conspicuous place on the bill of fare or menu, the words "Oleomargarine Served Here," and shall display signs bearing the words "Oleomargarine Served Here" on at least two sides of the room, in such manner that they may be easily and readily seen and read from all tables and counters on which food is served. The type in which the legend "Oleomargarine Served Here" is printed shall not be less conspicuous or smaller in size than that used in the remainder of the bill of fare or menu. Display signs shall bear only the legend "Oleomargarine Served Here" and shall be printed in bold-faced, black Gothic type not less than two inches high. Provided, that the provisions of this section shall not be construed to apply to hotels, restaurants, lunchrooms, boarding houses and other eating places where oleomargarine, butterine or other substitutes for butter are used in the preparation of food served therein, but shall be construed to apply only where oleomargarine, butterine or other substitutes are served on the table, counter or other eating place in lieu of and as a substitute for butter. (Id. § 4.)

47e. Use of Certain Words Prohibited.—No person, firm, association or corporation shall use in any way, in connection or association with the sale or exposure for sale or advertisement of oleo or any other substance designed to be used as a substitute for butter, the word "Milk," "Butter," "Creamery," "Dairy," pictures of dairy cows or dairy farms or the name or representation of any breed of dairy cattle, or any other words or symbols or combination thereof commonly used in the sale of butter and other dairy products. (Id. § 5.)

47f. Enforcement of Act.—The State Board of Health, its food inspectors, chemists or agents, shall be charged with the enforcement of the provisions of this act. (Id. § 6.)

47g. Penalty.—Any person, firm, association or corporation who shall violate the provisions of this act shall be deemed guilty of a misdemeanor, every violation constituting a separate offense, and upon conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than six months or by both such fine and imprisonment at the discretion of the court. (Id. § 7.)

47h. Inconsistent Laws Repealed.—All laws and parts of laws within the purview of this act are hereby repealed. (Id. § 8.)

48. Milk; Adulterations, Sale, Standard.—No person, either by himself, his servant or agent, or as the servant or agent of another person, shall sell, exchange or deliver, or have in his custody or possession with intent to sell, exchange or deliver, expose or offer for sale or exchange adulterated milk, or milk to which water or any foreign substance has been added, or milk produced by sick or diseased cows, or milk from which the cream or a part thereof has been removed, or milk which is not of standard quality, or milk collected and kept or handled under conditions which are not cleanly and sanitary, or milk which contains visible dirt, or milk which contains less than eight and one-half per cent of milk solids, exclusive of fat, and 3.25 per cent of milk fat, or milk which contains any added color or preservative, or, as pasteurized milk, milk which has not been subjected to a temperature of at least 145 degrees Fahrenheit for thirty minutes or 165 degrees Fahrenheit for thirty seconds; provided, however, that this section shall not be construed to prohibit the sale of skim milk when such skim milk is sold as and plainly labeled "skim milk." (Burns' Anno. Stats. 1926, § 8226.)

49. Weighing, Sampling, Testing.—It shall be unlawful for any hauler of milk or cream, or other person, or creamery, or other milk plant or agent, receiving milk or cream by weight or test or by weight and test, to fraudulently manipulate the weights of milk or cream of any patron or to take unfair samples thereof, or to fraudulently manipulate such samples. The hauler shall weigh the milk or cream of each patron accurately and correctly to the factory. He shall thoroughly mix the milk or cream of each patron by pouring and stirring until such milk or cream is uniform and homogeneous in richness, before the sample is taken from such milk or cream. When the weighing or sampling of the milk or cream of each patron is done at the creamery, shipping station or other factory, [the] firm, corporation or individual buying and paying for milk or cream on the basis of the butter fat contained therein, the same rule shall apply. (Id. § 3638.)

50. Testing Apparatus.—Every person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test shall use standard Babcock test bottles, pipettes and weights and accurate scales, as defined in section 13 of this act [3649], and all Babcock test bottles, pipettes and weights shall have been inspected for accuracy by the Purdue University Agricultural Experiment Station, or its deputy, and shall be legibly and indelibly

marked by the said Purdue University Agricultural Experiment Station, or its deputy, with the letters "S. G. P." (Standard Glassware Purdue). No bottle, pipette or weight shall be used for such test unless so examined and marked by the said Purdue University Agricultural Experiment Station. It shall be unlawful for any person, firm, company, association, corporation, or any of their agents, to use any other than standard test bottles, pipettes and weights which have been examined and marked as provided in this section, to determine the amount of fat in milk or cream, bought and paid for on the butter fat basis. (Id. § 3639.)

51. Unlawful Tests.—It shall be unlawful for any person, firm or corporation by himself, or as the officer, servant, agent or employee of any person, firm or corporation, buying and paying for milk or cream on the basis of the amount of fat contained therein to under-read, over-read or otherwise fraudulently manipulate the Babcock test used for determining the per cent of fat in milk or cream, or to falsify the record thereof or to read the test at any temperature except the correct temperature, which is 135 degrees to 140 degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is 17.6 cubic centimeters for milk and nine (9) grams for cream. This section further provides that in all tests the cream shall be weighed into the test bottles. (Id. § 3640.)

52. License For Tester by Purdue University.—Every person receiving, buying or paying for milk or cream on the basis of the amount of butter fat contained therein, either for himself, or as officer, servant, agent or employee of any person, firm, corporation or association, shall hold a tester's license, and every creamery, shipping station or other factory, or person or agent, receiving, buying and paying for milk or cream on the basis of the amount of butter fat contained therein shall have in its employ a licensed tester, who shall supervise and be responsible for the operation of the Babcock test of milk and cream. The license shall be issued to such person by the Purdue University Agricultural Experiment Station upon presentation by the applicant of a certificate of proficiency properly filled out and signed by the chairman of the examining board and upon payment of a license fee as provided in section 7 [3644]. This license shall be valid for the term of one year and shall be revoked by the said Purdue University Agricultural Experiment Station, upon recommendation of the examining board, if the licensee has failed to comply with the rules and regulations under which the license was granted; provided, that the provisions of this section shall not apply to individuals, hotels, restaurants and boarding houses buying milk or cream for private use. (Id. § 3641.)

53. Examining Board, Creation.—The examining board shall consist of three members, two to be appointed by the executive committee of the Indiana State Dairy Association, and the third member shall be the chief of the dairy department of Purdue university agricultural experiment station. (Id. § 3642.)

54. License For Creamery by University.—Every creamery, shipping station, milk factory, cheese factory, or person or agent, firm, company, association or corporation receiving, buying and paying for milk or cream on the basis of the butter fat contained therein shall be required to hold a license. The license shall be issued to such creamery, shipping station, milk factory, condensory, ice cream factory, cheese factory, or person or agent, firm, company, association or corporation by the Purdue University Agricultural Experiment Station, upon complying with the provisions of sections 1 to 4 inclusive of this act [3638 to 3641], and upon payment of a license fee as provided in section 7 [3644]. This license shall be valid for the term of one year, but shall be revoked by the said Purdue University Agricultural Experiment Station if the licensee fails to comply with the rules under which the license was granted; provided, however, that the provisions of this section shall not apply to individuals, hotels, restaurants and boarding houses buying milk or cream for private use. (Id. § 3643.)

55. Fees For Licenses and For Inspection.—The tester's license shall be issued upon compliance with the provisions under [of] section 4 of this act [3641] and upon payment by the candidate to the Purdue university agricultural experiment station of the sum of two dollars (\$2.00). The creamery license shall be issued upon compliance with the provisions under [of] section 6 of this act [3643], and upon payment by the candidate, or his agent, to the said Purdue university agricultural experiment station the sum of six dollars (\$6.00). For all testing glassware inspected by the said Purdue university agricultural experiment station, or its deputy, a fee of three (3) cents shall be paid by the owner of said testing glassware to the said Purdue university agricultural experiment station for every piece of glassware so examined. (Id. § 3644.)

56. Accounting and Use of Funds.—The money for license fees and for inspection fees as provided for in section 7 [3644] shall be paid to the director of the Purdue university agricultural experiment station by whom it shall be paid to the treasurer of Purdue university, the board of control of which shall expend the same, on proper vouchers to be filed with the Auditor of the State, in meeting all necessary expenses in carrying out the provisions of this act, including the employment of inspectors, chemist, expenses of issuing publications giving the results of glassware and factory inspection, as provided for in this act, and for any other expenses of said Purdue university agricultural experiment station as authorized by law. The director of the said experiment station shall include in his annual report to the Governor a classified report showing the total receipts and expenditures of all fees received under the provisions of this act. (Id. § 3645.)

57. Prosecuting Attorney; Duties.—It shall be the duty of every prosecuting attorney to whom the Purdue University Agricultural Experiment Station shall report any violation of the provisions of this act to cause proceedings to be commenced against the person or persons so violating the provisions of this act, and to prosecute the same to final termination, according to the laws of the State of Indiana. (Id. § 3646.)

58. Penalties.—Any employee of a firm, company, association, corporation or person, buying and paying for milk or cream on the basis of the amount of butter fat it contains, violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five (\$25.00) dollars, nor more than five hundred (\$500.00) dollars, or be imprisoned in the county jail for not less than sixty (60) days nor more than twelve (12) months or both. Any firm, company, association, corporation or person, buying or paying for milk or cream on the basis of the amount of butter fat contained therein, violating any of the provisions of this act, shall be guilty of misdemeanor, and upon conviction thereof shall be fined in the sum of one hundred (\$100.00) dollars for the first offense and in the sum of not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000) dollars for each subsequent offense. (Id. § 3647.)

59. Appropriations to University.—In order to insure sufficient funds to execute the provisions in sections 1 to 10, inclusive, of this act [3638 to 3647], and to protect the milk and cream producers of the State against fraud and deception in the weighting [weighing], sampling and testing of milk and cream for butter fat, the following sums of money are hereby annually appropriated to Purdue university for the exclusive use of the Purdue university agricultural experiment station. For the fiscal year ending September 30th, 1913, one thousand (\$1,000) dollars, and one thousand (\$1,000) dollars annually thereafter, said sums to be paid quarterly to the treasurer of Purdue University, out of any moneys of the Treasury of the State of Indiana belonging to the general fund and not otherwise appropriated; the same to be expended for the purpose of providing the necessary equipment and paying the expenses of conducting the inspection of creameries, the examination of testing glassware, the examination of candidates for licenses and of disseminating information and instruction by means of publications and otherwise, as herein provided for. (Id. § 3648.)

60. Testing Apparatus; Requirements.—The term "Standard Babcock Testing Glassware" shall apply to glassware and weights complying with the following specifications:

(a) Standard Milk Test Bottles.

Graduation: The total per cent. graduation shall be 8. The graduated portion of the neck shall have a length of not less than 63.5 mm. (2½ inches). The graduation shall represent whole per cent., five-tenths per cent. and tenths per cent. The tenths per cent. graduations shall not be less than 3 mm. in length; the five-tenths per cent. graduations shall be 1 mm. longer than the tenths per cent. graduations, projecting 1 mm. to the left; the whole per cent. graduation shall extend one-half way around the neck to the right and projecting 2 mm. to the left of the tenths per cent. graduations. Each per cent. graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent.

Neck: The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten (10) millimeters.

Bulb: The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall

be between 34 and 36 mm.; if conical, the outside diameter of the base shall be between 31 and 33 mm., and the maximum diameter between 35 and 37 mm.

The charge of the bottle shall be 18 grams.

The total height of the bottle shall be between 150 and 165 mm. ($5\frac{7}{8}$ and $6\frac{1}{2}$ inches).

(b) Standard Cream Test Bottles.

Two types of bottles shall be accepted as standard cream test bottles, a 50% 9-gram short-necked bottle and a 50% 9-gram long-necked bottle.

Fifty per cent. 9-gram short-neck bottles: Graduation: The total per cent. graduation shall be 50. The graduated portion of the neck shall have a length of not less than 63 mm. ($2\frac{1}{2}$ inches). The graduation shall represent 5 per cent., 1 per cent. and five-tenths per cent. The 5 per cent. graduations shall extend at least half-way around the neck (to the right). The five-tenths per cent. graduations shall be at least 3 mm. in length, and the 1 per cent. graduations shall have a length intermediate between the 5 per cent. and the five-tenths per cent. graduations. Each 5 per cent. graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per cent.

Neck: The neck shall be cylindrical and the cylindrical shape shall extend at least 9 mm. below the lowest and 9 mm. above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 mm.

Bulb: The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 mm.; if conical, the outside diameter of the base shall be between 31 and 33 mm. and the maximum diameter between 35 and 37 mm.

The charge of the bottle shall be 9 grams. All bottles shall bear on top of the neck above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (9 grams).

The total height of the bottle shall be between 150 and 165 mm. ($5\frac{7}{8}$ and $6\frac{1}{2}$ inches), same as standard test bottles.

Fifty per cent. 9-gram long-neck bottles: The same specifications in every detail as specified for the 50 per cent. 9-gram short-neck bottle shall apply for the long-neck, with the exception, however, that the total height of this bottle shall be between 210 and 235 mm. ($8\frac{3}{4}$ and $8\frac{7}{8}$ inches).

Total length of pipette not more than 33 mm. ($1\frac{3}{4}$ inches). Outside diameter of suction tube 6 to 8 mm. Length of suction tube 130 mm. Outside diameter of delivery tube 4.5 to 5.5 mm. Length of delivery tube 100 to 120 mm. Distance of graduation mark above bulb 30 to 60 mm. Nozzle straight. Delivery 17.6 cc. of water at 20 degrees C. in 5 to 8 seconds. The standard weight shall be nine (9) grams. (Id. § 3649.)

61. Pasteurized Milk; Tuberculin Tested Herds.—No person, firm, association, or corporation shall offer or expose for sale, sell or exchange or deliver, or have within their possession with intent to sell, exchange or deliver for household use, any milk which has not been thoroughly pasteurized by heating the same to a temperature of not less than one hundred and forty-two degrees Fahrenheit (142° F.) and holding at that temperature for not less than thirty minutes, or by heating to one hundred and sixty-five degrees Fahrenheit (165° F.) for thirty seconds, except as herein and hereafter provided; the provisions of this act shall not apply to any person, firm, association, or corporation selling milk for household use from their own cows or herd which have been tuberculin tested, as hereinafter provided, or purchasing milk for the purpose of reselling the same to be used outside of the State, or purchasing milk for the purpose of reselling the same for household use which has been produced by other cows or herds which have been tuberculin tested annually under the supervision of a graduate licensed veterinarian, or State or Federal authorities and are shown by said tuberculin test to be without physical evidence of tuberculosis. (Id. § 3650.)

62. Food and Drug Department; Enforcement of Act; Prosecuting Attorneys.—The State Board of Health, their Food and Drug Commissioner, food inspectors, chemists, or agents, shall be charged with the enforcement of the provisions of this act. It shall be the duty of every prosecuting attorney to whom the State Board of Health, their food and drug commissioner, food inspectors, chemists or agents shall report any violation of the provisions of this act to cause proceedings to be commenced against the person or persons so violating the provisions of this act, and to prosecute the same to final termination, as provided for in the laws of this State. (Id. § 3651.)

63. Penalties.—Any person, firm, association or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, every violation con-

stituting a separate offense, and upon conviction thereof shall be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment in the county jail for not less than thirty days or more than six months or by both such fine and imprisonment at the discretion of the court. (Id. § 3652.)

64. Cumulative and Supplemental Act.—The provisions of this act shall be held cumulative, or supplemental to all other laws in any way affecting them, or any matter which in any manner is the subject of this act in this State. (Id. § 3653.)

65. Milk or Ice Cream Cans; Cleaning.—Whenever any can or receptacle is used for transporting or conveying milk, cream or ice cream to market for the purpose of selling or furnishing the same for consumption as human food, which can or receptacle, when emptied, is returned or intended to be returned to the person so selling, furnishing or shipping such substance, to be again thus used, or which may be again used as a receptacle for milk, cream or ice cream, or which is liable to continued use in so transporting, conveying, selling or shipping such substances as aforesaid, the consumer, dealer or consignee using, selling or receiving the milk, cream or ice cream from such can or receptacle, shall immediately, and before so returning such can or receptacle, thoroughly remove all particles of such substance therefrom, by washing and rinsing with water until all milk, cream or ice cream shall have been thoroughly removed. When any such milk, cream or ice cream is sold within any city of this State or shipped into any such city, the fact of such shipment or sale shall be prima facie evidence that the same was so shipped or sold for consumption as human food. When any such can or receptacle is returned or delivered or shipped to any person or creamery so selling such substance within, or shipping the same into, any such city, it is deemed that such can or receptacle is liable to such continued use in so selling or shipping such substance therein for consumption as human food within the meaning and purposes of this section. No person shall place or suffer to be placed in any such can or receptacle any sweepings, refuse, dirt, litter, garbage, filth or any other animal or vegetable substance liable to decay and tending to produce or promote an unsanitary condition, nor shall any such consignee or other person, through himself, his agent or employee, allow such can or receptacle to remain uncleansed or bring or deliver to any person or railroad or other conveyance any such can or receptacle for the purpose of such return, or any milk, cream or ice cream can or receptacle for the purpose of delivery or shipment to any person or creamery engaged in so selling or shipping such substances for consumption as human food, which can or receptacle contains such particles of milk, cream or ice cream, or such other substance as is herein prohibited from being placed therein. Whenever any such can or receptacle is used, returned, delivered or shipped in violation of this section, every such use, return, delivery or shipment of such can or receptacle shall be deemed a separate violation thereof. (Id. § 3654.)

66. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). (Id. § 3655.)

67. Condensed, Evaporated and Skimmed Milk; Sale of.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated milk which shall not conform at least to the minimum standards established from time to time by the bureau of standards of the United States Department of Agriculture, and approved by the State Board of Health, and which, if contained in hermetically sealed cans, does not bear stamped or labeled thereon, the name and address of the manufacturer or jobber thereof, or dealer therein. (Id. § 3656.)

68. Milk—Addition of Fats and Oils.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, ice cream, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them, to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. (Id. § 3657.)

69. Containers; Labels.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to sell or exchange, or expose for sale or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated or powdered skim milk in containers holding less than ten pounds avoirdupois net weight, and each said container shall bear the name and address of the manufacturer, distinctly branded, indented, labeled or printed, thereon, together with the words "condensed skim milk," or

"powdered skim milk," as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand, indentation or label. (Id. § 3658.)

70. Penalty.—Any violation of any of the provisions of this section is hereby declared to be a misdemeanor, and any person, whether individually or as a member of a partnership, or as a responsible agent or officer of a corporation, who shall be convicted of such violation, either on his own behalf or in the interests of a corporation, shall be punished by imprisonment for not less than thirty days nor more than sixty days or by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) or by both such fine and imprisonment. (Id. § 3659.)

71. Food and Drug Commissioners; Duties; Prosecuting Attorneys.—The State Board of Health, their food and drug commissioner, food inspectors, chemists or agents, shall be charged with the enforcement of the provisions of this section. It shall be the duty of every prosecuting attorney to whom the State Board of Health, their food and drug commissioner, food inspectors, chemists or agents shall report any violation of the provisions of this act to cause proceedings to be commenced against the person or persons so violating the provisions of this act, and to prosecute the same to final termination, in accordance with the laws of this State. (Id. § 3660.)

72. Date Effective.—This act* shall be in full force and effect on and after the first day of June, 1928. (Id. § 3661.)

73. Assistants, Supplies, Oaths, Milk Inspection.—The state veterinarian is hereby empowered to appoint and employ such assistants or agents, and to purchase [such] supplies and materials as may be necessary in carrying out the provision[s] of this act; the State Veterinarian or his duly appointed agents are empowered to administer oaths or affirmations, they may make such examinations into the conditions of the live stock of the State in relation to contagious and infectious diseases, including milk supplies of cities, towns and villages, as may seem necessary, and to take proper measures to protect such milk supplies from contamination. All milk placed upon the market for sale must be of a temperature not to exceed sixty degrees. The decision of the State Veterinarian in all matters pertaining to diseases of domestic animals and his orders as to their disposition shall be final. He may call upon any peace officer for assistance in the discharge of his duties and such peace officer shall give assistance. (Id. § 3751.)

74. Milk; Competition, Prices, Discrimination.—Any person, firm, company, association or corporation, foreign or domestic, doing business in the State of Indiana, and engaged in the purchasing, manufacture or distribution of milk or milk products, that shall intentionally, for the purpose of destroying the business of a competitor in any locality and creating or maintaining a monopoly, discriminate between different sections, communities or cities of this State, by buying or selling such commodity at a lower rate in one section, community or city than is paid or charged for such commodity in another section, community or city, after equalizing the distance from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, the actual cost of transportation, and making allowance for differences in quality, shall be deemed guilty of unfair discrimination. (Id. § 4663.)

75. Penalty For Violation.—Any person, firm, company, association or corporation, violating any of the provisions of the preceding section and any officer, agent or receiver of any firm, company, association or corporation, or any member of the same, or any individual found guilty of a violation thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or be imprisoned in the county jail not to exceed six months, or suffer both penalties. (Id. § 4664.)

76. Contracts Void.—All contracts and agreements made in violation of any provisions of the two preceding sections shall be void. (Id. § 4665.)

77. Prosecuting Attorney, Duties.—It shall be the duty of the prosecuting attorneys, in their counties, and the Attorney-General to enforce the provisions of the preceding sections of this act by appropriate actions in courts of competent jurisdiction. (Id. § 4666.)

78. Reference to Attorney-General.—If complaint shall be made to the Secretary of State that any corporation authorized to do business in this State is guilty of unfair discrimination, within the terms of this act, it shall be the duty of the Secretary of State to refer the matter to the Attorney-General, who may, if the facts justify it in his judgment, institute proceedings in the court against such corporations. (Id. § 4667.)

*Acts 1925, p. 352, included in Nos. 67-72 herein.

79. Revocation of Permit.—If any corporation, foreign or domestic, authorized to do business in this State, is found guilty of unfair discrimination, within the terms of this act, it shall be the duty of the Secretary of State to immediately revoke the permit of such corporation to do business in this State. (Id. § 4668.)

NOTE: See also Nos. 11, 36 et seq., 104 et seq., 209 et seq., and 275.

Eggs.

See No. 3; also the cold storage law, No. 36 et seq.

Feeding Stuffs.

80. Food For Animals; Adulterating.—Whoever manufactures for sale, or offers or exposes for sale, or sells, as bran, shipstuff, shorts, offal or mill-feed manufactured out of wheat, intended for the use of animals, any bran, shipstuffs, shorts, offal or mill-feed which is adulterated with any substance not a legitimate part of pure bran, shipstuff, shorts, offal or mill-feed, shall, on conviction, be fined not less than twenty dollars nor more than one hundred dollars. (Burns' Anno. Stats. 1926, § 2665.)

81. Statement to State Chemist.—Before any concentrated commercial feeding stuff is sold, offered or exposed for sale in Indiana, the manufacturer, importer, dealer, agent or person who causes it to be sold or offered for sale, by sample or otherwise, within this State shall file with the State Chemist of Indiana at the Indiana Agricultural Experiment Station, Purdue University, a statement that he desires to offer such concentrated commercial feeding stuff for sale in this State, and also a certificate, the execution of which shall be sworn to before a notary public or other proper official, for registration, stating the name of the manufacturer, the location of the principal office of the manufacturer, the name, brand or trade-mark under which the concentrated commercial feeding stuff will be sold, the ingredients from which the concentrated commercial feeding stuff is compounded and the minimum percentage of crude fat and crude protein, allowing one per cent of nitrogen to equal six and twenty-five hundredths per cent of protein, and the maximum percentage of crude fiber which the manufacturer or person offering the concentrated commercial feeding stuff for sale guarantees it to contain; these constituents to be determined by the methods recommended by the Association of Official Agricultural Chemists of the United States. (Id. § 8825.)

82. Label and Stamp.—Any person, company, corporation or agent that shall sell or offer or expose for sale any concentrated commercial feeding stuff in this State shall affix or cause to be affixed to every package or sample of such concentrated commercial feeding stuff, in a conspicuous place on the outside thereof, a tag or label, which shall be accepted as a guarantee of the manufacturer, importer, dealer or agent, and which shall have plainly printed thereon in the English language the number of net pounds of concentrated commercial feeding stuff in the package, the name, brand or trade-mark under which the concentrated commercial feeding stuff is sold, the name of the manufacturer, the location of the principal office of the manufacturer and the guaranteed analysis stating the minimum percentage of crude fat and crude protein, determined as described in section 1 [8825] and the ingredients from which the concentrated commercial feeding stuff is compounded. For each one hundred pounds or fraction thereof the person, company, corporation or agent shall also affix the stamp purchased from the State Chemist showing that the concentrated commercial feeding stuff has been registered as required by section 1 of this act [8825] and that the inspection tax has been paid. When concentrated commercial feeding stuff is sold in bulk a tag, as hereinbefore described, and a State Chemist stamp shall be delivered to the consumer with each one hundred pounds or fraction thereof: provided that State Chemist's stamps shall be issued to cover twenty-five (25), fifty (50) and one hundred (100) pounds. (Id. § 8826.)

83. Registering, Fees, Stamps.—The State Chemist shall register the facts set forth in the certificate required by section 1 of this act [8825] in a permanent record and shall furnish stamps or labels showing the registration of such certificate to manufacturers or agents desiring to sell the concentrated commercial feeding stuff so registered at such times and in such numbers as the manufacturers or agents may desire: provided, that the State Chemist shall not be required to sell stamps or labels in less amount than to the value of five dollars (\$5.00) or multiples of five dollars for any one concentrated commercial feeding stuff: provided, further, that the State Chemist shall not be required to register any certificate un-

less accompanied by an order and fees for stamps or labels to the value of five dollars (\$5.00) or some multiple of five dollars: provided, further, that such stamps or labels shall be printed in such form as the State Chemist may prescribe: provided, further, that such stamps or labels shall be good until used. (Id. § 8827.)

84. Sworn Annual Statement.—On or before January thirty-first of each year each and every manufacturer, importer, dealer, agent or person who causes any concentrated commercial feeding stuff to be sold or offered or exposed for sale in the State of Indiana shall file with the State Chemist of Indiana a sworn statement, giving the number of net pounds of each brand of concentrated commercial feeding stuff he has sold or caused to be offered for sale in the State for the previous year ending with December thirty-first: provided, that when the manufacturer, jobber or importer of any concentrated commercial feeding stuff shall have filed the statement aforesaid, any person acting as agent for said manufacturer, importer or jobber shall not be required to file such statement. (Id. § 8828.)

85. Accounting and Use of Fees.—For the expenses incurred in registering, inspecting and analyzing concentrated commercial feeding stuffs, the State Chemist shall receive for stamps or labels furnished to cover one hundred (100) pounds, eighty (80) cents per hundred; to cover fifty (50) pounds, forty (40) cents per hundred and to cover twenty-five (25) pounds, twenty (20) cents per hundred. The money for said stamps or labels shall be forwarded to the said State Chemist, who shall pay all such fees received by him to the director of the Indiana Agricultural Experiment Station, Purdue university, by whom they shall be paid into the treasury of said Indiana Agricultural Experiment Station, the board of control of which shall expend the same, on proper vouchers to be filed with the Auditor of State, in meeting all necessary expenses in carrying out the provisions of this act, including the employment of inspectors, chemists, expenses in procuring samples, printing bulletins, giving the results of the work of feeding-stuff inspection as provided for by this act, and for any other expenses of said Indiana Agricultural Experiment Station, as authorized by law. The director of said Experiment Station shall make to the Governor, on or before February 15th of each year, a classified report, showing the total receipts and expenditures of all fees received under the provisions of this act. (Id. § 8829.)

86. Unlawful Sale; Penalties.—Any person, company, corporation or agent that shall offer for sale, sell or expose for sale any package or sample or any quantity of any concentrated commercial feeding stuff which has not been registered with the State Chemist as required by section 1 [8825] of this act or which does not have affixed to it a tag and stamp required by section 2 of this act [8826] or which is found by an analysis made by or under the direction of the State Chemist to contain a smaller percentage of crude fat or crude protein than the minimum guarantee or which shall be labeled with a false or inaccurate guarantee or who shall adulterate any concentrated commercial feeding stuff with foreign mineral matter or other foreign substance such as rice hulls, chaff, mill sweepings, peanut shells, corn bran, corncob meal, oat hulls, oat clippings or other materials of less or of little or no feeding value, without plainly stating on the label hereinbefore described the kind and amount of such mixture, or who shall adulterate with any substance injurious to the health of domestic animals or who shall alter the stamp tag or label of the State Chemist or shall use the name and title of the State Chemist on a stamp tag or label not furnished by the State Chemist or shall use the stamp, tag or label of the State Chemist the second time or shall refuse or fail to make the sworn statement required by section 4 of this act [8828] shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of fifty dollars for the first offense and in the sum of one hundred dollars for each subsequent offense. In all litigation arising from the purchase or sale of any concentrated commercial feeding stuff in which the composition of the same may be involved, a certified copy of the official analysis signed by the State Chemist shall be accepted as prima facie evidence of the composition of such concentrated commercial feeding stuff: provided, that nothing in this act shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or as preventing the free, unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuff for sale or to prevent the State Chemist or the Indiana Agricultural Experiment Station or any person or persons deputized by said State Chemist making experiments with concentrated commercial feeding stuffs for the advancement of the science of agriculture. (Id. § 8830.)

87. Samples, Power to Procure.—The State Chemist, or any person by him deputized is hereby empowered to procure from any lot, parcel or package of any concentrated commercial feeding stuff offered for sale or found in Indiana a

quantity of concentrated commercial feeding stuff not to exceed two pounds: provided, that such sample shall be drawn during reasonable business hours or [and] in the presence of the owner of the concentrated commercial feeding stuff or of some person claiming to represent the owner. (Id. § 8831.)

88. Obstructing Inspection; Penalty.—Any person who shall prevent or strive to prevent the State Chemist or any person deputized by the State Chemist from inspecting and obtaining samples of concentrated commercial feeding stuff, as provided for in this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the sum of fifty dollars for the first offense and in the sum of one hundred dollars for each subsequent offense. (Id. § 8832.)

89. Rules, Regulations and Standards.—The State Chemist is hereby empowered to prescribe and enforce such rules and regulations relating to concentrated commercial feeding stuff as he may deem necessary to carry into effect the full intent and meaning of this act and to refuse the registration of any feeding stuff under a name which would be misleading as to the materials of which it is made, or when the percentage of crude fiber is above or the percentage of crude fat or crude protein below the standards adopted for concentrated commercial feeding stuffs. The State Chemist is further empowered to refuse to issue stamps or labels to any manufacturer, importer, dealer or agent or person who shall sell or offer or expose for sale any concentrated commercial feeding stuff in this State and refuse to submit the sworn statement required by section 4 of this act [8828]. (Id. § 8833.)

90. Prosecuting Attorney; Duties.—It shall be the duty of every prosecuting attorney to whom the State Chemist shall report any violation of this act to cause proceedings to be commenced against the person or persons so violating the act and the same prosecuted in the manner required by law. (Id. § 8834.)

91. Feeding Stuffs Defined.—The term "concentrated commercial feeding stuff" as used in this act shall include linseed meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, maize feeds, dairy feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts and other mill by-products not excluded in this section, ground beef or fish scraps, dried blood, blood meals, bone meals, tankage, meat meals, slaughterhouse waste products, mixed feeds, clover meals, alfalfa meals and feeds, peavine meal, cottonseed meal, velvet meal, sucrine, mixed feeds and mixed meals made from seeds or grains and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds; but it shall not include straw, whole seeds, unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat and broom corn, nor wheat flours or other flours. (Id. § 8835.)

NOTE: See also Nos. 91a, 258 and 275.

Fish.

See Nos. 36 et seq. and 275.

Flaxseed Meal, Etc.

91a. Flaxseed Oil, Purity.—No person, firm or corporation shall manufacture for sale, in the State of Indiana, offer or expose for sale, or sell, in the State of Indiana, any flaxseed or linseed oil, flaxseed or linseed meal or oil cake, unless the same answers a chemical test for purity, recognized in the United States Pharmacopœia, or any flaxseed or linseed oil as "boiled linseed oil," unless the same shall have been put in its manufacture to a temperature of two hundred and twenty-five degrees (225°) Fahrenheit. (Burns' Anno. Stats. 1926, § 8836.)

91b. Sales Forbidden.—No person, firm or corporation shall manufacture in this State, offer or expose for sale, or sell, in this State, any oil as and for flaxseed or linseed oil, or boiled linseed oil, flaxseed or linseed meal or oil cake, unless the same conforms to the test named in section 1 [8836] of this act. (Id. § 8837.)

91c. Name of Oil.—No person, firm or corporation shall sell, expose or offer for sale, any flaxseed or linseed oil, unless it is done under the true name, and each tank car, tank, barrel, keg, bottle, or other vessel containing such oil has distinctly and durably painted, stamped, stenciled, or marked thereon the true name of such oil, and the name of the manufacturer or vendor and his address. (Id. § 8838.)

91d. Penalties.—Any person, firm or corporation who shall sell, without such stamp, mark or inscription as is required by section 3 [8838] of this act, or who shall falsely stamp or label such vessel containing flaxseed or linseed oil or knowingly permit such stamping, labeling or marking, or who shall sell as and for linseed oil any oil that is not such as herein prescribed, or whoever shall violate any provision of this act shall be guilty of a misdemeanor, and shall be punished with a fine of not less than fifty dollars (\$50.00) nor more than five hundred [dollars] (\$500.00), or be imprisoned not less than thirty (30) days, nor more than ninety (90) days for each offense. (Id. § 8839.)

91e. Duty of Health Board.—It is hereby made the duty of the State Board of Health of the State of Indiana to co-operate in the enforcement of the provisions of this act, and to bring all violations of the same to the attention of the grand juries. (Id. § 8840.)

Flour.

See Nos. 234 et seq. and 279.

Fruits, Vegetables, Etc.

91f. Division of Entomology.—The Department of Conservation shall have power and it shall be its duty:

1. To enforce the laws relating to horticulture and beekeeping.
2. To inspect orchards, nurseries, nursery stock, fields, fruits and all horticultural and agricultural plants and plant products; all supplies, packing houses, warehouses, and other places where fruit or other horticultural and agricultural plants and plant products are packed, stored or shipped, as well as other trees and properties, to ascertain whether the same are infected or infested with any disease or pest injurious to fruit trees or other horticultural or agricultural plants, and to compel the owner to disinfect, fumigate or destroy the same and to prevent the spread thereof.
3. To require the disinfection, fumigation or other treatment of all trees, ornamental shrubbery, orchards, nurseries and nursery stock, fruit or vegetable packing houses, or any other places infested with any pest, fungi or disease injurious to horticultural or agricultural plants or plant products.
4. To inspect and examine orchards, fruits, nursery stock, fields and all horticultural and agricultural plant and plant products, at the request of the owner thereof, for the purpose of ascertaining the existence of any disease or pest and to report to the applicant the results of such inspection and to prescribe proper remedies or treatment therefor.
5. To prevent the introduction and spread of diseases or pests injurious to fruits, fruit trees, horticultural and agricultural plants and plant products and bees, and to specify the means and methods to be employed for the prevention, suppression or control of such diseases or pests.
6. To formulate rules and regulations for the guidance of inspectors in making inspections and investigations under the provisions of this act. * * *
12. To destroy any infected nursery stock, fruit trees, or other horticultural or agricultural plants or plant products, whenever, in the judgment of the commission, the same may be necessary to prevent the spread of plant diseases or pests.
13. To formulate and enforce necessary quarantine regulations, subject to the approval of the Governor.
14. To prepare, print, post or distribute printed matter relating to fruit, horticultural, floricultural or agricultural plants or plant products and bees and beekeeping and the diseases and pests affecting the same, and make investigations and experiments in regard to bees, beekeeping and diseases and pests. * * *
17. To make all necessary rules and regulations for the enforcement of the law relating to horticulture and beekeeping and the prevention of plant diseases and pests. (Burns' Anno. Stats. 1926, § 4740.)

NOTE: See also Nos. 36 et seq., 96, 101 et seq., and 233 et seq.

Grain.

See Nos. 258 et seq., and 280 et seq.

Ice.

See Nos. 275 and 279.

Meat—Meat Products.

92. Selling Meat of Diseased Animal For Food.—Whoever kills, for the purpose of sale, any sick, diseased or injured animal, or sells or has in his possession, with the intent to sell, the meat of any such sick or diseased or injured animal, shall, on conviction, be fined not less than fifty dollars, nor more than five hundred dollars, to which may be added imprisonment in the county jail not more than six months. (Burns' Anno. Stats. 1926, § 2651.)

93. Selling Unwholesome Provisions or Meat.—Whoever knowingly sells, or has in his possession, with intent to sell, or exposes for sale, any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, or whoever knowingly sells or exposes for sale any article or substance intended to be eaten or drunk, and shall, by label or in any other way, represent it to be other than what it is; or whoever kills, for the purpose of sale, any calf less than four weeks old, or sells, or has in his possession with intent to sell, the meat of any calf which he knows to have been killed when less than four weeks old, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months. (Id. § 2652.)

94. Sale Prohibited Until Inspected.—It shall be unlawful for any person, firm or corporation to offer, at public or private sale or trade, for food purposes, any meat-producing animal showing physical symptoms of disease, unless such animal has been inspected and passed by the State Veterinarian or his assistant or a veterinary inspector in the employ of the Federal government. (Id. § 3777.)

95. Penalty For Violating Act.—Violation of any of the provisions of this act, or the rules and regulations made in pursuance thereof, is hereby made a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred and fifty dollars (\$250.00), or by imprisonment in the county jail not more than sixty days, or by both such fine and imprisonment for each offense; and it is hereby made the duty of the prosecuting attorney of the county in which the violation takes place to prosecute the action. (Id. § 3779.)

NOTE: See also No. 3; the cold storage law, No. 36 et seq.; No. 104 et seq.; Nos. 234 et seq. and 275.

Molasses.

See No. 279.

Salt.

See Nos. 234 et seq and 275.

Spices.

See No. 275.

Sweet Potatoes.

96. Grades of Sweet Potatoes.—The following grades for sweet potatoes are hereby established and shall be known as the Indiana grades for sweet potatoes:

Grade No. 1 shall consist of cured sweet potatoes from warm air storage, shall be not less than one and one-half inches and not more than three and one-half inches in diameter, and not less than four inches and not more than eleven inches in length, but the length may be less than four inches if the diameter is two and one-fourth inches or more. Sweet potatoes which are graded at the time they are dug shall be not less than one and three-fourths inches and not more than four inches in diameter. All sweet potatoes classed as grade No. 1 sweet potatoes shall be sound, of similar varietal characteristics, practically free from dirt or other foreign matter, frost injury, decay, bruises, cuts, scars, cracks and damage caused by heat, disease, insects or mechanical or other means. For the purposes of allowing for variations incident to commercial grading and handling, 5 per cent by weight, of any lot may not meet the requirements as to diameter and length, and, in addition, 6 per cent by weight may be below the other requirements of this grade.

Grade No. 2 shall consist of sound sweet potatoes of similar varietal characteristics, not meeting the requirements of grade No. 1, which are free from serious damage caused by dirt or other foreign matter, frost, injury, decay, bruises, cuts, scars, cracks, heat, disease, insects or mechanical or other means. Cured or

dried sweet potatoes classified as grade No. 2 shall be not less than one inch and not more than one and one-half inches in diameter. Green sweet potatoes shall be not less than one and one-half inches and not more than two inches in diameter. For the purpose of allowing for variations incident to commercial grading and handling, 5 per cent by weight, of any lot of cured or dried sweet potatoes may not meet the requirements as to diameter and length, and, in addition, 6 per cent by weight, may be below the other requirements of this grade; and 5 per cent by weight, of any lot of green sweet potatoes may not meet the requirements as to diameter and length. (Burns' Anno. Stats. 1926, § 14611.)

Tea.

See No. 275.

Vinegar.

97. Vinegar; Adulteration.—Every person who manufactures for sale, or offers or exposes for sale, as "cider vinegar" any vinegar not the product of pure apple juice, or into which any foreign substance, ingredient, drug or acid has been introduced, shall, for each such offense, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars. (Burns' Anno. Stats. 1926, § 2660.)

98. Injurious Ingredients.—Every person who manufactures for sale, sells, or offers or exposes for sale, any vinegar containing any preparation of lead, copper, sulphuric acid or other ingredient injurious to health, shall, for each such offense, on conviction, be fined not less than ten dollars nor more than one hundred dollars. (Id. § 2661.)

99. Selling or Having in Possession.—No person shall, by himself, his servant or agent, or as the servant or agent of any other person, sell, exchange, deliver or have in his custody or possession, with intent to sell or exchange or expose or offer for sale or exchange, any adulterated vinegar, nor shall he label, brand or sell as "cider vinegar" any vinegar not the product of pure apple juice, and any person so offending shall, on conviction, for each such offense, be fined not less than ten dollars nor more than one hundred dollars. (Id. § 2662.)

100. Coloring; Brand of Maker.—All vinegars shall have an acidity equivalent to the presence of not less than 4 per centum by weight of acetic acid, and, in case of cider vinegar, shall in addition contain not less than 1.6 per centum by weight of cider vinegar solids, upon full evaporation over boiling water, and if any vinegar contains less than the above amount of acidity, or, in the case of cider vinegar, if it contains less than the above named amount of acidity and of cider solids, it shall be deemed to be adulterated. Every person making or manufacturing cider vinegar who is not a domestic manufacturer for his own use thereof, shall brand on each keg, barrel or bottle containing such vinegar the name and residence of such manufacturer, the date when the same was manufactured, and the words "cider vinegar." No vinegar shall be branded "fruit vinegar" unless the same shall be made from apples, grapes or other fruit. Whoever violates any of the provisions of this section shall be fined for each such offense not less than ten dollars. (Id. § 2663.)

Watermelons.

101. Watermelons; Shipment and Sale.—It shall be the duty of every person or persons, firm or corporation loading watermelons into cars for transportation, before loading such watermelons, to count and weigh the same, and, upon such loading being completed, to make out and sign two statements of the weight of such watermelons and the number thereof contained in said car. One copy of such statement shall be securely attached to said car and the other copy thereof shall be attached to the bill of lading for said car, and delivered to the consignee or purchaser thereof, at his request. (Burns' Anno. Stats. 1926, § 2977.)

102. Statement of Count and Weight.—It shall be unlawful for any person, persons, firm or corporation to ship, sell, or offer for sale, any carload of watermelons without the statements set out in the last section having been made out, and one copy thereof being delivered to the purchaser or consignee of such watermelons, if he shall request it. (Id. § 2978.)

103. Penalty.—Any person, persons, firm or corporation who shall fail to comply with any provision of this act, or who shall make out any false statement in reference to the contents of said car, or the weight thereof, shall be guilty

of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days. (Id. § 2979.)

Sanitation.

104. Sanitary Conditions of Food Establishments.—Every building, room, basement or cellar occupied or used as a bakery, confectionery, cannery, packing-house, slaughterhouse, dairy, creamery, cheese factory, restaurant, hotel, grocery, meat market or other place or apartment used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated and conducted with strict regard to the influence of such condition upon the health of the operatives, employees, clerks or other persons therein employed and the purity and wholesomeness of the food therein produced; and for the purpose of this act the term "food" as used herein, shall include all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof. (Burns' Anno. Stats. 1926, § 8202.)

105. Interior Conditions, Cleanliness.—The floors, sidewalks [sidewalls], ceilings, furniture, receptacles, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of food products shall at no time be kept in an unclean, unhealthful or insanitary condition, and, for the purpose of this act, unclean, unhealthful or insanitary conditions shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale, distribution or transportation is not securely protected from flies, dust, dirt, and, as far as may be necessary by all reasonable means, from all other foreign or injurious contamination, and if the refuse, dirt and the waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, distributing and transporting of food, are not removed daily, and if all trucks, trays, boxes, baskets, buckets, and other receptacles, chutes, platforms, racks, tables, shelves and all knives, saws, cleavers and other utensils and machinery used in moving, handling, cutting, chopping, mixing, canning and all other processes are not thoroughly cleaned daily, and if the clothing of operatives, employees, clerks or other persons therein employed is unclean. (Id. § 8203.)

106. Walls, Ceilings, Floors.—The sidewalls and ceilings of every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen shall be well plastered, wainscoted or ceiled with metal or lumber and shall be oil painted or kept well lime washed, and all interior woodwork in every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen, shall be kept well oiled or painted with oil paint and be kept washed clean with soap and water; and every building, room, basement or cellar occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food shall have an impermeable floor made of cement or tile laid in cement, brick, wood or other suitable nonabsorbent material which can be flushed and washed clean with water. (Id. § 8204.)

107. Door and Window Screens.—The doors, windows and other openings of every food producing or distributing establishment during the fly season shall be fitted with self-closing screen doors and wire window screens of not coarser than 14 mesh wire gauze. (Id. § 8205.)

108. Toilet Rooms, Location and Condition.—Every building, room, basement or cellar occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food, shall have convenient toilet [room] or (toilet) rooms separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other nonabsorbent material and shall be washed and scoured daily. Such toilet or toilets shall be furnished with separate ventilating flues or pipes, discharging into soil pipes, or on the outside of the building in which they are situated. Lavatories and wash-rooms shall be adjacent to toilet rooms and shall be supplied with soap, running water and towels, and shall be maintained in a sanitary condition. Operatives, employees, clerks and all persons who handle the material from which food is prepared, or the finished product, before beginning work, or after visiting toilet or toilets, shall wash their hands and arms thoroughly in clean water. (Id. § 8206.)

109. Cuspidors, Expectoration.—Cuspidors for the use of operatives, employers [employees], clerks or other persons shall be provided whenever necessary,

and each cuspidor shall be thoroughly emptied and washed out daily with disinfectant solution and five ounces of such a solution shall be left in each cuspidor while it is in use. No operative, employee or other person shall expectorate on the floor or sidewalls of any building, room, basement or cellar where the production, manufacture, packing, storing, preparation or sale of any food is conducted. (Id. § 8207.)

110. Sleeping in Shops Forbidden.—No person or persons shall be allowed to live or sleep in any workroom of a bake shop, kitchen, dining room, confectionery, creamery, cheese factory, or place where food is prepared for sale, served or sold. (Id. § 8208.)

111. Diseased Employees.—No employer shall require, permit or suffer any person to work, nor shall any person work, in a building, room, basement, cellar or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution and transportation of food, who is affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis, or consumption, bubonic plague, Asiatic cholera, leprosy, trachoma, typhoid fever, epidemic dysentery, measles, mumps, German measles, whooping cough, chicken pox or any other infectious or contagious disease. (Id. § 8209.)

112. Boards of Health, Duty, Powers.—It shall be the duty of the State Board of Health to enforce this act, and for that purpose the State, county, city and town health officers shall be food inspectors subordinate to the State Board of Health. The State Food and Drug Commissioner, the food inspectors of the State Board of Health, the State, county, city and town health officers shall have full power at all times to enter every building, room, basement or cellar occupied or used or suspected of being occupied or used for the production for sale, manufacture for sale, storage, sale, distribution or transportation of food, and to inspect the premises and all utensils, fixtures, furniture and machinery used as aforesaid, and if, upon inspection, any food producing or distributing establishment, conveyance, employer, operative, employee, clerk, driver or other person is found to be violating any of the provisions of this act, or if the production, preparation, manufacture, packing, storing, sale, distribution, or transportation of food is being conducted in a manner detrimental to the health of the employees and operatives or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the examination or inspection shall furnish evidence of said violation to the prosecuting attorney of the county or circuit wherein such violations occur, who shall prosecute all persons violating any of the provisions of this act, or said inspector shall report such conditions and violations to the State Food and Drug Commissioner, who shall issue an order to the person or persons in authority at the aforesaid establishment to abate the condition or violation or to make such improvements as may be necessary to abate them, within a period of five days or such reasonable time as may be required in which to abate them. Such order shall be in writing and the person receiving the order shall have the power of appeal from the order and instructions, and may within five days from the issuance of the order appear, in person or by attorney, before the State Food and Drug Commissioner to give reason why such order or instructions should not be obeyed. (Id. § 8210.)

113. Penalties.—Any person who violates any of the provisions of this act or who refuses to comply with any lawful orders or requirements of the State Food and Drug Commissioner duly made in writing as provided in section 9 of this act [8210], shall be guilty of a misdemeanor and on conviction shall be punished for the first offense by a fine of not less than \$10.00 nor more than \$50.00, for the second offense by a fine of not less than \$50.00 nor more than \$100.00, and for the third and subsequent offense by a fine of \$200.00 and imprisonment in the county jail for not less than 30 nor more than 90 days, and each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions, as ordered by the State Food and Drug Commissioner, shall constitute a distinct and separate offense. (Id. § 8211.)

NOTE: See also No. 3; the bakery products law, No. 18 et seq.; the cold storage law, No. 36 et seq.; the dairy law, No. 45 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

114. Obscene Literature; Possession, Circulation.—Whoever sells or lends, or offers to sell or lend, or gives away, or offers to give away, or in any manner exhibits, or has in his possession, with or without intent to sell, lend or give away, any obscene lewd, indecent or lascivious book, pamphlet, paper, drawing, lithograph, engraving, picture, daguerreotype, photograph, stereoscopic picture, model, cast, instrument or article of indecent or immoral use, or instrument or article for procuring abortion, or for self-pollution, or medicine for procuring abortion or preventing conception, or advertises the same or any of them for sale, or writes or prints any letter, circular, handbill, card, book, pamphlet, advertisement or notice of any kind, or gives information orally, stating when, how, where, or by what means, or of whom, any of the obscene, lewd, indecent or lascivious articles or things hereinbefore mentioned can be purchased, borrowed, presented or otherwise obtained or are manufactured; or whoever manufactures, or draws and exposes, or draws with intent to sell or have sold, or prints any such articles or things, shall be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months; but nothing in this section, or in the next two sections, shall be construed to affect teaching in regularly chartered medical colleges, or the publication of standard medical books, or the practice of regular practitioners of medicine or druggists in their legitimate business. (Burns' Anno. Stats. 1926, § 2569.)

115. Obscene Literature; Sending.—Whoever knowingly deposits in any post office or express office in this State, or places in charge of any person, firm or corporation to be carried or conveyed, any lewd, obscene, indecent or lascivious book, paper, pamphlet, drawing, lithograph, engraving, picture, daguerreotype, photograph, stereoscopic picture, model, cast, instrument or article of indecent or immoral use, or instrument or article for procuring abortion or for self-pollution, or medicine for procuring abortion or preventing conception, or any circular, hand bill, card, advertisement, book, pamphlet, or notice of any kind, or gives oral information stating when, where, how or of whom, such articles or things or any of them can be purchased or otherwise obtained, or knowingly receives the same or any of them with intent to carry or convey the same, or knowingly carries or conveys the same, except in the United States mail, shall be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months. (Id. § 2570.)

116. Drugs For Females; Advertising.—Whoever prints or publishes an advertisement of any secret drug or nostrum purporting to be for the exclusive use of females, or which cautions females against their use when in condition of pregnancy, or in any way publishes any account or description of any drug, medicine, instrument or apparatus for preventing conception, or for procuring abortion or miscarriage, or sells or gives away, or keeps for sale or gratuitous distribution, any newspaper, circular, pamphlet or book containing such advertisement, account or description, or any secret drug or nostrum purporting to be exclusively for the use of females, or for preventing conception or procuring abortion or miscarriage, shall be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months. (Id. § 2572.)

Antiseptics.

See No. 11.

Cosmetics.

See No. 11.

Disinfectants.

116a. Disinfectants, Use, State Veterinarian.—All disinfecting agents used for disinfecting swine, crates, cars and such, specified in sections two (2) and three (3)

[3720 and 3721]* and the method of using said disinfectants shall meet the approval of the State Veterinarian, and it shall be the duty of the State Veterinarian to see that the provisions of this act are regularly enforced. (Burns' Anno. Stats. 1926, § 3722.)

NOTE: See also No. 11.

Distribution of Samples.

117. Distributing Drug Samples.—It shall be unlawful for any person, firm, corporation or association to distribute, or cause to be distributed, any sample of medicine from house to house in this State, or to give or cause to be given to any child under the age of sixteen years any such sample of medicine. The word medicine as herein used is hereby construed to mean any preparation of a medicinal nature intended for internal or external use. (Burns' Anno. Stats. 1926, § 2670.)

118. Distributing Deleterious Substances.—It shall be unlawful for any person, firm, corporation or association to distribute, or cause to be distributed, from house to house, any substance, liquid or solid, which is deleterious to the life, limb or health of any person; or to give, or cause to be given, any such substance to any child under the age of sixteen years. (Id. § 2671.)

119. Penalty.—Any violation of any of the provisions of sections one (1) [2670] or two (2) [2671] shall be punishable by a fine of not less than five dollars nor more than fifty dollars, to which may be added imprisonment in the county jail not to exceed six months. (Id. § 2672.)

120. Terms Defined.—The term from "house to house" as herein used, is hereby construed to include the premises or yard connected with any residence in this State, as well as any veranda, portico, or porch connected with any house, or the house or residence itself. (Id. § 2673.)

Pharmacy, Poisons and Narcotics.

121. Board of Pharmacy.—On the taking effect of this act, the governor of Indiana shall appoint five pharmacists, no more than three of whom shall belong to the same political party, who shall constitute a board to be styled the Indiana Board of Pharmacy. Two members of said board shall be appointed and hold office for one year, one for two years, one for three years and one for four years, and each until his successor is appointed and qualified, and the term of office of each person thereafter appointed shall be four years. Annually after these first appointments, the Governor shall appoint pharmacists to fill vacancies as they occur by expiration of term of appointment. Any vacancy occurring at other times in said board shall be filled by a pharmacist appointed by the Governor for the unexpired term. All of said appointments shall be made by the Governor from pharmacists of recognized experience and ability, who are actually engaged in the retail drug business. No person in any manner connected with any school of pharmacy shall be eligible to serve on said board. Any member of said board may be removed by the Governor for cause. (Burns' Anno. Stats., 1926, § 13834.)

122. Oaths, Organization, Meetings.—Each member of said board shall within ten days after his appointment, take and subscribe an oath or affirmation before a competent officer to faithfully and impartially perform the duties of his office. Should any appointee fail to qualify within the specified time, his place shall be declared vacant and the vacancy shall be filled as specified in section one [13834]. Said board shall, within fifteen days after the appointment of its members, organize by the election of a president and a secretary from among its members who shall hold office for one year and perform such duties as shall be prescribed by said board and as hereinafter mentioned. The board shall adopt such rules and regulations as it may deem necessary to carry out the provisions of this act and of such other acts as shall confer powers and duties on said board and provide and maintain facilities for conducting a practical examination in laboratory practice and prescription work. It shall direct prosecutions and see to the enforcement of the provisions of this act, or any other act pertaining to the sale of cocaine, alpha or beta eucaine, opium, morphine or heroin, or any salt or any compound or derivative of any of the foregoing substances, or any preparation or compound containing any of the foregoing substances or any of their salts or compounds or derivatives. It shall report annually to the Governor upon the condition of pharmacy in the State.

*Sections 3720 and 3721 relate to the transportation of infected animals and to the disinfection of railroad cars in which swine are shipped.

It shall meet four times a year for the transaction of official business as follows: On the second Mondays of January, April, July and October respectively, at such places as the board may select; and the board shall hold additional meetings for the transaction of official business as the business of such board may require. At such meetings, said board shall continue in session from day to day until the business of such meeting is finished, not however, exceeding five days at any meeting. Three members of such board shall constitute a quorum. (Id. § 13835.)

123. Pharmacist; Registration; Qualifications.—Upon the payment of such fee or fees as are hereinafter provided, said board shall grant and issue a license as registered pharmacist to any person not less than twenty-one years of age, or as registered assistant pharmacist to any person not less than eighteen years of age, as hereinafter provided, for one year, or the unexpired portion thereof, prior to the next regular date of re-registration, upon producing evidence satisfactory to said board of the following qualifications, to-wit: To be a registered pharmacist, he shall pass a satisfactory examination before said board and shall produce and file such evidence as is satisfactory to said board of having served four years in a store or pharmacy where physicians' prescriptions are compounded; provided, that nothing in this act shall require any pharmacist now holding a license under the laws of the State of Indiana to register under this act, except that such pharmacist, upon the expiration of his present license, shall be required to re-register as provided by law. In the case of an applicant for license as a registered pharmacist, who is a graduate of a school of pharmacy of such standing and requirements as are satisfactory to the board of pharmacy, the actual time spent in attendance at such school shall be accepted as an equivalent for a term of service of equal length in a store or pharmacy where physicians' prescriptions are compounded. To be a registered assistant pharmacist, he shall have served as a clerk for one year in a store or pharmacy in which physicians' prescriptions are compounded, and shall pass a satisfactory examination before said board, and shall produce and file such evidence as is satisfactory to the board that he is a graduate of an accredited high school or has the equivalent in education. In the case of an applicant for a license as registered assistant pharmacist who is a graduate of a school of pharmacy of such standing and requirements as are satisfactory to the Board of Pharmacy, the actual time spent in attendance at such school shall be accepted as an equivalent for six months of service in a store or pharmacy where physicians' prescriptions are compounded. Said board may, in its discretion, grant and issue a license as registered pharmacist or as registered assistant pharmacist without examination, to any person who shall produce to said board a certificate of registration of like tenor from another State which requires a degree of competency and experience equal to that required of applicants in this State, subject to the condition of this act. (Id. § 13836.)

124. Assistant Pharmacist, Registering as Pharmacist.—On the taking effect of this act it shall be lawful for the Indiana Board of Pharmacy, upon application, to register any registered assistant pharmacist who was registered as such prior to April, 1907, as a registered pharmacist and issue a license therefor: provided, said registered assistant pharmacist is now holding a certificate as a registered assistant pharmacist under the Indiana Board of Pharmacy and has been practicing as such assistant pharmacist regularly during the four years preceding the taking effect of this act.* (Id. § 13837.)

125. Pharmacist; Educational Requirements.—On and after the first day of July, 1923, no person shall be eligible to take the examination to become a registered pharmacist until such person shall have produced and filed such evidence as is satisfactory to the Indiana Board of Pharmacy that he is a graduate of an accredited high school or has an equivalent in education and that he has graduated from a school of pharmacy in good standing, as herein provided. (Id. § 13838.)

126. School of Pharmacy Defined.—A school of pharmacy in good standing as provided for in this act is hereby defined as a school of pharmacy which meets and complies with the requirements as prescribed by the Indiana Board of Pharmacy. The Board of Pharmacy shall prescribe and promulgate such requirements for the recognition of schools of pharmacy as the board may deem necessary and just, and the requirements so promulgated shall be subject to such changes as may be made from time to time by the board and as the board may deem necessary and proper. The requirements as promulgated by the board shall include the provisions outlined by the National Syllabus for courses of instruction, equipment and professional staff. (Id. § 13839.)

* In force April 21, 1911.

127. Persons Exempt.—This act shall not apply to any person who is a registered assistant pharmacist or a registered apprentice pharmacist at the time that this bill shall become a law.† (Id. § 13840.)

128. Permit For Unregistered Pharmacist.—Nothing in this act shall be construed to prevent persons from selling and compounding drugs who have been in continuous employment as unregistered assistant pharmacists, unregistered prescription clerks or as owners of drug stores actively and continuously engaged as such for ten years continuously, prior to July 1, 1919, and whose stores are situated in the rural districts not nearer than two miles of a city containing more than three thousand inhabitants, or whose stores have been continuously located in a city or town or village of less than three thousand inhabitants for ten years prior to July 1, 1919, who have complied with the following requirements. Under such circumstances such unregistered assistant pharmacists, unregistered prescription clerks or owners shall certify before July 1, 1919, such facts to the State Board of Pharmacy, and, upon application, the State Board of Pharmacy may, at its discretion, issue a permit, for a fee of twenty-five dollars, which permit shall be renewed on the first day of July every second year from date thereof, upon the payment of two dollars for each renewal, to such unregistered applicant as above mentioned to continue in such business. Provided, that no permit shall be granted to any such person who may have been convicted during such period of any crime or unlawful act. (Id. § 13841.)

129. Fees For Examination and Registration; Apprentice Pharmacist.—The fee for the examination of an applicant as a registered pharmacist shall be ten dollars; and the fee for the examination of an applicant as registered assistant pharmacist shall be five dollars. All licenses issued under the provisions of this act shall expire on the thirtieth day of June next succeeding the date of issuance thereof. Every registered pharmacist and every registered assistant pharmacist shall be required to re-register annually with the Board of Pharmacy and pay to the board a renewal fee of three dollars, if such renewal fee be paid at any time between the first day of July and the first day of August, next succeeding the date of the expiration of such license; and a renewal fee of four dollars, if such renewal fee be paid at any time between the first day of August and the first day of September, next succeeding the date of the expiration of such license; and a renewal fee of five dollars, if such renewal fee be paid at any time between the first day of September and the first day of October, next succeeding the date of the expiration of such license. If the renewal fee is not paid on or before the first day of October of each year, the certificate shall be ipso facto void, and the holder thereof may be reinstated as a registered pharmacist or as an assistant registered pharmacist, only by passing a successful examination before the Board of Pharmacy: Provided, that in case of failure of either a re-registered [registered] pharmacist or an assistant registered pharmacist to pay renewal fee after the first day of October of any year, such registration may, in the discretion of the Board of Pharmacy, be restored upon the payment of all fees unpaid and a penalty of twenty-five dollars for each year or fraction of a year for which payment was in default, provided payment is made within five years from the date of the re-registration period. Any registered pharmacist who shall take into his employ any person as an apprentice for the purpose of acquiring a knowledge of the profession and of becoming a pharmacist, shall require such apprentice, within ninety days after accepting such employment, to make written application to the Board of Pharmacy for a license as a pharmacist apprentice, and the Board of Pharmacy may, upon receipt of such application, require such apprentice to undergo an examination for the purpose of ascertaining his educational qualifications. The period of experience required by law of applicants for registered pharmacist or an assistant registered pharmacist shall be computed from the date of registration as a pharmacist apprentice and any such person who fails or refuses to register as a pharmacist apprentice shall receive no credit for experience as an employee in a pharmacy. The fee for the registration of a pharmacist apprentice shall be one dollar. The State Board of Pharmacy shall pay to the Indiana Pharmaceutical Association each year out of the annual renewal fees collected, the sum of one dollar for each registered pharmacist and the sum of one dollar for each assistant registered pharmacist who shall pay a renewal fee during the year. The funds so paid to the Indiana Pharmaceutical Association shall be used for the purpose of promoting the science and art of pharmacy and shall be paid on condition that such association shall report annually to the State Board of Pharmacy on the conditions of pharmacy in the State. The fee for the registration by certificate of a registered pharmacist from another State shall be fifteen dollars,

†In force April 30, 1923.

and the fee for the registration by certificate of a registered assistant pharmacist from another State shall be fifteen dollars. All fees provided for in this act shall be paid to the secretary of the board with the application. (Id. § 13843.)

130. Evidence of Qualifications.—Each applicant for registration or examination shall produce and file with his application such evidence touching his qualifications as may be prescribed by the rules and regulations of the board. (Id. § 13844.)

131. Secretary, Bond, Duties.—The secretary of the board shall, before entering upon the duties of his office, execute an official bond, approved by the Governor, payable to the State of Indiana, in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office. He shall keep a record of the doings of the board, which record shall contain the names and residences of all the applicants and the action taken on their respective applications. He shall, at the close of each meeting of the board, transmit to the secretary of State, for record, a list containing the names and residences of such persons as shall have received licenses as registered pharmacists, and also a list containing the names and residences of such persons as shall have received licenses as registered assistant pharmacists at such meeting of the board. The secretary of the board, upon the order of the Auditor of State; shall transmit to the Treasurer of State all moneys received by him as secretary, together with a sworn statement of the expense of said board at such meeting, which moneys shall be held for the payment of the salaries and expenses of the board, as provided in section 7 of this act [13846]. The secretary of the board shall notify each holder of a license or certificate the date of the expiration of said license or certificate, not less than thirty days nor more than sixty days prior to the expiration of said license or certificate. (Id. 13845.)

132. Pay and Salary.—Each member of the board, except the secretary, shall receive five dollars per day for each day actually engaged in service of the board, together with the necessary expense incurred in the performance of his strictly official duties, an itemized statement of which must be filed with the Auditor of State. The secretary shall receive not to exceed fifteen hundred dollars per annum, and necessary traveling or other expenses; the said salary of secretary to be paid in monthly installments upon the order of the Auditor of State, the compensation and expense of said board shall be paid out of the fund in the State treasury arising from the fees as provided in section four [13843] or from such sums as may be appropriated by the general assembly for that purpose. (Id. § 13846.)

133. Sales Prohibited; Exceptions.—On and after July 1, 1899, it shall be unlawful for any person to conduct a store or pharmacy in which is sold at retail, or to sell at retail, any chemical, drug or medicine which is poisonous or which contains a poison, or to compound for sale at retail any physician's prescription, unless there be in charge a registered pharmacist under the provisions of this act: provided, however, that a registered assistant pharmacist may be left in charge during the temporary absence of the registered pharmacist, which temporary absence shall be construed in conformity with the ruling of the Board of Pharmacy: and provided, that nothing in this act shall apply to or in any manner interfere with the business of a regularly licensed physician in compounding for and supplying his patients with such medicines as may seem to him proper in his professional capacity as a physician: and provided, that nothing in this act shall apply to, nor in any manner interfere with, the business of a general merchant in selling any of the following articles, to wit: Medicines of secret composition and which are advertised to the general public and popularly known as patent or proprietary medicines, providing said medicines are not poisonous. Also concentrated lye, sodium carbonate, sodium bicarbonate, tobacco, spices, perfumes, flavoring extracts, borax and the following articles in original and unbroken packages, bearing the label of a known pharmaceutical manufacturer, wholesale druggist or of a registered pharmacist, to wit: Paregoric, hive syrup, spirit[s] of camphor, tincture of arnica, epsom salt, quinine sulphate, compound cathartic pills, Paris green, London purple, white hellebore and such insecticides, disinfectants, dyestuffs and other chemicals as may be allowed by the Board of Pharmacy. (Id. § 13847.)

134. Penalties.—Any person violating any of the provisions of section 8 of this act [13847] shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars nor less than five dollars for each offense. (Id. § 13848.)

135. Authorization of Employment of Traveling Inspector and Clerical Assistants.—The Indiana Board of Pharmacy is hereby authorized to employ a traveling inspector whose duty it shall be to enforce the provisions of the pharmacy laws and the anti-narcotic laws of this State. The secretary of the board, with the approval of the board, is hereby authorized to employ a clerk-stenographer and such other temporary clerical assistants as may be necessary to carry on the work of the board, and to purchase such office equipment and supplies as may be required by the

board in discharging its duties. Suitable office quarters shall be provided by the State for the use of the board in the State House or elsewhere in the city of Indianapolis. The compensation of the traveling inspectors shall not exceed two hundred dollars per month and the compensation of the clerk-stenographer shall not exceed one hundred fifteen dollars per month and the compensation of any temporary clerical assistants shall be fixed by the board. The compensation and expenses of the Board of Pharmacy and its several employees shall be paid out of the fund in the State treasury arising from the fees collected by the Board of Pharmacy by virtue of the provisions of section 4 of chapter 108 of the acts of the general assembly of 1899 [13843], and of the several acts amendatory thereof and supplemental thereto. (Id. § 13849.)

136. Acts, Orders and Proceedings Legalized; Appropriation; Reimbursement of Pharmaceutical Association.—All acts, orders and proceedings of the Indiana Board of Pharmacy, the Auditor of State and any and all other officers or persons, performed, given or had at any time during and between the first day of October, 1923, and the thirtieth day of April, 1924, inclusive, which involved the employment of an inspector and stenographer, the purchase of office supplies and equipment and the incurring of other necessary expenses for and on behalf of the Indiana Board of Pharmacy, and the payment of the compensation of such inspector and clerk-stenographer and the payment of the expenses incurred in procuring such office supplies and equipment and in maintaining and operating the office and field work of the Indiana Board of Pharmacy, when done and expended in good faith, and in supposed compliance with law, are hereby legalized and rendered valid and binding in all respects whatsoever. A sufficient amount of money is hereby appropriated out of the fund in the State treasury arising from the fees collected by the Board of Pharmacy by virtue of the provisions of section 4 of chapter 108 of the acts of the general assembly of 1899 [13843], and of the several acts amendatory thereof and supplemental thereto, for the purpose of reimbursing the Indiana Pharmaceutical Association for funds advanced to the Indiana Board of Pharmacy for the payment of the salaries of the inspector and clerk-stenographer, and all other expenses necessarily incurred by the Board of Pharmacy during and between the first day of May, 1924, and the date upon which this act shall take effect. (Id. § 13850.)

137. Merchants, Permits to Sell Drugs, Fee.—In rural districts where there is no person licensed as a pharmacist within two miles thereof, the Indiana Board of Pharmacy may issue permits to dealers in general merchandise to sell such drugs and medicines as may be specified by the board, which permit shall run for two years, and the fee for such permit shall be three dollars. Such permit shall not be granted to any person or persons in any village, town or city the population of which exceeds five hundred, according to the last Federal census. (Id. § 13851.)

138. Apprentice Pharmacist; Registration.—It shall be the duty of registered pharmacists who take into their employ an apprentice for the purpose of becoming a pharmacist to require said applicant, within ninety days thereof, to apply to the Indiana Board of Pharmacy for registration as an apprentice and the said Board of Pharmacy shall have the right to require such an examination as shall establish the educational qualifications of the applicant, and the date of experience required of applicants for assistant or registered pharmacist shall be computed from the date of registration as apprentice, and if he fails to register then he shall receive no credit for experience as an employee in a drug store or pharmacy when he makes application for assistant or registered pharmacist. The said Board of Pharmacy shall furnish proper blanks for this purpose and issue a certificate of registration as a registered apprentice upon the payment of fifty cents. (Id. § 13852.)

139. Certificate; Refusal of Revocation; Charges; Appeal.—The Indiana Board of Pharmacy may refuse to grant certificates of registration or renewal of certificates of registration to any person guilty of a felony or gross immorality or addicted to the use of alcoholic drugs or narcotic drugs to such an extent as to render him unfit to practice pharmacy. If any person holding a certificate to practice pharmacy shall be guilty of any of the above enumerated acts or shall have procured a certificate by fraud or misrepresentation, said board may, after notice and hearing, revoke any certificate which has heretofore been or may hereafter be issued to him. A specific written charge, verified by affidavit, must be presented to the board, making definite and specific charges of such facts against the holder of such certificate. The board shall thereupon fix a time and place for the hearing of such charges at which the person charged may appear and defend against the same. A copy of such charges, together with a notice of the time and place fixed for the hearing, shall be served upon the person so charged at least twenty days before the time set for the hearing of the same. If, after such hearing, the board revokes such certificate, such order shall be by said board entered upon its record.

If the board shall refuse to grant a certificate for any of the reasons above stated, it shall enter such refusal upon its record, together with a statement of the grounds for such refusal. An appeal may be taken from the action of the board to the Circuit or Superior Court of the county wherein such person resides, in case of a refusal by said board to grant a certificate of registration or a refusal of a renewal of a certificate of registration, or in case of a revocation of a certificate of registration, upon such person filing with the clerk of such court, within thirty days from the entering of such order of revocation or refusal by said board, and giving a sufficient bond in the sum of two hundred dollars, to be approved by said clerk, to secure the payment of costs of such appeal, should the appeal be determined against him. It shall thereupon be the duty of such clerk to notify the said board of the filing of such bond and said board shall thereupon forward to said clerk the charges, together with a copy of the order of revocation, when there has been a revocation, or the application for a certificate and the copy of the order of refusal, where there has been a refusal to grant a certificate or a renewal thereof. The clerk of said court shall thereupon docket the same as a cause pending in said court. Said verified charges shall be treated as a complaint. The accused may plead said charges and issues may be formed thereon as in any civil case and the same shall thereupon be tried by the judge of the Circuit Court. It shall be the duty of the prosecuting attorney of the circuit to which such county belongs to appear in such cause and represent the board. The only finding and judgment in such cases shall be guilty or not guilty, the same to be rendered separately as to each of the charges. If the finding and judgment of the court be not guilty as to each of such charges, the same shall be by the clerk of said court certified to said board, and it shall thereupon make an order and set aside its order of revocation. If judgment of guilty of any such charges be awarded in said cause, the cost of such proceeding shall be recovered of the accused, and a fee of ten dollars shall be taxed therein in favor of the prosecuting attorney and the order of revocation made by said board shall be and remain in effect. During the pendency of such appeal the accused shall not be entitled to practice pharmacy by virtue of such certificate. Where the appeal is from a refusal to grant a certificate or a renewal thereof the same shall be heard upon the application and certified copy of the order of refusal without any other issues, the same to be tried by the judge of said court who shall, upon his finding, enter a judgment that the certificate shall or shall not be issued, as the facts may require, and thereupon the clerk of such court shall certify a copy of said judgment to said Board of Pharmacy. The prosecuting attorney shall represent the board in such an appeal and if the court shall refuse the certificate, judgment shall be entered against the applicant for costs, including ten dollars fee for the prosecuting attorney. Appeals from the judgment of said court may be prosecuted to the Supreme Court as in other civil cases either by said board in its own name or by the applicant or holder of such certificate, where the judgment may be against him. No fees other than the fees of its own witnesses shall be taxed against said board in any event. Where the applicant shall appeal from a refusal to grant a certificate the cause shall be docketed in the name of the applicant against the Indiana Board of Pharmacy. Where the certificate shall have been revoked the cause shall be entitled the Indiana Board of Pharmacy against A. B. (the holder of the certificate). (Id. § 13853.)

140. Restoration of Certificate.—In all cases where said Board of Pharmacy has revoked the certificate of a pharmacist for any of the causes mentioned in section 3 of this act [13853], such Board of Pharmacy, upon a satisfactory showing by such pharmacist, whose certificate has been revoked, shall have the power to restore such pharmacist to his rights under his former certificate, and permit him to practice pharmacy as though said certificate had not been revoked. (Id. § 13854.)

141. Permit Required to Maintain Drug Store, Etc.—From and after the first day of July, 1927, it shall be unlawful for any person, firm, corporation or co-partnership to operate, maintain, open or establish any drug store, pharmacy, pharmacy department or apothecary shop in this State without first having obtained a permit so to do from the Indiana Board of Pharmacy. (Act of Mar. 3, 1927, § 1.)

142. Application for Permit.—Any person, firm, corporation or copartnership desiring to operate, maintain, open or establish a drug store, pharmacy, pharmacy department or apothecary shop in this State shall apply to the Indiana Board of Pharmacy for a permit so to do. The application for a permit shall be made on a form which shall be prescribed and furnished by the Board of Pharmacy and shall set forth the name of the owner, manager, trustee, lessee, receiver or other person desiring such permit, the location, including the street number of such drug store, pharmacy, pharmacy department or apothecary shop, and such other facts as will show the applicant to be a person of good moral character. If the applicant desires to operate, maintain, open or establish more than one drug store, pharmacy,

pharmacy department or apothecary shop, he shall make a separate application for a permit to operate, maintain, open or establish each such drug store, pharmacy, pharmacy department or apothecary shop. Each such application shall be accompanied by a fee of one dollar. (Id. § 2.)

142a. When Permit May Issue.—As soon as practicable after the receipt of any such application, the Board of Pharmacy shall carefully examine the same to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the Board of Pharmacy shall find that any such application is not in proper form and does not contain the necessary and requisite information, they shall return such application for correction. If an application is found to be satisfactory, the Board of Pharmacy shall issue to the applicant a permit for each drug store, pharmacy, pharmacy department or apothecary shop for which an application is made. If an application, or the drug store, pharmacy, pharmacy department or apothecary shop for which application is made, is found to be unsatisfactory, the Board of Pharmacy shall refuse to issue a permit and shall notify the applicant in writing of its decision and the reasons therefor. (Id. § 3.)

142b. Term of Permits; Renewal.—All permits shall be so issued as to expire on the thirty-first day of December of each calendar year. On or before the first day of January of each year, every person, firm, corporation or copartnership, having a permit, shall apply to the Board of Pharmacy for a renewal permit for the calendar year next ensuing. No permit shall lapse prior to the thirty-first day of January of the next year next following the year for which such permit was granted; and if by such thirty-first day of January an application for a new permit has not been made, the Board of Pharmacy shall notify such delinquent permit holders thereof, by registered mail, and if application is not made and a new permit granted on or before the last day of February, the old permit shall lapse and become null and void. The fee for a renewal permit shall be one dollar. (Id. § 4.)

142c. Rules and Regulations.—The Board of Pharmacy is hereby authorized to prescribe and promulgate such rules and regulations as may be deemed necessary for the proper enforcement of this act. (Id. § 5.)

142d. Appeals from Decision of Board of Pharmacy.—Any person, firm, corporation or copartnership, who has been refused a permit applied for under the provisions of this act, or whose permit has been revoked, may appeal from the decision of the Board of Pharmacy to the Circuit or Superior Court of the county within which such drug store, pharmacy, pharmacy department or apothecary shop is located, at any time, within thirty days after the date of the receipt by the applicant of the decision of the Board of Pharmacy, or within thirty days after the date of the receipt of the notice by the person who held such permit of the revocation of such permit, by giving bond, to be approved by the clerk of the court in the sum of three hundred dollars, conditioned to pay all costs if the decision of the court shall be determined against him, them or it. Pending such appeal, such person, firm, corporation or copartnership shall have a right to continue to operate such drug store, pharmacy, pharmacy department or apothecary shop. (Id. § 6.)

142e. Use of Certain Words Limited.—Any person not legally licensed as a registered pharmacist by the Indiana Board of Pharmacy and who does not have in his continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana Board of Pharmacy, and no firm, corporation or copartnership who do not have in their continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana Board of Pharmacy, shall not take, assume, exhibit or display the title, "drug," "drugs," "drug store," "pharmacy," "pharmacy department," "apothecary," or "apothecary shop," or any combination or combinations of such title, or any other title or description of like import, or any other term or title designed or intended to take the place of any such title or term, on the inside or outside of said premises. (Id. § 7.)

142f. When Permit Shall Not Issue.—Any person not legally licensed as a registered pharmacist by the Indiana Board of Pharmacy and who does not have in his continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana Board of Pharmacy, and no firm, corporation or copartnership who do not have in their continuous and active employ, at each place of business, a duly registered and licensed pharmacist, licensed by the Indiana Board of Pharmacy, shall not be eligible to apply for or receive a permit to operate or maintain a drug store, pharmacy, pharmacy department or apothecary shop, as hereinbefore provided in this act. (Id. § 8.)

142g. Revocation of Permit.—The Board of Pharmacy is hereby authorized to revoke any permit granted under the provisions of this act, at any time, when any

examination or inspection of the drug store, pharmacy, pharmacy department or apothecary shop, for the operation of which the permit was granted, shall disclose that such drug store, pharmacy, pharmacy department or apothecary shop is not being operated according to law. (Id. § 9.)

142h. Penalty.—Any person, firm, corporation or copartnership, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than twenty-five dollars, nor more than one hundred dollars, and each and every day that such violation shall continue shall constitute a separate and distinct offense. (Id. § 10.)

142i. Conflicting Laws Repealed; Express Repeal.—All laws and parts of laws in conflict herewith are hereby repealed, and an act entitled "An act to limit the use of terms 'drug store,' 'pharmacy,' and 'apothecary' as used to designate a drug store, pharmacy or apothecary," approved March 6, 1923, is hereby expressly repealed. (Id. § 11.)

142j. Application of Act.—This act shall not be construed to effect pending litigation and nothing in this act contained shall apply to, nor in any manner interfere with the business of a general merchant in selling any of the following articles, to wit: Medicines of secret composition, and which are advertised to the general public, and popularly known as a patent or proprietary medicines, providing said medicines are not poisonous. Also concentrated lye, sodium carbonate, sodium bicarbonate, tobacco, spices, perfumes, flavoring extracts, borax and the following articles in original and unbroken packages, bearing the label of a known pharmaceutical manufacturer, wholesale druggist, or of a registered pharmacist, to wit: Hive syrup, spirit of camphor, tincture of arnica, epsom salt, quinine sulphate, compound cathartic pills, Paris green, London purple, white hellebore, and such insecticides, disinfectants, dye stuffs and other chemicals as may be allowed by the Board of Pharmacy. (Id. § 12.)

142k. Constitutionality of Act.—If any provisions or any section of this act shall be held void or unconstitutional, all other provisions and all other sections of this act, which are not expressly held to be void or unconstitutional, shall continue in full force and effect. (Id. § 13.)

143. Poisons; Druggist Selling.—It shall be unlawful for any druggist or druggist's clerk to sell, barter, trade or give any opium, morphine or cocaine to any person addicted to the habitual use of opium, morphine or cocaine, unless such person secure a written prescription therefor from a licensed physician. Any person violating any provision of this section shall, on conviction, be fined for each separate offense in any sum not less than ten dollars nor more than fifty dollars. (Burns' Anno. Stats. 1926, § 2762.)

144. Cocaine and Other Drugs; Sale; Prescription.—It shall be unlawful for any person, except a registered pharmacist, to retail, sell, or give away any cocaine, alpha or beta eucaine, opium, morphine or heroin, or any salt or any compound, or derivative of any of the foregoing substances, or any preparation or compound containing any of the foregoing substances, or any of their salts or compounds or derivatives, and then only upon the written prescription of a duly registered physician, licensed veterinarian, or licensed dentist; and it shall be unlawful for any duly registered physician, licensed veterinarian or licensed dentist to write, issue, deliver or dictate, either directly or indirectly, any prescription to or for any habitual user of any drugs enumerated in this section; every prescription shall contain the name and address of the person for whom prescribed, and the date the same shall have been filled, and shall be permanently retained on file by the person, firm or corporation where the same shall have been filled; and it shall be filled but once, and no copy of it shall be taken by any person, except a copy may be taken by any Board of Pharmacy, or their agents, and the original shall at all times be open to the inspection of the prescriber, to the Indiana Board of Pharmacy, or their agents, and all officers of the law; except, however, that such cocaine, alpha or beta eucaine, opium, morphine, heroin, or any salt, or any compound, or any derivative of the foregoing substances, or any of their salts or compounds or derivatives may be lawfully sold at wholesale by a wholesale jobber or manufacturer upon the written order of a licensed pharmacist, duly registered practicing physician, licensed veterinarian or licensed dentist; and provided, that the wholesaler, jobber or manufacturer shall affix, or cause to be affixed, to the bottle, box, vessel or package containing the article sold, and upon the outside wrapper of the package, as originally put up, a label distinctly displaying the name and quantity of cocaine, alpha or beta eucaine, opium, morphine, heroin, or any salt or compound, or derivative of any of the foregoing substances, sold, and the word "poison," with the name and place of business of the seller, all printed in red ink; and provided, also, that the wholesaler, jobber or manufacturer

shall, before delivering any of the articles, make or cause to be made in a book kept for that purpose, an entry of the sale thereof, stating the date of sale, the quantity, name and form in which sold, the name and address of the purchaser and the name of the person by whom the entry is made; and the said book shall be always open for the inspection by the members of the State Board of Pharmacy, or agents thereof, and the proper officers of the law, and said book shall be preserved for five years after the date of the last entry therein; and provided, also that nothing in this act shall apply to any preparation, patent or proprietary, containing not more than two (2) grains of opium, or one-fourth of a grain of its alkaloidal salts or their derivatives to the ounce, or admixtures of ipecac and opium, commonly known as "dover's powders," liniments, suppositories, ointments and plasters, plainly labeled "For external use only"; provided, also, that nothing in this act shall be construed to prevent the legitimate administering of said drugs, their salts, compounds and derivatives by a duly registered practicing physician, duly licensed veterinarian or duly licensed dentist. (Id. § 2763, as amended Act of Mar. 10, 1927.)

145. Penalty; Prosecutions; Revocation of License.—Any person violating any of the provisions of the foregoing section, on the first offense, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and imprisoned in the county jail not less than ninety (90) days, nor more than one year; and for each succeeding offense, he shall be guilty of a felony and shall be fined not less than two hundred dollars (\$200.00), nor more than one thousand dollars (\$1,000.00), and imprisoned in the State Prison or reformatory not less than one year nor more than eight years, and if the person so offending shall have a license as a physician, veterinarian, dentist or pharmacist, such license shall be revoked by the court trying said cause; and it shall be the duty of the prosecuting attorney of the county where such offense is committed to prosecute all persons violating provisions of this act, upon proper complaint being made, and, upon failure of such prosecuting attorney to act, it shall be the duty of the Attorney-General of the State of Indiana to prosecute any person violating the provisions of section 1 of this act [2763]. It shall be the duty of the Indiana Board of Pharmacy to enforce the provisions of this act and to adopt such rules and regulations as it may deem best to carry out the provisions of this act. (Burns' Anno. Stats. 1926, § 2764.)

NOTE: See also No. 17a.

Serum, Antitoxin, Etc.

146. Serum, Manufacture and Sale.—It shall be unlawful for any person, firm or corporation, or their agent or agents, to sell, distribute, administer or dispose of, in any way, any serum, virus, vaccine or other remedy intended for use, or that is used, for the prevention or treatment of infectious or communicable diseases of swine, if such serum, virus, vaccine or other remedy has been prepared or manufactured at any establishment that is within four thousand (4,000) feet from any public stockyard where a public live stock market is maintained, or within the same distance from any garbage disposal or rendering plant to which garbage or dead animals are hauled over a public street or highway. It shall be the duty of the State Veterinarian to aid in the enforcement of this law. (Burns' Anno. Stats. 1926, § 2653.)

147. Penalty.—Any person, firm or corporation violating any of the provisions of this act, shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for the first offense, and, for the second or subsequent violation a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for a period of thirty (30) days, or both. (Id. § 2654.)

148. Hog Cholera Serum; Test Approved by Purdue University.—It shall be unlawful for any person, firm or corporation, or their agents, to sell or dispose of in any way anti-hog cholera serum or hog-cholera virus, or any other serum or so-called serum or vaccine, or any other remedy, in this State, unless said serum or virus, or any other remedy, has been tested and approved by the Purdue University agricultural experiment station, and a permit issued by the State Veterinarian to said person, firm or corporation, or their agents, allowing him or them to sell or use said serums, vaccines or virus or any other remedy for the purpose of vaccinating swine against hog cholera or any infectious disease, or treating swine affected with hog cholera or any infectious disease. Said serum, virus, or so-called serum or vaccine or any other remedy shall meet any test required by said experiment station for potency, protective properties, virulence or freedom from such organisms as may cause septic infection before the State Veterinarian shall issue said permit,

and if, at any time after said permit has been issued, said serum or virus or any other remedy does not meet with such a test for potency, protective properties, virulence or freedom from such organisms as may cause septic infection, said permit shall be revoked by the State Veterinarian. (Id. § 3727.)

149. Appropriation For University.—There is hereby appropriated annually the sum of fifteen thousand dollars (\$15,000), out of any moneys not otherwise appropriated from the State Treasury of Indiana, said appropriation to be paid to the director of the Purdue agricultural experiment station, in quarterly installments at the first of October, January, April and July of each year for the use of the veterinary science department. The same shall be paid into the treasury of said Purdue university, the board of control of which shall expend the sum [same] on proper vouchers to be filed with the Auditor of State in meeting all necessary expenses of testing anti-hog cholera serum and hog-cholera virus or any other remedy used for the treatment and vaccination of swine against hog cholera, as provided for in section 10 of this act [3728], and the employment of field men and inspectors and their necessary traveling expenses, to carry on educational work among farmers and swine producers of this State relative to the prevention, spread and control of infectious diseases of swine, particularly hog cholera and the treatment of said diseases, and in the dissemination of knowledge and information along said lines of work, visiting and inspecting farms, reporting any violation of this act to the office of State Veterinarian, advising farmers, holding conferences among farmers, the publication and dissemination of information relative to infectious diseases of swine through bulletins and circulars, and for any other purposes necessary to the carrying out of the provisions of this section. The annual report of the director of the experiment station shall include a classified statement showing the total receipts and disbursements of all fees received under the provisions of this section. (Id. § 3728.)

150. Appropriation For State Veterinarian.—To enable the State Veterinarian to carry out such provisions of this act as relate to the spread of infectious diseases of swine not otherwise provided for, there is hereby appropriated annually the sum of ten thousand dollars (\$10,000) out of any moneys not otherwise appropriated from the State treasury of Indiana to be paid to the Indiana State Veterinarian, who shall expend the sum [same] upon proper vouchers to be approved by the Governor and filed with the Auditor of State, for the employment and traveling expenses of office help and assistant State veterinarian, said assistant State veterinarians shall be graduates of a reputable veterinary college and shall be appointed by the State Veterinarian. Every licensed veterinarian practicing in the State of Indiana shall report at once to the nearest official in this State, having authority under the provisions of this act, all infectious diseases he may know of in swine, and failure to make such report shall cause his license to be revoked. (Id. § 3729.)

151. Penalty For Violation.—Any person, firm or corporation violating any of the provisions of this act shall, upon conviction, be fined in any sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for the first offense and for a second or subsequent violation a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or be imprisoned in the county jail for a period of thirty days or both. (Id. § 3730.)

152. Medicines For Animals; Examination.—It shall be unlawful for any person to use, offer for sale or exchange, or to give, any substance for the prevention or treatment of any contagious or infectious disease which contains living germs in a virulent or attenuated state and which may, at the time of its use or any subsequent time, cause an outbreak of the same or any other contagious or infectious disease, without first submitting a sample of the preparation to the State Veterinarian for examination, and if, in his judgment, such preparation may jeopardize the health of any domestic animal because of the danger of exciting or spreading a contagious or infectious disease, such preparation shall not be used, sold or exchanged or given away. (Id. § 3753.)

153. Mallein and Tuberculin Diagnostic Agents.—Mallein shall be recognized as a diagnostic agent for glanders and tuberculin as a diagnostic agent for tuberculosis. (Id. § 3754.)

154. Antitoxin Free For Poor; Printed Blanks.—All counties, cities and towns in the State are hereby required to supply, free of charge, diphtheria and tetanus (lockjaw) antitoxin to people too poor to purchase the same, under the following conditions, to wit: The State Board of Health shall supply uniform printed blanks to all county health officers, who shall supply them to trustees and subordinate health officers, said blanks to be printed by the board of commissioners of public printing and binding and to be known as diphtheria or tetanus antitoxin blanks, and said blanks shall call for the following information and affirmation: County, town-

ship, date, name and post office address of the father, mother or guardian of the child, or if neither of these exists or are [is] unknown, then the name of the householder; name, age and sex of the child or person who is to be treated for diphtheria or tetanus or immunized; whether or not microscopical tests for diphtheria or the necessary tests for tetanus have been made; amount of antitoxin desired, expressed in number of packages and in units; and such statistical and sanitary information as the State Board of Health may require. The physician applying for the free antitoxin shall sign, in ink, the following affirmation, which shall be printed upon said blank: I solemnly affirm that the free antitoxin herein applied for will be administered to the person named above, and it is my belief, after inquiry, that the parents are too poor to pay for the same. (§ 8192.)

155. County or City to Pay for Antitoxin.—Upon the receipt of an official diphtheria or tetanus antitoxin blank, duly filled out and signed in ink by a physician, as provided in this act, any dealer may supply the diphtheria or tetanus antitoxin called for in said blank, and said blank shall be a legal claim for the market price of the antitoxin furnished against the county, city or town in which it is used and against which the blank is issued. (Id. § 8193.)

156. Township Trustees to Keep Supply.—Township trustees shall, at all times, keep themselves supplied, through county health officers, with diphtheria and tetanus antitoxin blanks, and shall supply them to physicians when needed, and so also shall all health officers. County, city and town health officers shall check up and make official record of all cases in which free antitoxin has been furnished in their respective jurisdictions, and they shall promptly call the attention of the district prosecutor to any violation of this act which may come to their notice. County, city and town health officers shall, by the fifth of each month, for the preceding month, send direct to the State Board of Health the statistical certificate which is attached to each diphtheria or tetanus antitoxin blank and which has been paid and taken up; but said blanks shall not be a valid claim and shall not be paid and taken up unless the attached statistical certificate has been filled out, in ink, by the physician who signed said blank, and any health officer refusing or neglecting to make reports as herein provided shall be fined not less than ten dollars nor more than twenty-five dollars. The purchase and administration of all tetanus antitoxin heretofore acquired, purchased, used and administered, and the acts and proceedings of all public officers in connection therewith, and the payment of all public funds necessary to procure and administer the same, when done in good faith and in compliance with the purposes of this act, are hereby declared legal, valid and binding. (Id. § 8194.)

157. Penalty.—Any physician or any person who violates his affirmation or, in any way, diverts this act to his own profit, shall be fined in any sum not less than fifty dollars, and for another like offense, in addition to said fine, shall be imprisoned in the county jail not to exceed six months. (Id. § 8195.)

157a. State Veterinarian, Appointment.—* * * All rights, powers and duties now conferred by law on the State Veterinarian, in so far as such rights, powers and duties are not inconsistent with the provisions of this act, are hereby transferred to and conferred upon the State Live Stock Sanitary Board and State Veterinarian as provided for in this act. (Id. § 3736.)

Wood Alcohol.

158. Methyl or Wood Alcohol; Possession and Disposal; Penalties.—Whoever shall have in his possession for use as a beverage, or shall sell, offer for sale, barter or give away, to be used for food or drink, any mixture or preparation which contains methyl alcohol, or wood alcohol, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000), to which shall be added imprisonment at the Indiana State Farm for a term of not to exceed one year. (Burns' Anno. Stats. 1926, §§ 2669 and 2713.)

Intoxicating Liquors.

159. Act is Exercise of Police Powers; Liberally Construed.—This act shall be deemed an exercise of the police powers of the State, for the protection of the economic welfare, health, peace and morals of the people of the State, and all of its provisions shall be liberally construed for the accomplishment of this purpose. (Burns' Anno. Stats. 1926, § 2714.)

160. Definitions of "Liquor" and "Intoxicating Liquor."—The words "liquor" and "intoxicating liquor," wherever used in this act, shall be construed to mean all malt, vinous or spirituous liquors containing as much as one-half of one per cent of alcohol by volume, and every other drink, mixture or preparation of like alcoholic content, whether patented or not, reasonably likely or intended to be used as a beverage; and all other intoxicating beverages, drinks or preparations, whether alcoholic or not, intended for beverage purposes. (Id. § 2715.)

161. Definition of "Person."—The word "person," wherever used in this act, shall be held and construed to mean and include persons, firms and corporations, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves or by a servant, agent or employee. (Id. § 2716.)

162. Offenses Created and Penalties Imposed.—It shall be unlawful for any person to purchase, receive, manufacture, transport, ship, possess, sell, barter, exchange, give away, furnish, or otherwise handle, or dispose of, any intoxicating liquor, except as authorized by this act. Any person violating any provision of this section, upon conviction, shall be fined not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500), to which shall be added imprisonment in the county jail of not less than thirty days nor more than six months for the first or second offense, and, upon a third or subsequent conviction, he shall be imprisoned in the State Prison not less than one year nor more than two years, to which may be added a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000). When the defendant shall be convicted a third or subsequent time under the provisions of this act, the court shall not have the power to suspend the sentence provided herein. (Id. § 2717.)

163. Manufacture and Sales to Which Act Does Not Apply.—No provision of this act shall be construed to prohibit the manufacture of vinegar for use or sale; or to prohibit the manufacture and sale of pure grain alcohol for medical, scientific or mechanical purpose[s], or wine for sacramental purposes as herein provided or to prohibit the manufacture and sale of denatured alcohol. Nor shall it prohibit a wholesale druggist from selling pure grain alcohol in quantities of not less than one (1) gallon at a time to any person authorized by this act to receive, sell or use the same. Such sales shall be only upon the written and signed application of such person as provided in this act. Nor shall this act be construed to prohibit a registered pharmacist, if licensed and bonded as provided in this act, from selling alcohol for medicinal purposes, upon the prescription of a licensed physician, or wine for sacramental purposes, upon the order of a clergyman, as herein provided, nor to prohibit wine for sacramental purposes from being bought, received and transported without a permit by the proper authorized authority of any church. (Id. § 2718.)

164. Pharmacists, Sales By; Permit; Bond.—It shall be unlawful for any pharmacist to sell any intoxicating liquor, except pure grain or ethyl alcohol, and such alcohol only for scientific, medicinal or mechanical purposes, and wine for sacramental purposes only. Any pharmacist desiring to sell pure grain alcohol for medicinal or mechanical purposes, or wine for sacramental purposes, shall, file with the clerk of the Circuit Court his verified application setting forth the particular place where said business is located; that said applicant is a registered pharmacist under the laws of this State, and is lawfully, in good faith, engaged personally in the business of a pharmacist at the place designated in said application as the proprietor or partner or, if the business is owned by a corporation, that the applicant is the manager of such business, and that said applicant has in his said business, exclusive of intoxicating liquor and fixtures, a stock of drugs to the value of at least one thousand dollars (\$1,000), if such business is located in an incorporated city, or if located elsewhere, to the value of at least five hundred dollars (\$500). Said applicant shall also file with the clerk of the Circuit Court a bond to the satisfaction of said clerk in the penal sum of one thousand dollars (\$1,000) conditioned that he will not sell intoxicating liquor except as provided in this act. Said permit thereupon shall be issued for the period of one year from the date of the issuance thereof and a fee of two and fifty hundredths dollars (\$2.50) shall be charged for the same. All such fees collected by the clerk shall be paid over annually, in the month of December, to the county treasurer. And it shall be unlawful for any pharmacist to sell such alcohol or wine unless he is licensed as such by the State Board of Pharmacy and has taken out the permit provided for in this section, and then only under the restrictions and provisions in this act provided; provided, any pharmacist licensed as such by the State Board of Pharmacy, holding a permit from the United States government, to purchase, sell or transport intoxicating liquors, may by filing a copy of such permit with the clerk of the Circuit Court, be entitled to the permit provided for in this section without the filing of a bond or the payment of the fees provided for in this act. The State

Board of Pharmacy and its agents are hereby authorized and empowered to assist in the enforcement of this act. (Id. § 2726.)

165. Pharmacists, Violations of Law By; Citation; Revocation of Permits; License.—If at any time there shall be filed with the Clerk of the Circuit Court of the county in which a pharmacist is doing business, or with the Secretary of the State Board of Pharmacy, a petition setting forth that any pharmacist is not in good faith conforming to the provisions of this act or is guilty of violating any of the laws of the State concerning intoxicating liquor, or that said pharmacist is in the habit of using intoxicating liquor as a beverage, signed by five (5) voters of such township or city, requesting that the permit of such pharmacist be canceled, such clerk or secretary shall immediately issue an order citing such pharmacist to appear before the judge of the Circuit Court, or the State Board of Pharmacy, at some place within the county in which such pharmacist is doing business, on a day named, not more than thirty (30) days from the issuing of such order, at which time the question of the cancellation of such permit shall be heard. If it is found that such pharmacist is guilty of violating any of the provisions of this act, such permit shall be revoked, and the license of such pharmacist may be revoked, and no permit shall be granted to such person, firm or corporation for two (2) years thereafter. Such court or the State Board of Pharmacy shall have the power to subpoena witnesses and require the attendance of such witnesses. Whenever it is shown to the State Board of Pharmacy that any licensed pharmacist has violated the provisions of this act, said board shall have the power to revoke such permit, and also the license of such pharmacist, although no petition has been filed as provided herein. (Id. § 2727.)

166. Physician's Prescriptions; Limitation of Sale.—A registered pharmacist holding a permit to sell intoxicating liquors may sell pure grain alcohol for medicinal purposes, only upon the written prescription of a reputable physician in active practice and only upon the prescription provided for in section seventeen of this act [2733]. Only one sale shall be made upon such prescription and for not more than one (1) quart. (Id. § 2728.)

167. Sales to Dentists, Veterinarians.—Any registered pharmacist holding a permit to sell intoxicating liquors may sell pure grain alcohol to any dentist, licensed as such by the State Board of Dental Examiners, or graduate veterinarian, for mechanical, medicinal or antiseptic purposes, on the written application of such dentist or graduate veterinarian. (Id. § 2729.)

168. Record of Sales; Inspection; Refilling and Cancellation of Prescriptions.—Every pharmacist licensed to sell intoxicating liquor for medicinal, sacramental, mechanical or scientific purposes, shall keep in a book provided for that purpose a true and exact record of each sale of intoxicating liquor made by him. Such record shall be made at the time of sale and shall show the date of the sale, the name of the purchaser, with his place of residence, stating the street and house number (if there be such), the kind, quantity, and price of such liquor and the purpose for which it is sold, and when the sale is for medicinal or sacramental purposes, the name of the physician issuing the prescription or of the clergyman giving the order therefor. Whenever any pharmacist fills a prescription for intoxicating liquor, he shall cancel the same by writing or stamping across the face thereof, in ink, the word "canceled," with the date on which it was presented and filled, and shall keep the same on file, separate from other kinds of prescriptions, and no such prescription shall be filled again. Such book and all prescriptions for intoxicating liquor filled shall be open to inspection by any prosecuting attorney, judge, sheriff, marshal or other police officer or their representative. It shall be unlawful for any druggist or pharmacist to fail or neglect to keep such record, or to destroy, or in any way alter, any such record or entry therein or any prescription filled, or to deny an inspection thereof to any person entitled to such inspection, or to fail or neglect to cancel any such prescription, or to refill any prescription or to sell intoxicating liquor for medicinal purposes except on a written prescription of a licensed physician, or for sacramental purposes without an order signed by a clergyman, or for mechanical or scientific purposes without obtaining the signature of the purchaser. (Id. § 2731.)

169. Semi-annual Report to Clerk; Affidavit.—All applications and prescriptions as herein provided for shall, within five (5) days after the first day of July of each year and within five (5) days after the first day of January of each year, be filed with the clerk of the Circuit Court of the county in which sales are made, together with an affidavit of the pharmacist that such record of the sales of intoxicating liquor include[s] all such liquor sold by him during the preceding period of six months. Such pharmacist shall also file an affidavit setting forth the amounts and kinds of intoxicating liquor, as nearly as can be

done, that he has on hand on the day his affidavit was made, as well as the amount and kind of intoxicating liquor he has purchased or procured during the preceding period of six months, with the name or names of the persons and their place of business from whom he has secured such liquor and the date on which such liquor was furnished or secured. All such prescriptions, application[s] and affidavits shall be kept by said clerk as [a] public record for the period of two (2) years from the date of the filing thereof. (Id. § 2732.)

170. Physician's Prescription, Form and Content; Violations.—It shall be unlawful for any licensed physician to issue a prescription for intoxicating liquor except in writing; nor in any case, unless he has good reason to believe that the person for whom it is issued will use the same for medical or surgical purposes or as an antiseptic. Every prescription for intoxicating liquor shall contain the name and address of the physician, the name and quantity of liquor prescribed, the name of the person for whom prescribed, the date on which the prescription is written and direction for the use of liquor so prescribed. Upon the conviction of any licensed physician of a violation of the provisions of this section, it shall be unlawful for such physician thereafter to write any prescription for the furnishing, delivery or sale of intoxicating liquor, and it shall be unlawful for any pharmacist to knowingly fill any such prescription written or signed by any physician who has been convicted of a violation of the provisions of this section. (Id. § 2733.)

171. Shipments; Packages; Record of Common Carriers.—On the outside of each package of intoxicating liquor shipped, carried or consigned for shipment shall be printed or written the name of the consignee with his address and the name of the consignor with his address, the kind and quantity of liquor in such package, each and all written or printed in the English language. All railroad companies, express companies or common carriers shall keep in the office at which delivery to the consignee is made a separate record in which shall be entered the information provided for in this section of all shipments of intoxicating liquor. Such record shall be open to the inspection of any State, county, city, town or township officer. Any agent, officer or any employee of any railroad company, express company or common carrier violating the provisions of this section shall be guilty of a misdemeanor. (Id. § 2734.)

172. Grain Alcohol; Receipt by and Transportation For Authorized Uses; Permit.—Any wholesale druggist, licensed pharmacist, licensed and bonded as provided for in this act, or any manufacturing chemist or manufacturer using pure grain alcohol for manufacturing or industrial purposes only, or any public hospital or any person authorized to use alcohol desiring to have transported to it or him such alcohol shall make and file with the clerk of the Circuit Court a statement in writing, under oath, which statement shall contain the date, the name of the applicant the name under which he transacts business, and, if made by the agent of a corporation, he shall state the name of such corporation and the official position or connection of the person making said statement with said firm or corporation. Said statement shall set out the place and the character of business and the use to be made of such alcohol and that it is necessary from time to time to receive shipments of such alcohol and that the same is not to be sold in violation of the laws of this State nor to be used in the preparation of any intoxicating beverage but is to be used for purposes permitted by this act only. Upon the filing of such statement properly sworn to with the clerk of the Circuit Court such clerk shall issue to the applicant a permit for one year to receive and possess such liquor. Said clerk shall collect a fee of one dollar (\$1) for such permit, and all such fees shall be paid over annually to the county treasurer, in the month of December. (Id. § 2735.)

173. Delivery by Common Carrier; Fictitious Consignees.—It shall be unlawful for any officer, agent or employee of any railroad company, express company or other common carrier to deliver any intoxicating liquor to any person other than to the person to whom such intoxicating liquor is consigned or without a written order in each instance by said consignee therefor or to deliver any intoxicating liquor to any person whomsoever where such intoxicating liquor has been consigned to a fictitious person or a person under fictitious name. (Id. § 2736.)

174. Common Carriers; Interstate Shipments in Unbroken Packages.—The provisions of this act relating to the shipment or having in possession of intoxicating liquor shall not apply to shipments transported by any common carrier of unbroken packages of intoxicating liquor in continuous transit through this State from a point outside of the State to another point outside of the State. (Id. § 2737.)

175. False Statements Relating to Prescriptions, Permits, Transportation.—It shall be unlawful for any person to make a false statement to a physician or a pharmacist for the purpose of obtaining intoxicating liquor or alcohol or to the

clerk of the Circuit Court for the purpose of obtaining a permit for the shipment of intoxicating liquor or to any railroad, express or transportation company or any person engaged in the business of transporting goods, wares and merchandise for the purpose of obtaining the shipment, transportation or delivery of any intoxicating liquor. (Id. § 2738.)

176. Advertisements and Displays.—It shall be unlawful for any person, either directly or indirectly, to advertise or display any intoxicating liquor or any formula, ingredient or apparatus for the illegal manufacture, disposal or transportation of intoxicating liquor, or of any article or vessel for containing such liquors, in any newspaper, periodical, circular, handbill or price list, or on any sign, signboard, billboard, bulletin board, or in any show window, or in any manner whatever; or for any person to publish or distribute any such advertising or display matter in this State, which, either directly or indirectly, advertises or displays for sale or gift any intoxicating liquor or apparatus, formula or ingredient for the manufacture, sale or transportation of intoxicating liquor. (Id. § 2745.)

177. Penalties Not Elsewhere Specifically Provided; Second and Third Convictions.—Any person convicted of any violation of this act where the punishment therefor is not herein specifically provided shall be punished by a fine of not less than fifty (\$50) dollars nor more than five hundred (\$500) dollars, or by imprisonment in the county jail for not less than ten (10) days nor more than six (6) months, or by both such fine and imprisonment. Any person convicted the second time of any such violation of any provision of this act shall be punished by a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars and by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months; and any person convicted the third time of any violation of the provisions of this act shall, for such third and each subsequent violation, be fined not less than two hundred fifty (\$250) dollars, nor more than five hundred (\$500) dollars, and be confined in the county jail for not less than three (3) months nor more than one (1) year. (Id. § 2758.)

178. Fees of Prosecuting Attorney; Allegation of Previous Convictions; Evidence.—The prosecuting attorney shall receive a fee of twenty-five dollars (\$25) for each conviction of a violation of any of the provisions of this act, which fee shall be collected as other costs in the case. Prosecuting attorneys having knowledge of any previous conviction of any person accused of violating this act shall, in preparing complaints, informations or indictments for subsequent offenses, allege such previous conviction therein, and a certified copy of the record, under seal of the clerk of any court of record, shall be sufficient evidence of any previous conviction or convictions of violation of this act. (Id. § 2759.)

PART IV.

Miscellaneous Laws.

Convict-Made Goods.

178a. Sale of Convict-Made Goods; License.—It shall be unlawful for any person or persons or corporation to expose for sale within the State of Indiana, without first obtaining from the Secretary of State a license to sell, any convict-made goods, merchandise or wares, as hereinafter provided. (Burns' Anno. Stats. 1926, § 9755.)

178b. Application for License; Bond.—Every person, persons or corporation desiring to act as agent for or to deal in convict-made goods, merchandise or wares, before exposing such goods within the limits of the State of Indiana, shall make an application in writing to the Secretary of State, setting forth his or their residence or office, the class of goods he, they or it desires to deal in, the town, village or city, giving the street number at which he, they or it intends to locate, together with the names of two or more responsible citizens of the State of Indiana who shall enter into a bond of not less than five thousand dollars, to guarantee that the said applicant will in all and every particular comply with any and all laws of the State of Indiana regulating and prescribing the sale of convict-made goods, wares and merchandise. (Id. § 9756.)

178c. Issue of License; Posting.—The Secretary of State shall thereupon issue a license to such applicant for one year, except as hereinafter provided, which license shall set forth the name of the person, persons or corporation, and shall be kept conspicuously posted in his, their or its place of business. (Id. § 9757.)

178d. Statements by Person Selling Goods.—Such person, persons or corporation shall annually, before the fifteenth day of January in each year, transmit to the Secretary of (the) State a verified statement setting forth:

1. The name of the person, persons or corporation.

2. His, their or its place of business.

3. The names of the persons, agents, warden or keepers of any prison, jail, penitentiary or reformatory, or establishment using convict labor, with whom he has done business, and the person, persons or corporation to whom he has sold goods, wares or merchandise, giving the State, city or town and street number of such purchaser or purchasers.

4. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise, and the character of goods, wares or merchandise so received. (Id. § 9758.)

178e. Fee for License.—Every person, persons or corporation shall pay annually, upon the issue of such license as hereinbefore provided, the sum of five hundred dollars to the Secretary of State as a license fee, which amount shall be credited to the maintenance account of the State Prison. (Id. § 9759.)

178f. Term of License.—Licenses shall be for one year unless revoked as subsequently provided. (Id. § 9760.)

178g. Revocation of License.—The Secretary of State shall have the power to revoke the license of any person, persons or corporation, upon satisfactory evidence, or upon conviction for any violation of any law regulating the sale of convict-made goods, wares or merchandise; but no such revocation shall be made until due notice to the person, persons or corporation so complained of; and, for the purpose of this section, the said Secretary of State, or his authorized agents, shall have power to administer oaths and to compel the attendance of persons and the production of books, papers, et cetera. (Id. § 9761.)

178h. Labeling of Goods.—All goods, wares or merchandise made or partly made by convict labor in any penitentiary, prison, reformatory or other establishment shall, before being exposed for sale, be branded, labeled or marked as herein-after provided, and it shall not be exposed for sale in any place within this State without such brand, label or mark. (Id. § 9762.)

178i. Contents of Label; How Affixed.—The brand, label or mark hereby required shall contain at the head or top thereof the words "convict-made," followed by the year and name of the penitentiary, prison, reformatory or other establishment in which it was made, in plain English letters of the style known as great primer Roman capitals. The brand or mark shall, in all cases where the nature of the article will permit, be placed upon the same, and only where such branding or marking is impossible, a label shall be used; and where a label is used, it shall be in the form of a paper tag, which shall be attached by wire to each article, where the nature of the article will permit, and placed securely upon the boxes, crates or other covering in which such goods, wares or merchandise may be packed, shipped or exposed for sale. Said brand, mark or label shall be placed upon the outside of, and upon the most conspicuous part of, the furnished [finished] article and its box, crate or covering. In case of manufactured clothing of any nature, such label shall be of linen and securely sewed upon each article of such clothing in a place where, upon examination, it may be easily discerned. (Id. § 9763.)

178j. Violating Act; Prosecution; Penalty.—When, upon complaint or otherwise, the Commissioner of Labor Statistics has reason to believe that this act is being violated, he shall advise the prosecuting attorney of the county in which such alleged violation has occurred of that fact, giving the information in support of his conclusions, and the prosecuting attorney shall at once institute the proper legal proceedings to compel compliance with this act. Any person offending against the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten hundred dollars, and not less than fifty dollars, or to be imprisoned for a term not exceeding twelve months nor less than ten days, or both. (Id. § 9764.)

178k. Disposal of Fine.—It shall be lawful for any person, persons or corporation to furnish evidence as to the violation upon the part of any person, persons or corporation, and, upon the conviction of such person, persons or corporations, one-half of the fine provided for by this act which shall be secured shall be paid to the Commissioner of Labor Statistics to be used by him in investigating and securing

information regarding violations of this act and in paying expenses of securing conviction for violations thereof: Provided, that this act shall not apply to outstanding or existing contracts. (Id. § 9765.)

False Advertising.

179. False Statements in Advertisements.—Any person, firm, corporation or association, who, with intent to sell or in any manner dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this State, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or, in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and shall be liable to a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each offense; provided, however, that the provisions of this act shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular who, in good faith, and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of, such advertisement. (Burns' Anno. Stats. 1926, § 2954.)

Flag Desecration.

180. Desecrating United States Flag.—Any person who, in any manner, for exhibition or display, shall place or cause to be placed any words or figures or numbers or marks or inscriptions or pictures or design or device or symbol or token or notice or drawing or any advertisement of any nature whatever, upon any flag, standard, color or ensign of the United States or shall expose or cause to be exposed to public view any such flag, standard, color or ensign of the United States upon which shall be printed, painted or otherwise placed or to which shall be attached, appended, affixed or annexed any words or figures or numbers or marks or inscriptions or pictures or design or device or symbol or token or notice or drawing or any advertisement of any nature or kind whatever or who shall expose to public view or shall manufacture or sell or expose for sale or have in possession for sale or for use any article or thing or substance being an article of merchandise or a receptacle of merchandise upon which shall have been printed, painted or attached or otherwise placed a representation of any such flag, standard, color or ensign of the United States to advertise or call attention to or to decorate or to ornament or to mark or to distinguish the article or thing on which shall be placed, or shall publicly mutilate, trample upon or publicly deface or defy or defile or cast contempt, either by words or act, upon any such flag, standard, color or ensign of the United States shall be deemed guilty of a misdemeanor and punishable as hereinafter provided. (Burns' Anno. Stats. 1926, § 3033.)

181. Flags; Standard and Colors Defined.—The words flags, standard, color, or ensign of the United States, as used in this act, shall include any flag, any standard, any color, any design or any representation of a flag, standard, color, ensign or a picture of a flag, standard, color or ensign, made of any substance whatever, or representation of any substance whatever and of any size whatever, evidently purporting to be either of said flag, standard, color or ensign of the United States or a picture or a representation of either thereof, upon which shall be shown the colors, the stars and stripes of [or] any number of either thereof, or by which the person seeing the same, without deliberation, may believe the same to represent the flag or the colors or the standard or the ensign of the United States of America. (Id. § 3034.)

182. Acts Permitted by United States.—This act shall not apply to any act permitted by the statutes of the United States or by the United States army or navy regulations, nor shall this act be construed to apply to the regular issue of a newspaper or other periodical on which shall be printed said flag disconnected by [from] any advertisement. (Id. § 3035.)

183. Penalty For Violation.—Any person violating any provisions of this act shall be fined in any sum not less than five dollars (\$5) nor more than ten

dollars (\$10), and for a second and subsequent violation thereof, such person shall be fined in any sum not less than ten dollars (\$10) and not more than twenty-five dollars (\$25). (Id. § 3036.)

Matches.

183a. Employment of Minors Under Eighteen Prohibited.—No minor under the age of eighteen years shall be employed, permitted or suffered to work in any capacity in any of the following occupations: . . . in dipping, dyeing or packing matches, . . . (Burns' Anno. Stats. 1926, § 6470.)

Tobacco—Tobacco Products.

184. Tobacco; Furnishing to Minors.—It shall be unlawful for any person or persons to give, barter or sell, either directly or indirectly, to any child or children under sixteen years any tobacco or preparation of tobacco to be chewed or smoked by such child or children, or to give, barter or sell the same to any person whomsoever with knowledge that it is to be chewed or smoked by any child under the age aforesaid, or to persuade, advise, counsel or compel any child under said age to chew or smoke tobacco. Any person who violates any of the provisions of this section shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars and be imprisoned in the county jail or workhouse not less than ten days nor more than thirty days. (Burns' Anno. Stats. 1926, § 2698.)

185. Cigarettes; Furnishing to Minors.—It shall be unlawful for any corporation, company, firm or person to sell, barter, furnish, procure for or give away, directly or indirectly, to any minor, any cigarette, cigarette wrapper or any substitute for either or to persuade, advise, counsel or compel any minor to smoke any cigarette. Any such corporation, company, firm or person violating any of the provisions of this section shall, for the first offense, on conviction, be fined not less than ten dollars nor more than fifty dollars; and for a second or any subsequent offense, such corporation, company, firm or person shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail or workhouse for any period not exceeding sixty days. (Id. § 2699.)

186. Cigarettes; Sale or Gift to Minors.—It shall be unlawful for any person, by himself, clerk, servant, employee or agent, directly or indirectly, upon any pretense or by any device, to sell, exchange, barter, dispose of or give away or keep for sale to any minor any cigarettes, cigarette paper or cigarette wrappers or any paper made or prepared for the purpose of being filled with tobacco for smoking or keep or own or be in any way concerned, engaged or employed in owning or keeping any such cigarettes, cigarette paper or wrappers for sale to minors and any person for violation of the same shall be guilty of a misdemeanor and, upon conviction, shall, for the first offense, pay a fine of not less than twenty-five dollars nor more than one hundred dollars and costs of prosecution, and stand committed to the county jail or workhouse until such costs are paid; and for the second and each subsequent offense he shall pay, upon conviction thereof, a fine of not less than one hundred dollars nor more than five hundred dollars and the costs of prosecution or be imprisoned in the county jail or workhouse not to exceed six months. (Id. § 2700.)

187. Minors Not to Buy, Sell or Use Cigarettes.—It shall be unlawful for any person under the full age of twenty-one years, by himself or through any other person or by any means, directly or indirectly, to buy, receive or accept for his own use or the use of any other person whatsoever, or to keep or own or to have in his possession or to sell, either as principal or agent, or to use any cigarette, cigarette paper, cigarette wrapper or any paper or wrapper containing morphine, nicotine, oil of hemp or any deleterious or poisonous ingredient or substance, or intended, suited, made or prepared for the purpose of being filled with tobacco for smoking or any substitute for such cigarette paper, cigarette wrapper or other such paper. (Id. § 2701.)

188. Minor Misrepresenting Age.—It shall be unlawful for any person under the full age of twenty-one to misrepresent his or her age and state that he or she is over the age of twenty-one years in order to purchase, procure, use, sell or otherwise dispose of any cigarette or other article mentioned in section 1 of this act [2701]. (Id. § 2702.)

189. Penalty; Exceptions.—Any person who shall be convicted of violating any of the provisions of this act shall be fined in any sum not exceeding one

hundred dollars or imprisoned in the county jail for a period not exceeding three months or punished by both such fine and imprisonment: provided, that none of the provisions of this act shall be held to repeal any law against selling cigarettes or other injurious articles to minors: and provided, further, that this act shall be taken as supplemental to, and not as superseding "An act defining delinquency in children, and providing for the punishment of any person responsible for, or in any way contributing to, the delinquency or other offenses of any child," approved March 6, 1905. (Id. § 2703.)

NOTE: See also Burns' Annotated Statutes 1926, §§ 1695-1696.

190. Inspection; Warehouses.—Inspection of leaf tobacco in hogsheads may be had anywhere in the State. Warehouses for the inspection, storage and sale of tobacco shall be constructed so as to keep safely and securely and guard against fire and the weather, as far as practicable, all tobacco stored therein; and such warehouse shall at all times be kept open and in good repair and shall be provided with all the necessary conveniences for receiving, storing, inspecting, selling and delivering tobacco in hogsheads. (§ 14476.)

191. Duty of Warehouseman.—The proprietor of each warehouse shall provide and continually keep in the same and in good order scales of sufficient size and strength to weigh at least one ton weight which shall be tested once in every year and oftener if necessary by the standard weights and measures; and shall provide a sufficient number of coopers to do the coopering and to handle tobacco stored, inspected and sold in such warehouse; and shall provide all other necessary assistance to do all things needful in receiving, storing, inspecting, selling, coopering and delivering tobacco. The said warehouse proprietors shall superintend the weighing of each hogshead of tobacco and see that the empty cask is properly weighed and that the proper number and weights, gross, tare and net, are marked on one of the heads of the same. They shall cause each hogshead to be uncased and shall furnish the necessary hands to break the same. The inspectors shall then cause it to be broken not less than three times, and oftener if they shall deem it necessary, and shall draw samples from each hogshead not exceeding ten pounds in quantity. (Id. § 14477.)

192. Warehouseman's Book.—The proprietor shall keep a well bound book of proper size in which shall be entered the marks, numbers, gross, tare and net weights of each hogshead inspected and sold, together with the owner's name, the price sold for per one hundred pounds and the amount each hogshead sold for; and when requested to do so, shall collect and pay to the planters or sellers of tobacco the sum due them. He shall make account of sales for the planters or sellers, stating the number of hogsheads, gross, tare and net weights, and the price per hundred pounds and the sum each hogshead amounts to. (Id. § 14478.)

193. Warehouseman's Duties and Liabilities.—No proprietor or any of his agents shall, directly or indirectly, be engaged in buying leaf tobacco in the county in which his warehouse shall be situate. Nor shall any proprietor rent or suffer any portion of his warehouse to be used for the sale of tobacco in the hogshead, except as provided in this act. The proprietor shall be liable for his agents and servants, and for the safe-keeping and delivery of tobacco in his warehouse, except in case of fire or unavoidable accident; and shall deliver all tobacco to the owners or other persons entitled to receive the same immediately outside the warehouse doors, within a reasonable time after being demanded at the warehouse and presentation of the receipt to the proprietor or his clerk and payment or tender of the fees due on said tobacco. (Id. § 14479.)

194. Bond; Civil and Criminal Penalty.—The proprietor of each warehouse shall enter into bond, with good security, to be approved by the judge of the Circuit Court of the county, and kept on file in that court (provided the approval of the clerk of said court in vacation is authorized until the next session of that court), payable to the State of Indiana, in the sum of five thousand dollars, conditioned well and truly to perform all the duties required of him by and to conform to all the provisions of this act. The party injured by any violation of said bond may sue thereon by civil suit, and recover, for his own benefit as in other cases, for any injury received. Any such proprietor who shall violate any condition of such bond or any provision of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding one thousand dollars. (Id. § 14480.)

195. Warehouseman's Fees.—The fees to be collected by the proprietor of any tobacco warehouse in this State shall be as follows: One dollar and fifty-five cents for receiving, weighing, coopering, marking, making out bills of sale and paying the money to the seller, and making out and delivering the note or memorandum to the purchaser; fifty cents for storage and twenty cents to the inspectors. Of this amount, the planter or owner shall pay one dollar, and the purchaser shall pay one dollar

and twenty-five cents when the note is made out and presented to said purchaser. (Id. § 14481.)

196. Extra Storage; Lien.—If any hogshead of tobacco shall remain in the warehouse twelve months, the proprietor of said warehouse shall be entitled to one dollar extra for storage, and at the same rate for the time it shall remain after one year; and shall be entitled to fifty cents hereinbefore named for storage on all tobacco which may remain in such warehouse for less than one year. A lien is hereby given to the proprietors of warehouses and inspectors on all tobacco, and the proceeds thereof, for the fees and charges on the same. (Id. § 14482.)

197. Inspectors; Appointment; Term; Oath.—Upon the application of the proprietor or of any person engaged in the construction of any such warehouse in any county in this State, the judge of the circuit court of such county shall appoint two competent judges of tobacco as inspectors thereof for said county, to hold their offices from the date of their appointment and qualifying for one year from and after the first day of November following their appointment, and until their successors are severally appointed and qualified after said first appointment; and so long as there shall be any tobacco warehouse kept in operation in such county, and beginning with the first day of November ending the term of the first appointment, said judge of the Circuit Court shall, on the first day of every alternate November, appoint two competent judges of tobacco as inspectors thereof for said county, to hold their offices for the term of two years and until their successors shall severally be appointed and qualified. Said judge of the Circuit Court shall also, on such original application, and at the time of all such subsequent appointments of inspectors, appoint some such competent judge of tobacco an alternate inspector of tobacco, whose duty it shall be to act in the absence of either of the other inspectors, who shall be entitled to the same fees for discharging the duties of the office and be subject to the same restrictions, and shall have the same power as the other inspectors severally. The judge of said court may at any time remove any inspector from office for the violation of any of the provisions of this act, and shall fill all vacancies, whether occasioned by death, removal from office, resignation or removal from the county. Before entering upon the duties of the office, each inspector shall take an oath before the clerk of the Circuit Court of such county (a copy of which shall be filed in said court) that he will well and truly, and without partiality, perform the duties of tobacco inspector in such county, and comply with all the provisions of this act during his continuance in office. The two inspectors shall each day, when there shall be tobacco in any such warehouse ready for inspection, take notice of that fact, and shall, from eight o'clock A. M. to five o'clock P. M., or until all such tobacco shall be inspected or withdrawn, attend to the inspection thereof, at the different warehouses in their county. (Id. § 14483.)

198. Inspection and Brand.—Hogsheads of tobacco shall be inspected by breaking bulk in at least two places; shall be branded with the gross, tare and net weight, and with the quality, whether first, second or third rate; and shall be headed and hooped up by the inspector. If found not good, sound and merchantable, the hogshead shall be branded "Not passed." (Id. § 14484.)

199. Inspector's Pay; Samples.—The two inspectors performing the duties of the office shall receive ten cents each upon every hogshead of tobacco by them inspected. It shall be the duty of the inspectors, when required by the seller or buyer, to seal the samples out of the hogsheads of tobacco, as made by them, with marks and numbers corresponding with those upon the hogsheads from which they were taken. They shall class the same, if required by the buyer or seller, by placing the letter "P" on each sample, which shall represent the word "Passed," or the letter "R," which shall represent the word "Refused." (Id. § 14485.)

200. Owner's Privileges.—No planter or owner of tobacco shall be required to take it to any warehouse, or to have the same inspected, or sold at auction at any such warehouse; and when sold at any such warehouse, at auction, he may refuse to take the price at which it was cried off. (Id. § 14486.)

201. Twine; Cards; Stamps.—The proprietors of tobacco warehouses shall furnish twine for tying the samples, and cards of good pasteboard, with the name of the house printed thereon, to be tied on said samples; and they shall also furnish a stamp of tin, brass or copper, which shall be marked with the name of the warehouse and with the words "Tobacco inspection," preceded by the name of the county, or of the principal or any other town of the county; and the same shall be stamped on one of the heads of each hogshead of tobacco sold in said warehouse. (Id. § 14487.)

202. Sales by Sample.—No proprietor of any such warehouse, or his agent, shall sell or suffer to be sold by sample at public outcry, any tobacco in hogsheads, unless said tobacco has been inspected by a regularly appointed inspector of tobacco in such county. (Id. § 14488.)

203. Memorandum and Receipt.—The following shall be the forms of the note or memorandum and receipt to be made out and signed by the proprietor of such warehouse for each hoghead of leaf tobacco sold and weighed by him: "This day of , 18[19] , weighed and sold for , in hog-heads of leaf tobacco, No. ; marks, ; gross, ; tare, ; net, ; price, . Witness hand, the date above mentioned." To which the name of the manager or proprietor of the warehouse shall be written by himself or some person authorized by him, "Received from the above hoghead to be delivered to him or his assigns, when demanded, at warehouse in , upon presentation of this note or receipt, and upon the payment of warehouse fees. This day of , 18[19] ." Said note shall be assignable by indorsement or delivery, and such indorsement shall pass the title to the tobacco described therein. (Id. § 14489.)

NOTE: See also No. 234 et seq.

Trade-Marks, Etc.

204. Counterfeiting Private Label.—Whoever, knowingly or willfully, forges or counterfeits, or causes or procures to be forged or counterfeited, any representation, likeness, similitude, copy, or imitation of the private stamp, wrapper, or label, usually fixed by any mechanic or manufacturer [to, or used by any mechanic or manufacturer] on, or in the sale of, any goods, wares or merchandise, with intent to deceive or defraud the purchaser or manufacturer of any goods, wares or merchandise whatsoever, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or fined not less than ten dollars nor more than one hundred dollars. (Burns' Anno. Stats. 1926, § 2962.)

205. Possession of Counterfeit Die, Intent to Sell.—Whoever has in his possession any die, plate, engraving, or printed label, stamp or wrapper, or any representation, likeness, similitude, copy, or imitation of the private stamp, wrapper or label usually affixed by any mechanic or manufacturer to, and used by such mechanic or manufacturer on, or in the sale of, any goods, wares or merchandise, with intent to use or sell the said die, plate, engraving or printed stamp, label or wrapper, for the purpose of aiding or assisting in any way whatever in vending any goods, wares or merchandise, in imitation of or intended to resemble and be sold for the goods, wares and merchandise of such mechanic or manufacturer, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or be fined not less than ten dollars nor more than one hundred dollars. (Id. § 2963.)

206. Vending Goods With Counterfeit Stamps of Maker.—Whoever vends any goods, wares or merchandise, having thereon any forged or counterfeit stamp or label, imitating, resembling or purporting to be the stamp or label of any mechanic or manufacturer, knowing the same to be forged or counterfeited, and resembling or purporting to be an imitation of the stamp or label of such mechanic or manufacturer, without disclosing the fact to the purchaser, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or fined not less than ten dollars nor more than one hundred dollars. (Id. § 2964.)

207. Trade-mark, Name of Church.—It shall be unlawful for any person to sell or offer for sale any goods or merchandise having upon such merchandise, or the receptacle containing the same, a trade name or trade-mark, the distinguishing part of which is the distinguishing part of the name of any church or religious organization, or the distinguishing part of the name by which any church or religious organization is commonly known: provided, that the provisions of this act shall not apply to publications. (Id. § 3022.)

208. Misdemeanor, Penalty.—Any person violating any provision of this act shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not less than ten dollars nor more than twenty-five dollars, and each day such goods or merchandise is sold or offered for sale shall constitute a separate offense. (Id. § 3023.)

209. Trade-mark, Bottles, Name, Filing Descriptions.—Any person, firm or corporation engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages or medicines, medical preparations, perfumery, oils, compounds or mixtures, in bottles, siphons, tins or kegs, with his or its name or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles, siphons, siphon heads, tins or kegs, or the boxes used by him or it, may file in the office of the clerk of the Circuit Court of the county in which his or its principal place of business is situated, or if

such person or corporation shall manufacture or bottle out of this State, then in any county in this State, and also in the office of the Secretary of State, a description of name, marks or devices so used by him or it, and cause such description to be printed once in each week, for the three weeks successively, in a newspaper published in the county in which said notice may have been filed as aforesaid, and he shall thereupon be deemed the proprietor of such name, mark or device, and of every vessel or receptacle upon which it may be branded, stamped, engraved, etched, blown, impressed or otherwise produced. (Id. § 14417.)

210. Penalty For Violation.—It shall be unlawful for any person, firm or corporation to fill with soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or with medicine, medical preparations, perfumery, oils, compounds or mixtures, any bottle, box, siphon, siphon heads, tin or keg so marked or distinguished as aforesaid, with or by any name, mark or device of which a description shall have been filed and published, as provided in section one of this act [14417], or to deface, erase, obliterate, cover up or otherwise remove or conceal, any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in the same without the written consent of, or unless the same shall have been purchased from, the person, firm or corporation whose mark or device shall be or shall have been in or upon the bottle, box, siphon, siphon head, tin or keg so filled, trafficked in, used or handled as aforesaid. Any person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished for the first offense by imprisonment in the county jail for not less than ten days nor more than one year, or by a fine of fifty cents for each and every such bottle, box, siphon, siphon head, tin or keg so filled, sold, used, disposed of, bought or trafficked in, or by both such fine and imprisonment, and, for each subsequent offense, by imprisonment in the county jail for not less than twenty days nor more than one year, or by a fine of not less than one dollar nor more than five dollars for each and every bottle, box, siphon, siphon head, tin or keg so filled, sold, used, disposed of, bought or trafficked in, or by both such fine and imprisonment in the discretion of the court before whom the offense shall be tried. (Id. § 14418.)

211. Use by Other Persons Forbidden.—The use by any person other than the person, firm or corporation whose device, name or mark shall be or shall have been upon the same, without such written consent or purchase as aforesaid, of any such marked or distinguished bottle, box, siphon, siphon head, tin or keg, a description of the name, mark or device whereon shall have been filed and published as herein provided, for the sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer weiss beer white beer, or other beverages, or any article of merchandise, medicines, medical preparations, perfumery, oils, compounds, mixtures or preparations, or for the furnishing of such or similar beverages to customers, or the buying, selling, using, disposing of or trafficking in any such bottles, boxes, siphons, siphon heads, tins or kegs by any person other than said persons, firms or corporations having a name, mark or device thereon of such owner, without such written consent, or the having by any junk dealer or dealers in second-hand articles, possession of any such bottles, boxes, siphons, siphon heads, tins or kegs, a description of the marks, names or devices whereon shall have been so filed and published as aforesaid, without such written consent, shall, and is hereby declared to be presumptive evidence of the said unlawful use or purchase of and traffic in such bottles, boxes, siphons, siphon heads, tins or kegs. (Id. § 14419.)

212. Issue of Search Warrant.—Whenever any person, firm or corporation mentioned in section one of this act [14417], or his or its agent, shall make oath before any Circuit or Superior Court that he or it has reason to believe, and does believe, that any of his or its bottles, boxes, siphons, siphon heads, tins or kegs, a description of the names, marks or devices whereon has been so filed and published as aforesaid, are being unlawfully used or filled, or had, by any person, firm or corporation manufacturing or selling soda, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages or medicine, medical preparations, perfumery, oils, compounds or mixtures, or that any junk dealer or dealer in second-hand articles, vendor of bottles, or any other person, firm or corporation has any such bottles, boxes, siphons, siphon heads, tins or kegs in his or its possession or secreted in any place, the said court must thereupon issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession such bottles, boxes, siphons, siphon heads, tins or kegs may be found, and shall then inquire into the circumstances of such possession, and if such court finds such person has been guilty of a violation of section 2 of this act [14418], he must impose the

punishment herein prescribed, and he shall also award possession of the property taken upon such warrant to the owner thereof. (Id. § 14420.)

213. Deposit Does Not Constitute Possession.—The requiring, taking or accepting of any deposit, for any purpose, upon any bottle, siphon, siphon head, tin, keg, freezer, can, block, mould, tray, brick, pan, tank, pail, keg, tub, refrigerator, box, spoon, cutlery, glass, china, chair, table or sign shall not be deemed or constitute a sale of such property, either optional or otherwise, in any proceeding under the provisions of this act. (Id. § 14421.)

214. Old Filings and Publications Not Repeated.—Any person, firm or corporation that has heretofore filed in the offices mentioned in section one of this act [14417] a description of the name or names, marks or devices upon his or its property therein mentioned, and has caused the same to be published according to the law existing at the time of such filing and publication, shall not be required to again file and publish such description to be entitled to the benefits of this act. (Id. § 14422.)

215. Filing With Secretary of State.—Any firm, person, corporation or voluntary association that are citizens of the State of Indiana, or of the United States, and who are entitled to the exclusive use of any lawful trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, may obtain protection for such lawful trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan by complying with the following requirements: First, by causing to be filed with the Secretary of State a statement specifying the names of the parties, and the residences and places of business, who desire the protection of the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, the class of merchandise and the particular description of goods comprised in such class by which the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan has been or is intended to be protected; also a description of the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, with facsimile thereof, showing the mode in which it has been and is intended to be applied and used, and the length of time, if any, during which the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan has been in use. Second, by making a payment of a fee of two dollars to the Secretary of State, whose duty it will be to file and record said statement in a book kept for the purpose, to be procured by him as other books in his office of like nature are procured; provided, that whenever an application is made for the registration of a trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan which is so like a previously registered or known trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, as in the opinion of the Secretary of State will likely result in confusion or mistake, he shall determine the right of registration in such manner and upon such notice to those interested as he may by rule prescribe; and he may refuse to register any such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, or may cancel any registration already issued if it appear that such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan was improperly registered; provided, that from the decision of the Secretary of State, an appeal may be taken, by any party interested, to the courts. (Id. § 14423.)

216. Written Declaration.—Any certificate or statement prescribed in the preceding section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration, verified by the person, or some member of the firm or officer of the corporation or voluntary association, by whom it is filed, to the effect that the party claiming the protection for the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, has a right to the same, and that no other person, firm, corporation or voluntary association has the right to such use, either in the identical form or in any such near resemblance as might be calculated to deceive; and that the description and facsimile presented for record are true copies of the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan sought to be protected. (Id. § 14424.)

217. Recording Prima Facie Evidence.—The time of the receipt of any trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan at the office of the Secretary of State for registration shall be noted and recorded. Certified copies of the trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, and the date of the receipt thereof, and of the statement and affidavit filed therewith shall be prima facie evidence of the facts and statements and affidavit record in any suit in which such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan shall be brought into controversy. (Id. § 14425.)

218. Continuous Use; Change of Ownership.—A trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan shall remain in force so

long as it is used continuously; after a disuse of six months it shall be deemed out of existence. Such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan may be sold or assigned, or pass to personal representatives by will, or become assets of an estate. In any case where ownership changes of such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan before it can be used by the successor in title, a statement of such change of ownership shall be filed with the Secretary of State, and he shall record the same in the book kept for the purpose of recording trade-marks, labels, brands, stamps, wrappers, original advertising phrases or slogans, and such secretary shall receive two dollars for recording such statement; and it shall be unlawful to use such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan till such change of ownership has been filed as aforesaid. (Id. § 14426.)

219. Exclusive Use.—Such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan shall entitle the person, firm, corporation [or] voluntary association registering the same to the exclusive use thereof, so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person, firm, corporation or voluntary association can lawfully use the same trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, or substantially the same, or so nearly resembling it as to be calculated to deceive upon substantially the same description of goods. (Id. § 14427.)

220. Remedy When Rights Are Violated.—For a violation of any rights created by this act, the person, firm, corporation or voluntary association aggrieved shall have all common-law remedies and actions for damages, and shall be entitled to an injunction to prevent further use of any trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan by this act secured to the injured person, firm, corporation or voluntary association; and if an injunction is made final and perpetual the injured person, firm, corporation or voluntary association shall recover reasonable attorney's fees. (Id. § 14428.)

221. Right to Use May be Granted.—Any owner of a trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, who has complied with the provisions of this act, shall have the right to grant to others the authority to use such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, but such authority to so use must be in writing, signed by the owner of such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, with two witnesses to such signature, and no one but the owner shall have the right to use such trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, unless such written authority has been given. (Id. § 14429.)

222. Assertion of Rights.—If it becomes necessary for any voluntary association to assert any right to any trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, it shall be sufficient to use the name of the president or chief officer of such association, either in [an] action at law, suit in equity, or indictment for the violation of the provisions of this act. (Id. § 14430.)

223. Existing Rights Not Affected.—This act shall not be construed to lessen, impair or abridge any rights or remedies that have heretofore existed in favor of any one owning or rightfully claiming a trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan. (Id. § 14431.)

224. Penalty For Infringement.—Any person or persons who shall knowingly or willfully cast or engrave, or manufacture, or have in his, her or their possession, or buy, sell or offer for sale, or deal in, any die or dies, plate or plates, brand or brands, engraving or engravings, on wood, stone, metal or other substances, molds or any false representations, likeness, copy or colorable imitation of any die, plate, brand or mold of any private trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, engraving on paper or other substance, registered and recorded pursuant to this act, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for not less than one year or more than two years, or be fined in a sum not less than one thousand dollars or more than two thousand dollars. (Id. § 14432.)

225. Penalty For Imitating Trade-marks.—Any person or persons [who], knowingly and willfully make, forge or counterfeit, or have in his, her or their possession, or buy, sell, offer for sale or deal in, any representation, likeness, similitude, copy or colorable imitation of any private label, brand, stamp, wrapper, engraving, mold, trade-mark, original advertising phrase or slogan, registered and recorded pursuant to this act, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for a period of years not more than two nor less than one, or be fined in any sum not less than one thousand dollars nor more than two thousand dollars. (Id. § 14433.)

226. Unlawful to Sell Goods Bearing Spurious Trade-mark.—It shall be unlawful for any person, firm, corporation or voluntary association doing business in this State or in the United States to have in his or its possession, or to sell, or offer for sale or trade, any goods, wares, merchandise or other article upon which he or it knows is placed or affixed a false, forged or spurious trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, in likeness or imitation of some trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, registered as provided for in this act; and any such person, firm, corporation or voluntary association so having in his or its possession, or selling, or offering for sale or trade, any goods, wares or merchandise upon which he or it knows is placed or affixed a false, forged or spurious trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan, in likeness or imitation of some trade-mark, label, brand, stamp, wrapper, original advertising phrase or slogan registered as aforesaid, shall, upon conviction thereof, be punished by fine in a sum of not less than fifty dollars nor more than two hundred dollars, or imprisoned in the county jail six months, or both. (Id. § 14434.)

Trading Stamps.

227. Trading Stamps, Contents, Money Value.—No person shall sell or issue to any person in this State any stamps, trading stamps, cash discount stamps, checks, ticket, coupon, or other similar device which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive, either directly from the vendor or indirectly through any other person, money or goods, wares or merchandise, unless each of said stamps, trading stamps, cash discounts stamps, check, tickets, coupons, or other similar devices shall have legibly printed or written on the face [face] thereof the redeemable value thereof in lawful money of the United States. (Burns' Anno. Stats. 1926, § 12228.)

228. Redemption in Money.—Any person who shall sell or issue to any person engaged in any trade, business, or profession, any stamp, trading stamp, cash discount stamp, check, ticket, coupon, or other similar device which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive either directly from the vendor or indirectly through any other person, money, goods, wares or merchandise, shall upon presentation redeem the same either in goods, wares or merchandise, or in lawful money of the United States, at the option of the holder thereof at the value in lawful money printed on the face thereof; provided, that the same be presented for redemption in number or quantity aggregating in money value not less than five cents in each lot. (Id. § 12229.)

229. Redemption Refused; Liability.—Any person engaged in any trade, business or profession who shall distribute, deliver or present to any person dealing with him, in consideration of any article or thing purchased, any stamp, trading stamp, cash discount stamp, check, ticket, coupon or other similar device which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive, either directly from the person issuing or selling the same, as set forth in section 2 [12229] hereof, or indirectly from any other person, shall, upon the refusal or failure of the said person issuing or selling same to redeem the same as set forth in said section 2 [12229] hereof, be liable to the holder thereof for the face value thereof, and shall, upon presentation of the same in lots of [or] number aggregating, in money value, not less than five cents in each lot, redeem the same either in ware[s] or merchandise or in lawful money of the United States, at the option of the holder thereof, at the value in lawful money printed on the face thereof. (Id. § 12230.)

230. Redeemable Value of Stamps.—The redeemable value of such stamps, trading stamps, cash discount stamp, check, ticket, coupon or other similar device, printed or legibly written on the face of said stamp as herein provided shall be the same, whether redeemed in merchandise or in lawful money of the United States, and the redemption of such stamps as hereinabove mentioned shall be in lawful money of the United States or in merchandise of equal value thereto, at the option of the holder of said stamps. (Id. § 12231.)

231. Consent of Original Issuer to Use.—No person, firm or corporation shall give or deliver, as an inducement for or in connection with the sale of merchandise, any coupon, check, ticket, stamp, token or similar device redeemable in money or in merchandise, as in this act provided, by any other person, firm or corporation without the consent of the person, firm or corporation originally issuing the same and responsible for the redemption thereof. (Id. § 12232.)

232. Penalty For Violation.—Any person, firm or corporation who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars nor more than one hundred dollars for each offense. (Id. § 12233.)

Weights and Measures.

233. Weights and Measures; Selling Property by Short Weight or Measure; Reporting False Weight.—Whoever knowingly sells, or directs or permits any person in his employ to sell, any property, and makes or gives any false or short weight or measure of such property, and any person owning, or having charge of scales, measures or steelyards, for the purpose of weighing or measuring any property, who knowingly reports any false or untrue weight or measure, whereby any person may be defrauded or injured, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars. (Burns' Anno. Stats. 1926, § 2967.)

234. Packing, Branding or Selling Salt, Beef, Pork, Flour, Tobacco or Hay in Barrels or Packages of Insufficient Weight.—Whoever packs, brands or sells or causes to be packed, branded or sold, any salt, beef, pork, flour, tobacco or hay in barrels or packages as full barrels or packages, when such barrels or packages do not contain the weight which by law they are required to contain, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars. (Id. § 2969.)

235. Altering Inspector's Marks.—Whoever alters or erases any brand or mark of any inspector, appointed by proper authority, placed on any barrel of salt, flour, beef, pork, or hogshead of tobacco, or other article authorized by law to be inspected and branded, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars. (Id. § 2864.)

236. Appointment of Inspector; Term.—The board of county commissioners in any county may appoint inspectors, to serve during four years, unless sooner removed by such board, to inspect within the said county, when required, the following articles: salt, beef, pork, flour and hay. (Id. § 8857.)

237. Brand.—All barrels, hogsheads and bales inspected shall be branded with the name and residence of the inspector. (Id. § 8858.)

238. Brand on Salt Barrels.—An inspector of salt shall brand on one end of the barrel the quality, whether first, second or third rate, also the weight, specifying gross, tare and net. (Id. § 8859.)

239. Weight of Flour; Brand of Qualities.—The weight of flour in each barrel shall be one hundred and ninety-six pounds. It shall be examined with a three-quarter inch barrel auger, and shall be marked of three qualities, the first to be branded "superfine," the second "fine," and the third "coarse." (Id. § 8860.)

240. Beef and Pork.—The weight of beef or pork in each barrel shall be two hundred pounds. According to the quality and usages of trade, beef shall be branded "mess beef" and "prime beef"; and pork shall be branded "mess pork," "prime pork" and "cargo pork." (Id. § 8861.)

241. Damaged Articles.—All flour, beef or pork found musty, sour, tainted or otherwise unfit for market shall be branded with the word [word] "condemned." (Id. § 8862.)

241a. Inspector's Oath and Bond.—Inspectors, before entering on the duties of office, shall give bond to the satisfaction of such board, conditioned for the faithful discharge of their duties, and shall file the same in the county clerk's office; and shall also take an oath of office. (Id. § 8865.)

241b. Form of Inspector's Oath.—An inspector's oath shall be substantially as follows:

I, ... do solemnly swear [or affirm] that, whenever called on, I will diligently examine all [here name the article] submitted to me for inspection; and that I will not pass any that is not sound, in good condition, and fit for market; that I will brand all barrels [or hogsheads, or bales, as the case may be] according to quality, to the best of my judgment; that I will not condemn any article that is sound, in good condition, and fit for market; that I will not deal in any [here insert the article], except as by the law regarding inspectors permitted, and that I will impartially discharge the duties of inspector. (Id. § 8866.)

242. Inspector Not to Trade in Articles Inspected.—An inspector shall not deal in the article he is authorized to inspect, except that he may receive it in payment of a debt, raise or cultivate the same, or sell the same when raised or cultivated by himself. (Id. § 8867.)

243. Inspector's Fees.—Inspectors shall receive, whether the article inspected be passed or not, the following fees: For each barrel of salt, two cents; for each barrel of flour, three cents; for each barrel of beef or pork, thirty-five cents; for each bale of hay, five cents. (Id. § 8868.)

244. Fees, a Lien.—Inspector's fees shall be a lien on the article inspected. (Id. § 8869.)

245. Rules by County Board.—The board of county commissioners may make such further regulations in regard to inspectors as to them may seem necessary. (Id. § 8870.)

246. County Board to Procure Standards.—Each board of county commissioners shall procure a set of the following measures and weights: One measure of one foot, or twelve inches, English measure, so-called; also one measure of three feet, or thirty-six inches, as aforesaid; also one-half bushel measure (which shall contain one thousand and seventy-five and one-fifth solid inches), and one gallon measure (which shall contain two hundred and thirty-one solid inches), which measures are to be of wood or of any metal the court may think proper; also one set of weights commonly called avoirdupois weights; which weights and measures shall be sealed with the name or initial letters of the county, and shall be kept by the county auditor, for the purpose of trying and sealing the weights and measures used in his county. (Id. § 14567.)

247. Standard Established.—The standard weights and measures furnished by the government of the United States in accordance with the joint resolution of Congress, approved June 14, 1836, and any additions thereto and renewals thereof certified to by the United States Bureau of Standards, and such weights, measures, balances and apparatus as may be added by the State Commissioner of Weights and Measures and verified by the United States Bureau of Standards, shall be the standards by which all State, county and city standards shall be tried, proved and sealed. (Id. § 14568.)

248. Commissioner of Weights and Measures; Duties; Regulations and Tolerances.—The State Food and Drug Commissioner shall be the State Commissioner of Weights and Measures. The State Commissioner of Weights and Measures shall take charge of the standards adopted by this act as the standards of the State; cause them to be kept in a fireproof building belonging to the State, from which they shall not be removed except for repairs or for certification, and take all other necessary precautions for their safe-keeping. He shall maintain the State standards in good order and shall submit them once in ten years to the National Bureau of Standards for certification. He, or his deputies or inspectors by his direction, shall correct the standards of the several cities and counties, and as often as once in two years compare the same with those in his possession, and where not otherwise provided by law he shall have the general supervision of the weights, measures and measuring and weighing devices of the State, and in use in the State. The State Commissioner of Weights and Measures is also authorized to adopt rules, specifications and tolerances necessary for the enforcement of the provisions of this act, and the violation of such rules, specifications and tolerances shall be punished upon conviction, as set forth in section 15 of this act [14582]. He, or his deputies shall, upon the written request of any citizen, firm, corporation or institution of the State, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in this State. He, or his deputies or inspectors by his direction, shall at least once annually test all scales, weights and measures and devices used in checking the receipt or disbursement of supplies in every institution under the jurisdiction of the State Board of Charities and he shall report in writing his findings to the executive officer of the institution concerned. The State Commissioner of Weights and Measures shall keep a complete record of the standards, balances and other apparatus belonging to the State and take a receipt for the same from his successor in office; he shall, annually, on or before the first day of December, make to the Governor a report of the work done by his office; he, or his deputies or inspectors at his direction, shall at least once in two years visit the various cities and counties of the State which have appointed sealers of weights and measures in order to inspect the work of the local sealers, and in the performance of such duties he may inspect the weights, measures, balances or any other weighing or measuring appliances of any person, firm or corporation. The State Commissioner of Weights and Measures shall issue from time to time regulations for the guidance of State, county and city sealers or inspectors and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 14569.)

248a. County Inspector of Weights and Measures; Appointment, Removal, Compensation; District Inspectors.—The board of commissioners of every county of thirty thousand population or more shall, and the board of commissioners of any county of less than thirty thousand population may appoint a county inspector of weights and measures. No person shall be appointed as a county inspector of weights and measures in any county unless such person shall have been approved by the State Commissioner of Weights and Measures, and no county inspector of weights and measures in any county shall be removed by the Board of Commissioners without the approval and consent of the State Commissioner of Weights and Measures. The compensation of a county inspector of weights and measures in counties of thirty thousand population or more shall be not less than twelve hundred dollars per year, and in counties having a population of less than thirty thousand, the compensation of the county inspector of weights and measures shall be not to exceed five dollars per day, to be determined by the board and to be paid out of the county treasury: Provided, however, that it shall not be obligatory upon the board of county commissioners of such counties containing a city or cities of the first, second or third class which are already provided with an inspector of weights and measures or city sealers, to make such appointments. The board shall provide the necessary apparatus and supplies for the said inspector of weights and measures and the county councils of such counties shall appropriate such sums of money as are necessary for the salary and maintenance of the office. Two or more adjoining counties, by appropriate action of the boards of commissioners of such counties, may form an inspection district, and provide by mutual agreement, for the appointment of a district inspector of weights and measures. The compensation of such inspector shall not exceed five dollars per day and expenses, and the salary and expenses so paid and incurred shall be apportioned among the counties forming the district in proportion to the population thereof. (Id. § 14570.)

248b. City Inspector of Weights and Measures; Appointment, Removal and Compensation.—The common council of every city of the first, second and third class shall provide for the appointment by the commissioners of the public safety, commonly known as the board of public safety, of an inspector of weights and measures and provide for his compensation and for the necessary apparatus and expenses to be paid out of the city treasury. The said inspector of weights and measures shall serve continuously during good behavior under the provisions of section 160 of an act concerning municipal corporations, approved March 6, 1905, governing the fire and police force, and said inspector of weights and measures shall not be removed for any political reason and only for good and sufficient cause after an opportunity for hearing is given by the said commissioner of public safety: Provided, however, that such provision shall not affect the power of the State Commissioner of Weights and Measures to discharge county or city inspectors of weights and measures as set forth in section 6 [14573] of this act. No person shall be appointed as a city inspector of weights and measures in any city unless such person shall have been approved by the State Commissioner of weights and measures and no such city inspector of weights and measures shall be removed without the approval and consent of the State Commissioner of Weights and Measures. If deemed desirable or advantageous, the same person may be employed as a city and county inspector of weights and measures, and if the same person be so employed the compensation and expenses of such inspector shall be divided between the city and the county, as agreed upon. The compensation of such inspector of weights and measures shall not be less than fifteen hundred dollars per annum in the case of cities of the first class, and not less than twelve hundred dollars per annum in case of cities of the second and third class. (Id. § 14571.)

249. Inspectors; Duties; Bond.—The county or city inspector of weights and measures when appointed shall be a deputy inspector under the direction of the State Commissioner of Weights and measures. He shall take charge of and safely keep the county or city standards. When not otherwise provided by law, the county or city inspector of weights and measures shall have the power within his county or city to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement and the tools, appliances or accessories, connected with any or all such instruments or measurements used or employed within the county or city by any proprietor, agent, lessee, or employee in determining the size, quantity, extent or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted by such person or persons for sale, for hire or award. He shall at least once in each year and as much oftener as he may deem necessary see that the weights, measures and all apparatus used in the county or city are correct. The county or city inspector of weights and measures shall keep a complete record of

the work done by him and shall make a monthly and annual report to the State Commissioner and his board of county commissioners or to the mayor; the annual report shall be duly sworn and submitted to the State Commissioner of weights and measures, not later than the fifteenth of October. The county or city inspector of weights and measures shall forthwith on his appointment give a bond with sureties to be approved by the appointing power for the faithful performance of the duties of his office for the safety of the local standards and such appliances for verification as are committed to his charge and for the surrender thereof immediately to his successor in office or to the person appointed by the proper authority to receive them. The county inspector of weights and measures shall have jurisdiction over the whole county except as to incorporated cities which have provided for a city inspector of weights and measures under the provisions of this act. This act shall apply to the sealers or inspectors of weights and measures heretofore appointed under any State law or city ordinance, and such sealer or inspector shall be continued in office as inspector of weights and measures under the provisions of this act for the respective county, counties, city or cities. (Id. § 14572.)

249a. Inspectors; Qualifications; Removal; Appeal.—Only those persons shall be eligible to appointment to the position of county or city inspectors of weights and measures who at the time of the passage of this act are county or city sealers or inspectors of weights and measures or who have passed an examination which shall be given by the State Commissioner of Weights and Measures to test the ability of the person so examined to perform satisfactorily the duties of a county or city inspector of weights and measures. If it is evident to the State Commissioner of Weights and Measures that any county or city inspector of weights and measures is not properly and faithfully performing the duties of his office, the State Commissioner of Weights and Measures shall have power to discharge such county or city inspector of weights and measures. Such removal, however, shall not be made until five days' notice of the charge or charges shall have been mailed to him by said commissioner, naming a time and place for a hearing, not less than two weeks later than the time of mailing such notice to said county or city inspector of weights and measures: Provided, however, that any county or city inspector of weights and measures so removed by the State Commissioner of Weights and Measures, shall have the right to appeal from the action of said commissioner to the Circuit or Superior Court of the county in which such county or city inspector of weights and measures resides, and during the pendency of such appeal, such county or city inspector of weights and measures may serve in his official capacity. Any county or city inspector of weights and measures discharged as herein provided, shall be ineligible to hold the position of county or city inspector of weights and measures for four years, and the vacancy shall be filled by the proper authorities, as provided in this act. (Id. § 14573.)

250. Scales and Measures.—Whenever the inspector of the city or county or the State Commissioner or his deputies or inspectors tests and compares scales, weights, measures or weighing or measuring devices and finds that they correspond with the standards in his possession he shall seal and mark such scales, weights, measures, or weighing and measuring devices by stamping upon them the letters "Ind. S.," meaning Indiana standard, and the last two figures of the year in which the same is done; if any scales, weights, measures, or weighing or measuring devices, or parts thereof, be found not to conform to the legal standard the same may be tagged by the inspector "condemned until repaired" which tag shall not be removed until said apparatus is properly repaired; if said scales, weights, measures, or weighing or measuring devices, or parts thereof are found to be false and fraudulent, or can not be made to conform to the legal standard, the same shall be **condemned and confiscated by said inspector.** (Id. § 14574.)

251. Police Powers; Seizure of Scales and Measures.—The Commissioner of Weights and Measures, his deputies and inspectors, and the county and city inspectors of weights and measures, are hereby made special policemen and are authorized and empowered to arrest without formal warrant for any violation of the statutes in relation to scales, weights and measures, and to seize and use for evidence and without formal warrant any false weight, scales, measure, or weighing or measuring device, or packages or amounts of commodities found to be used, retained or offered or exposed for sale or sold in violation of law. (Id. § 14575.)

252. Right of Entry; Penalties.—The State Commissioner of Weights and Measures, his agents, deputies and inspectors, and the county and city inspectors of weights and measures may for the purpose of enforcing this act, and in the general performance of their official duties, enter or go into or upon without formal warrant, any stand, place, building or premises, or may stop any vender, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever, for the

purpose of making the proper test and for the purpose of ascertaining the proper weights and measures of all commodities found therein or thereon. Whenever the State Commissioner of Weights and Measures, his agents, deputies or inspectors, or the county and city inspectors of weights and measures find a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted.

Any person who shall molest, hinder or obstruct in any way the State Commissioner of Weights and Measures, his agents, deputies or inspectors, or any county or city inspector of weights and measures in the performance of his official duties hereunder, shall be guilty of a misdemeanor, and shall be punished upon conviction thereof in any court of competent jurisdiction by a fine of not less than ten dollars nor more than two hundred dollars to which may be added imprisonment in the county jail for not more than ninety days. (Id. § 14576.)

253. Commodities; Standard Weight and Measure.—All commodities shall be sold by standard weight or measure except as otherwise provided in this act; provided, however, that the provisions of this section shall not apply to commodities which are usually and customarily sold by numerical count, or in gross, or are sold in packages prepared and put up for sale; provided, that all commodities packed in such packages shall be so marked as to plainly indicate the net contents in terms of weight, measure or numerical count; provided, also, that two thousand pounds net avoirdupois shall constitute a ton. (Id. § 14577.)

254. False Scales and Measuring Devices.—No person, firm or corporation shall use or retain in his possession any false scales, weights or measures or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or in calculating or measuring service, or dispose of any condemned scales, weights, measures or weighing or measuring device, except in accordance with such rules, specifications and tolerances as may be adopted by the State Commissioner of Weights and Measures, as provided in section 2 of this act [14569], or remove any tag, stamp or mark placed thereon by the inspector; and no person, firm or corporation shall sell or offer or expose for sale or deliver less than the quantity he represent[s]; or sell, offer for sale or have in his possession for the purpose of selling any false scales, weight or measure or any device or instrument to be used or calculated to falsify any weight or measure. (Id. § 14578.)

255. Sale by Weight or Numerical Count; Standard Containers.—All commodities shall be offered for sale or sold upon the basis of avoirdupois net weight or by numerical count only, and it shall be unlawful for anyone to use or employ any dry capacity measure, basket, barrel or container of any kind as a means of determining the amounts or quantities of any commodities offered for sale or sold; provided, however, that the provisions of this act shall not be construed to apply to fruits and vegetables sold in the original standard container, nor to vegetables which by common custom are offered for sale or sold by the bunch; nor shall the provisions of this act be construed to apply to fresh berries and to other small fruits which are customarily offered for sale and sold by the box, basket or other receptacle, except, however, when such fresh berries or such other small fruits are offered for sale or sold in bulk, in which case the provisions of this act shall apply to the extent that such fresh berries and such other small fruits shall be offered for sale and sold by avoirdupois net weight only; provided, further, however, that all fresh berries and such other small fruits, when offered for sale or sold, shall be so offered or sold in boxes, baskets or receptacles of uniform size to hold one quart or one pint dry measure only, which said boxes, baskets or other receptacles shall be uniformly and evenly filled throughout.

The term "commodities" as used in this section shall be construed to mean commodities or articles other than liquids which are capable of being measured by dry capacity measure.

The term "original standard container" as used in this section shall be construed to mean and include only barrels, boxes, baskets, hampers or similar containers the dimensions or capacity of which is established by law of this State or by act of Congress, the contents of which have not been removed or repacked and upon which is plainly and conspicuously marked the net quantity of contents thereof in terms of weight, measure or numerical count. (Id. § 14579.)

255a. Weighmasters; Appointment and Duties.—The State Commissioner of Weights and Measures upon application of any county, city, town, corporation, individual, firm, association or institution may designate one or more employees or some other suitable person or persons, to act as weighmaster for such county, city, town, corporation, individual, firm, association or institution. Such weighmaster shall be appointed for a specified term and shall, before entering upon his duties, make oath faithfully to execute his trust as weighmaster. Said Commissioner of

Weights and Measures shall issue and keep record of a certificate of appointment which shall designate the location of said scale or scales or measuring devices to be operated by said weighmaster. The rights and duties of weighmasters shall be prescribed by said State Commissioner and such weighmasters shall not receive compensation from the State for duties so performed. Any weighmaster who misrepresents the quantity of commodities weighed or measured by him, or otherwise misconducts himself in the execution of his duties of weighmaster shall be guilty of a misdemeanor and upon conviction, shall be punished as set forth in section 15 [14582] of this act and shall forfeit his certificate as weighmaster. (Id. § 14580.)

256. Definition of Terms.—The word "person" as used in this act shall be considered to include also firm, copartnerships or corporations. The term "device" or "devices" as used in this act shall be construed to include all weights, scales, beams, mechanical devices or other instruments. The word "sell," "sale" or "buy" as used in this act shall be construed to include barter and exchange. (Id. § 14581.)

257. Penalties.—Except where a specific penalty is otherwise provided, any person, firm, copartnership or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be fined in any sum not less than ten dollars and not more than one hundred dollars, to which may be added imprisonment for a term of not to exceed three months, and for a second or other subsequent offense shall be punished by a fine of not less than twenty dollars and not more than five hundred dollars, to which may be added imprisonment for a term of not more than six months. (Id. § 14582.)

258. False Scales, Weights or Measures Used in Buying Articles; Penalty.—Any person, firm or corporation engaged in the business of buying grain, live stock, feed, junk or other commodity who shall have in his or their possession for use in such business or shall use any false scales, weights or measuring devices or weighing devices, or any person, firm or corporation who, by himself or themselves, or by his agent or their agent, shall buy or offer to buy or accept any live stock, grain, feed, junk or other commodity weighed or measured by such false weighing or measuring device or any grain, live stock, feed, junk or other commodity which has been made subject to any false representation or manipulation of its true weight or measure shall be guilty of a misdemeanor and upon conviction in any court of competent jurisdiction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail for not more than three months upon first conviction; and upon second or subsequent conviction shall be punished by a fine of not less than twenty dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail for not more than six months. (Id. §§ 2972 and 14585.)

259. Enforcement of Act.—It shall be the duty of the State Commissioner of Weights and Measures, his deputies, State, city and county sealers, and inspectors of weights and measures to enforce the provisions of this act; and said commissioner, his deputies, State, city and county sealers, and inspectors of weights and measures are hereby authorized to exercise all police powers already conferred upon them by existing State laws pertaining to weights and measures for the purpose of such enforcement. (Id. §§ 2973 and 14586.)

260. Standard Sizes of Hampers.—The standard hamper for fruits and vegetables shall be the one peck hamper, one-half bushel hamper, five-eighths bushel hamper, one bushel hamper and one and one-half bushel hamper, which respectively shall be of the capacity and conform to the specifications set forth in this section:

(a) The standard one peck hamper shall contain five hundred and thirty-seven and six-tenths cubic inches and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be ten and three-eighths inches; the inside diameter of the bottom shall be six and one-half inches; the inside length of the staves shall be nine and five-eighths inches; the inside hoop shall be one-tenth of an inch thick and set with its upper edge even with the upper ends of the staves; each stave shall be not less than one-tenth of an inch thick and ten and one-eighth inches long; and the bottom piece shall be one-half of an inch thick.

(b) The standard one-half bushel hamper shall contain one thousand and seventy-five and twenty-one hundredths cubic inches and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be thirteen inches; the inside diameter of the bottom shall be eight and one-half inches; the inside length of the staves shall be twelve inches; the inside top hoop shall be one-ninth of an inch thick and set with its upper edge even with the upper ends of the staves; each stave shall be not less than one-

tenth of an inch thick and twelve and five-eighths inches long, and the bottom piece shall be five-eighths of an inch thick.

(c) The standard five-eighths bushel hamper shall contain one thousand, three hundred forty-four cubic inches and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be fourteen and one-fourth inches; the inside diameter of the bottom shall be nine inches; the inside length of the staves shall be twelve and seven-eighths inches; the inside top hoop shall be one-eighth of an inch thick and set with its upper edge even with the upper ends of the staves; each stave shall be not less than one-ninth of an inch thick and thirteen and one-half inches long, and the bottom piece shall be five-eighths of an inch thick.

(d) The standard one bushel hamper shall contain two thousand one hundred and fifty and forty-two one hundredths cubic inches and conform to the following specifications: The inside diameter between staves at the upper edge of the top inside hoop shall be fifteen and one-eighth inches; the inside diameter of the bottom shall be nine inches; the inside length of the staves to the upper edge of the top inside hoop shall be nineteen inches; the inside hoop shall be one-eighth of an inch thick and set with its upper edge three-eighths of an inch below the upper ends of the staves; each stave shall be not less than one-eighth of an inch thick and twenty inches long, and the bottom piece shall be five-eighths of an inch thick.

(e) The standard one and one-half bushel hamper shall contain three thousand two hundred and twenty-five and sixty-three one hundredths cubic inches and conform to either of the following specifications: (1) The inside diameter between staves at the upper edge of the top inside hoop shall be sixteen and one-fourth inches; the inside diameter of the bottom shall be nine inches; the inside length of the staves to the upper edge of the top inside hoop shall be twenty-six inches; the inside top hoop shall be one-eighth of an inch thick and set with its upper edge three-eighths of an inch below the upper ends of the staves; each stave shall be not less than one-sixth of an inch thick and twenty-seven inches long, and the bottom piece shall be five-eighths of an inch thick. (2) The inside diameter between staves at the upper edge of the top inside hoop shall be sixteen and three-fourths inches; the inside diameter of the bottom shall be ten inches; the inside length of the staves to the upper edge of the top inside hoop shall be twenty-three inches; the inside top hoop shall be one-eighth of an inch thick and set with its upper edge three-eighths of an inch below the upper ends of the staves, each stave shall be not less than one-eighth of an inch thick and twenty-four inches long, and the bottom piece shall be five-eighths of an inch thick. (Id. § 14588.)

261. Standard Round Stave Baskets; Specifications.—The standard round stave basket for fruits and vegetables shall be the one-fourth bushel basket, one-half bushel basket, five-eighths bushel basket, one bushel basket, one and one-half bushel basket and two-bushel basket which, respectively, shall be of the capacity and conform to the specifications set forth in this section:

(a) The one-fourth bushel round stave basket shall contain five hundred thirty-seven and six-tenths cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be ten and seven-eighths inches; the average inside depth shall be not less than six and three-fourths inches; the web shall consist of twenty intersecting staves of such length that they will form the side and bottom of a basket which shall contain eight quarts standard dry measure.

(b) The one-half bushel round stave basket shall contain one thousand and seventy-five and twenty-one one hundredths cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be thirteen and one-half inches; the average inside depth shall be not less than eight and one-half inches; the web shall consist of twenty intersecting staves, each not less than one-eighteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain sixteen quarts, standard dry measure.

(c) The five-eighths bushel round stave basket shall contain one thousand and three hundred and forty-four cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be thirteen and one-half inches; the average inside depth shall be not less than ten and one-fourth inches; the web shall consist of twenty intersecting staves, each not less than one-eighteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain twenty quarts, standard dry measure.

(d) The one bushel round stave basket shall contain two thousand one hundred and fifty and forty-two one hundredths cubic inches and conform to the following

specifications: The inside diameter at the upper inner edge of the top inside hoop shall be seventeen inches; the average inside depth shall be not less than ten and three-fourths inches; the web shall consist of twenty intersecting staves, each not less than one-eighteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain thirty-two quarts, standard dry measure.

(e) The one and one-half bushel round stave basket shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top inside hoop shall be nineteen and three-eighths inches; the average inside depth shall be not less than twelve and three-fourths inches; the web shall consist of twenty-four intersecting staves, each not less than one-sixteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain forty-eight quarts, standard dry measure.

(f) The two-bushel round stave basket shall contain four thousand three hundred and eighty-four one-hundredths cubic inches and conform to the following specifications: The inside diameter at the upper inner edge of the top hoop shall be twenty-one inches; the average inside depth shall be not less than fourteen inches; the web shall consist of twenty-four intersecting staves, each not less than one-sixteenth of an inch thick and of such length that they will form the sides and bottom of a basket which shall contain sixty-four quarts, standard dry measure. (Id. § 14589.)

262. Standard Splint Baskets; Specifications.—The standard splint basket for fruits and vegetables shall be the four-quart basket, eight-quart basket, twelve-quart basket, sixteen-quart basket and twenty-four-quart basket, standard dry measure.

(a) The four-quart splint basket shall contain two hundred and sixty-eight and eight-tenths cubic inches and conform to the specifications in one of the two following numbered subdivisions: (1) The approximate inside dimensions of the top across the center shall be seven inches by twelve inches. The approximate inside dimensions of the bottom at the corners shall be five and three-fourths inches by ten and one-half inches. The inside depth at the corners shall be four inches. (2) The inside dimensions of the square cornered splint basket at the top shall be six inches by twelve inches. The inside dimensions of the bottom shall be five and one-half inches by eleven and one-half inches. The inside depth at the corners shall be four inches.

(b) The eight-quart splint basket shall contain five hundred and thirty-seven and six-tenths cubic inches and conform to the specifications in one of the three following numbered subdivisions: (1) The approximate inside dimensions of the top across the center shall be eight inches by fourteen inches; the approximate inside dimensions of the bottom at the corners shall be seven inches by twelve inches; the inside depth at the corners shall be five inches. (2) The approximate inside dimensions of the top across the center shall be nine and one-half inches by sixteen and one-half inches; the approximate inside dimensions of the bottom at the corners shall be seven and one-half inches by fourteen and one-half inches. The inside depth at the corners shall be four inches. (3) The inside dimensions of the square cornered splint basket at the top shall be seven and three-eighths inches by fifteen and one-half inches; the inside dimensions of the bottom shall be seven inches by fourteen and one-half inches; the inside depth at the corners shall be five inches.

(c) The twelve-quart splint basket shall contain eight hundred and six and four-tenths cubic inches and conform to the specifications in one of the three following numbered subdivisions: (1) The approximate inside dimensions of the top across the center shall be nine and one-half inches by sixteen inches; the approximate inside dimensions of the bottom at the corners shall be eight and one-half inches by fourteen inches; the inside depth at the corners shall be five and one-half inches. (2) The approximate inside dimensions of the top across the center shall be eleven and one-half inches by seventeen and one-half inches; the approximate inside dimensions of the bottom at the corners shall be eight and one-half inches by fourteen and one-half inches; the inside depth of the basket at the corners shall be five inches. (3) The inside dimensions of the square corner[ed] splint basket at the top shall be eight and five-eighths inches by seventeen and one-half inches; the inside dimensions of the bottom shall be eight inches by sixteen and three-eighths inches; the inside depth at the corners shall be five and three-fourths inches.

(d) The sixteen-quart splint basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches and conform to the specifications in one of the three following numbered subdivisions: (1) The approximate inside

dimensions of the top across the center shall be ten and one-half inches by eighteen and one-half inches; the approximate inside dimensions of the bottom at the corners shall be eight and one-half inches by sixteen inches; the inside depth at the corners shall be six and one-half inches. (2) The approximate inside dimensions of the top across the center shall be eleven and one-half inches by nineteen and one-half inches; the approximate inside dimensions of the bottom at the corners shall be eight and one-half inches by sixteen and one-half inches; the inside depth at the corners shall be six inches. (3) The inside dimensions of the square cornered splint basket at the top shall be nine inches by nineteen inches; the inside dimensions of the bottom shall be eight and one-half by eighteen inches; the inside depth at the corners shall be six and five-eighths inches.

(e) The twenty-four-quart splint basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches and conform to the specifications in one of the three following numbered subdivisions: (1) The approximate inside dimensions of the top across the center shall be twelve inches by twenty inches; the approximate inside dimensions of the bottom at the corners shall be ten inches by seventeen and one-half inches; the inside depth of the basket at the corners shall be seven and one-half inches. (2) The approximate inside dimensions of the top across the center shall be twelve inches by twenty-three inches; the approximate inside dimensions of the bottom at the corners shall be nine inches by nineteen inches; the inside depth of the basket at the corners shall be seven inches. (3) The inside dimensions of the square-cornered splint basket at the top shall be ten and five-eighths inches by twenty-two and one-fourth inches; the inside dimensions of the bottom shall be nine and five-eighths inches by twenty and one-half inches; the inside depth of the basket at the corners shall be seven and one-half inches. (Id. § 14590.)

263. Standard Climax Baskets; Specifications.—Standards for climax baskets for grapes and other fruits and vegetables shall be two-quart basket, four-quart basket and twelve-quart basket, respectively.

(a) The standard two-quart climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover of five by eleven inches, when a cover is used.

(b) The standard four-quart climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

(c) The standard twelve-quart climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used. (Id. § 14591.)

264. Standard Containers For Small Fruits; Capacities.—[The] standard basket or other container for berries and other small fruits and vegetables shall be of the following capacities; namely, dry one-half pint, dry pint, dry quart, or multiples of the dry quart. (a) The dry half-pint shall contain sixteen and eight-tenths cubic inches. (b) The dry pint shall contain thirty-three and six-tenths cubic inches. (c) The dry quart shall contain sixty-seven and two-tenths cubic inches. Provided, that the provisions of this section shall not be construed to permit the manufacture, sale or use of hampers, round stave baskets, climax baskets or splint baskets in any other multiples of a quart than those enumerated in sections 1, 2, 3 and 4 hereof [14588 to 14591, inclusive]. (Id. § 14592.)

265. Food and Drug Commissioner Prescribes Regulations.—The State Food and Drug Commissioner shall, in his regulations under this act, prescribe such tolerances as he may find necessary to allow in the capacities and specifications for hampers, round stave baskets, splint baskets, climax baskets and baskets or other containers for berries and other small fruits and vegetables, and parts thereof, set forth in sections 1, 2, 3, 4, and 5 of this act [14588 to 14592, inclusive] in order to provide for reasonable variations occurring in the course of manufacture and handling, and shall also prescribe such tolerances as he may find necessary to allow for the purposes of section 8 of this act [14595] in the quantities of fruits or vegetables in hampers, round stave baskets, splint baskets, climax baskets and baskets and other

containers for berries and other small fruits and vegetables, in order to provide for the natural shrinkage of such contents after packing. If a cover be used upon any hamper or basket or other container mentioned in this act, it shall be securely fastened or attached in such a manner, subject to the regulations of the State Food and Drug Commissioner, as not to reduce the capacity of such hamper, basket or other container below that prescribed therefor. The provisions in sections 1, 2, 3, 4 and 5 of this act [14588 to 14592, inclusive] covering specifications and dimensions shall apply only to hampers and baskets made of wood or of which wood is the principal material; but hampers and baskets which are not made of wood, or of which wood is not the principal material, shall not depart from the respective capacities therein prescribed.

All regulations and tolerances established by the State Food and Drug Commissioner shall be in conformity with those, from time to time, promulgated by the United States Department of Agriculture. (Id. § 14593.)

266. Authority to Change Specifications.—In order to provide for the more economical use of space in packing or transportation, or for the greater conservation of material or labor in manufacture, or handling or of the contents in course of shipment, of hampers, round stave baskets, splint baskets and climax baskets for fruits or vegetables, or parts thereof, the State Food and Drug Commissioner, whenever he finds it necessary, may, in his regulations, prescribe specifications with respect to the material used, or the dimensions thereof, for such hampers, round stave baskets, splint baskets, climax baskets or baskets or other containers for berries or other small fruits and vegetables, or parts thereof, in addition to, differing from, or superseding those set forth in sections 1, 2, 3, 4 and 5 of this act [14588 to 14592, inclusive] but not departing from the respective capacities therein prescribed. Such specifications shall not supersede any specifications set forth in this act until a period of at least six months shall have elapsed after public notice shall have been given following an opportunity afforded the interested public for a hearing. (Id. § 14594.)

267. Manufacture and Use of Containers Contrary to This Act; Penalty.—It shall be unlawful to manufacture for sale or shipment, sell, offer for sale, ship, [or] offer for shipment, in the State of Indiana, hampers, round stave baskets, climax baskets, splint baskets for fruits or vegetables, or baskets or other containers for berries or other small fruits and vegetables, either filled or unfilled, or parts of such hampers, round stave baskets, splint baskets, climax baskets or baskets or other containers for berries or other small fruits and vegetables that do not comply with this act, and it shall be unlawful to sell, offer for sale, ship, or offer for shipment, fruits or vegetables, not sold or offered for sale by standard net weight or by numerical count, in hampers, round stave baskets, splint baskets, climax baskets or baskets or other containers for berries or other small fruits and vegetables that, at the time of such sale or offer for sale, shipment or offer for shipment, are not filled to the full capacity thereof, stricken measure, subject to such tolerances as may be prescribed in the regulations under this act. Any individual, partnership, association or corporation that willfully violates this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding sixty days, or both; provided, that no person shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the manufacturer, wholesaler, shipper, or other party residing within this State from whom hampers, round stave baskets, climax baskets, splint baskets or other baskets or containers, as defined in this act, were purchased, to the effect that said hampers, round stave baskets, climax baskets, splint baskets, or other baskets or containers are correct within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of hampers, round stave baskets, climax baskets, splint baskets or other baskets or containers to such person, and in such case, such party or parties making such sale shall be amenable to prosecution, fines, and other penalties which would attach in due course to any person under the provisions of this act. (Id. § 14595.)

268. Containers Not Complying With This Act May Be Confiscated.—Any hamper, round stave basket, climax basket or splint basket for fruits or vegetables, or other basket or container for berries or other small fruits and vegetables, whether filled or unfilled, or parts of such hampers, round stave baskets, climax baskets, splint baskets, or other basket or container for berries or other small fruits and vegetables, not complying with this act, which shall be manufactured for sale or shipment, offered for sale, sold or shipped, may be proceeded against in any court of competent jurisdiction of this State and within the county where the same shall be found and may be seized for confiscation by a process of libel for condemnation. Upon request, the person entitled shall be permitted to retain or take possession of the

contents of such hampers, baskets or containers, but, in the absence of such request, or when the perishable nature of such contents makes such action immediately necessary, the same shall be disposed of by destruction or sale as the court or a judge thereof may direct. If such hampers, round stave baskets, splint baskets, climax baskets, or other basket or container for berries or other small fruits and vegetables, or parts thereof, be found, in such proceeding, to be contrary to this act, the same shall be disposed of by destruction, except that the court may, by order, direct that such hampers, baskets, or containers, or parts be returned to the owner thereof or sold, upon the payment of the costs of such proceeding and the execution and delivery of a good and sufficient bond, to the effect that such hampers, baskets or containers, or parts thereof, shall not be sold or otherwise disposed of or used contrary to law. The proceeds of any sale under this section, less legal costs and charges, shall be paid over to the person entitled thereto. (Id. § 14596.)

269. Shipment to Other States.—This act shall not prohibit the manufacture for sale or shipment, offer for sale, or shipment, of hampers, round stave baskets, splint baskets, climax baskets, or baskets or containers for berries or other small fruits and vegetables, or parts thereof, to any other State or foreign country in accordance with the specifications of a consignee or customer not contrary to the law of such State or foreign country; nor shall this act prevent the manufacture or use of banana hampers of the shape and character now in commercial use as shipping containers for bananas. (Id. § 14597.)

270. Duty of Prosecuting Attorney.—It shall be the duty of each prosecuting attorney to whom satisfactory evidence of any violation of this act is presented to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the State of Indiana, in his circuit, for the enforcement of the provisions of this act. (Id. § 14598.)

271. Duty of Food and Drug Commissioner; Powers.—It shall be the duty of the State Food and Drug Commissioner to enforce all the provisions of this act, and he shall prescribe such regulations as he may find necessary for carrying into effect the provisions of this act, and shall cause such examinations and tests to be made as may be necessary in order to determine whether hampers, round stave baskets, splint baskets, climax baskets, and baskets or containers for berries or other small fruits and vegetables, or parts thereof, subject to this act, meet its requirements. For said purpose, the authorized officers and agents of the Food and Drug Department may visit factories, stock rooms, and other places of business where such hampers, baskets, and containers, or parts thereof, are manufactured or held for sale or shipment, or offered for sale, and may enter cars, vessels, other vehicles, and places under the control of carriers engaged in the transportation of such hampers, baskets and containers, or parts thereof, and may take samples of such hampers, baskets and boxes or parts thereof or, upon written request from the State Food and Drug Commissioner or his authorized agents, any manufacturers, shippers, carriers or holders of such hampers, baskets and containers or parts thereof shall furnish samples of such hampers, baskets and containers, or parts thereof, as are required, for the purpose of inspection as in this act provided. (Id. § 14599.)

272. Co-operation With Local Authorities.—For carrying out the purpose of this act, the Food and Drug Commissioner is authorized to co-operate with State, county and municipal authorities, manufacturers, dealers and shippers. (Id. § 14600.)

273. Act Applies to Containers Made of Wood; Provisions Apply to All Baskets, Hampers and Containers.—The provisions of this act establishing dimensions and specifications for the several baskets, hampers and containers named shall apply only to baskets, hampers and containers made of wood for fruits and vegetables, but the standard sizes established and the cubical contents thereof shall apply to all baskets, hampers and other containers for fruits and vegetables of whatever material made. (Id. § 14601.)

274. Construction of Act.—Nothing in this act shall be construed to permit of sales by standard hampers, baskets or containers without regard to weight or numerical count now required by law to be sold by weight or numerical count. (Id. § 14602.)

275. Articles to be Sold by Weight.—All articles hereinafter mentioned when sold, shall be sold by avoirdupois weight or numerical count, to-wit: Apples, grapes, peaches, pears, plums, quinces, cranberries, prunes, raisins, dates, figs, dried apples, dried peaches, apricots, rice, beans, green beans, carrots, onions, parsnips, potatoes, sweet potatoes, tomatoes, turnips, beets, peas, green peas, cabbage, cauliflower, endive, lettuce, spinach, sauerkraut, barley, bran, buckwheat, corn in ear, shelled corn, corn meal, flour, wheat, rye, oats, sweet corn in ear, shelled sweet

corn, hominy, dried sweet corn, popcorn in ear, shelled popcorn, bluegrass seed, broom corn seed, canary seed, cotton seed, clover seed, timothy seed, hemp seed, malt, millet, onion sets, orchard grass seed, rape seed, red top seed, English walnuts, black walnuts, hickory nuts, Brazil nuts, pecans, almonds, filberts, ice, coal, coke, lime, salt, sugar, tea, coffee, bulk spices, cheese, butter, oleomargarine, lard, fresh and salt meats, fish, game, fowls, chopped feed, candy and other commodities usually and customarily sold by weight; provided, that nothing in this section shall apply to seeds in sealed packages, and further provided, that the provisions of this section shall not apply to the sale of articles where both buyer and seller, in writing, agree to other methods of sale; and provided further, that nothing in this act shall be construed to apply to the original producer of foodstuffs delivering from house to house direct from the source of production, or delivering at the source of production. (Id. § 14603.)

276. Exceptions.—Fresh vegetables which are customarily sold by the bunch, such as young onions, radishes, celery and watercress; fresh berries, customarily sold by the box as hereinafter provided, such as strawberries, raspberries, blackberries and currants, shall not be included in the provisions of this law. All fresh berries, such as strawberries, raspberries and currants, sold or offered for sale by any person, firm or corporation, shall be sold by avoirdupois net weight, or in uniform sized baskets, boxes or other receptacles containing one quart, or one pint, standard dry measure, and in no other way, and the said receptacles shall be uniformly and evenly filled throughout. (Id. § 14604.)

277. Penalty.—Whoever, by himself, his servant or agent, or as the servant or agent of another person, sells or offers for sale any article enumerated in this act in any other manner than provided by this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be punished by a fine of not less than ten dollars nor more than thirty dollars; for the second offense by a fine of not less than twenty-five dollars nor more than one hundred [dollars]; and for the third and subsequent offenses by a fine of one hundred dollars and imprisonment in the county jail for not less than thirty nor more than ninety days. (Id. § 14605.)

278. Exemptions From Act.—Apples sold by the standard United States apple barrels of seven thousand fifty-six cubic inches or by the standard apple box of the following dimensions, to wit: Sixteen and one-half inches deep, eleven and one-half inches wide and eighteen inches long inside measurement, and cranberries sold by the United States standard cranberries barrel, shall be exempted from the provisions of this act. (Id. § 14606.)

279. Weights and Measures, Standard.—The avoirdupois weight of beef or pork in each barrel shall be two hundred pounds; and of flour in each barrel, one hundred and ninety-six pounds; of sorghum molasses, eleven pounds per gallon; of maple molasses, eleven pounds per gallon; of hay, straw, ice, coal or coke, two thousand pounds shall be given and taken for a ton. A bushel of the respective articles hereinafter mentioned shall mean the amount of weight, avoirdupois, in this section specified, as follows: Of wheat, sixty pounds; of oats, thirty-two pounds; of buckwheat, fifty pounds; of popcorn, fifty-six pounds; of cornmeal, fifty pounds; of shelled corn, fifty-six pounds; of corn in the ear until December 1, seventy pounds; corn in the ear after December 1, sixty-eight pounds; of rye, fifty-six pounds; of barley, forty-eight pounds, of malt rye, thirty-five pounds; of flaxseed, fifty-six pounds; of kaffir corn, fifty-six pounds; of rough rice, forty-five pounds; of beans, sixty pounds; of cow peas, sixty pounds; of soy soja beans, sixty pounds; of clover seed, sixty pounds, of hemp seed, forty-four pounds; of sorghum seed, fifty pounds; of blue grass seed, fourteen pounds; of orchard grass seed, fourteen pounds; of timothy seed, forty-five pounds; of millet [seed] fifty pounds; of herds-grass seed, forty-five pounds; of rape seed, fifty pounds, of red top grass seed, fourteen pounds; of alfalfa seed, sixty pounds; of peaches, forty-eight pounds; of dried peaches, thirty-three pounds; of apples, forty-eight pounds; of dried apples, twenty-five pounds; of quinces, forty-eight pounds; of pears, fifty pounds; of onions, fifty-seven pounds; of beets, sixty pounds; of carrots, fifty pounds; of parsnips, fifty-five pounds; of turnips, fifty-five pounds; of tomatoes, sixty pounds; of cucumbers, forty-eight pounds; of potatoes, sixty pounds; of sweet potatoes, fifty pounds; of cranberries, thirty-three pounds; of gooseberries, forty pounds; [of] hickory nuts, fifty pounds; of walnuts, fifty pounds; of middlings, coarse, thirty pounds; of bran, twenty pounds; of coal, mineral, eighty pounds; [of] charcoal, twenty pounds; of coke, forty pounds; of coarse salt, fifty pounds; of fine salt, fifty-five pounds. Any person, firm or corporation who buys or sells any of the articles or commodities enumerated in this section at a measure or fraction thereof differing in [the] weight from the standard herein prescribed shall be guilty of a misdemeanor and shall, on conviction

for the first offense, be punished by [a] fine of not less than ten dollars nor more than thirty dollars; for the second offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, and for the third and subsequent offense by a fine of one hundred dollars and imprisonment in the county jail for not less than thirty days nor more than ninety days. (Id. § 14607.)

280. Wheat, How Measured.—It shall be unlawful for any person, commission merchant, miller, dealer, grain inspector, corporation, company, firm or association, either by himself, itself, officer, agent or employee, when purchasing wheat or receiving it in barter or exchange for flour or otherwise, from the owner, his agent or employee, to use for the purpose of testing or determining the weight, grade, milling or market value of wheat any measure other than the standard half-bushel measure furnished this State by the United States; and the use of any fractional part of said standard half-bushel measure for such purpose will be a violation of this section. (Id. § 14608.)

281. Manner of Measuring.—It shall be unlawful to use anything other than a straight stick with the edges square for leveling the wheat in said half-bushel measure for the purpose of testing the weight, grade, milling or market value of wheat: provided that the provisions of this act shall not apply to wheat or grain that is inspected or graded by the car load under the regulations of any board of trade. (Id. § 14609.)

282. Violation of Act; Penalty.—Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not more than one hundred dollars nor less than ten dollars, to which can be added imprisonment in the county jail for a period not exceeding six months, in the discretion of the judge or jury trying the same. (Id. § 14610.)

283. Wheat; Inspection; Weight; Grade.—It shall be unlawful for any person, commission merchant, miller, dealer, grain inspector, corporation, company, firm or association, either by himself, itself, officer, agent or employee, when purchasing wheat or receiving it in barter or exchange for flour or otherwise, from the owner, his agent or employee, to use for the purpose of testing or determining the weight, grade, milling or market value of wheat any measure other than the standard half-bushel measure furnished this State by the United States; and the use of any fractional part of said standard half-bushel measure for such purpose will be a violation of this section. It shall likewise be unlawful to use anything other than a straight stick with the edges square for leveling the wheat in said half-bushel measure, for the purpose of testing the weight, grade, milling or market value of wheat: Provided, that the provisions of this section shall not apply to wheat or grain that is inspected or graded by the carload under the regulations of any board of trade. Any person violating any of the provisions of this section, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding six months. (Id. § 2970.)

NOTE: See also No. 4; the bread law, No. 26; the dairy law, No. 45 et seq.; the feeding stuffs law, No. 80 et seq.; the sweet potato law, No. 96; the watermelon law, No. 101 et seq.; the tobacco law, No. 190 et seq.

PART V.

CASES.

1. General Food and Drug Law.

Benzoate of Soda—Use as a Preservative—Powers of Board of Health: *Cur-
tice Bros. Co. v. Barnard et al., 209 Fed. 589, 126 C. C. A. 411 (1913), appeal
dismissed in Same, 241 U. S. 686, 36 S. Ct. 447, 60 L. Ed. 1236 (1916).

Meat—Unwholesome: Gardner v. State, 183 Ind. 101, 108 N. E. 230 (1915).

Milk—Adulteration: *Isenhour v. State, 157 Ind. 517, 62 N. E. 40, 87 Am.
St. Rep. 228 (1901).

Oleomargarine: Groff v. State, 171 Ind. 547, 85 N. E. 769, 17 Ann. Cas. 133
(1908).

2. Special Food Laws.

Beverages—Jamaica Ginger: Hedges v. State, 194 Ind. 122, 142 N. E. 13 (1924).

Beverages—Soft Drinks—License: City of Jeffersonville et al. v. Nagle et al., 132 N. E. 4 (1921).

Feeding Stuffs: State v. Weller, 171 Ind. 53, 85 N. E. 761 (1908). *Savage v. Jones, 225 U. S. 501, 32 S. Ct. 715, 56 L. Ed. 1182 (1912). See also: Beecher v. Peru Trust Co. et al., 49 Ind. App. 184, 97 N. E. 23 (1912).

Fish: State v. Davis, 192 Ind. 423, 136 N. E. 843 (1922).

Meat—Unwholesome: Schmidt v. State, 78 Ind. 41 (1881); Brown v. State, 14 Ind. App. 24, 42 N. E. 244 (1895); Moeschke v. State, 14 Ind. App. 393, 42 N. E. 1029 (1896); List v. State, 191 Ind. 24, 131 N. E. 513 (1921). See also: General Food and Drug Law, *Meat*, supra.

Meat—Inspection Before Slaughter: *State v. Klein, 126 Ind. 68, 25 N. E. 873 (1890); *Hoffman v. Harvey, 128 Ind. 600, 28 N. E. 93 (1891). *Harvey v. Huffman, 39 Fed. 646 (1889).

Meat—Slaughterhouse: Rund v. Town of Fowler, 142 Ind. 214, 41 N. E. 456 (1895); *Beiling v. City of Evansville, 144 Ind. 644, 42 N. E. 621, 35 L. R. A. 272 (1896); Lipschitz v. State, 33 Ind. App. 648, 72 N. E. 145 (1904); *City of Elkhart v. Lipschitz, 164 Ind. 671, 74 N. E. 528 (1905).

Milk—Adulteration: State v. Squibb, 170 Ind. 488, 84 N. E. 969 (1908); *State v. Closser, 179 Ind. 230, 99 N. E. 1057 (1912). See also: General Food and Drug Law, *Milk*, supra.

Oleomargarine: See General Food and Drug Law, *Oleomargarine*, supra.

3. Special Drug Laws.

Distribution of Samples: *Ayres v. State, 178 Ind. 453, 99 N. E. 730, Ann. Cas. 1915 C, 549 (1912).

Narcotics: Niswonger v. State, 179 Ind. 653, 102 N. E. 135, 46 L. R. A. (N. S.) 1 (1913); King v. State, 185 Ind. 312, 114 N. E. 34 (1916).

Pharmacy: State ex rel. Rhodes v. Indiana Board of Pharmacy, 155 Ind. 414, 58 N. E. 531 (1900); *Indiana Board of Pharmacy v. Haag, 60 Ind. App. 218, 110 N. E. 248 (1915); Same, 60 Ind. App. 709, 110 N. E. 249 (1915); *Indiana Board of Pharmacy v. Haag, 184 Ind. 333, 111 N. E. 178 (1916).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Drugs: Howes et al. v. Rose, 13 Ind. App. 674, 42 N. E. 303, 55 Am. St. Rep. 251n (1895); Knoefel v. Atkins, 40 Ind. App. 428, 81 N. E. 600 (1907).

Food: Heise v. Gillette et al., 83 Ind. App. 551, 149 N. E. 182 (1925). See also: Humphreys v. Comline, 8 Blackf. (Ind.) 516 (1847); Glucose Sugar Refining Co. v. Climax Coffee and Baking Powder Co., 40 Ind. App. 182, 81 N. E. 589 (1907).

Stock Dip: Great Western Oil Co. v. Kraus, 69 Ind. App. 446, 122 N. E. 12 (1919).

Stock Powder: Economy Hog and Cattle Powder Co. et al. v. Compton et al., 192 Ind. 222, 135 N. E. 1 (1922), reversing Same, 132 N. E. 642 (1921). See also: Paxton-Eckman Chemical Co. v. Mundell, 62 Ind. App. 45, 112 N. E. 546 (1916).

5. Miscellaneous.

Cigarettes: *State v. Lowry, 166 Ind. 372, 77 N. E. 728, 4 L. R. A. (N. S.) 528 (1906); *Lewis v. State, Id.

Gift Enterprise: Lohman et al. v. State, 81 Ind. 15 (1881); Hudelson et al. v. State, 94 Ind. 426, 48 Am. Rep. 171 (1883); Ferguson v. State, 178 Ind. 568, 99 N. E. 806, 42 L. R. A. (N. S.) 720, Ann. Cas. 1915 C, 172 (1912); State v. Bailey et al., 183 Ind. 215, 108 N. E. 753 (1915); Utz et al. v. Wolf et al., 72 Ind. App. 572, 126 N. E. 327 (1920).

Trade-Marks: Sohl et al. v. Geisendorf et al., Wils. (Ind.) 60 (1871); Julian v. Hoosier Drill Co. et al., 78 Ind. 408 (1881); Keller v. B. F. Goodrich Co., 117

Ind. 556, 19 N. E. 196, 10 Am. St. Rep. 88 (1888); *Smail v. Sanders et al.*, 118 Ind. 105, 20 N. E. 296 (1889); **State v. Wright*, 159 Ind. 394, 65 N. E. 190 (1902); **State v. Barnett*, 159 Ind. 432, 65 N. E. 515 (1902); **State v. Wiggam*, 187 Ind. 159, 118 N. E. 684 (1918); See also: *State v. Hagen*, 6 Ind. App. 167, 33 N. E. 223 (1893); *A. N. Chamberlain Medicine Co. v. H. A. Chamberlain Medicine Co.*, 43 Ind. App. 213, 86 N. E. 1025 (1909); *Computing Cheese Cutter Co. v. Dunn et al.*, 45 Ind. App. 20, 80 N. E. 93 (1909); *Hartzler et al. v. Goshen Churn and Ladder Co.*, 55 Ind. App. 455, 104 N. E. 34 (1914); *Deister Concentrator Co. v. Deister Machine Co. et al.*, 63 Ind. App. 412, 112 N. E. 906, 114 N. E. 485 (1916); *Smith v. Yost*, 72 Ind. App. 628, 125 N. E. 73 (1919); *Stover v. Peacock*, 80 Ind. App. 647, 141 N. E. 889 (1924); *Jones et al. v. Roshenberger*, 82 Ind. App. 97, 144 N. E. 858 (1924).

Trading Stamps: **Sperry and Hutchinson Co. v. State*, 188 Ind. 173, 122 N. E. 584 (1919); *Ashbaucher v. Price*, 83 Ind. App. 604, 145 N. E. 775 (1924).

Weights and Measures: *Blanchard v. State*, 3 Ind. App. 395, 29 N. E. 783 (1892); *Zinns v. State*, 13 Ind. App. 396, 41 N. E. 833 (1895); *City of Tell City et al. v. Bielefeld*, 20 Ind. App. 1, 49 N. E. 1090 (1898); *Lipschitz v. State*, 176 Ind. 673, 96 N. E. 945 (1912); *State v. McCaffrey*, 181 Ind. 200, 103 N. E. 801 (1914).

IOWA.*

PART I.

General Food and Drug Law.

1. Definitions and Rules of Construction.—For the purpose of this title:†

1. "Article" shall include food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, paint, linseed oil, turpentine, and illuminating oil in the sense in which they are defined in the various provisions of this title.

2. "Department" shall mean the department of agriculture, and, wherever said department is required or authorized to do an act, it shall be construed as authorizing performance by a regular assistant or a duly authorized agent of said department.

3. "Secretary" shall mean the secretary of agriculture.

4. "Package" or "container," unless otherwise defined, shall include wrapper, box, carton, case, basket, hamper, can, bottle, jar, tube, cask, vessel, tub, firkin, keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and wherever the expression "offered or exposed for sale or sold in package or wrapped form" is used it shall mean the offering or exposing for sale, or selling of an article which is contained in a package or container as herein defined.

5. "Person" shall include a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in said capacity shall also be liable for violations of this title.

6. "Rules" shall include regulations and orders by the department of agriculture.

7. "United States Pharmacopœia" or "National Formulary" shall mean the latest revision of said publications official at the time of any transaction which may be in question. (Code of Iowa, 1924, § 3029.)

2. **Duties of Department of Agriculture.**—The department of agriculture shall:

1. Execute and enforce the provisions of this title, except chapters 155 and 156‡ which shall be executed and enforced by the Pharmacy Examiners.

2. Make and publish all necessary rules, not inconsistent with law, for enforcing the provisions of this title.

3. Provide such educational measures and exhibits, and conduct such educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this title in accordance with the regulations herein prescribed.

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this title. These bulletins shall be printed in such numbers as may be approved by the state printing board and shall be distributed to the newspapers of the state and to all interested persons. (Id. § 3030.)

3. **Procuring Samples.**—The department shall, for the purpose of examination or analysis, procure from time to time, or whenever said department has occasion to believe any of the provisions of this title are being violated, samples of the articles dealt with in this title which have been shipped into this state, offered or exposed for sale, or sold in the state. (Id. § 3031.)

4. **Access to Factories and Buildings.**—The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto

*CITATIONS: "L." refers to the session laws of the year cited. The code of Iowa, 1924, is published by authority of Chapter 3, Acts of the Special Session of the Fortieth General Assembly.

†The reference here and hereunder is to Title X, "Regulation and Inspection of Foods, Drugs, and Other Articles."

‡For Chapter 155, "Adulteration and Labeling of Drugs," see Nos. 35-42; for Chapter 156, "Sale and Distribution of Poisons," see Nos. 215-241.

trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this title. (Id. § 3032.)

5. Dealer to Furnish Samples.—Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this title shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department. (Id. § 3033.)

6. Taking of Samples Without Consent of Owner.—The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered or exposed for sale, sold, or held in possession in violation of the provisions of this title, in order to secure a sample for analysis or examination, and said sample and damage to container shall be paid for at the current market price out of the contingent fund of the department. (Id. § 3034.)

7. Preservation of Sample.—After the sample is taken it shall be carefully sealed with the seal of the department and labeled with the name or brand of the article, the name of the party from whose stock it was taken, and the date and place of taking such sample. Upon request a duplicate sample, sealed and labeled in the same manner, shall be delivered to the person from whose stock the sample was taken. The label and duplicate shall be signed by the person taking the same. The method of taking samples of particular articles may be prescribed by the rules of the department. (Id. § 3035.)

8. Witnesses—Subpœnas—Examination.—In the enforcement of the provisions of this title the department shall have power to issue subpœnas for witnesses, enforce their attendance, and examine them under oath. Such witnesses shall be allowed the same fees as witnesses in justice of the peace courts. Said fees shall be paid out of the contingent fund of the department. (Id. § 3036.)

9. Labeling.—All articles in package or wrapped form which are required by this title to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of not less than eight point heavy gothic caps on the principal label with the following items:

1. The true name, brand, or trade-mark of the article.
2. The quantity of the contents in terms of weight, measure, or numerical count. Under this requirement reasonable variations shall be permitted, and small packages shall be excepted in accordance with the rules of the department.
3. The name and place of business of the manufacturer, packer, importer, dispenser, distributor, or dealer.

The above items shall be printed in such a way that there shall be a distinct contrast between the color of the letters and the background upon which printed. (Id. § 3037.)

10. Small Packages Excepted.—In case the size of the package or container will not permit the use of the type specified in the preceding section, the same may be reduced in size proportionately in accordance with the rules of the department. (Id. § 3038.)

11. Labeling of Mixtures—Compounds—Imitations.—In addition to the requirements of the second preceding section, unless otherwise provided, articles which are mixtures, compounds, combinations, blends, or imitations shall be marked as such and immediately followed, without any intervening matter and in the same size and style of type, by the names of all the ingredients contained therein, beginning with the one present in the largest proportion. (Id. § 3039.)

12. Trade Formulas Excepted.—Nothing in the preceding section shall be construed as requiring the printing of a patented or proprietary trade formula on a label. (Id. § 3040.)

13. False Labels—Defacement of Labels.—No person shall use any label required by this title which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this title. (Id. § 3041.)

14. Dealing in Mislabeled Articles.—No person shall knowingly introduce into this state, solicit orders for, deliver, transport, or have in his possession with intent to sell, any article which is labeled in any other manner than that prescribed by this title for the label of said article when offered or exposed for sale, or sold in package or wrapped form in this state. (Id. § 3042.)

15. Manufacture or Sale of Adulterated Articles.—No person shall knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in his possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of this title. (Id. § 3043.)

16. Possession—Prima Facie Evidence.—Any person having in his possession or under his control any article which is adulterated or which is improperly labeled according to the provisions of this title shall be presumed to know its true character and name, and such possession shall be prima facie evidence of having the same in possession with intent to violate the provisions of this title. (Id. § 3044.)

17. Licenses.—The following regulations shall apply to all licenses issued or authorized under this title:

1. Applications. Applications for licenses shall be made upon blanks furnished by the department and shall conform to the prescribed rules of the department.

2. Refusal and revocation. For good and sufficient grounds the department may refuse to grant a license to any applicant; and it may revoke a license for a violation of any provision of this title, or for the refusal or failure of any licensee to obey the lawful directions of the department.

3. Expiration. Unless otherwise provided all licenses shall expire one year from the date of issue. (Id. § 3045.)

18. Injunction Against Persons Not Licensed.—Any person engaging in any business for which a license is required by this title, without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure. (Id. § 3046.)

19. Penalty.—Unless otherwise provided, any person violating any provision of this title, or any rule made by the department and promulgated under the authority of said department, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail not to exceed thirty days. (Id. § 3047.)

20. Information May Charge More Than One Offense.—In any criminal proceeding brought for violation of this title an information or indictment may charge as many offenses as it appears have been committed and the defendant may be convicted of any or all of said offenses. (Id. § 3048.)

21. Common Carrier Excepted.—None of the penalties provided in this title shall be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this title when the same was received by said carrier for transportation in the ordinary course of its business and without actual knowledge of its true character. (Id. § 3049.)

22. Report of Violations to County Attorney.—When it shall appear that any of the provisions of this title have been violated, the department shall at once certify the facts to the proper county attorney, with a copy of the results of any analysis, examination, or inspection said department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of said department. (Id. § 3050.)

23. Duty of County Attorney.—The county attorney may at once institute the proper proceedings for the enforcement of the penalties provided in this title for such violations. (Id. § 3051.)

24. Refusal of County Attorney.—If the county attorney refuses to act, the Governor may, in his discretion, appoint an attorney to represent the State. (Id. § 3052.)

25. Institution of Proceedings by Department.—In any case when it appears that any of the provisions of this title have been violated, the inspector having the investigation in charge shall, when instructed by the department, file an information against the suspected party. (Id. § 3053.)

26. Goods for Sale in Other States.—Any person may keep articles specifically set apart in his stock for sale in other states which do not comply with the provisions of this title as to standards, purity, or labeling. (Id. § 3054.)

27. Reports by Dealers.—Every person who deals in or manufactures any of the articles dealt with in this title shall make upon blanks furnished by the department such reports and furnish such statistics as may be required by said department and certify to the correctness of the same. (Id. § 3055.)

28. Contracts Invalid.—No action shall be maintained in any of the courts of the state upon any contract or sale made in violation of or with the intent to violate any provision of this title by one who was knowingly a party thereto. (Id. § 3056.)

29. Fees Paid Into State Treasury.—All fees collected under the provisions of this title shall be paid into the State treasury. (Id. § 3057.)

30. Food.—For the purpose of this chapter* the following definitions and standards of food are established: 32. Food shall include any article used by man or domestic animals for food, drink, confectionery, or condiment, or which enters into the composition of the same, whether simple, blended, mixed, or compound. The term "blended" shall be construed to mean a mixture of like substances. . . . (Id. § 3058.)

31. Additional Standards.—The department [of agriculture] may establish and publish standards for foods when such standards are not fixed by law, but the same shall conform with those proclaimed by the secretary of agriculture of the United States. (Id. § 3059.)

32. Food Adulterations.—For the purposes of this chapter* any food shall be deemed to be adulterated:

1. If any substance has been mixed or packed with it so as to reduce or injuriously affect its quality.
2. If any substance has been substituted to any extent.
3. If any valuable constituent has been removed to any extent.
4. If it has been mixed, colored, powdered, coated, or stained whereby damage or inferiority is concealed.
5. If it contains saccharine, formaldehyde, or boron compound, or any poisonous or other ingredient injurious to health.
6. If it consists to any extent of a diseased, filthy, or decomposed animal or vegetable substance, whether manufactured or otherwise.
7. If it consists to any extent of an animal that has died otherwise than by slaughter.
8. If it is the product of or obtained from a diseased or infected animal.
9. If it has been damaged by freezing.
10. If it does not conform to the standards established by law or by the department. (Id. § 3060.)

33. Sale of Food by False Name.—No person shall offer or expose for sale, sell, or deliver any article of food which is defined in this chapter* under any other name than the one herein specified or offer or expose for sale, sell, or deliver any article of food which is not defined in this chapter under any other name than its true name, trade name, or trade-mark name. (Id. § 3066.)

34. Label Requirements.—All food, as defined in the preceding chapter* offered or exposed for sale, or sold in package or wrapped form, shall be labeled on the package or container as prescribed in sections 3037 to 3040, inclusive, unless otherwise provided in this chapter.† (Id. § 3067.)

35. Drug Defined.—For the purposes of this chapter‡ "drug" shall include all substances and preparations for internal or external use recognized in the United States Pharmacopœia or National Formulary and any substances or mixture of substances intended to be used for the cure, mitigation, or prevention of diseases of either man or animal. (Id. § 3143.)

36. Adulteration Defined.—For the purposes of this chapter‡ a drug shall be deemed to be adulterated:

1. If it is sold by a name recognized in the United States Pharmacopœia or National Formulary and it differs from the standard of strength, quality, or purity as determined by the test laid down therein.
2. If its strength, quality, or purity falls below the standard under which sold. (Id. § 3144.)

37. Labeling of Drugs.—Every drug offered or exposed for sale, or sold in package or wrapped form, shall be labeled on the package or container as prescribed in sections 3037 and 3038,|| except that the quantity of the contents need not be stated; and in addition thereto shall have printed on the label the name and the exact quantity or proportion of any alcohol, morphine, opium, heroin, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative or preparation of any such substances contained in said drug. In case the principal package or container is enclosed in an outside wrapper or carton, the same label prescribed by this section for the package or container shall also be printed upon said wrapper or carton. (Id. § 3145.)

38. Curative or Therapeutic Mislabeling.—In addition to the requirements of the preceding section a drug shall also be deemed to be improperly labeled if the

*Chapter 148, "Adulteration of Foods." See Nos. 30-33.

†Chapter 149, "Labeling Foods."

‡Chapter 155, "Adulteration and Labeling of Drugs." See Nos. 35-42.

||See Nos. 9 and 10.

package or container or printed matter accompanying it bears or contains any representation regarding the curative or therapeutic effect of such drug, or any of the ingredients contained therein which is false and fraudulent. (Id. § 3146.)

39. Certain Drugs Exempted.—Nothing in the second preceding section shall be construed to apply:

1. To any drug specified in the United States Pharmacopœia or National Formulary, which is in accordance therewith, and which is sold under the name given therein.

2. To the filling of prescriptions furnished by licensed physicians, dentists, or veterinarians, the originals of which are retained and filed by the pharmacist filling the same.

3. To any drug or medicine personally dispensed by any licensed physician, dentist, or veterinarian in the course of his practice. (Id. § 3147.)

40. Itinerant Vendor of Drugs Defined.—"Itinerant vendor of drugs" shall mean any person who, by himself, agent, or employee goes from place to place, or from house to house, and sells, offers or exposes for sale any drug as defined in this chapter.* (Id. § 3148.)

41. License Required of Itinerant—Fee.—Every itinerant vendor of drugs or medicines shall procure an annual license from the pharmacy examiners. The fee for such license shall be one hundred dollars; such license may be transferred by the licensee upon the payment of a fee of one dollar to the pharmacy examiners. (Id. § 3149.)

42. Pharmacopœia and National Formulary.—There shall be kept in every place in which drugs or medicines are compounded, a copy of the latest revision of the United States Pharmacopœia and the National Formulary, which books shall be subject at all times to the inspection of the pharmacy examiners. (Id. § 3150.)

Miscellaneous General Provisions.

42a. Powers and Duties.—The Secretary of Agriculture shall be the head of the Department of Agriculture which shall: * * *

9. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of this title† and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department. (Code of Iowa, 1924, § 2590.)

42b. Additional Duties.—In addition to the duties imposed by the preceding section the department shall enforce the law relative to: * * *

2. Registration of animals, Chapter 127.

3. Infectious and contagious diseases among animals, Chapter 128.

4. Eradication of bovine tuberculosis, Chapter 129.

5. Hog cholera virus and serum, Chapter 130.

6. Use and disposal of dead animals, Chapter 131.

7. Practice of veterinary medicine and surgery, Chapter 132.

8. Hotels, restaurants, and food establishments, Chapter 133.

9. Cold storage, Chapter 134.

10. Regulations and inspection of foods, drugs, and other articles, Title 10, but Chapters 155 and 156‡ of said title shall be enforced as therein provided. * * * (Id. § 2591).

42c. Altering Stamps or Marks of Public Officer.—If any person falsely alter any stamp, brand, or mark on any cask, package, box, or bale containing merchandise or produce, made by a public officer, appointed for that purpose, in order to denote the quality, weight, or quantity of the contents thereof, with intent to defraud, he shall be fined not more than five hundred dollars and imprisoned in the county jail not exceeding one year. (Id. § 13061.)

42d. Counterfeiting Mark of Another.—If any person counterfeit any mark, stamp, or brand of another, or falsely mark any cask, package, box, or bale as to quality or quantity, with intent to defraud, he shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not more than six months, or both. (Id. § 13062.)

42e. Counterfeiting Brands or Stamps.—If any person, with intent to defraud, falsely make, forge, or counterfeit any stamp or brand authorized by law to be affixed to any substance or thing whatever; or, knowing such stamp or brand

*Chapter 155, "Adulteration and Labeling of Drugs." See Nos. 35-42.

†Title IX, "Agriculture, Horticulture, and Animal Industry."

‡For Chapter 155, see Nos. 35-42; for Chapter 156, see Nos. 215-241.

to be counterfeit, use the same as genuine with intent to defraud, he shall be imprisoned in the penitentiary not exceeding ten years. (Id. § 13157.)

43. Waste of Food Products to Increase Price.—It shall be unlawful for any person, firm, or corporation to wilfully destroy, or negligently suffer to go to waste, with intent to increase the price thereof, any food products of any nature or description, without the authority or consent of the local board of health or local health officer of the city, town, or township in which the food products are located. (Id. § 13249.)

44. Punishment.—Any person, firm or corporation violating any of the provisions of the preceding section shall be guilty of a misdemeanor, and, upon conviction, shall pay a fine in a sum not more than one thousand dollars, or be imprisoned for any length of time not exceeding one year, or be punished by both such fine and imprisonment. (Id. § 13250.)

PART II.

Special Food Laws.

Bakeries.

See No. 139 et seq.

Baking Powder.

45. Labeling Baking Powder.—Baking powder . . . shall show on the label the name of each ingredient from which made. . . . (Code of Iowa 1924, § 3070.)

Beverages.

45a. Selling Drugged Liquors.—If any person willfully sells or keeps for sale intoxicating, malt, or vinous liquors, which have been adulterated or drugged by admixture with any deleterious or poisonous substance, he shall be fined not exceeding five hundred dollars, or be imprisoned in the penitentiary not exceeding two years. (Code of Iowa 1924, § 13240.)

NOTE: See also Nos. 139 et seq.; 292 et seq.; 465 et seq., and 475.

Bread.

45b. Sale of Bread Regulated.—The standard loaf of bread shall weigh one pound, avoirdupois weight. All bread manufactured, procured, made or kept for the purpose of sale, offered or exposed for sale, or sold in the form of loaves, shall be one of the following standard weights and no other, namely: One-half pound, one pound, one and one-quarter pound, one and one-half pound, or multiples of one pound, avoirdupois weight; and provided further, that the provisions of this section shall not apply to biscuits, buns, crackers, rolls or to what is commonly known as "stale" bread and sold as such, in case the seller shall, at the time of sale, expressly state to the buyer that the bread so sold is "stale" bread. In case of twin or multiple loaves, the weights specified in this section shall apply to the combined weight of the two units. (Act of Apr. 12, 1927, § 1.)

45c. Wrapper to be Labeled.—There shall be printed upon the wrapper of each loaf of bread in plain conspicuous type, the name and address of the manufacturer and the weight of the loaf in terms of one of the standard weights herein specified. (Id. § 2.)

45d. Enforcement of Act.—The Secretary of Agriculture shall enforce the provisions of this act. He shall make rules and regulations for the enforcement of the provisions of this act not inconsistent therewith, and such rules and regulations shall include reasonable variations and tolerances, provided, however, that the tolerance shall not exceed ten per cent (10%) over, nor four per cent (4%) under the standard weights herein specified. (Id. § 3.)

45e. Penalties.—That it shall be unlawful for any person to manufacture, procure, or keep for the purpose of sale, offer or expose for sale, or sell, bread in the form of loaves which is not of one of the weights specified in section one (1), or violate the rules of the Secretary of Agriculture pertaining thereto. Any person who, by himself or by his servant, or agent, or as the servant or agent of another, shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten (\$10.00) dollars nor more than one hundred dollars (\$100.00) upon conviction in any court of competent jurisdiction, or by imprisonment for not more than thirty (30) days, in the discretion of the court. (Id. § 4.)

45f. "Person" Defined.—The word "person" as used in this act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. (Id. § 5.)

45g. To Whom Act Does Not Apply.—Any woman engaged in home baking is exempt from the provisions of this act. (Id. § 6.)

Canneries.

See No. 139 et seq.

Cold Storage.

46. Definitions and Rules of Construction.—For the purposes of this chapter:*

1. "Food" shall include any article used by man for food, drink, confectionery, or condiment, or which enters into the composition of the same, whether simple, blended, mixed, or compound.

2. "Cold storage plant" shall mean a place artificially cooled to a temperature of forty degrees Fahrenheit or below, in which food is kept, but it shall not include a like place in a private home, hotel, or restaurant, or a refrigerator car.

3. "Cold stored" shall mean the keeping of articles of food in a cold storage plant or plants for a period exceeding thirty days, and food which has been so kept shall be deemed to be cold storage food, but this paragraph shall not be construed as applying to meat or meat products in the process of manufacture. (Code of Iowa 1924, § 2857.)

47. License Required.—Every person engaged in the business of operating a cold storage plant and who charges a fee for the service rendered shall obtain a license from the department [of agriculture] for each establishment at which said business is conducted. Applications for such licenses shall be made upon blanks furnished by the department and shall conform to the prescribed rules of the department. (Id. § 2858.)

48. Examination of Plant.—Before issuing a license to operate a cold storage plant the department shall make an examination of the proposed plant to ascertain if the proper sanitary conditions and equipment have been provided. (Id. § 2859.)

49. License Fee—Expiration of License.—The license fee shall be twenty-five dollars per annum, and all licenses shall expire on December thirty-first following the date of issue. (Id. § 2860.)

50. Receipt and Withdrawal of Food—Records.—Every licensee shall keep an accurate record of the receipt and the withdrawal of all food which is cold stored, and said record shall be open to inspection by the department at all reasonable times. (Id. § 2861.)

51. Reports by Licensee.—Every licensee shall quarterly, or at such times as may be required by the department, report upon blanks furnished by the department in itemized particulars the quantity of food which is being cold stored in his plant. Quarterly reports shall be filed not later than the sixth day of January, April, July, and October of each year, and the reports so rendered shall show the conditions existing on the first day of the month in which the report is filed. (Id. § 2862.)

52. Storing of Impure Food Prohibited.—No article of food shall be cold stored unless it is in a proper condition for storage and meets all the requirements of the pure food and food sanitation laws, and such rules as may be established by the department for the sanitary preparation of food products which are to be cold stored. (Id. § 2863.)

53. Sanitary Conditions—Revocation of License.—Every cold storage plant shall be maintained in a sanitary condition and conducted with strict regard to

*The reference here and hereunder is to Chapter 134, "Cold Storage."

the influence of such condition upon the food handled therein. If any licensee under this chapter fails to comply with this section the department shall revoke his license. (Id. § 2864.)

54. Marking Food Not Intended for Human Consumption.—Every article of food not intended for human consumption, before being placed in a cold storage plant shall be so marked by the owner in accordance with the rules established by the department. (Id. § 2865.)

55. Date of Deposit and Withdrawal to be Marked.—Each article of food when deposited in a cold storage plant shall have marked upon the package, container, or article the date of deposit, and when removed said article shall be marked in like manner with the date of removal. Said markings shall be in accordance with the rules established by the department. (Id. § 2866.)

56. Period for Storage.—No person shall keep in a cold storage plant any article of food for a longer period than twelve calendar months, except with the consent of the department. (Id. § 2867.)

57. Application for Extension of Period—Order.—Upon application the department shall grant permission to extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found upon examination to be in proper condition for further storage at the end of twelve months. The length of time for which further storage is allowed shall be specified in the order granting such permission. (Id. § 2868.)

58. Report of Extensions of Storage Period.—A report on each case in which such extension of storage is permitted, including the reason for such action, the kind and the amount of goods for which the storage period was extended, and the length of time for which the continuance was granted, shall be included in the annual report of the department. (Id. § 2869.)

59. Notice of Sale of Cold Storage Goods.—No person shall represent or advertise as fresh goods articles of food which have been cold stored, and every person who sells or offers or exposes for sale, uncooked articles of cold storage food shall display at all times in a conspicuous place a placard with only the words "Cold Storage Goods Sold Here" printed in black Roman letters not less than three inches high and two inches wide upon a white card fifteen by twenty-five inches in dimensions. (Id. § 2870.)

60. Return of Goods to Cold Storage Prohibited.—No article of food which has once been cold stored and placed on the market for sale to consumers, shall again be placed in a cold storage plant, but transfers of goods from one cold storage plant to another may be made if not for the purpose of evading the provisions of this chapter. The operator of a cold storage plant shall label all goods with the date when stored, which date shall not be removed when goods are removed, and in determining whether goods are "cold stored" the time same have been stored in different plants shall be added together and the aggregate shall be the time stored and shall be so marked when sold. (Id. § 2871.)

61. Penalties.—Any person violating any of the provisions of this chapter shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, and for the second offense by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment. (Id. § 2872.)

61a. Powers and Duties.—The Secretary of Agriculture shall be the head of the Department of Agriculture which shall: * * *

8. Inspect and supervise all cold storage plants and food producing or distributing establishments including the furniture, fixtures, utensils, machinery, and other equipment so as to prevent the production, preparation, packing, storage, or transportation of food in a manner detrimental to its character or quality. * * * (Id. § 2590.)

NOTE: See also No. 42b.

Confectionery.

62. Adulteration of Candies.—In addition to the adulterations enumerated in section 3060,* candy shall be deemed to be adulterated if it contains terra alba, barytes, talc, paraffin, chrome yellow, or other mineral substance. (Code of Iowa 1924, § 3065.)

NOTE: See also Nos. 30 and 139 et seq.

*See No. 32.

Dairy Products—Substitutes for Dairy Products.

63. Definitions and Standards.—For the purpose of this chapter† the following definitions and standards of food are established:

1. **Butter.** Butter is the clean, nonrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, with or without the addition of salt, or harmless coloring matter, and containing at least eighty per cent, by weight, of milk-fat.

2. **Imitation butter.** Imitation butter is any product containing any fat other than that derived from milk or cream, as provided in paragraph 1 above, and made in the appearance of butter or designed to be used for any of the purposes for which butter is used.

3. **Renovated butter.** Renovated butter is butter produced by taking original packing stock butter, or other butter, or both, and melting the same so that the milk-fat can be extracted, then by mixing the said milk-fat with skimmed milk, milk, cream, or some milk product, and rechurning or reworking the said mixture; or butter made by any method which produces a product commonly known as boiled, processed, or renovated butter.

4. **Cheese—whole milk or cream.** Whole milk or cream cheese is the sound, ripened product made from milk or cream by coagulating the casein with rennet or lactic acid, with or without the addition of ripening ferments, seasonings, or color, and containing at least thirty per cent of milk-fat.

5. **Imitation cheese.** Imitation cheese is a product containing any substance other than that produced from milk or cream, as provided in paragraph 4 above, and made in the appearance of or designed to be used for any of the purposes for which cheese produced from milk or cream is used.

6. **Skimmed milk cheese.** Skimmed milk cheese is a product made from skimmed milk by one of the processes by which whole milk or cream cheese is made, and containing less than thirty per cent of milk-fat.

7. **Cream.** Cream is the fresh portion of milk containing at least sixteen per cent of milk-fat, which rises to the surface of milk on standing or is separated from it by centrifugal force.

33. **Ice cream.** Ice cream is the frozen product made from pure sweet cream and sugar, with or without flavoring, or with the addition of not to exceed one per cent by weight of a harmless thickener, and containing not less than twelve per cent by weight of milk-fat with an acidity not to exceed three tenths of one per cent.

34. **Fruit ice cream.** Fruit ice cream is a similar product, consisting of the same ingredients with the addition of sound, clean, mature fruits, and containing not less than ten per cent by weight of milk-fat.

35. **Nut ice cream.** Nut ice cream is a frozen product, consisting of the same ingredients as ice cream with the addition of sound, non-rancid nuts, and containing not less than ten per cent by weight of milk-fat.

36. **Milk.** Milk is the fresh lacteal secretion obtained by the complete milking of one or more cows, which contains at least three per cent of milk-fat and eleven and one-half per cent of milk solids.

37. **Skimmed milk.** Skimmed milk is milk from which the cream has been removed or which is poor in fat, containing less than three per cent of milk-fat or less than eleven and one-half per cent of milk solids. . . . (Code of Iowa, 1924, § 3058.)

64. Adulterations of Certain Dairy Products.—In addition to the adulterations enumerated in the preceding section,* milk, cream, or skimmed milk shall be deemed to be adulterated:

1. If it contains visible dirt or is kept or placed at any time in an unclean container.

2. If obtained from a cow within fifteen days before or five days after calving.

3. If obtained from a cow stabled in an unhealthful place, or fed upon any substance in a state of putrefaction or of unhealthful nature. (Id. § 3061.)

65. Adulteration of Dairy Products with Fats and Oils.—No milk, cream, skimmed milk, buttermilk, condensed or evaporated milk, powdered or dessicated milk, condensed skimmed milk, ice cream, or any fluid derivatives of any of them shall be made from or have added thereto any fat or oil other than milk-fat,

†Chapter 148, "Adulteration of Foods." See Nos. 30-33.

*Section 3060. See No. 32.

and no product so made or prepared shall be sold, offered or exposed for sale, or possessed with the intent to sell, under any trade name or other designation of any kind. (Id. § 3062.)

66. Coloring Imitation Butter or Cheese.—No imitation butter or imitation cheese shall be colored with any substance and no such imitation product shall be made by mixing animal fats, vegetable oils, or other substances for the purpose or with the effect of imparting to the mixture the color of yellow butter or cheese. (Id. § 3063.)

67. Labeling Certain Dairy Products and Imitations.—The products enumerated below shall be labeled on the side or top of the container or package in which placed, kept, offered or exposed for sale, or sold as prescribed in sections 3037 to 3040, inclusive,† except that the label shall be printed in letters not less than three-quarters inch in height and one-half inch in width and subject to the following regulations:

1. **Skimmed Milk.** Skimmed milk shall be labeled with the words "Skimmed Milk"; but if in bottles it shall be deemed properly marked if the required words are printed on the cap of each bottle in letters not smaller than twelve-point gothic caps.

2. **Renovated Butter.** Renovated butter shall be labeled with the words "Renovated Butter," and if offered or exposed for sale or sold in prints or rolls the wrapper of each and the container as required above shall be so labeled. If such butter is offered or exposed for sale uncovered and not in a container or package, a placard containing the required label shall be attached to the mass so as to be easily seen by the purchaser.

3. **Imitation Butter.** Imitation butter shall be labeled "Oleomargarine."

4. **Skimmed Milk Cheese.** Skimmed milk cheese shall be labeled with the words "Skimmed Milk Cheese" on the cheese and on the package.

5. **Imitation Cheese.** Imitation cheese shall be labeled with the words "Imitation Cheese" on the cheese and on the package. (Id. § 3068.)

68. Notice of Sale of Imitation Products.—Every person owning or in charge of any place where food or drink is sold who uses or serves therein imitation butter or cheese, as in this title‡ defined, shall display at all times opposite each table or place of service a placard for each such imitation, with the words "Imitation ——— served here," without other matter, printed in black Roman letters not less than three inches in height and two inches in width, on a white card twelve by twenty-two inches in dimensions. The blank after the word "imitation" in the above form shall be filled with the name of the product imitated. (Id. § 3069.)

69. Milk License Required.—Every person engaging in the sale of milk or cream at retail, in any city or town, shall obtain a milk dealer's license from the department [of agriculture]. (Id. § 3071.)

70. Exemptions.—The preceding section shall not apply:

1. To persons who supply milk or cream to establishments engaged in the manufacture of dairy products.

2. To persons who do not sell milk or cream from a store or vehicle. (Id. § 3072.)

71. License Fee—Expiration of License.—The fee for said license shall be one dollar for each place and for each vehicle from which sales are made. The license shall expire on July fourth after the date of issue and shall not be transferable. (Id. § 3073.)

72. Requirements of Licensee—Contents of License.—Such license shall be issued only to the person owning or leasing the vehicle or place from which sales are to be made; and each license shall contain the name, residence, and place of business of the licensee. (Id. § 3074.)

73. Requirements as to Milk Wagons.—The name of the dairy or the name of the person to whom such license is issued shall appear on both sides of each vehicle from which sales are made, in letters not less than two inches in height and there shall be such contrast between the color of the letters and the background as shall render the letters plainly legible. (Id. § 3075.)

74. Pasteurization of Skimmed Milk, and the Cream of Milk From Which Ice Cream or Buttermilk is Derived.—Every owner, manager, or operator, of a creamery or ice cream factory shall before delivering to any person any skimmed milk, ice cream or buttermilk, cause such skimmed milk and the cream or milk from which such ice cream or buttermilk is derived to be pasteurized except that pasteurization shall not be required when ice cream is made from cream or milk procured from cows that have been tuberculin tested at least once a year and found free from tuberculosis and the production of which milk and cream has been

†See Nos. 9-12.

‡Title X, "Regulation and Inspection of Foods, Drugs, and Other Articles."

supervised and certified to by the Iowa Department of Agriculture as having been produced and handled under proper sanitary conditions. (Id. § 3076, as amended Act of Apr. 5, 1927.)*

75. Pasteurization Defined.—Pasteurization for the purpose of the preceding section shall be defined as follows:

1. Milk, skimmed milk, and cream shall be deemed to have been efficiently pasteurized by the "holding process" when it has been subjected to a temperature of one hundred forty-five (145) degrees Fahrenheit, and held at that temperature not less than twenty-five (25) minutes.

2. Milk, skimmed milk, and cream shall be deemed to have been efficiently pasteurized by the "flash heat process" when it has been subjected to a temperature of one hundred eighty-five (185) degrees Fahrenheit. (Code of Iowa 1924, § 3076-a1, as added L. 1925, c. 60; amended Act of Apr. 5, 1927.)*

76. Record of Pasteurization.—Every owner, manager or operator of a creamery or ice cream factory, shall equip each vat or pasteurizer used in pasteurizing cream with an accurate recording thermometer, and each temperature chart from such thermometer shall be dated and kept on file for inspection by the department, and it shall be unlawful to destroy any such chart without permission from the Secretary of Agriculture. (Id. § 3076-a2.)*

77. Injunction.—Any owner, manager, or operator of a creamery, or ice cream factory, violating any of the provisions of the three (3) preceding sections may be restrained by injunction from operating any such business. No injunction shall issue until after the defendant has had at least five (5) days notice of the application therefor and the time fixed for hearing thereon. (Id. § 3076-a3.)*

78. Purity of Milk and Cream.—No wholesaler or retailer of milk or cream, except the producer, shall offer or expose for sale any milk or cream unless the same is produced from cows known to be free from tuberculosis, as evidenced by a certificate issued within one year by a licensed veterinarian, or unless the same shall have been pasteurized according to the established regulations of the department of agriculture. (Code of Iowa 1924, § 3077.)

79. Sanitary Regulations for Milk Dealers.—Every person who deals in or manufactures dairy products or imitations thereof shall maintain his premises, utensils, wagons, and equipment in a clean and hygienic condition. (Id. § 3078.)

80. Testing Milk or Cream—Tester's License.—Every person testing cream or milk to determine the per cent of milk-fat as a basis for fixing the purchase price shall secure a milk tester's license from the department and shall make tests only by such process as has been approved by said department. (Id. § 3079.)

81. Examination Required.—Each applicant for such a license shall be required to submit to examination and by actual demonstration show that he is competent to test cream and milk according to an approved process. (Id. § 3080.)

82. Supplying Standard Measures for Testing.—The department shall furnish each licensee one standard test bottle and one standard pipette adapted to the use of the testing machine approved for the licensee. Said bottle and pipette shall be certified to by the department as standard and shall bear the official stamp of the department. Any person not a licensee may secure test bottles and pipettes from the department at the legal price. (Id. § 3081.)

83. Fees.—The fee for each license shall be two dollars and fifty cents, and standard test bottles and pipettes shall be furnished at actual cost. (Id. § 3082.)

84. Bottles and Pipettes—Inspection by Vendor.—The standard bottle and pipette received from the department shall be used by the licensee in verifying test tubes and pipettes used by him in making tests; and the same shall be subject to inspection by the owner or vendor of the cream or milk which is the subject of the test. (Id. § 3083.)

85. Appointment of Substitute Tester.—With the approval of the department any licensee may for valid reasons appoint a person to act for him, not to exceed a period of fourteen days. (Id. § 3084.)

86. False Tests—Evidence.—No person shall falsely manipulate or misread the Babcock test or any other milk or cream testing apparatus. The writing of a check or payment of money for cream or milk at any given test shall constitute prima facie evidence that such test was made. (Id. § 3085.)

87. Tests by Unlicensed Person.—The testing of each lot of milk or cream by an unlicensed person shall constitute a separate offense. (Id. § 3086.)

88. Actions for Purchase Price—Proof.—In an action by the vendor for the purchase price of cream or milk, sold on test to be made by the vendee, the

*In effect July 1, 1927.

burden of establishing the proper use of an approved test shall be upon the vendee. (Id. § 3087.)

89. State Trade Mark for Butter.—The state trade mark for butter manufactured in this state shall consist of the words "Iowa Butter" printed within an outline map of Iowa. Above said map shall be printed the words "First Quality, License No." and below, the words "State Butter Control." Said map and printed matter shall be circumscribed by a double circle, the outer circle being printed with a heavier line than the inner circle. (Id. § 3088.)

90. Supervision of Use of Trade Mark.—The use of said trade mark shall be under the supervision of an executive committee consisting of the president of the Iowa state dairy association, the president of the Iowa state buttermakers' association, the dean of the division of agriculture of the Iowa state college of agriculture and mechanic arts, the professor of dairying of the same institution, and the secretary of agriculture. (Id. § 3089.)

91. Rules in Re Trade Mark—Labels and Stamps.—The executive committee shall make such rules concerning the manufacture, distribution, and use of said trade mark as may be deemed necessary. Labels, stamps and other devices for imprinting the trade mark shall be supplied by the department at cost. (Id. § 3090.)

92. Distribution of Rules—Compliance.—The rules adopted for use of said trade mark shall be published through bulletins issued by the department and no person shall use said trade mark before complying therewith. (Id. § 3091.)

93. Copyright of Trade Mark.—The executive committee shall procure a copyright of said trade-mark, and may modify the statutory specifications of the same in order to comply with the copyright laws. Expenses for procuring such copyright shall be paid out of the contingent fund of the department. (Id. § 3092.)

94. Sale of Imitation Butter.—Imitation butter shall be sold only under the name of oleomargarine, and no person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any such butter, the word "butter," "creamery," or "dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter. (Id. § 3093.)

95. Prohibiting Use of Oleomargarine, Etc., in Certain Institutions.—Oleomargarine, butterine, or other products made in the imitation or semblance of natural butter produced from milk or cream or both, shall not be used as a food in the college for the blind, the school for the deaf, or any state institution under the management of the board of control. (L. 1925, c. 66.)

96. Definition of Container.—The term "container" used in the following sections of this chapter* shall mean cans, bottles, casks, kegs, barrels, and other receptacles of like nature. (Code of Iowa 1924, § 3094.)

97. Milk Bottles to be Marked.—Bottles or jars used for the sale of milk shall have clearly blown or permanently marked in the side of the bottle, the capacity of the bottle, and on the bottom of the bottle the name, initials, or trade mark of the manufacturer. The designating number shall be furnished by the department on request. (Id. § 3095.)

98. Adoption of Brand or Mark.—With the approval of the department any person who deals in or transports milk, cream, skimmed milk, buttermilk, or ice cream may adopt a distinctive mark or brand to be placed upon any container owned or used by him, and the same may be registered with the department. (Id. § 3096.)

99. Retention of Marked Container.—No person shall, without the consent of the owner, retain for a longer period than three days a container bearing a registered mark, and any person receiving such a container shall immediately return it to the owner by a common carrier. A receipt from a common carrier shall be prima facie evidence that such container was returned. (Id. § 3097.)

100. Return of Milk and Cream Bottles.—Milk and cream bottles bearing registered marks shall be returned by delivering them to the owner or his agent in person or by leaving them where they may be picked up by the owner. (Id. § 3098.)

101. Stray Containers.—When any person comes into possession of a container bearing a registered mark which belongs to another whose name and address he does not know, he shall immediately notify the department in writing, giving the size, shape, and mark of the container. Upon receipt of shipping directions from the department he shall at once forward the container by a common carrier,

*Chapter 150, "Production and Sale of Dairy Products."

collect, to the address furnished him. Milk or cream bottles need not be returned when the cost of return is greater than the market value of the bottles. (Id. § 3099.)

102. Use of Registered Mark.—No person shall for any purpose use any registered mark or any container bearing such mark, or remove or alter any such mark placed upon a container without the consent of the owner. (Id. § 3100.)

102a. Recognition of Organization.—The organization known as the Iowa State Dairy Association shall be entitled to the benefits of this chapter* by filing each year with the Department of Agriculture verified proofs of its organization, the names of its president, vice president, secretary, and treasurer, and that five hundred persons are bona fide members of said association, together with such other information as the Department of Agriculture may require. (Id. § 2944.)

102b. Expenses of Officers.—The officers of the association shall serve without compensation, but shall receive their necessary expenses while engaged in the business of the association. (Id. § 2948.)

NOTE: See also Nos. 139 et seq., 465 et seq., 485 and 493.

Eggs.

103. License Required.—Every person engaged in the business of buying selling, or dealing in eggs shall obtain a license from the department [of agriculture] for each establishment at which said business is conducted. (Code of Iowa 1924, § 3101.)

104. Retailers Exempted.—Retailers who buy direct from dealers licensed under this chapter† and who do not sell in lots greater than one case shall not be required to procure a license. (Id. § 3102.)

105. Fee—Expiration of License.—The license fee shall be one dollar per annum and each license shall expire on March first after the date of issue. (Id. § 3103.)

106. Sale of Eggs Unfit for Human Food.—No person shall sell, offer or expose for sale, or have in his possession any egg unfit for human food, unless the same is broken in shell and then denatured so that it cannot be used for human food. (Id. § 3104.)

107. Eggs Unfit for Human Food.—For the purpose of this chapter, an egg shall be deemed unfit for human food:

1. If it is addled or mouldy, containing black rot, white rot, or a blood ring.
2. If it has an adherent yolk, or a bloody or green white.
3. If it has been incubated beyond the blood ring stage.
4. If it consists to any extent of a filthy or decomposed substance. (Id. § 3105.)

108. Equipment Required of Egg Dealers.—Every person engaged in the business of buying eggs intended for human food for resale shall maintain an adequate place for the proper candling and handling of the same. (Id. § 3106.)

109. Candling Defined.—The term "candling" as used in this chapter shall mean the careful examination, in a partially dark room or place, of the whole egg by means of a strong light, and the apparatus and method employed shall be approved by the department. (Id. § 3107.)

110. Candling Required.—Every person buying eggs from the producer for resale shall candle all eggs offered to him and shall refuse to buy eggs unfit for human food as herein defined. Such candling shall be done in the presence of the producer if he so requests. (Id. § 3108.)

111. Candling Records.—Each licensee shall keep such candling records as may be required by the department, which records shall be open at all reasonable times for examination by said department. (Id. § 3109.)

112. Candling Certificate.—There shall be placed on the top layer of every case of candled eggs a certificate showing the date of candling, the name, initials, or number of the person doing the candling, the name of this state, and the license number of the person for whom the eggs were candled, which certificates shall be printed on sheets not smaller than two and three-eighths by four and one-fourth inches. (Id. § 3110.)

113. Rules for Recandling.—The department shall determine the conditions under which eggs once candled shall be recandled in order to prevent the sale of eggs unfit for human food; and said department shall establish the necessary rules for carrying this section into effect. (Id. § 3111.)

*Chapter 140, "State Dairy Association."

†The reference here and hereunder is to Chapter 151, "Production and Sale of Eggs."

114. Deduction to be Determined by Candling.—No person shall in buying or selling eggs take or give a greater or less deduction for eggs candled out as unfit for food than the actual loss which has been determined by the careful candling of the same. (Id. § 3112.)

Feeding Stuffs.

115. Definitions and Rules of Construction.—For the purpose of this chapter:†

1. "Commercial feed" shall mean "food" as defined in the chapter relative to the adulteration of foods‡ except that it shall only include food in concentrated form, and mineral mixtures, intended for feeding to domestic animals, and it shall not include hay, straw, whole seeds, unmixed meals made from entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, or broom corn; nor shall it include wheat flour or other flours fit for human consumption.

2. "Stock tonic" shall mean a class of commercial feed such as medicated stock or poultry foods, including such preparations as are composed wholly of drugs—except liquids—which contain any substance claimed to possess medicinal, condimental, or nutritive properties. (Code of Iowa 1924, § 3113.)

116. Labeling.—All commercial feed offered or exposed for sale or sold in package or wrapped form shall be labeled on each package or container as provided in sections 3067 and 3145* depending upon whether the preparation is a food or drug as defined in this title‡ and in addition thereto shall have printed on the label in the manner prescribed in said sections the chemical analysis of the contents, stating the percentages of crude protein, crude fat, nitrogen-free extract, and crude fiber, allowing one per cent of nitrogen to equal six and twenty-five one-hundredths per cent of protein, and in case of feeding molasses the per cent of total sugars—all constituents to be determined by the latest methods adopted by the association of official agricultural chemists of the United States. (Id. § 3114.)

117. Stock Tonic—Labeling.—In the case of stock tonic, in addition to the requirements of the preceding section, the label shall state the English name of each drug and the total percentage of all drugs and the actual percentage of salt, charcoal, and sulphur, and the actual percentage and name of any other ingredient contained in such stock tonic. (Id. § 3115.)

118. Written Labels Permitted.—Labels on packages or containers of commercial feeds may be written instead of being printed; but when written, the writing must be plain and legible. (Id. § 3116.)

119. Dealers to Furnish Samples—Affidavit.—Before any commercial feed is offered or exposed for sale, or sold, the person who desires to offer or expose it for sale, or sell it, shall pay the department [of agriculture] annually a registration fee of fifty cents accompanied by an affidavit containing the items required by this chapter to be printed on the label of such feed. Upon request a sealed glass jar or bottle containing not less than one pound of said feed shall accompany the registration fee and affidavit. (Id. § 3117, as amended L. 1925, c. 61.)

120. Inspection Fee.—Before any person shall solicit orders for, deliver, offer or expose for sale, or sell any commercial feed, he shall, except as otherwise provided in the following section, pay to the department an inspection fee of ten cents per ton for each ton of said feed sold or offered or exposed for sale. (Code of Iowa 1924, § 3118.)

121. Inspection Fee for Stock Tonic.—Before any person shall solicit orders for, deliver, offer or expose for sale, or sell any stock tonic, he shall, in lieu of the inspection fee provided in the preceding section, pay to the department, on or before the fifteenth day of July each year, a general inspection fee of six dollars per annum for each product manufactured. Inspections shall be made as provided in chapter 147.‖ (Id. § 3119.)

122. Feeds Not Subject to Inspection Fee.—Unadulterated wheat, rye, and buckwheat bran; wheat, rye, and buckwheat middlings; or wheat, rye, and buckwheat shorts manufactured in this state shall not be subject to any inspection fee required by this chapter. (Id. § 3120.)

†The reference here and hereunder is to Chapter 152, "Commercial Feeds."

‡See No. 30.

*See Nos. 34 and 37.

‡Title X, "Regulation and Inspection of Foods, Drugs and Other Articles."

‖Entitled "General Provisions." See Nos. 1-29.

123. Retailers Exempted.—Payment of any inspection fee provided in this chapter by the manufacturer or importer of any commercial feed or stock tonic shall exempt all other persons from such payment upon said products. (Id. § 3121.)

124. Method of Paying Inspection Fee.—The inspection fee provided in section 3118 shall be paid by attaching a tag to each lot shipped in bulk and to each package or container of commercial feed. Tags for such use shall be procured from the department, which shall issue them in denominations suitable for all quantities. (Id. § 3122.)

125. Delivery of Tags in Case of Large Sales.—Any person who sells at one time one ton or more of commercial feed shall be held to have complied with the inspection fee requirement of this chapter if he delivers to the purchaser the tags required, even though they may not be attached to the various packages or containers. (Id. § 3123.)

126. Ground Feeds Not to Contain Poisonous Substances.—No person shall sell in ground form wheat or rye screenings containing cockle or other poisonous or deleterious substances. (Id. § 3124.)

127. Counterfeiting Inspection Fee Tags—Penalty.—Any person who shall counterfeit or uses a counterfeit of any of the inspection fee tags prescribed by this chapter shall be guilty of a misdemeanor and punished as provided in chapter 147.* (Id. § 3125.)

128. Analyses of Feeds for Personal Use—Fee.—Any person purchasing any commercial feed in this state for his own use may submit fair samples of said feed to the department, accompanied by an analysis fee of one dollar for each sample, and a proper analysis of the same shall be made and furnished. (Id. § 3126.)

NOTE: See also No. 1.

Flavoring Extracts.

129. Definitions and Standards.—For the purpose of this chapter† the following definitions and standards of food are established: * * *

8. A flavoring extract is a solution in ethyl alcohol or other suitable medium of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

9. Almond extract. Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and contains not less than one per cent by volume of oil of bitter almonds.

10. Anise extract. Anise extract is the flavoring extract prepared from oil of anise, and contains not less than three per cent by volume of oil of anise.

11. Cassia extract. Cassia extract is the flavoring extract prepared from oil of cassia, and contains not less than two per cent by volume of oil of cassia.

12. Celery seed extract. Celery seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than three-tenths per cent by volume of oil of celery seed.

13. Cinnamon extract. Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than two per cent by volume of oil of cinnamon.

14. Clove extract. Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than two per cent by volume of oil of cloves.

15. Ginger extract. Ginger extract is the flavoring extract prepared from ginger, and contains in each one hundred cubic centimeters the alcohol soluble matters from not less than twenty grams of ginger.

16. Lemon extract. Lemon extract is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five per cent by volume of oil of lemon.

17. Terpeneless extract of lemon. Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or other suitable medium, or by dissolving terpeneless oil of lemon in such medium, and contains not less than two-tenths per cent by weight of citral derived from oil of lemon.

18. Nutmeg extract. Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than two per cent by volume of oil of nutmeg.

19. Orange extract. Orange extract is the flavoring extract prepared from oil of orange, or from orange peel, or both, and contains not less than five per cent by volume of oil of orange.

*Entitled "General Provisions." See Nos. 1-29.

†Chapter 148, "Adulteration of Foods." See Nos. 30-33.

20. Terpeneless extract of orange. Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with dilute alcohol, or other suitable medium, or by dissolving terpeneless oil of orange in such medium, and corresponds in flavoring strength to orange extract.

21. Peppermint extract. Peppermint extract is the flavoring extract prepared from oil of peppermint, or from peppermint, or both, and contains not less than three per cent by volume of oil of peppermint.

22. Rose extract. Rose extract is the flavoring extract prepared from attar of roses, with or without red rose petals, and contains not less than four-tenths per cent by volume of attar of roses.

23. Savory extract. Savory extract is the flavoring extract prepared from oil of savory, or from savory, or both, and contains not less than thirty-five hundredths per cent by volume of oil of savory.

24. Spearmint extract. Spearmint extract is the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and contains not less than three per cent by volume of oil of spearmint.

25. Star anise extract. Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than three per cent by volume of oil of star anise.

26. Sweet basil extract. Sweet basil extract is the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and contains not less than one-tenth per cent by volume of oil of sweet basil.

27. Sweet marjoram extract. Sweet marjoram extract is the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and contains not less than one per cent by volume of oil of marjoram.

28. Thyme extract. Thyme extract is the flavoring extract prepared from oil of thyme, or from thyme, or both, and contains not less than two-tenths per cent by volume of oil of thyme.

29. Tonka extract. Tonka extract is the flavoring extract prepared from tonka bean, with or without sugar or glycerin, and contains not less than one-tenth per cent by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof.

30. Vanilla extract. Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred cubic centimeters the soluble matters from not less than ten grams of the vanilla bean, and contains not less than thirty per cent by volume of absolute ethyl alcohol, or other suitable medium.

31. Wintergreen extract. Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than three per cent by volume of oil of wintergreen. . . . (Code of Iowa 1924, § 3058.)

Flour.

See No. 486.

Fruits and Vegetables.

See No. 480 et seq.

Grain.

130. Grain Combinations Prohibited.—It shall be unlawful for any person, company, partnership, association, or corporation owning or operating any grain elevator or engaged in the business of buying, selling, handling, consigning, or transporting grain:

1. To enter into any agreement, contract, or combination with any other grain dealer, or grain dealers, partnership, company, corporation, or association of grain dealers, whether within or without the state, engaged in like business for the fixing of prices to be paid for grain by different dealers or buyers.

2. To divide between said dealers the aggregate or net proceeds of the earnings of such dealers and buyers, or any portion thereof.

3. To form, enter into, maintain, or contribute money or anything of value to any trust, pool, combination, or association of persons of whatsoever character or name, which has for any of its objects the prevention of full and free competition among buyers, sellers, or dealers in grain.

4. To do or permit to be done by his or their authority any act or thing whereby the free action of competition in the buying or selling of grain is restrained or prevented. (Code of Iowa 1924, § 9924.)

131. Liability for Damages.—In case any person, company, partnership, corporation, or association, trust, pool, or combination of whatsoever name shall do, cause to be done, or permit to be done, any act, matter, or thing in the preceding section prohibited or declared to be unlawful, such person, partnership, company, association, corporation, trust, pool, or combination shall be liable to the person, partnership, company, association, or corporation injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of said section, together with a reasonable attorney's fee to be fixed by the court in every case of recovery and to be taxed as part of the costs in the case, and the property of any person who may be a member of any such trust, pool, combination, corporation, or association, violating the provisions of said section, shall be liable for the full amount of such judgment. (Id. § 9925.)

132. Violation—Penalty.—Any person, partnership, company, association, or corporation subject to the provisions of the two preceding sections, or any person, trust, combination, pool, or association, or any director, officer, lessee, receiver, trustee, employee, clerk, agent, or any person acting for or employed by them or either of them, who shall violate any of the provisions of section 9924, or who shall aid and abet in such violation, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined any sum not less than five hundred dollars and not exceeding two thousand dollars, or imprisoned in the county jail for a period not exceeding six months, or both, at the discretion of the court. (Id. § 9926.)

133. Swindling in Sale of Grain or Seed.—Whoever, either for his own benefit or as the agent of any corporation, company, association, or person, obtains from any other person anything of value, or procures the signature of any such person as maker, indorser, guarantor, or surety thereon to any bond, bill, receipt, promissory note, draft, check, or any other evidence of indebtedness, as the whole or part consideration of any bond, contract, or promise given the vendee of any grain, seed, or cereal; binding the vendor or any other person, corporation, company, association, or the agent thereof, to sell for such vendee any grain, seed, or cereal at a fictitious price, or at a price equal to or more than four times the market price thereof, shall be imprisoned in the penitentiary not more than three years, or be fined not more than five hundred nor less than one hundred dollars, or both. (Id. § 13056.)

134. Dealing in Certain Instruments.—Whoever sells, barter, or disposes of, or offers to sell, barter, or dispose of, either for his own benefit or as the agent of any corporation, company, association, or person, any bond, bill, receipt, promissory note, draft, check, or other evidence of indebtedness, knowing the same to have been obtained as the whole or part consideration for any bond, contract, or promise given the vendee of any grain, seed, or cereal, binding the vendor or any other person, corporation, company, association, or the agent thereof, to sell for such vendee any grain, seed, or cereal at a fictitious price, or at a price equal to or more than four times the market price thereof, shall be imprisoned in the penitentiary not more than three years, or be fined not more than five hundred nor less than one hundred dollars, or both. (Id. § 13057.)

Meat—Meat Products.

See No. 139 et seq.

Oysters.

135. Definitions and Standards.—For the purpose of this chapter* the following definitions and standards of food are established: * * *

38. Oysters shall not contain ice, nor more than sixteen and two-thirds per cent by weight of free liquid. . . . (Code of Iowa 1924, § 3058.)

Vinegar.

136. Definitions and Standards.—For the purpose of this chapter* the following definitions and standards of food are established: * * *

39. Vinegar is the product made by the alcoholic and subsequent fermentation of fruits, grain, vegetables, sugar, or syrups without the addition of any other substance and containing an acidity of not less than four per cent by weight of absolute acetic acid. The product may be distilled, but when not distilled it shall not carry in solution any other substance except the extractive matter derived from the substances from which it was made.

*Chapter 148, "Adulteration of Foods." See Nos. 30-33.

40. Cider or apple vinegar. Cider or apple vinegar is a similar product made by the same process solely from the juice of apples. Such vinegar which during the course of manufacture has developed in excess of four per cent acetic acid may be reduced to said strength.

41. Corn sugar vinegar. Corn sugar vinegar is a similar product made by the same process solely from solutions of starch sugar.

42. Malt vinegar. Malt vinegar is a similar product made by the same process solely from barley malt or cereals whose starch has been converted by malt.

43. Sugar vinegar. Sugar vinegar is a similar product made by the same process solely from sucrose. (Code of Iowa 1924, § 3058.)

137. **Coloring Vinegar.**—Vinegar shall not be colored with coloring matter and distilled vinegar shall not have a brown color in imitation of cider vinegar. (Id. § 3064.)

138. **Labeling Vinegar.**— . . . Distilled vinegar shall show on the label the name of each ingredient from which made. Distilled vinegar shall be marked as such; and cider vinegar which, having been in excess of the standard of acidity, has been reduced to the standard, shall have that fact indicated on the label. (Id. § 3070.)

Sanitation.

139. **Definitions.**—For the purpose of this chapter:†

1. "Hotel" shall mean any building or structure equipped, used, advertised as, or held out to the public to be an inn, hotel, or public lodging house or place where sleeping accommodations are furnished transient guests for hire, whether with or without meals.

2. "Guest room" shall mean office, parlor, dining room, kitchen, and sleeping apartment of a hotel, whether for transient or permanent guests.

3. "Sleeping apartment" shall mean bedroom or other sleeping quarters in a hotel.

4. "Restaurant" shall mean any building or structure equipped, used, advertised as, or held out to the public to be a restaurant, cafe, cafeteria, dining hall, lunch counter, lunch wagon, or other like place where food is served for pay, except hotels and such places as are used by churches, fraternal societies, and civic organizations which do not regularly engage in the serving of food as a business.

5. "Food" shall include any article used by man for food, drink, confectionery, or condiment, or which enters into the composition of the same, whether simple, blended, mixed or compound.

6. "Food establishment" shall include any building, room, basement, or other place, used as a bakery, confectionery, cannery, packinghouse, slaughterhouse, dairy, creamery, cheese factory, restaurant or hotel kitchen, retail grocery, meat market, or other place in which food is kept, produced, prepared, or distributed for commercial purposes.

7. "Slaughterhouse" shall mean a food establishment in which animals or poultry are killed or dressed for food. (Code of Iowa 1924, § 2808.)

140. **License Required—Expiration—Transferable.**—No person shall maintain or conduct a hotel, restaurant, bakery, candy factory, ice cream factory, bottling works, canning factory, slaughterhouse, meat market, or place where fresh meats are sold at retail until he shall obtain a license from the department of agriculture. Each license shall expire one year from the date of issuance except a hotel or restaurant license which shall expire on the last day of December following the date of issuance. A hotel license shall be transferable upon the payment of a fee of one dollar to the department, but no other license shall be transferable. (Id. § 2809.)

141. **Application for License.**—Every application for a license under this chapter shall be made upon a blank furnished by the department and shall contain the items required by it as to ownership, management, location, buildings, equipment, rates, and other data concerning the business for which a license is desired. An application for a license to operate an existing business shall be made at least thirty days before the expiration of the existing license. (Id. § 2810.)

142. **Operation Without License.**—After application has been made for a license, accompanied by the legal fee, as provided in this chapter, the applicant may operate his business without a license until his application has been denied. (Id. § 2811.)

143. **License Fees.**—The department shall collect the following fees for licenses:

†The reference here and hereunder is to Chapter 133, "Hotels, Restaurants, and Food Establishments."

1. For a hotel containing fifteen guest rooms or less, four dollars.
2. For a hotel containing more than fifteen or less than thirty-one guest rooms, six dollars.
3. For a hotel containing more than thirty and less than seventy-six guest rooms, eight dollars.
4. For a hotel containing more than seventy-five and less than one hundred fifty guest rooms, ten dollars.
5. For a hotel containing one hundred fifty or more guest rooms, fifteen dollars.
6. For a restaurant, candy factory, ice cream factory, bottling works, bakery, canning factory, slaughterhouse, meat market, or place where fresh meats are sold at retail, three dollars. (Id. § 2812.)

144. Revocation of License.—Any license issued under this chapter may be revoked by the department for violation by the licensee of any provision of this chapter or any rules of the department. (Id. § 2813.)

145. Plumbing in Buildings Connected With Sewers.—Every hotel, restaurant, or food establishment located in a city or town having a sewerage system, shall be constructed and drained according to an approved sanitary system and maintained in a sanitary condition free from any gas or offensive odors arising from any sewer, drain, privy, or other source within the control of the owner or person in charge. (Id. § 2814.)

146. Plumbing in Buildings Not Connected With Sewers.—Every hotel, restaurant, or food establishment located in a city or town not having a sewerage system shall be constructed and drained in the same manner and the drain shall be connected with an approved cesspool. Such cesspools shall be cleaned and disinfected as often as necessary to maintain them in an approved sanitary condition. (Id. § 2815.)

147. Certain Restaurants Exempted.—The two preceding sections shall not apply to restaurants temporary in character and location. (Id. § 2816.)

148. Floors—Killing Beds.—The floors in every food establishment shall be made of some suitable non-absorbent and impermeable material, approved by the department, which can be flushed and washed clean with water. All new slaughterhouses shall be constructed with cement, vitrified brick, tile, or other impervious material floors and killing beds. (Id. § 2817.)

149. Interior Finish.—The side walls and ceilings of every bakery, confectionery, creamery, cheese factory, slaughterhouse, and restaurant or hotel kitchen, shall be made of some suitable material approved by the department, and shall be either oil painted so that they can be washed clean, or they shall be kept well lime-washed. (Id. § 2818.)

150. Screens.—The doors, windows, and other openings of every hotel, restaurant, and food establishment during the fly season shall be fitted with self-closing screen doors and wire window screens of not coarser than fourteen mesh wire gauze. (Id. § 2819.)

151. Certain Places Exempted.—The preceding section shall not apply to sheds used for husking corn, nor to warehouses or storerooms used for the storage or handling of the finished product when sealed in original packages. (Id. § 2820.)

152. Toilet Rooms.—Food establishments shall have convenient toilet rooms and urinals separate from other rooms with floors as prescribed for such establishments, with separate ventilating flues discharging into soil pipes, or on the outside of the building. (Id. § 2821.)

153. Lavatories.—The lavatories in food establishments shall be adjacent to toilet rooms and shall be supplied with soap, running water, and clean towels, and shall be maintained in a sanitary condition. (Id. § 2822.)

154. Lighting and Ventilation.—Every food establishment shall be properly lighted, ventilated, and conducted with strict regard to the influence of such conditions upon the food handled therein. (Id. § 2823.)

155. Sanitary Regulations.—The following sanitary regulations shall be complied with in every hotel, restaurant, and food establishment:

1. The floors, walls, ceilings, woodwork, utensils, machinery, and other equipment, and all vehicles and equipment used in the transportation of food shall be kept in a thoroughly clean condition.
2. Food shall be at all times adequately protected from flies, dirt, and contamination from any source.
3. Dirt, refuse, and waste products subject to decomposition or fermentation shall be removed daily.
4. The clothing of all persons employed shall be kept clean, and those who handle food shall keep themselves clean and wash their hands and arms before beginning work and after visiting the toilet. (Id. § 2824.)

156. Additional Requirements for Slaughterhouses.—In addition to the requirements of the preceding section the following regulations shall also be complied with in the operation of slaughterhouses:

1. The building and yard shall be properly drained so as to prevent accumulations of water or mud.

2. The dressing room shall be supplied with pure and wholesome water.

3. In case a slaughterhouse is not in continuous use the refuse and waste products shall be removed within twenty-four hours after each using.

4. No blood pit, dung pit, offal pit, or privy well shall be maintained upon the premises, and refuse and waste products shall be burned or buried.

5. The premises shall be kept free from maggots and foul odors.

6. Swine shall not be kept or fed within fifty feet of the slaughterhouse.

7. Dead animals shall not be used for feeding purposes without first being thoroughly cooked.

8. Carcasses shall be covered with clean, white cloths before being transported, and shall be kept only in sanitary refrigerators or storage rooms. (Id. § 2825.)

157. Common Towel—Paper Towels.—No roller or common towel shall be kept or used in the toilet room or wash room of any hotel, restaurant, or food establishment, but individual sanitary paper towels may be provided for use in said places. (Id. § 2826.)

158. Common Drinking Cups.—No common drinking cup shall be kept or used in any place or room in any hotel, restaurant, or food establishment. (Id. § 2827.)

159. Tableware.—No soiled or insanitary tableware, tablecloths, napkins, or other table linen, shall be used in any hotel or restaurant. (Id. § 2828.)

160. Expecterating—Cuspidors.—No person shall expectorate within any food establishment except into cuspidors which shall be provided when necessary.

Said cuspidors shall be emptied and thoroughly washed daily with some disinfectant solution, five ounces of which shall be left in each cuspidor while in use. (Id. § 2829.)

161. Use as Living Room.—No person shall be allowed to use as a dwelling, or sleep in, any workroom of any bakeshop, kitchen, or dining room where food is prepared for commercial purposes, confectionery, creamery, ice cream factory, cheese factory, cream station, meat market, or any other place where, in the opinion of the department, food will be contaminated thereby. (Id. § 2830.)

162. Employment of Diseased Persons.—No person infected with any communicable disease as defined in chapter 108* shall work in any food establishment nor shall any employer permit any such person to work at any such establishment. (Id. § 2831.)

163. Street Display of Food.—No person shall make any sidewalk or street display of any meat products; but other food products may be so displayed if they are enclosed in a show case or similar device which shall protect the same from flies, dust, or other contamination, and in such display the bottom of the display case shall be at least two feet above the surface of the sidewalk. (Id. § 2832.)

164. Polishing Fruit.—No person shall polish fruit or any other food product by any insanitary or unclean process. (Id. § 2833.)

165. Annual Inspection.—The department [of agriculture] shall cause to be inspected at least once each calendar year, every hotel, restaurant, and food establishment in the state, and any inspector of said department may enter any such place at any reasonable hour to make such inspection. The management shall afford free access to every part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete examination. (Id. § 2851.)

166. Inspection Upon Complaint.—Upon receipt of a verified complaint, signed by any patron of any hotel, restaurant, or food establishment, stating facts showing such place to be in an insanitary condition or that the fire escapes and appliances are not kept in accordance with law, the department shall cause an examination to be made. If the complaint is found to be justifiable, the actual expenses necessarily incurred in making such inspection shall be charged and collected from the person conducting such place; but if such complaint is found to be without reasonable grounds, the actual expense necessarily incurred in making such inspection shall be collected from the person or persons making the complaint. (Id. § 2852.)

167. Report of Violation of Fire Protection Laws.—After each inspection the department shall report all infringements of the fire protection laws and regulations to the proper State and local authorities, who shall take the necessary action to compel compliance with the same. (Id. § 2853.)

*Entitled "Contagious and Infectious Diseases."

168. Penalty.—Any person who shall violate any provision of this chapter shall be fined not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days. (Id. § 2854.)

169. Injunction.—Any person conducting a hotel, restaurant, or food establishment, in violation of any provision of this chapter, may be restrained by injunction from operating such place of business. No injunction shall issue until after the defendant has had at least five days' notice of the application therefor, and the time fixed for hearing thereon. (Id. § 2855.)

170. Duty of County Attorney.—The county attorney in each county shall assist in the enforcement of the provisions of this chapter. (Id. § 2856.)

NOTE: See also No. 42b; the cold storage law, No. 46 et seq.; the dairy law, No. 63 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

171. Sale of Abortifacients—Prescriptions.—No person shall sell, offer or expose for sale, deliver, give away, or have in his possession with intent to sell, except upon the original written prescription of a licensed physician, dentist, or veterinarian, any cotton root, ergot, oil of tansy, oil of savin, or derivatives of any of said drugs. (Code of Iowa 1924, § 3170.)

172. Exception as to Sale of Abortifacients.—The requirements of the preceding section that certain drugs shall be furnished only upon written prescriptions, shall not apply to the sale of such drugs to persons who wholesale or retail the same, nor to any licensed physician, dentist, or veterinarian for use in the practice of his profession. (Id. § 3171.)

173. Filling of Prescriptions.—No person shall fill any prescription calling for any of the drugs required by this chapter* to be furnished only upon written prescription unless the same be for medical, dental, or veterinary purposes only, and unless the physician, dentist, or veterinarian prescribing the same be personally known to such person, and no such prescription shall be refilled. (Id. § 3172.)

174. Obscene Literature—Articles for Immoral Use.—Whoever sells, or offers for sale, or gives away, or has in his possession with intent to sell, loan, or give away any obscene, lewd, indecent, lascivious, or filthy book, pamphlet, paper, drawing, lithograph, engraving, picture, photograph, writing, card, postal card, model, cast, or any instrument or article of indecent or immoral use, or any medicine, article, or thing designed or intended for procuring abortion or preventing conception, or advertises the same for sale, or writes or prints any letter, circular, handbill, card, book, pamphlet, advertisement, or notice of any kind, giving information, directly or indirectly, when, where, how, or by what means any of the articles or things hereinbefore mentioned can be purchased, or otherwise obtained or made, shall be guilty of a misdemeanor and be fined not more than one thousand nor less than fifty dollars, or be imprisoned in the county jail not more than one year, or both. (Id. § 13190.)

175. Circulating Obscene Matter.—Whosoever deposits in any post office within this State, or places in charge of any person to be carried or conveyed, any of the articles or things named in the preceding section, or any circular, handbill, card, advertisement, book, pamphlet, or notice of any kind, giving information, directly or indirectly, when, how, where, or by what means any of the articles or things mentioned in the preceding section can be purchased or obtained, or knowingly or willfully receives the same to carry or convey, or knowingly carries or conveys the same in any manner, except in the United States mail, shall be fined not more than one thousand dollars, nor less than fifty dollars, or be imprisoned in the county jail not more than one year, or both. (Id. § 13191.)

176. Warrants for Search or Seizure.—Any magistrate or police judge is authorized, on complaint supported by oath or affirmation of one or more persons,

*Chapter 156, "Sale and Distribution of Poisons."

to issue a warrant, directed to the sheriff of the county within which such complaint is made, or to any constable or police officer within said county, directing him or them, or any of them to search for, seize and take possession of such books, papers, pictures, circulars, articles, and things named in this chapter;† and said magistrate or police judge shall deliver personally, or shall transmit, inclosed and under seal, specimens thereof to the county attorney of his county, and shall deposit within the county jail of his county, or other secure place, as to him seem meet, inclosed and under seal, the remainder thereof, and shall, upon the conviction of the person or persons offending under the provisions of this chapter, forthwith, in the presence of the person or persons, upon whose complaint the seizure or arrest was made, if he or they shall elect to be present, destroy, or cause to be destroyed, the remainder thereof, and shall cause to be entered upon the record of his court the fact of such destruction. (Id. § 13194.)

177. Exceptions—Doctors—Druggists—Artists.—Nothing in the five preceding sections shall be construed to affect teaching in regularly chartered medical colleges, or the publication or use of standard medical books, or the practice of regular practitioners of medicine or druggists in their regular business or the possession by artists of models in the necessary line of their art. (Id. § 13195.)

Distribution of Samples.

178. Depositing Samples on Porches.—It shall be unlawful for any person, firm, company, or corporation, either in person or by agent, to deposit any sample of any drugs or medicine upon any porch, lawn, in any vehicle, or any other place where such drugs or medicine might be picked up by children or other persons. (Code of Iowa 1924, § 13244.)

179. Punishment.—Any person, firm, company, corporation, or agent thereof violating the provisions of the preceding section, shall be guilty of a misdemeanor. (Id. § 13245.)

Insecticides and Fungicides.

180. Definitions and Rules of Construction.—For the purpose of this chapter:‡

1. "Insecticide" shall include paris green, lead arsenate, and any other substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insect which may infest vegetation, man, animals, households, or other environment.

2. "Paris green" shall include the product sold in commerce as paris green and chemically known as aceto-arsenite of copper.

3. "Lead arsenate" shall include the product sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead.

4. "Fungicide" shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi which may infest vegetation or be present in any environment. (Code of Iowa 1924, § 3182.)

4. "Department" shall mean the State Department of Health. (Code of Iowa 1924, § 2438.)

181. Labeling.—All insecticides and fungicides offered or exposed for sale, or sold in package or wrapped form, shall be labeled on each package or container as provided in sections 3037 to 3039, inclusive.* (Id. § 3183.)

182. Special Requirements as to Labeling.—In addition to the requirement of the preceding section, the following regulations shall also govern in labeling insecticides and fungicides:

1. When composed of any poison enumerated in section 3174¶ the word "poison" and its antidote shall appear on the label in a conspicuous manner.

2. When composed of arsenic in combination or elemental form, the total amount of arsenic present and the amount of arsenic in water-soluble form—both expressed in per cent of metallic arsenic—shall also be stated on the label in the same manner prescribed for other items.

†Chapter 592, "Obscenity and Indecency."

‡Chapter 157, "Insecticides and Fungicides."

*See Nos. 9-11.

¶See No. 234.

3. When composed partially or completely of an inert substance which does not effectively prevent, destroy, repel, or mitigate insects or fungi, the names and percentage amounts of each inert ingredient and the fact that they are inert, or the names and percentage amounts of each ingredient of the insecticide or fungicide having insecticidal or fungicidal properties without mention of the inert ingredients, except to state the total percentage of inert ingredients present, shall also appear upon the label in the same manner prescribed for other items.

4. Spray solution known as a lime and sulphur liquid shall also have stated on the label the strength of the solution and its gravity test, showing a guaranteed strength of lime and sulphur combined in solution as sulphates and sulphides, and the label shall contain a direction as to the proportions of water to be used to produce a mixture containing a four per cent solution by weight of lime and sulphur combined as sulphates and sulphides. The printing of said label shall be in black-faced type, in letters not less than one-half inch in height. (Id. § 3184.)

183. Adulteration.—In addition to the adulterations specified in paragraphs 1 to 3, inclusive, of section 3060 $\frac{1}{2}$ the following products shall be deemed to be adulterated:

1. In the case of paris green—a. If it does not contain at least fifty per cent of arsenious oxide. b. If it contains arsenic in water-soluble forms equivalent to more than three and one-half per cent of arsenious oxide.

2. In the case of lead arsenate—a. If it contains more than fifty per cent of water. b. If it contains total arsenic equivalent to less than twelve and one-half per cent of arsenic oxide (As_2O_5). c. If it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths of one per cent arsenic oxide (As_2O_5).

3. In the case of an insecticide or fungicide other than paris green and lead arsenate—a. If its strength or purity falls below the professed standard or quality under which it is sold. b. If it is intended for use on vegetation and contains any substance which, although preventing, destroying, repelling, or mitigating insects or fungi, shall be injurious to such vegetation when used as recommended by the manufacturer. (Id. § 3185.)

184. Standard for Lime and Sulphur Liquid.—Spray solution known as a lime and sulphur liquid shall be not less than seventy per cent by weight of sulphur. (Id. § 3186.)

NOTE: See also No. 1.

Pharmacy, Poisons and Narcotics.

184a. Definitions.—For the purpose of this $\dagger$ and the following chapters of this title:|

1. "Examining Board" shall mean one of the boards appointed by the Governor to give examinations to applicants for licenses.

2. "Licensed" when applied to a * * * pharmacist * * * shall mean a person licensed under this title.

3. "Profession" shall mean * * * pharmacy * * * .

4. "Department" shall mean the State Department of Health. (Code of Iowa 1924, § 2438.)

184b. License Required to Practice Certain Professions.—No person shall engage in the practice of * * * pharmacy, * * * as defined in the following chapters of this title, unless he shall have obtained from the State Department of Health a license for that purpose. (Id. § 2439.)

184c. Age and Character Qualifications.—No person shall be licensed to practice a profession under this title until he shall have furnished satisfactory evidence to the department that he has attained the age of twenty-one years and is of good moral character, except that women may be licensed as dental hygienists upon attaining the age of eighteen years. (Id. § 2440.)

184d. Grounds for Refusing License.—The department may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked by the District Court. (Id. § 2441.)

184e. Form of License.—Every license to practice a profession shall be in the form of a certificate under the seal of the department, signed by the Commis-

$\dagger$ See No. 32.

$\dagger$ The chapter referred to here and hereunder is Chapter 115, "General Provisions."

|The title referred to here and hereunder is Title VIII, "The Practice of Certain Professions Affecting the Public Health."

sioner of Public Health. Such license shall be issued in the name of the examining board which conducts examinations for that particular profession. The number of the book and page containing the entry of said license in the office of the department shall be noted on the face of the license. (Id. § 2442.)

184f. Certificate Presumptive Evidence of Right to Practice.—Every license issued under this title shall be presumptive evidence of the right of the holder to practice in this State the profession therein specified. (Id. § 2443.)

184g. Display of License.—Every person licensed under this title to practice a profession shall keep his license displayed in the place in which he practices. (Id. § 2444.)

184h. Record of Licenses—Open to Public Inspection.—The name, age, nativity, location, number of years of practice of the person to whom a license is issued to practice a profession, the number of the certificate, and the date of registration thereof shall be entered in a book kept in the office of the department to be known as the registry book, and the same shall be open to public inspection. (Id. § 2445.)

184i. Notice of Change of Residence.—When any person licensed to practice a profession under this title changes his residence he shall notify the department and such change shall be noted in the registry book. (Id. § 2446.)

184j. Renewal of Licenses.—Every license to practice a profession shall expire on the thirtieth day of June following the date of issuance of such license, and shall be renewed annually upon application by the licensee, without examination. Application for such renewal shall be made in writing to the department accompanied by the legal fee at least thirty days prior to the expiration of such license. Every renewal shall be displayed in connection with the original license. Every year the department shall notify each licensee by mail of the expiration of his license. (Id. § 2447.)

184k. Reinstatement of Licensee.—Any licensee who allows his license to lapse by failing to renew the same, as provided in the preceding section, may be reinstated without examination upon recommendation of the examining board for his profession and upon payment of the renewal fees then due. (Id. § 2448.)

185. Examining Boards.—For the purpose of giving examination to applicants for licenses to practice the professions for which a license is required by this title, the Governor shall appoint a board of examiners for each of said professions. (Id. § 2449.)

186. Designation of Examining Boards.—The examining boards provided in the preceding section shall be designated as follows: . . . for pharmacy, Pharmacy Examiners; . . . (Id. § 2450.)

187. Composition of Examining Boards.—Each examining board shall consist of three members, except the dental board which shall consist of five members. (Id. § 2451.)

188. Professional Qualifications of Examiners.—Every . . . pharmacy . . . examiner shall be a person licensed to practice the profession for which the board, of which he is a member, conducts examinations for licenses to practice such profession. . . . (Id. § 2452.)

189. Active Practice Requirement For Examiners.—Each examiner shall be actively engaged in the practice of his profession and shall have been so engaged in this State for a period of five years just preceding his appointment. (Id. § 2453.)

190. Disqualifications.—No examiner shall be an officer or member of the instructional staff of any school in which any profession regulated by this title is taught, or be connected therewith in any manner, . . . (Id. § 2455.)

191. Term of Examiners.—The members of each examining board shall be appointed for a term of three years, except the dental examiners who shall be appointed for a term of five years. The term of each examiner shall commence on July first in the year of appointment and the terms of the members of each board shall be rotated in such a manner that one examiner shall retire each year. (Id. § 2456.)

192. Nomination of Examiners by State Associations.—The regular state association or society or its managing board for each profession may submit each year to the Governor a list of six persons of recognized ability in such profession, who have the qualifications prescribed for examiners for that particular profession. If such list is submitted, the Governor in making an appointment to the Board of Examiners for such profession may select one of the persons so named. (Id. § 2457.)

193. Vacancies.—Any vacancy in the membership of an examining board caused by death, resignation, removal, or otherwise, shall be filled for the period of the unexpired term in the same manner as original appointments. (Id. § 2458.)

194. Officers.—Each examining board shall organize annually and shall select a chairman and a secretary from its own membership. (Id. § 2459.)

195. Transaction of Business by Mail.—Each examining board shall, as far as practicable, provide by rule for the conducting of its business by mail, but all examinations shall be conducted in person by the board or by some representative of the board as provided in section 2476. Any official action or vote taken by mail shall be preserved by the secretary in the same manner as the minutes of regular meetings. (Id. § 2460.)

196. Compensation of Examiners.—Each member of an examining board shall, in addition to necessary traveling and hotel expenses, receive ten dollars per day for each day actually engaged in the discharge of his duties, including compensation for the time spent in traveling to and from the place of conducting the examination and for a reasonable number of days for the preparation of examination questions and the reading of papers, in addition to the time actually spent in conducting examinations. (Id. § 2461.)

197. Appropriation.—There is hereby annually appropriated out of any funds in the State treasury not otherwise appropriated a sum sufficient to pay the compensation and expenses of the members of each examining board. (Id. § 2462.)

198. Supplies.—The department shall furnish each examining board with all articles and supplies required for the public use and necessary to enable said board to perform the duties imposed upon it by law. Such articles and supplies shall be obtained by the department in the same manner in which the regular supplies for the department are obtained and the same shall be considered and accounted for as if obtained for the use of the department. When examinations are held at the State University, the necessary articles and supplies for conducting the same shall be furnished by the university authorities. (Id. § 2463.)

199. Quarters.—The executive council shall furnish each examining board with suitable quarters in which to conduct the examinations held by said board at the seat of government. When examinations are held at the State University, the superintendent of buildings and grounds shall furnish such quarters. (Id. § 2464.)

200. Representation at National Meetings.—Each examining board may select one of its members to attend either:

1. The annual meeting of the regular national association or society of the profession for which such board conducts examinations for licenses; or
2. The annual meeting of the national organization of State examining boards for such profession.

The member so selected shall receive his necessary traveling and hotel expenses in attending such meeting. (Id. § 2465.)

200a. Applications for Examination.—Any person desiring to take the examination for a license to practice a profession shall make application to the State Department of Health at least fifteen days before the examination, on a form provided by the department. Such application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take such examination. All applications shall be in accordance with the rules of the department and shall be signed and verified by the oath of the applicant. (Id. § 2466.)

200b. Notice of Time and Place of Examinations.—The department shall give public notice of the time and place of all examinations to be held under this title. Such notice shall be given in such manner as the department may deem expedient and in ample time to allow all candidates to comply with the provisions of this title. (Id. § 2467.)

200c. List of Accredited High Schools.—The department shall prepare and keep up to date a list of accredited high schools and other secondary schools for the purpose of passing upon the qualifications of an applicant for an examination when such applicant is required by any provision of this title to be a graduate of such school. The secretary of the State Board of Education and the registrars of the State University, the State College of Agriculture and Mechanic Arts, and the State Teachers College shall supply the necessary data to the department for the preparation of said list. (Id. § 2468.)

200d. List of Accredited Colleges.—The State Department of Health shall prepare and keep up to date a list of accredited colleges in which are taught the professions which are regulated by this title. The examining board for each profession shall make recommendations relative thereto and shall approve the list

for the profession for which it gives license examinations. No such school shall be accredited by the department unless it has been so recommended and approved by the proper examining board together with the Commissioner of Health. Such recommendations and approval shall be made at some regular session of the board held for the purpose of giving an examination. (Id. § 2469.)

200e. Data Relative to Professional Schools.—As a basis for such action on the part of the examining board, the registrar of the State University and the dean of the professional school of said institution which teaches the profession for which said board gives license examinations, shall supply such data relative to any such professional school as said board may request. (Id. § 2470.)

200f. Time of Conducting Examination.—Each examining board shall hold regular sessions for the purpose of giving examinations at such times as the department may fix, not to exceed four in any one year. The medical examiners, dental examiners, and pharmacy examiners shall hold a similar session at the State University at the close of each school year to give examinations to students of the medical, dental, and pharmacy colleges of said institution and to other applicants who are qualified to take the same. In case there are other schools located in the State at which any of the professions regulated by this title are taught, two of the examinations for the profession taught at any such school may be held each year at such institution, if the examining board for that profession so desires. All other sessions of the examining boards shall be held at the seat of government unless otherwise ordered by the department. (Id. § 2471.)

200g. Transmittal of Names of Eligible Candidates.—Prior to each examination the department shall transmit to each examining board the list of candidates who are eligible to take the examination given by such board. In making up such list the department may call upon any examining board, or any member thereof, for information relative to the eligibility of any applicant. (Id. § 2472.)

200h. Rules Relative to Examination.—Each examining board shall establish rules for:

1. The conducting of examinations.

2. The grading of examinations and passing upon the technical qualifications of applicants, as shown by such examinations. (Id. § 2473.)

200i. Examinations in Theory.—All examinations in theory shall be in writing, and the identity of the person taking the same shall not be disclosed upon the examination papers in such a way as to enable the members of the examining board to know by whom written until after the papers have been passed upon. In examinations in practice the identity of the candidate shall also be concealed as far as possible. (Id. § 2474.)

200j. Quorum and Representation at Examinations.—Two members of each board, except the dental board, shall constitute a quorum for conducting examinations but in the case of the medical examiners a quorum shall consist of one member from each school of medical practice represented on said board. Three members of the dental board shall constitute a quorum for conducting examinations. (Id. § 2475.)

200k. Clerk of Examination.—Upon the request of any examining board, the department shall detail some employee to act as clerk of any examination given by said examining board. Such clerk shall have charge of the candidates during the examination and perform such other duties as the examining board may direct. If the duties of such clerk are performed away from the seat of government, he shall receive his necessary railroad and hotel expenses, which shall be paid from the appropriations to the department in the same manner in which other similar expenses are paid. (Id. § 2476.)

200l. Certification of Successful Applicants.—Every examination shall be passed upon in accordance with the established rules of the examining board and shall be satisfactory to at least a majority of the members of said board. After each examination, the examining board shall certify the names of the successful applicants to the State Department of Health in the manner prescribed by it. The department shall then issue the proper license and make the required entry in the registry book. (Id. § 2477.)

200m. Special Examinations.—Any examining board may give a partial examination for a license to practice a profession to any applicant who has completed a portion of his professional course. For such purpose said board shall establish by rules:

1. The portion of such course which shall be completed prior to such examination.

2. The subjects to be covered by such examination and the subjects to be covered by the final examination to be taken by such applicant after the completion

of his professional course and prior to the issuance of his license, but the subjects covered in the partial and final examinations shall be the same as those specified in this title for the regular examination. (Id. § 2478.)

200n. Rules Relative to Partial Examinations.—In case any examining board shall provide for partial examinations under the preceding section, the department shall adopt rules establishing:

1. The portion of the license fee fixed in this chapter which shall be paid for a partial examination.

2. The credentials which shall be presented to the department by an applicant showing his qualifications to take such examination.

3. The method of certifying the list of the eligible applicants for such examination to the proper examining board.

4. The method of certifying back to the department the list of applicants who successfully pass such examination.

5. The method of keeping the records of such applicants for use at the time of completing the examination for a license.

6. The credentials which shall be presented to the department by such an applicant upon the completion of his professional course.

7. The method of certifying such applicant to the proper examining board for the remainder of his examination.

8. Such other matters of procedure as are necessary to carry into effect the preceding section. (Id. § 2479.)

200o. Preservation of Records.—All matters connected with each examination for a license shall be filed with the State Department of Health and preserved for five years as a part of the records of the department, during which time said records shall be open to public inspection. (Id. § 2480.)

200p. Reciprocal Agreements.—For the purpose of recognizing licenses which have been issued in other States to practice any profession for which a license is required by this title, the department shall enter into a reciprocal agreement with every State which is certified to it by the proper examining board under the provisions of the following section and with which this State does not have an existing agreement at the time of such certification. (Id. § 2481.)

200q. Certification of States Entitled to Reciprocal Relations.—The department shall at least once each year lay before the proper examining board the requirements of the several States for a license to practice the profession for which such examining board conducts examinations for licenses in this State. Said examining board shall immediately examine such requirements and after making such other inquiries as it deems necessary, shall certify to the department the States having substantially equivalent requirements to those existing in this State for that particular profession and with which said examining board desires this State to enter into reciprocal relations. (Id. § 2482.)

200r. Rules Governing Reciprocal Agreements.—In negotiating any reciprocal agreement, the department shall be governed by the following regulations:

1. Protection to licensees of this State. When the laws of any State or the rules of the authorities of said State place any requirement or disability upon any person licensed in this State to practice any profession regulated by this title which affects the right of said person to be licensed or to practice his profession in said State, then the same requirement or disability shall be placed upon any person licensed in said State when applying for a license to practice in this State.

2. Special conditions. When any examining board has established by rule any special condition upon which reciprocal agreements shall be entered into, as provided in the following section, such condition shall be incorporated into the reciprocal agreements negotiated with reference to licenses to practice the professions for which such examining board conducts examinations. (Id. § 2483.)

200s. Special Conditions in re Reciprocal Agreements.—An examining board shall have power to provide by rule that no reciprocal relation shall be entered into by the department with any State with reference to licenses to practice the profession for which such examining board conducts examinations, unless every person licensed in another State when applying for a license to practice in this State shall comply with one or both of the following conditions:

1. Furnish satisfactory proof to the department that he has been actively engaged in the practice of his profession for a certain period of years to be fixed by such examining board.

2. Pass a practical examination in the practice of his particular profession as prescribed by such examining board. (Id. § 2484.)

200t. Termination of Reciprocal Agreements.—When the requirements for a license in any State with which this State has a reciprocal agreement are changed

by any law or rule of the authorities therein so that such requirements are no longer substantially as high as those existing in this State, then such agreement shall be deemed terminated and licenses issued in such State shall not be recognized as a basis of granting a license in this State until a new agreement has been negotiated. The fact of such change shall be determined by the proper examining board and certified to the department for its guidance in enforcing the provisions of this section. (Id. § 2485.)

200u. License Granted Upon Basis of License of Another State.—The department shall, upon presentation of a license to practice a profession issued by the duly constituted authority of another State, with which this State has established reciprocal relations, and subject to the rules of the examining board for such profession, license said applicant to practice in this State, unless under the rules of said examining board a practical examination is required in such cases. (Id. § 2486.)

200v. Application for Practical Examinations.—If the rules of any examining board require an applicant for a license under a reciprocal agreement to pass a practical examination in the practice of his profession, then such applicant shall make application therefor to the department upon a form provided by it. (Id. § 2487.)

200w. Applicability of Other Provisions.—All the provisions of this chapter relative to applications, transmittal of the names of eligible candidates, certification of successful applicants, and issuance of licenses thereto, in the case of regular examinations, shall apply as far as applicable to applicants for practical examinations. (Id. § 2488.)

200x. Reciprocity for Graduates of State Schools.—When the laws of any State or the rules of the authorities of said State place any requirement or disability upon any person holding a diploma or certificate from any college in this State in which one of the professions regulated by this title is taught, which affects the right of said person to be licensed in said State, the same requirement or disability shall be placed upon any person applying for a license to practice in this State. (Id. § 2489.)

200y. Power to Adopt Rule.—The department and each examining board shall have power to establish the necessary rules, not inconsistent with law, for carrying out the reciprocal relations with other States which are authorized by this chapter. (Id. § 2490.)

200z. Change of Residence to Another State.—Any licensee who is desirous of changing his residence to that of another State or Territory shall upon application to the department, and payment of the legal fee, receive a certified statement that he is a duly licensed practitioner in this State. (Id. § 2491.)

201. Grounds For Revocation of License.—A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring his license.
2. Incompetency in the practice of his profession.
3. Immoral, unprofessional, or dishonorable conduct.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of an offense involving turpitude.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Distribution of intoxicating liquors or drugs for any other than lawful purposes.
9. Willful or repeated violations of this title,* the title on "Public Health,"† or the rules of the State Department of Health.

10. Continued practice while knowingly having an infectious or contagious disease. (Id. § 2492.)

201a. Unprofessional Conduct Defined.—For the purposes of the preceding section "unprofessional conduct" shall consist of any of the following acts:

1. Solicitation of professional patronage by agents or persons popularly known as "cappers" or "steerers," or profiting by the acts of those representing themselves to be agents of the licensee.
2. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.
3. Acceptance of a fee for service as a witness, without the knowledge of the court, in addition to the fee allowed by the court.

*Title VIII, "The Practice of Certain Professions Affecting the Public Health."

†Title VII.

4. Division of fees or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient or assisting in the care or treatment of a patient without the consent of said patient or his legal representative.

5. Advertisement of any medicine or means whereby the monthly periods of women can be regulated or the menses re-established if suppressed.

6. Procurement or raiding or abetting in the procurement of a criminal abortion.

7. Willful betrayal of a professional secret.

8. Willful neglect of a patient in a critical condition. (Id. § 2493.)

201b. Jurisdiction of Revocation Proceedings.—The district court of the county in which a licensee resides shall have jurisdiction of the proceeding to revoke or suspend his license. (Id. § 2495.)

201c. Petition for Revocation of License.—The petition for the revocation or suspension of a license may be filed:

1. By the Attorney-General in all cases.

2. By the county attorney of the county in which the licensee resides.

Said petition shall be filed in the office of the clerk of the district court having jurisdiction. (Id. § 2496.)

201d. Duty of Department of Health.—The State Department of Health shall direct the Attorney-General to file such petition against any licensee upon its own motion, or it may give such direction upon the sworn information of some person who resides in the county wherein the licensee practices. (Id. § 2497.)

201e. Duty of Attorney-General and County Attorney.—The Attorney-General shall comply with such direction of the department and prosecute such action on behalf of the State, but the county attorney, at the request of the Attorney-General, shall appear and prosecute such action when brought in his county. (Id. § 2498.)

201f. Rules Governing Petition.—The following rules shall govern the petitions in such cases:

1. The State shall be named as plaintiff and the licensee as defendant.

2. The charges against the licensee shall be stated in full.

3. Amendments may be made as in ordinary actions.

4. All allegations shall be deemed denied but the licensee may plead thereto if he desires. (Id. § 2499.)

201g. Time and Place of Trial.—Upon the presentation of the petition, or a copy thereof, to the court or judge, he shall make an order fixing the time and place for the hearing, which shall be not less than ten nor more than twenty days thereafter. (Id. § 2500.)

201h. Notice to Licensee.—Notice of the filing of such petition and of the time and place of hearing shall be served upon the licensee at least ten days before said hearing in the manner required for the service of notice of the commencement of an ordinary action. (Id. § 2501.)

201i. Nature of Action—When Triable.—The proceeding shall be summary in its nature, triable as an equitable action, and may be heard either in vacation or term time. (Id. § 2502.)

201j. Judgment of Revocation or Suspension.—Judgment of revocation or suspension of the license shall be entered of record and the licensee shall not engage in the practice of his profession after his license is revoked or during the time for which it is suspended. The clerk of the court shall, upon the entry of such judgment, forthwith furnish the State Department of Health with a certified copy thereof. (Id. § 2503.)

201k. Failure of Licensee to Appear.—In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the court, after receiving satisfactory evidence of the truth of the charges, shall order the license revoked or suspended. (Id. § 2504.)

201l. Costs.—If the judgment is adverse to the licensee the costs shall be taxed to him as in ordinary civil actions, but if the State is the unsuccessful party the costs shall be paid out of any money in the State Treasury not otherwise appropriated. (Id. § 2505.)

201m. Unpaid Costs.—All costs accrued at the instance of the State, when the successful party, which the attorney general certified cannot be collected from the defendant, shall be paid out of any money in the State Treasury not otherwise appropriated. (Id. § 2506.)

201n. Hearing on Appeal.—Both parties shall have the right of appeal, and in such event, the Supreme Court shall fix the time of hearing, and for filing abstracts and arguments. Said cause shall be advanced and take precedence over all other causes upon the court calendar, and shall be heard at the next term after

the appeal is taken, provided the abstracts and arguments are filed in said court in time for said action to be heard. (Id. § 2507.)

201o. Effect of Appeal.—The taking of an appeal by the defendant and the filing of a supersedeas bond shall not operate to stay the proceedings of the District Court or Judge, or restore the right of said defendant to practice his profession pending such appeal. (Id. § 2508.)

201p. Professional Titles and Abbreviations.—Any person licensed to practice a profession under this title may append to his name any recognized title or abbreviation, which he is entitled to use, to designate his particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise himself in such a manner as to lead the public to believe that he is engaged in the practice of any other profession than the one which he is licensed to practice. (Id. § 2509.)

201q. Titles Used by Holder of Degree.—Nothing in the preceding section shall be construed:

1. As authorizing any person licensed to practice a profession under this title to use or assume any degree or abbreviation of the same unless such degree has been conferred upon said person by an institution of learning accredited by the appropriate board herein created, together with the commissioner of health, or by some recognized State or national accrediting agency.

2. As prohibiting any holder of a degree conferred by an institution of learning accredited by the appropriate board herein created, together with the Commissioner of Health, or by some recognized State or national accrediting agency, from using the title which such degree authorized him to use, but he shall not use such degree or abbreviation in any manner which might mislead the public as to his qualifications to treat human ailments. (Id. § 2510.)

202. License; Examination; Renewal Fees.—The following fees shall be collected by the State Department of Health:

5. For a license to practice . . . pharmacy . . . issued upon the basis of an examination given by an examining board, ten dollars.

6. For a license to practice any of the professions enumerated in the preceding paragraph issued under a reciprocal agreement, twenty dollars.

7. For the renewal of a license to practice any of the professions enumerated in the preceding paragraphs, one dollar. . . .

9. For a certified statement that a licensee is licensed in this State, five dollars.

10. For an examination to determine whether an applicant has the educational attainments of a high school graduate, five dollars. (Id. § 2516.)

202a. Second Examination.—Any applicant for a license who fails in his examination shall be entitled to a second examination without further fee at any time within a period of fourteen months after the first examination. (Id. § 2517.)

202b. Fees Paid Into State Treasury.—All fees collected under this chapter shall be paid into the State Treasury. (Id. § 2518.)

202c. Injunction Against Illegal Practice.—Any person engaging in any business or in the practice of any profession for which a license is required by this title without such license may be restrained by permanent injunction. (Id. § 2519.)

202d. Forgeries in Procuring Licenses.—Any person who shall file or attempt to file with the State Department of Health any false or forged diploma, or certificate or affidavit of identification or qualification, shall be guilty of forgery and punished accordingly. (Id. § 2520.)

202e. Fraud in Procuring License—Penalty.—Any person who shall present to the department a diploma or certificate of which he is not the rightful owner, for the purpose of procuring a license, or who shall falsely personate anyone to whom a license has been issued by said department shall be punished as provided in the following section. (Id. § 2521.)

202f. Penalties.—Any person violating any provisions of this or the following chapters of this title shall be fined not less than one hundred dollars nor more than one thousand dollars or be imprisoned in the county jail for not more than six months or by both such fine and imprisonment. (Id. § 2522.)

202g. Enforcement.—The State Department of Health shall enforce the provisions of this and the following chapters of this title and for that purpose shall make necessary investigations relative thereto. Every licensee and member of an examining board shall furnish the department such evidence as he may have relative to any alleged violation which is being investigated. (Id. § 2523.)

202h. Report of Violators by Licensee.—Every licensee and member of an examining board shall report, also, to the department the name of every person, without a license, that he has reason to believe is engaged in:

1. Practicing any profession for which a license is required.

2. Operating as an itinerant practitioner of such profession. (Id. § 2524.)

202i. Rules and Forms.—The State Department of Health shall establish the necessary rules and forms for carrying out the duties imposed upon it by the provisions of this and the following chapters of this title. (Id. § 2525.)

202j. Publication of Laws and Rules.—The department shall have printed in pamphlet form for each profession the following matter which is pertinent to the particular profession for which such pamphlet is published:

1. The law regulating the practice of the profession.

2. The rules of the department relative to licenses.

3. The rules of the examining board relative to examinations.

Such pamphlet shall be supplied to any person applying for the same. (Id. § 2526.)

202k. Duty of Attorney-General and County Attorney.—Upon request of the State Department of Health the Attorney-General shall institute in the name of the State the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this title and the county attorney, at the request of the Attorney-General, shall appear and prosecute such action when brought in his county. (Id. § 2527.)

202l. Prima Facie Evidence of Practicing.—The opening of an office or place of business for the practice of any profession for which a license is required by this title, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession. (Id. § 2528.)

203. Licensing of Pharmacists.—The provisions of this chapter relative to the making of application for a license, the issuance of a license, the negotiation of reciprocal agreements for recognition of foreign licenses, the collection of license and renewal fees, and the preservation of records shall not apply to the licensing of persons to practice pharmacy, but such licensing shall be governed by the following regulations:

1. Every application for a license to practice pharmacy shall be made direct to the secretary of the pharmacy examiners.

2. Such license and all renewals thereof shall be issued by said examiners.

3. Every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by said examiners.

4. All license and renewal fees exacted from persons licensed to practice pharmacy shall be paid to and collected by the secretary of the pharmacy examiners.

5. All records in connection with the licensing of pharmacists shall be kept by said secretary. (Id. § 2529.)

204. Enforcement of Title as to Pharmacy.—The provisions of this title in so far as they affect the practice of pharmacy shall be enforced by the Pharmacy Examiners and the provisions of sections 2523 and 2524 shall not apply to said profession. (Id. § 2530.)

205. Regulations Governing Pharmacy Examiners.—In discharging the duties and exercising the powers provided for in the two preceding sections the Pharmacy Examiners and their secretary shall be governed by all the provisions of this chapter which govern the department of health when discharging a similar duty or exercising a similar power with reference to any of the professions regulated by this title. (Id. § 2531.)

206. Secretary of Pharmacy Examiners.—The Pharmacy Examiners shall have the right to employ a full time secretary, who shall not be a member of the examining board, at such compensation as may be fixed from time to time in the biennial salary act and the provisions of section 2459[‡] providing for a secretary for each examining board shall not apply to the Pharmacy Examiners. (Id. § 2532.)

207. Duties of Secretary of Pharmacy Examiners.—The secretary of the Pharmacy Examiners shall, upon the direction of said examiners, make inspections of alleged violations of the provisions of this title relative to the practice of pharmacy and of chapters 155* and 156.* Said secretary shall be allowed his

[‡]See No. 194.

*Chapter 155 is entitled "Adulteration and Labeling of Drugs." See Nos. 35-42. Chapter 156 is entitled "Sale and Distribution of Poisons." See Nos. 215-241.

necessary traveling and hotel expenses in making such inspections, which shall be paid out of the appropriation provided for in section 2462.† (Id. § 2533.)

208. Renewal Fee for Pharmacy Association.—The secretary of the Pharmacy Examiners shall annually add one dollar to the renewal fee provided in this chapter for a person licensed to practice pharmacy. Such additional amount shall be considered as a part of the regular renewal fee and payment of the same shall be a prerequisite to the renewal of his license. The funds derived from the additional renewal fee collected under this section shall be paid to the state pharmacy association upon the order of its treasurer and secretary. Said fund shall be used by such association in the advancement of the art and science of pharmacy. (Id. § 2534.)

208a. Records.—The secretary of each of said boards shall keep a correct record of the proceedings of said board, and upon the granting of any license to practice any of said professions the board shall, at the time of granting said license, certify to the Department of Health the application upon which such license was issued, together with the questions submitted in the examination of such applicant and the answers thereto, and such secretary shall deposit with the Department of Health all records not needed for the current use of his examining board. (Id. § 2537.)

209. Persons Engaged in Practice of Pharmacy.—For the purpose of this title the following classes of persons shall be deemed to be engaged in the practice of pharmacy:

1. Persons who engage in the business of selling,* or offering or exposing for sale, drugs and medicines at retail.

2. Persons who compound or dispense drugs and medicines or fill the prescriptions of licensed physicians and surgeons, dentists, or veterinarians. (Id. § 2578.)

210. Persons Not Engaged in Practice of Pharmacy.—The preceding section shall not be construed to include the following classes:

1. Persons who assist in the selling or dispensing of drugs and medicines under the supervision of a licensed pharmacist.

2. Persons who sell, offer or expose for sale, completely denatured alcohol or concentrated lye, insecticides or fungicides in original packages.

3. Persons licensed to practice medicine, dentistry, or veterinary medicine who dispense drugs and medicines as an incident to the practice of their professions.

4. Persons who sell, offer or expose for sale proprietary medicines or domestic remedies which are not in themselves poisonous or in violation of the law relative to intoxicating liquors. (Id. § 2579.)

211. Definitions.—For the purposes of this chapter:¶

1. "Drugs and medicines" shall include all substances and preparations for internal or external use recognized in the United States Pharmacopœia or National Formulary, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of a disease of either man or animals.

2. "Pharmacy" shall mean a drug store in which the prescriptions of licensed physicians and surgeons, dentists, or veterinarians are compounded. (Id. § 2580.)

212. Requirements for License.—Every applicant for a license to practice pharmacy shall:

1. Present satisfactory evidence of possessing the qualifications enumerated in one of the following paragraphs: a. The completion of two years' work in an accredited college of pharmacy and at least two years of practical experience as a clerk under the supervision of a licensed pharmacist in a pharmacy. b. The completion of three years' work in an accredited college of pharmacy and at least one year of practical experience as specified in the preceding paragraph.

2. Pass an examination prescribed by the Pharmacy Examiners in the science and practice of pharmacy. (Id. § 2581.)

213. Unlicensed Person Not to Dispense Drugs.—No licensed pharmacist shall allow anyone who is not a licensed pharmacist to sell, or offer or expose for sale, or dispense drugs and medicines, or fill the prescriptions of licensed physicians, dentists, and veterinarians, unless the same be done under the supervision of a licensed pharmacist. (Id. § 2582.)

214. Requirements for Approved Colleges.—No college of pharmacy shall be approved by the Pharmacy Examiners as a college of recognized standing unless the entrance and graduation requirements are equivalent to those prescribed by the American conference of pharmaceutical faculties for the year nineteen hundred twenty-four (1924). (Id. § 2583, as amended L. 1925, c. 51.)

¶Chapter 123, "Practice of Pharmacy." See Nos. 209-214.

†See No. 197.

215. Narcotic Drugs Defined.—For the purpose of this chapter† “narcotic drugs” shall mean:

1. Opium, coca (erthroxylum coca), cocaine, alpha or beta eucaine, morphine, heroin, peyote or the mescale button, Indian hemp (cannabis indica or cannabis americana), or any derivative of any of said drugs.

2. Any preparation containing any of the drugs enumerated in the preceding paragraph, except: a. Medicines or remedies which do not contain more than: 1. Two grains of opium, one-fourth of a grain of morphine, one-eighth of a grain of heroin, one grain of codeine, or a like amount of any salt or derivative of any of said drugs, in one fluid ounce, or if a solid or semisolid preparation, in one avoirdupois ounce. 2. One-half grain solid extract of Indian hemp (cannabis indica or cannabis americana), or the equivalent thereof, in one fluid ounce. b. Liniments, ointments, or other preparations which are prepared for external use only, but which do not contain cocaine, alpha or beta eucaine, or any salt or derivative of any of them, or any synthetic substitute for any of said drugs.

The exceptions provided in subdivisions “a” and “b” shall only apply when such medicines, remedies, liniments, ointments, and preparations are sold, distributed, given away, dispensed, or possessed for medicinal purposes only and not for the purpose of trafficking in or disposing of narcotic drugs as such. (Code of Iowa 1924, § 3151, as amended L. 1925, c. 52.)

216. Sale of Narcotics Prohibited.—No person shall sell, offer or expose for sale, deliver, give away, or have in his possession with intent to sell any narcotic drugs. (Code of Iowa 1924, § 3152.)

217. Exception as to Sale of Narcotics.—The preceding section shall not apply to persons registered or exempt from registration under the federal law regulating the traffic in narcotic drugs. (Id. § 3153.)

218. Possession of Narcotic Prohibited—Prescriptions.—No person shall have any narcotic drug in his possession or control for any purpose, unless he obtained the same upon the original written prescription of a licensed physician, dentist, or veterinarian, who has registered under the federal law regulating the traffic in narcotic drugs. (Id. § 3154.)

219. Exception as to Possession of Narcotics.—The preceding section shall not apply to:

1. Any person registered under the federal law regulating the traffic in narcotic drugs who is engaged in practicing any profession, in conducting any business, or in doing any act in compliance with said law, nor to any employee or assistant under the supervision of such person, having the possession or control of any narcotic drugs by virtue of his employment and not on his own account.

2. To any United States, state, city, county, or municipal official who has possession of any of said drugs by reason of his official duties.

3. To a warehouseman holding possession for a person registered under said federal law.

4. To a common carrier engaged in transporting such drugs. (Id. § 3155.)

220. Indictments—Burden of Proof.—It shall not be necessary to negative any of the aforesaid exemptions under any complaint, information, indictment, or other writ or proceeding, brought under this chapter; and the burden of proof of any such exemption shall be on the defendant. (Id. § 3156.)

221. Limitation on Exemptions.—The exemptions of the second preceding section shall not apply to any person unless it be shown by competent evidence that such person has not purchased or received any narcotic drugs from a person unauthorized to sell the same. (Id. § 3157.)

222. Prima Facie Evidence of Illegal Purchase.—The possession of any narcotic drugs unaccounted for by the legal authority to purchase and have possession of the same, or having possession of any such drugs concealed or stored in any other place than that provided for the storage of a stock of such drugs which have been purchased legally, shall be prima facie evidence of the purchase of such drugs from a person unauthorized to sell or dispense the same. (Id. § 3158.)

223. Seizure and Confiscation of Narcotics.—Any narcotic drugs kept, manufactured, or dispensed in violation of the laws of the United States or of this chapter, or any instrument, container, or other equipment used or intended to be used in manufacturing, keeping, or dispensing such drug may be seized, confiscated, and disposed of under a search warrant proceeding. (Id. § 3159.)

224. Procedure.—The procedure under the preceding section shall be the same as a search warrant proceeding under the law regulating the traffic in intoxicating

†Chapter 156, “Sale and Distribution of Poisons.” See Nos. 215-241.

liquor and all the provisions of chapter 96* shall govern such a proceeding under this chapter as far as applicable. (Id. § 3160.)

225. Seizure and Confiscation of Vehicles.—Any animal-drawn or motor vehicle, or other conveyance of any kind, that is being used for transporting narcotic drugs which have been manufactured, sold, purchased, delivered, or received in violation of the laws of the United States or of this chapter, may be seized and confiscated by any peace officer in any county in which such shipment originates, or through which it passes, or in the county in which it is to be delivered. (Id. § 3161.)

226. Procedure.—The procedure under the preceding section shall be the same as a proceeding for the seizure and forfeiture of a vehicle under the law regulating the traffic in intoxicating liquor and all the provisions of chapter 97† shall govern such a proceeding under this chapter as far as applicable. (Id. § 3162.)

227. Common Nuisance—Injunction.—Any building, erection, or place resorted to by habitual users of narcotic drugs for the purpose of using such drugs, or which is used for the illegal keeping of the same, and any building, erection, or place in which narcotic drugs are kept, sold, or dispensed in violation of the laws of the United States or of this state, shall be deemed a common nuisance, and it may be enjoined and abated under the law provided for enjoining and abating an intoxicating liquor nuisance and all the provisions of chapter 98‡ shall govern such a proceeding under this chapter§ as far as applicable. (Id. § 3163.)

228. Evidence—General Reputation.—The state, in any proceeding under the preceding section may, for the purpose of establishing the character of the place kept by the defendant, introduce evidence of the general reputation of such place, and such evidence shall be competent for such purpose. (Id. § 3164.)

229. Contempt Proceedings.—For the violation of any such injunction, temporary or permanent, the offender may be punished for contempt of court, under the laws provided for the punishment of contempt for the violation of an injunction against an intoxicating liquor nuisance, and all the provisions of said law shall govern such a proceeding under this chapter as far as applicable. (Id. § 3165.)

230. Forms.—All forms necessary for use under the preceding sections of this chapter shall be prepared and provided by the Attorney-General. (Id. § 3166.)

231. Rule of Construction.—All the preceding provisions of this chapter shall be construed as mandatory and not directory, and the same shall be construed so as to prevent evasion. (Id. § 3167.)

232. Penalty.—Any person violating any of the preceding provisions of this chapter shall be punished by imprisonment in the penitentiary for not more than ten years, or by a fine not to exceed one thousand dollars or by both such fine and imprisonment. (Id. § 3168.)

233. Penalty for Corporations.—Any company or corporation violating any of the preceding provisions of this chapter shall be fined not more than five thousand dollars nor less than five hundred dollars, and the costs of prosecution. (Id. § 3169.)

233a. Filling of Prescriptions.—No person shall fill any prescription calling for any of the drugs required by this chapter to be furnished only upon written prescription unless the same be for medical, dental, or veterinary purposes only, and unless the physician, dentist, or veterinarian prescribing the same be personally known to such person, and no such prescription shall be refilled. (Id. § 3172.)

234. Regulations as to Sale of Certain Poisons.—No person shall sell at retail any of the following enumerated poisons unless he ascertains that the purchaser is aware of the character of the drug and represents that it is to be used for a proper purpose: Carbolic or hydrocyanic acid, chloral hydrate, oils of bitter almonds or pennyroyal, strychnine or any of its salts, arsenic, chloroform, ammoniated mercury, atropine, arsenate of copper, aconitine, benzaldehyde, bromine, cyanide of potassium, corrosive sublimate, dionin, ether sulphuric, hyoscine, kermes mineral, cantharides, croton oil, digitalis, nux vomica, phosphorus, or veratrum. (Id. § 3174.)

235. Poison Register.—Every sale or delivery of any poison enumerated in the preceding section, except in insecticides and fungicides as defined in the following chapter,‡ shall be entered in a book kept for that purpose to be known as a "poison register," and the same shall show the date of sale, and name and address of purchaser, the name of the poison, the purpose for which it was represented to be purchased, and the name of the dispenser, which book shall be open for inspection by

*Entitled "Search Warrants."

†Entitled "Seizure and Sale of Conveyances."

‡Entitled "Injunction and Abatement."

¶Chapter 156, "Sale and Distribution of Poisons." See Nos. 215-241.

‡Chapter 157, "Insecticides and Fungicides." See Nos. 180-184.

the pharmacy examiners, or any magistrate or peace officer of the State, and preserved for at least five years. (Id. § 3175.)

236. Labeling Poisons.—Every package or container in which any of the poisons enumerated in the second preceding section or in which any nitric, hydrochloric, sulphuric, or oxalic acid, concentrated lye, denatured or wood alcohol is sold or delivered shall be labeled with the name of the article, the name and place of business of the manufacturer, distributor, or dealer, the most available antidote, and with the word "poison" in a conspicuous place. (Id. § 3176.)

237. Certain Sales Exempted.—Nothing in the three preceding sections shall apply:

1. To the sale of proprietary medicines.
2. To the filling of prescriptions from licensed physicians, dentists, or veterinarians.
3. To the sale of wood or completely denatured alcohol for mechanical purposes. (Id. § 3177.)

238. Obtaining Poisons by False Representations.—Any person who obtains any poison enumerated in the fourth preceding section under a false name or statement shall be guilty of a misdemeanor and punished as provided in chapter 147.† (Id. § 3178.)

239. Enforcement by Pharmacy Examiners.—The provisions of this and the preceding chapter* shall be administered and enforced by the pharmacy examiners. In discharging any duty or exercising any power under said chapters, the pharmacy examiners shall be governed by all the provisions of chapter 147† which govern the Department of Agriculture when discharging a similar duty or exercising a similar power with reference to any of the articles dealt with in this title.* (Id. § 3179.)

240. Chemical Analysis of Drugs.—Any chemical analysis deemed necessary by the pharmacy examiners in the enforcement of this and the preceding chapter* shall be made by the department of agriculture when requested by said examiners. (Id. § 3180.)

241. Applicability of Other Statutes.—In so far as applicable the provisions of chapter 147† shall apply to the articles dealt with in this and the preceding chapter.* The powers vested in the Department of Agriculture by said chapter shall be deemed for the purpose of this and the preceding chapter to be vested in the pharmacy examiners. (Id. § 3181.)

242. Exemption.—The following persons are exempt from liability to act as jurors: . . . registered pharmacists, . . . (Id. § 10843.)

242a. Commitment.—Persons addicted to the excessive use of intoxicating liquors, morphine, cocaine, or other narcotic drugs may be committed by the commissioners of insanity of each county to such institutions as the board of control may designate. (Id. § 3478.)

242b. Statutes Applicable.—All statutes governing the commitment, custody, treatment, and maintenance of the insane shall, so far as applicable, govern the commitment, custody, treatment, and maintenance of those addicted to the excessive use of such drugs and intoxicating liquors. (Id. § 3479.)

242c. Term of Commitment—Parole.—Persons committed under the two preceding sections shall be retained in custody until cured, except that such inmates may be paroled under such conditions as the board of control may prescribe. (Id. § 3480.)

242d. Places of Commitment.—The Board of Control shall designate the institutions to which commitments may be made under this chapter, and to that end may divide the State into districts, and shall promptly notify each clerk of the District Court of such designation and all changes therein. (Id. § 3481.)

242e. Insanity of Narcotic Addicts.—Should a person, committed because of his excessive use of narcotic drugs or intoxicating liquors, become insane, the board of control, on complaint of the superintendent having the custody of such person and on due hearing, may order such person committed to a Hospital for the Insane. Such order shall have the same force and effect as though entered by the commissioners of insanity of the county of the patient's residence, and such person may appeal from such order in the same manner in which appeals are allowed from the orders of the commissioners of insanity. (Id. § 3482.)

242f. Aiding Escapes—Bringing Liquor or Drugs to Inmates.—Any person not authorized by law, who shall bring or pass or cause to be brought into any institution under the management of the board of control of State institutions,

†Entitled "General Provisions." See Nos. 1-29.

*Chapter 155, "Adulteration and Labeling of Drugs." See Nos. 35-42.

or onto the grounds of any such institution, or into any inclosure, building, camp, quarry, farm, garden, or other place used in connection with any such institution in which prisoners, patients, or inmates are required or permitted to be, any opium, morphine, cocaine, or other narcotics, or any intoxicating liquor, or any firearm, weapon, or explosive of any kind, or any rope, ladder, or other instrument or device for use in making or attempting an escape, or shall in any manner aid in such an escape, or who, knowing of such escape, shall conceal such inmate after escape, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the penitentiary or reformatory for a term not exceeding five years. (Id. § 13365, as amended L. 1925, c. 72.)

242g. Placing Drugs and Articles Near Institutions.—Any person not duly authorized by law who shall place or cause to be placed or aid in placing any of the drugs, liquors, weapons, explosives, or other articles hereinbefore enumerated in or near any road, park, path, walk, grove, hedge, or field where any prisoner, patient, or other inmate of the State institutions specified in the preceding section is, or is likely to be, with intent that the drug, liquor, weapon, explosive, or other article so placed shall be found by or shall pass into the possession of any such prisoner, patient, or other inmate, shall be punished by imprisonment in the penitentiary or reformatory for a term not exceeding five years, or by a fine of not more than one thousand dollars nor less than one hundred dollars. (Code of Iowa 1924, § 13366.)

242h. Presumptive Evidence.—The bringing or passing or causing to be brought into any of the places designated in sections 13365 and 13366, of any rope, ladder, or other instrument or device adapted for use in making an escape, shall be presumptive evidence that it was so brought or passed for such use, and the leaving of any drug, liquor, weapon, explosive, or other article enumerated in said sections in or near any of the places specified in said sections with knowledge that any prisoner, patient, or other inmate is or is likely to be in such place, shall be presumptive evidence that such article was so left to be found by or to pass into the possession of such prisoner, patient, or other person in violation of said sections. (Id. § 13367.)

242i. Attempt to Commit Act.—An attempt to do any of the acts prohibited by sections 13365 and 13366 shall be subject to the same punishment as the completed act. (Id. § 13368.)

NOTE: See also Nos. 2 and 40-42.

Serum, Antitoxin, Tuberculin, Etc.

243. Definitions.—When used in this chapter:‡

1. The words "biological products" shall include and be deemed to embrace only anti-hog-cholera serum and virus.

2. "Manufacturer" includes every person engaged in the preparation, at any stage of the process, of biological products, except those engaged in such preparation in the biological laboratory in the Iowa state college of agriculture and mechanic arts, or in any other state or governmental institution.

3. "Dealer" includes every person who, for profit, sells, dispenses, or distributes, or offers to do so, either as principal or agent, biological products, except: a. A manufacturer selling direct to any person licensed under this chapter to sell, dispense, or distribute such biological products. b. A regularly licensed veterinarian who uses such biological products in his professional practice and does not use it for sale or distribution to any other person. (Code of Iowa 1924, § 2705.)

244. Power to Make Rules.—The department [of agriculture] shall have power to make such rules governing the manufacture, sale, and distribution of biological products as it deems necessary to maintain their potency and purity. (Id. § 2706.)

245. Permit to Manufacture or Sell.—Every person, before engaging as a manufacturer of, or dealer in, biological products shall obtain from the department of agriculture a permit for that purpose. (Id. § 2707.)

246. Application for Permit to Manufacture or Sell.—Every application for such a permit shall be made on a form provided by the department, which form shall call for such information as the department shall deem necessary, including the name and place of business of the applicant. (Id. § 2708.)

247. Application for Manufacturer's Permit.—An application for a permit to manufacture biological products shall be accompanied by evidence satisfactory to

‡Chapter 130, "Hog Cholera Virus and Serum."

the department that the applicant is the holder of a valid, unrevoked, United States department of agriculture license for the manufacture and sale of such biological products. (Id. § 2709.)

248. Application for Dealer's Permit.—An application for a permit to deal in biological products shall be accompanied by a bond, with sureties to be approved by the department, in the sum of five thousand dollars, which bond shall be conditioned:

1. To faithfully comply with all laws governing the warehousing, sale, and distribution of biological products, and with all the rules of the department relating to such biological products.

2. To indemnify any person who uses any such biological products sold by the principal and is damaged by the negligence of the principal, or any of his agents, in the warehousing, handling, sale, or distribution of such biological products.

3. To pay to the state all penalties which may be adjudged against the principal. (Id. § 2710.)

249. Liability of Principal on Bond.—The principal on such bond shall be liable to every person for any damage caused by the negligence of the principal or of his agents, notwithstanding the execution of the bond. (Id. § 2711.)

250. New or Additional Bond.—When judgment is rendered on such bond, the principal shall immediately execute and file with the department a new or additional bond, conditioned as the original bond, and in an amount to be fixed by the department, which will furnish the same amount of security that was furnished before the original bond was impaired. (Id. § 2712.)

251. Liability of Manufacturer.—A manufacturer shall be liable to an injured person for all damages which occur:

1. By reason of the negligence of the manufacturer or his employees in the manufacture, warehousing, handling, or distribution of biological products.

2. By reason of the failure of the manufacturer, or his employees, to discharge any duty imposed by law, or by the rules of the department. (Id. § 2713.)

252. Fees.—Fees for permits shall be paid by the manufacturer or dealer to the department when the application for such permit is made and shall be:

1. In case of a manufacturer, twenty-five dollars for each plant at which it is proposed to manufacture biological products.

2. In case of a dealer, fifteen dollars for each warehouse or distributing agency of the dealer. (Id. § 2714.)

253. Inspection of Premises.—The premises upon which the business authorized by such permit is carried on shall be subject at all times to inspection by the department. Before issuing an original permit, the department may cause the proposed premises to be inspected, and shall make such requirements regarding the physical conditions and sanitation of said premises as it may deem necessary to secure and maintain the potency and purity of the biological products. If such requirements are not complied with and maintained, the permit shall be refused or revoked as the case may be. (Id. § 2715.)

254. Duration of Manufacturer's or Dealer's Permit.—Every permit issued to a manufacturer or dealer shall expire one year from the date of issuance. A renewal of the same shall be subject to all the conditions, including fees, that are required in the case of an original permit. (Id. § 2716.)

255. Revocation of Manufacturer's or Dealer's Permit.—Such a permit shall be automatically revoked:

1. In case of a dealer, by his failure to execute and file with the department a new and approved bond when required by law.

2. In case of a manufacturer, by his ceasing to be the holder of a United States department of agriculture license for the manufacture and sale of biological products.

3. In case of either a manufacturer or dealer, for discrimination in the price at which such biological products are sold, and such permit shall not in such case be renewed for one year. (Id. § 2717.)

256. Revocation by Department.—Such a permit may also be revoked by the department at any time after a reasonable notice and hearing:

1. For violation of the terms, conditions and requirements on which it was issued.

2. For violation of any law, or of any rule of the department, relating to the business authorized by such permit.

3. In case of a dealer's permit, when judgment has been rendered on the bond, or when the security of such bond has become impaired in any other way and no new bond is given as required by the department. (Id. § 2718.)

257. Prohibited Sales.—No biological products shall be sold, offered for sale, distributed, or used, unless produced at a plant which, at the time of producing, held a United States department of agriculture license for the manufacture of such biological products. (Id. § 2719.)

258. Sales to Permit Holders Only.—No person shall sell, distribute, or offer to sell or distribute, virulent blood or virus from cholera infected hogs except to persons who are holders of valid, unrevoked, written permits to administer the same. (Id. § 2720.)

259. Permits to Administer Virus.—No person shall administer hog cholera virus unless he is the holder of a permit issued by the department for that purpose or is the holder of a license to practice veterinary medicine. (Id. § 2721.)

260. County School of Instruction.—Provision shall be made by the extension division of the state college of agriculture and mechanic arts for instruction in each county in the use of anti-hog-cholera serum and virus. Whenever there are ten applicants in any county for such instruction, said division shall make the necessary arrangements, including a sufficient number of competent instructors, at a convenient time and place, which shall be within thirty days after the filing of the requisite number of applications. (Id. § 2722.)

261. Application for Instruction—Fee.—Applications for such school shall be made to the county agent, or in the event there is no county agent, to some other person appointed by the board of supervisors to receive such applications, accompanied by a fee of three dollars. When there are sufficient applications to authorize a school, said agent or persons, shall forward the applications to the extension division. (Id. § 2723.)

262. Instruction—Examinations.—Said school shall consist of necessary instruction in the use and administration of anti-hog-cholera serum and virus, and, if reasonably possible, of actual demonstrations. Examinations shall be conducted in such manner as will, in the opinion of the instructor, best test the applicant's understanding of the instructions, and his ability to practically apply them. (Id. § 2724.)

263. Report by Instructor.—The instructor shall at once report to the extension division the names and post office addresses of those persons who are found by him to be competent to use and administer hog-cholera virus. The names and addresses shall then be certified by the extension division to the department of agriculture. (Id. § 2725.)

264. Issuance of Permits.—Upon receipt of such names the department shall at once issue and forward to each person a permit to administer hog-cholera virus. (Id. § 2726.)

265. Transmittal and Refund of Fees.—The names of the successful and unsuccessful applicants for a permit from each county shall also be certified by the extension division to the county agent of their respective counties. In the event there is no county agent, such certification shall be made to the person appointed by the board of supervisors to receive the application and fees for instruction. Upon receipt of such list the county agent, or the person in possession of such fees, shall forthwith forward the fees received from the successful applicants to the extension division and refund the fee received from each unsuccessful applicant to him. (Id. § 2727.)

266. Duration of Virus Permit—Revocation.—A permit to administer hog-cholera virus shall continue in force until revoked by the department on a showing that the holder has become incompetent to administer such virus. (Id. § 2728.)

267. Right of Holder of Virus Permit.—The person to whom a permit to administer hog-cholera virus has been issued is authorized only to administer such virus to hogs owned by the holder of the permit, and the permit shall so state. (Id. § 2729.)

268. Compensation and Expenses.—The compensation of the instructors and other expenses connected with the instruction of applicants for permits shall be paid as far as possible out of the fees collected from such applicants, and any surplus shall be paid into the State treasury on July first of each year. (Id. § 2730.)

269. Schools of Instruction at Ames.—The State College of Agriculture and Mechanic Arts may hold a school for the purpose of giving instruction in the method of administering anti-hog-cholera serum and virus at any time when there are at least ten applicants for such instruction. (Id. § 2731.)

270. Conducting Schools—Permits.—Schools of instruction held at said college shall be conducted substantially in the same manner as county schools. Permits to administer virus shall be issued to all applicants who are found to be competent upon the same condition and in the same manner as those taking instruction in county schools. (Id. § 2732.)

271. Reports by Manufacturers and Dealers.—A person holding a permit as manufacturer or dealer shall make such written reports to the department relative to biological products as it may from time to time require. (Id. § 2733.)

272. Reports by Virus Permit Holder.—Every holder of a permit to administer hog-cholera virus shall, upon request of the department, make a report to the department giving such information as the department may require. Such information shall be on a form furnished by the department. (Id. § 2734.)

273. Delivery of Report.—Within ten days after being requested in writing by the department such report shall be delivered or sent by registered mail to the department by the permit holder. The department may suspend the permit of any holder who fails to make such report until he has complied with the preceding section. (Id. § 2735.)

274. Lists of Manufacturers and Dealers.—The department shall, without additional charge, and when it issues a permit to administer hog-cholera virus, inclose with such permit a complete list of every manufacturer and dealer licensed to manufacture or distribute biological products. A similar list shall also be sent to every county agent, and any necessary corrections or changes shall be sent to such agent at least once every three months. (Id. § 2736.)

275. Lists of Virus Permit Holders.—The department shall also upon the request of any manufacturer, dealer, or other person furnish a complete list of the names and addresses of the holders of unrevoked permits to administer virus immediately upon the issuance of such permits. A sufficient charge shall be made for such list as will cover the cost of preparation and distribution. (Id. § 2737.)

276. Seizure of Samples.—The department may seize, at any time or place, for examination, samples of biological products manufactured or kept for use or sale within the state. (Id. § 2738.)

277. Condemnation and Destruction.—The department shall have power to condemn and destroy any biological products which it deems unsafe. (Id. § 2739.)

278. Defacing Labels.—No person shall remove or deface any label upon the bottles or packages containing any biological products or change the contents from the original container except for immediate use. (Id. § 2740.)

279. Price of Virus—Rebates Prohibited.—Persons holding permits, either as manufacturers or dealers, shall sell all biological products at a uniform price to all persons to whom sales are made. No rebate on said price shall be given, either directly or indirectly, in any manner whatsoever. (Id. § 2741.)

280. Collection of Compensation by Veterinarian.—No licensed veterinarian shall receive, directly or indirectly, any compensation of any kind for the handling, sale, or use of any biological products, other than his charges for administering the same, unless he makes known in writing the amount of such compensation, if requested to do so by the person using biological products. Any veterinarian violating this section shall forfeit his license to practice and the same shall not be renewed for a period of one year. (Id. § 2742.)

281. Violations—Penalty.—Any person who violates any provision of this chapter, or any rule of the department, or who shall hinder or attempt to hinder the department or any duly authorized agent or official thereof in the discharge of his duty, shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars. (Id. § 2743.)

282. Directors—Assistants—Salary.—The State Board of Education is hereby authorized to maintain at Ames, in connection with the state college of agriculture and mechanic arts, a laboratory for the manufacture and distribution of hog-cholera serum, toxines, vaccines, and biological products and for such other work as the said state board of education may, from time to time, deem advisable in the veterinary division, and to provide the necessary equipment therefor. The president of said college shall appoint the director of said laboratory and such assistants as are deemed necessary to efficiently carry on said work; and he shall, with the approval of said board, fix the salaries of said assistants. (Id. § 4042.)

283. Sale of Serum.—The director of said laboratory may, when an emergency is declared to exist by the state board of education, furnish said serum to any person, together with specific instructions for the use of same, at the approximate cost of manufacture, and such cost shall be stated on the package. The director of the serum laboratory is authorized to purchase serum or other biological products which he deems reliable, and he may sell the same at approximate cost in the same manner as products of the laboratory are sold. (Id. § 4043.)

284. Receipts—How Deposited—Expenses.—The director shall deposit all funds with the treasurer of the college, which treasurer shall be responsible on his bond for the same. Upon receipt of said moneys, the said treasurer shall issue duplicate receipts therefor, one of which he shall deliver to the director and the other

to the secretary of the State Board of Education. Said moneys shall be kept by said treasurer in a separate fund to be known as the serum fund; and he shall pay out from said fund, as other college funds are expended, but only for expenses directly connected with the maintenance and development of said laboratory and for grounds and buildings. Said grounds and buildings shall be used, when so authorized by the board of education, for any purpose in connection with the study, control, or treatment of animal diseases. (Id. § 4044.)

285. Powers and Duties.—The commissioner of public health shall be the head of the "State Department of Health," which shall: . . . 11. Establish stations throughout the state for the distribution of antitoxins and vaccines to physicians, druggists, and other persons, at cost. All antitoxin and vaccine thus distributed shall be labeled "Iowa State Department of Health." . . . (Id. § 2191.)

286. Penalty.—Any person who knowingly violates any provision of this chapter,* or of the rules of the department, or any lawful order, written or oral, of the department or of its officers, or authorized agents, shall be guilty of a misdemeanor. (Id. § 2217.)

287. Tuberculin.—The department [of agriculture] shall have control of the sale, distribution, and use of all tuberculin in the state, and shall formulate rules for its distribution and use. Only a licensed veterinarian shall apply a tuberculin test to cattle within this State. (Id. § 2678.)

287a. Duties of Board of Health.—The State Board of Health shall be an advisory body to the State Department of Health and shall have the following powers and duties: * * *

2. To advise the department relative to: * * *

(d). Contagious and infectious diseases, quarantine and isolation, venereal diseases, anti-toxins and vaccines, housing, and vital statistics. * * * (Id. § 2220.)

NOTE: See also No. 42b.

Sodium Fluoride.

287b. Sale of Sodium Fluoride Regulated.—It shall be unlawful for any person, firm, partnership or corporation to sell sodium fluoride except in the original package, which shall be labeled poison and the antidote published on said package. (Act of Apr. 14, 1927.)†

Stock Tonics.

See No. 115 et seq.

Venereal Disease Drugs.

288. Druggists to Keep Record of Remedies Sold.—Every pharmacist or person who sells any proprietary drug, preparation, or article of any kind used for the cure or treatment of any venereal disease shall keep a record of the name, address, and sex of each purchaser. A copy of said record shall be mailed each week to the health officer of the city, town, or township wherein the sale was made. (Code of Iowa 1924, § 2306.)

289. Penalty.—Any person violating any of the provisions of this chapter‡ shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment. (Id. § 2316.)

290. Advertising Drugs for Venereal Disease.—Whoever prints or publishes or causes to be printed or published, in any newspaper published or circulated in this State, any advertisement of medicine, drug, nostrum, or apparatus for the cure of private or venereal disease, or shall circulate or distribute any newspaper containing such an advertisement or notice, shall be guilty of a misdemeanor, and be fined not more than one thousand dollars nor less than fifty dollars, or be imprisoned in the county jail not more than one year, or both. (Id. § 13192.)

NOTE: See also Nos. 176-177.

Wood Alcohol.

291. Use of Wood or Denatured Alcohol.—No person shall have in his possession or dispose of in any manner any article intended for use of man or domestic

*Chapter 105, "State Department of Health."

†In effect July 1, 1927.

‡Chapter 109, "Venereal Diseases."

animals, for internal or external use, for cosmetic purposes, for inhalation, or for perfumes, which contains methyl (wood) alcohol, crude or refined, or completely denatured alcohol. Nothing in this section shall be construed to apply to specially denatured alcohols the formula of which has been approved and the manufacture and use regulated by the federal government. (Code of Iowa 1924, § 3173.)

Intoxicating Liquors.

292. Definition.—The word “liquor” or the phrase “intoxicating liquor” when used in this title,[†] shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter, wine, spirituous, vinous, and malt liquor, and all intoxicating liquor whatever. (Code of Iowa 1924, § 1923.)

293. Manufacture, Sale or Keeping for Sale Prohibited.—No one, by himself, clerk, servant, employee, or agent, shall, for himself or any person else, directly or indirectly, or upon any pretense, or by any device, manufacture, sell, exchange, barter, dispense, give in consideration of the purchase of any property or of any services or in evasion of the statute, or keep for sale, or have possession of, any intoxicating liquor, except as provided in this title; or own, keep, or be in any way concerned, engaged, or employed in owning or keeping, any intoxicating liquor with intent to violate any provision of this title, or authorize or permit the same to be done; or manufacture, own, sell, or have possession of any manufactured or compounded article, mixture or substance, not in a liquid form, and containing alcohol which may be converted into a beverage by a process of pressing or straining the alcohol therefrom, or any instrument intended for use and capable of being used in the manufacture of intoxicating liquor; or own or have possession of any material used exclusively in the manufacture of intoxicating liquor; or use or have possession of any material with intent to use it in the manufacture of intoxicating liquors. (Id. § 1924 as amended L. 1925, chapters 44 and 45.)

294. First Conviction.—Whoever is found guilty of violating any of the provisions of the second preceding section, shall be punished as a bootlegger as provided in this chapter.[‡] (Code of Iowa 1924, § 1926.)

295. Bootlegging—Punishment.—Any person who shall, by himself, or his employee, servant, or agent, for himself or any person, company, or corporation, keep or carry around on his person, or in a vehicle, or leave in a place for another to secure, any intoxicating liquor as herein defined, with intent to sell or dispose of the same by gift or otherwise, or who shall within this state, in any manner, directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of intoxicating liquor, in violation of law, or aid in the delivery and distribution of any intoxicating liquor so ordered or shipped, or who shall in any manner procure for, or sell, or give any intoxicating liquors to any minor for any purpose, or give to or in any manner procure for or sell the same to any intoxicated person, or to one in the habit of becoming intoxicated, shall be termed a bootlegger, and shall be fined not less than three hundred dollars nor more than one thousand dollars and be imprisoned in the county jail not less than three months nor more than one year. (Id. § 1927 as amended L. 1925, c. 46.)

296. False Statements.—If any person, for the purpose of procuring the shipment, transportation, or conveyance of any intoxicating liquors within this state, shall make to any company, corporation, or common carrier, or to any agent thereof, or other person, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such liquors; or shall refuse to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed; or shall falsely mark, brand, or label such box, barrel, or other vessel or package in order to conceal the fact that the same contains intoxicating liquors, for the purposes aforesaid; or shall by any device or concealment procure or attempt to procure the conveyance or transportation of such liquors as herein prohibited, he shall be fined for each offense one hundred dollars and costs of prosecution, and the costs shall include a reasonable attorney fee to be taxed by the court, and be committed to the county jail until such fine and costs are paid. (Code of Iowa 1924, § 1934.)

297. Packages in Transit—Search.—Any peace officer of the county under process of warrant to him directed shall have the right to open any box, barrel, or other vessel or package for examination, if he has reasonable ground for believing that it contains intoxicating liquors, either before or while the same is being so transported or conveyed. (Id. § 1935.)

[†]The reference here and hereunder is to Title VI, “Intoxicating Liquors.”

[‡]Chapter 94, “General Prohibitions.”

298. Labeling Legal Shipments.—It shall be unlawful for any common carrier or for any person to transport or convey by any means, whether for compensation or not, within this state, any intoxicating liquors, unless the vessel or other package containing such liquors shall be plainly and correctly labeled or marked, showing the quantity and kind of liquors contained therein, the name of the party to whom they are to be delivered, and the name of the shipper. No person shall be authorized to receive or keep such liquors unless the same be marked or labeled as herein required. The violation of any provision of this section by any common carrier, or any agent or employee of any carrier, or by any person, shall be punished the same as provided in the second preceding section. (Id. § 1936 as amended L. 1925, c. 47.)

299. Second and Subsequent Conviction.—Whoever is convicted, or has entered a plea of guilty in a criminal action, in any district court of the state, of a violation of any provision of this title or of the laws amendatory thereof and is thereafter convicted or enters a plea of guilty of a subsequent offense against any provision of this title or of said amendatory laws, shall be punished as follows:

1. For his second conviction, by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than six months nor more than one year, or by both such fine and imprisonment.

2. For his third and each subsequent conviction, by imprisonment in the state penitentiary for not more than three years. (Code of Iowa 1924, § 1964.)

300. Miscellaneous Violations.—Any person who, hereafter, is four times convicted either upon trial or a plea of guilty in separate civil or criminal proceedings in any court of this state of violations of this title and is thereafter convicted or enters a plea of guilty in the district court under an indictment or trial information of a fifth violation of this title, shall be imprisoned in the penitentiary for a term not exceeding three years. (Id. § 1965.)

301. Defenses.—In any prosecution under this title for the unlawful transportation of intoxicating liquors it shall be a defense:

1. That the character and contents of the shipment or thing transported were not known to the accused or to his agent or employee, or

2. That the purchase and transportation of said liquors was authorized by a law of this state. (Id. § 2059.)

302. Permits Authorized.—A licensed pharmacist may, in the manner herein-after provided, obtain a permit to buy, keep, and sell intoxicating liquors, except malt liquors, for medical purposes. (Id. § 2072.)

303. Petition for Permit.—All applications for a permit to sell intoxicating liquors for the purpose allowed in this chapter* shall be by petition, in which the applicant shall show:

1. His name.

2. His residence and business at the time of making the application and during the two preceding years.

3. That he is a citizen of the United States and of this state.

4. That he is a registered pharmacist and is operating and for the last six months has lawfully operated a regular prescription pharmacy or drug store in the town, city, or township in which he proposes to engage in the business under the permit applied for, and that he owns not less than one-half interest in said pharmacy or drug store and desires a permit to buy, keep, and sell liquors for medicinal purposes only.

5. The place, particularly describing it, where the business is to be conducted.

6. That he has not been adjudged guilty of any violation of the law relating to intoxicating liquors and has never forfeited or surrendered a permit to sell intoxicating liquors in order to avoid a prosecution for a violation of the laws relating to intoxicating liquors.

7. That he is not the keeper of a hotel, eating house, saloon, restaurant, or place of public amusement, nor are any of the said named businesses located in his said place of business or directly connected therewith.

8. That he is not addicted to the use of intoxicating liquors as a beverage, and that he will not, while holding a permit, employ or retain in his employment, any person in his said business who is known to him to be so addicted. (Id. § 2073.)

304. Signing, Verification, and Filing.—Said petition shall be signed and sworn to by the applicant, and filed in the office of the clerk of the District Court of the county in which the buying and selling is to be carried on, at least ten days before the term at which the matter is to be for trial. (Id. § 2074.)

*Chapter 100, "Permits to Licensed Pharmacists," including sections 2072-2129.

305. Notice of Application.—Notice of an application for a permit shall state the name of the applicant, with the firm name, if any, under which he is doing business, the purpose of the application, the particular location of the place where the proposed business is to be carried on; that the required petition is or will be on file in the clerk's office of the court, naming it, at least ten days before the first day of the term, naming it, when the application will be made. (Id. § 2075.)

306. Service of Notice.—Said notice must be served in the following manner:

1. By publication thereof once each week for three consecutive weeks in a newspaper regularly published and printed in the English language, and of general circulation in the township, town, or city where the applicant proposes to conduct the business, or, if none be regularly published therein, then in one of the papers selected by the board of supervisors for the publication of its proceedings, the last publication of which shall be not less than ten nor more than twenty days before the first day of the term at which the hearing is to be had.

2. By serving a copy of said notice personally upon the county attorney in the same manner and for the same length of time as is required of original notices in said courts. (Id. § 2076.)

307. Appearance.—The county attorney shall appear in all cases, and any number of persons, not less than five, filing any remonstrance, may also appear in person or by counsel and resist the application. (Id. § 2077.)

308. Hearing.—All applications shall be tried at the first term after completed service has been made of the required notice, if the business of the court shall allow. (Id. § 2078.)

309. Hearing in Vacation.—If for any reason the application cannot be tried in term time, the same may be heard by the judge in vacation, at a time to be fixed by the court and made of record. (Id. § 2079.)

310. Consolidation of Applications.—If more than one permit is applied for in the same locality, the applications shall be heard at the same time, unless for cause shown it be otherwise ordered. (Id. § 2080.)

311. Remonstrances.—The county attorney, or one or more citizens of the county wherein the application is made may file a written remonstrance against the granting of the permit. All remonstrances shall specifically state the reasons therefor, and be filed in the clerk's office by noon of the first day of the term, unless further time be given, and shall be so filed before the day fixed for the trial. (Id. § 2081.)

312. Limitation on Granting Permit.—No permit shall be granted unless the court shall find from competent evidence that all the averments in the petition are true, that the reasonable convenience and necessities of the people, considering the population and all the surroundings, make the granting of the permit proper, and that the applicant is possessed of the character and qualifications required, worthy of the trust to be reposed in him, and likely to discharge the same with fidelity. Any licensed pharmacist who has been or is hereafter convicted of violating any provision of any statute relating to intoxicating liquors, or who for the purpose of avoiding a prosecution for such violation has surrendered or hereafter surrenders a permit issued under this chapter, shall be forever barred from securing a permit under this chapter. The court may grant or refuse any application. (Id. § 2082.)

313. Bond.—No permit shall issue until the applicant shall execute to the State a bond in the penal sum of one thousand dollars, with good and sufficient sureties to be approved by the clerk of the court, conditioned that he will well and truly observe and obey the laws of the State now or hereafter in force in relation to the sale of intoxicating liquors, that he will pay all fines, penalties, damages, and costs that may be assessed or recovered against him for a violation of such laws during the time for which the permit is granted. (Id. § 2083.)

314. Liability of Sureties.—The principal and sureties in said bond shall be liable thereon, jointly and severally, for all civil damages and costs that may be recovered against the principal in any action brought by a wife, child, parent, guardian, employer, or other person under the provisions of this title. (Id. § 2084.)

315. Custody of Bond—Action.—The bond, after being approved and recorded by the clerk, shall be deposited with the county auditor, and suit may be brought thereon at any time by the county attorney, or by any person for whose benefit the same is given. (Id. § 2085.)

316. New Bond—Cancellation of Permit.—If at any time the sureties on the bond shall file with the court or clerk a written request for release, or become insolvent, or be deemed insufficient by the court granting the permit, or its clerk, such court or clerk shall require a new bond to be executed within a reasonable time to

be fixed. If the permit holder fails or neglects to furnish a new bond within the time so fixed, the permit shall from that date become null and void. (Id. § 2086.)

317. Proceeds of Forfeiture.—The clear proceeds of all money which may be collected by the State for breaches of the bond shall go to the school fund of the county. (Id. § 2087.)

318. Oath.—In addition to giving the bond required, the applicant shall take and subscribe the following oath, which shall be indorsed upon the bond: "I, ..., do solemnly swear (or affirm) that I will well and truly perform all and singular the conditions of the within bond, and keep and perform the trust confided in me to purchase, keep, and sell intoxicating liquors. I will not sell, give, or furnish to any person any intoxicating liquors otherwise than as provided by law, and especially I will not sell or furnish any intoxicating liquors to any person who is not known to me personally, or duly identified, nor to any intoxicated person, or persons who are in the habit of becoming intoxicated; and I will make true, full, and accurate reports as required by law; and said reports shall show every sale and delivery of such liquors made by me, or for me, during the months embraced therein, and all the intoxicating liquors sold or delivered to any and every person, as returned." (Id. § 2088.)

319. Issuance of Permit.—Upon taking said oath, filing said bond, and paying the costs and fee herein provided, the clerk of the court shall issue a permit to the applicant authorizing him to buy, keep, and sell intoxicating liquors, not including malt liquors, for medical purposes, as hereinafter provided. (Id. § 2089.)

320. Location and Tenure.—The permit so issued shall specify the building, giving the street and number or location, in which intoxicating liquors may be sold by virtue of the same, and the length of time, not exceeding five years, the same shall be in force, unless sooner revoked. (Id. § 2090.)

321. Fee.—On and after January 1, 1925, each permit holder under this chapter shall, on the first day of January, April, July, and October of each year, pay into the county treasury, as a fee for the granting of such permit, all proceeds of all sales of intoxicating liquors in excess of two hundred per cent of the wholesale price of such liquors. (Id. § 2091.)

322. Price Lists.—The pharmacy examiners shall from time to time fix the fair and reasonable wholesale price of intoxicating liquors for all points in this state and furnish such price lists to permit holders. The fixing of said prices shall be for the sole purpose of furnishing a basis for the computation of said fee. (Id. § 2092.)

323. Limitation on Sales.—A permit holder in making sales under his permit shall comply with the following:

1. Only spirituous and vinous liquor, the sale of which has been authorized by federal statutes or regulations and upon which the federal internal revenue tax has been paid, shall be sold.

2. Sales shall be made only on prescriptions which have been issued in accordance with federal and state statutes and regulations, and which have been issued by physicians licensed under the laws of this state and actually and in good faith engaged in this state in the general practice of their profession.

3. No permit holder shall sell or furnish, on any prescription, any vinous liquor that contains more than twenty-four per cent of alcohol by volume, nor sell or furnish on any prescription more than one-fourth of one gallon of vinous liquor, or any such vinous or spirituous liquor that contains separately or in the aggregate more than one-half pint of alcohol, for use by any person within any period of ten days.

4. No prescription for said liquors shall be filled if the permit holder has reason to believe that the physician issuing the same is prescribing for other than medical purposes or that a patient is securing, through one or more physicians, quantities of such liquors in excess of the amount necessary for medical purposes or in excess of the aggregate amount specified in paragraph three above.

5. No prescription for liquor shall be filled except by the permit holder himself or by a pharmacist licensed under the laws of this state and in the employ of such permit holder.

6. No prescription shall be filled more than once. (Id. § 2093.)

324. Request.—Before selling or delivering any intoxicating liquors, a written request therefor must, after being fully, accurately, and legibly filled out in ink in the presence of the applicant and by the person making the sale, be signed by the applicant in his true name, and attested by the holder of the permit. (Id. § 2094.)

325. **Form.**—Said written requests shall be in the following form:
Stub.

No. (Official Form
Series)

CERTIFIED REQUEST OF PURCHASERS

No., Iowa, ... 19...
To Reg. Phar. No.

I hereby make request for the purchase of the following intoxicating liquors:

AMOUNT

KIND

....., 19...
Purchaser My true name is, I am not a minor, and reside in
Address in the county of, township (or town of, at No.
For Whom in the county of, state of, The actual
Purchase purpose for which this request is made is to obtain said liquor
Address for, residing at No., township
Certifier (or town of, county of, state of,
Address who is a member of my immediate family (or a patient unable,
because of illness, to call for the same), and the same is de-
sired for medicinal use and is to fill a prescription issued to
..... by Dr., who offices at *No.
township or town of, ... county, state of
....., and the same was issued to me in strict compliance
with federal statutes and not in evasion thereof, and neither
myself nor the said habitually use intoxicating
liquors as a beverage, nor do we intend to use the above-named
liquor for that purpose.

(Signature of purchaser.)

(If the applicant is unknown to the permit holder, the blank below shall also be filled out and signed by a witness.)

I, ..., hereby certify that I am acquainted with
....., the applicant for the purchase of the foregoing-
described liquors and the said is not a minor and
is not in the habit of using intoxicating liquors as a beverage,
and is worthy of credit as to the truthfulness of the statements
in the foregoing request and my residence is No.
street, state of

(Signature of certifier.)

Attested by

Registered Pharmacist No.

(Id. § 2095).

326. **Furnishing of Blanks.**—The blanks for such request shall, with proper stubs, in all cases, be printed in book form and shall be furnished to the permit holder at cost by the county auditor of the county in which such permit is in force, and shall contain the facsimile signature of the county auditor; both stub and request shall be numbered consecutively. (Id. § 2096.)

327. **Preservation and Inspection.**—The permit holder shall preserve the stub in book form and shall keep them at all times, subject to the inspection of the pharmacy examiners, the county attorney, any grand jury, peace officer, or justice of the peace in the county in which the permit is in force. (Id. § 2097.)

328. **Duty to Refuse Request.**—The request shall be refused unless the permit holder has reason to believe the statements to be true, and in no case granted unless the permit holder filling it personally knows the person applying is not a minor, intoxicated, nor in the habit of using intoxicating liquors as a beverage. (Id. § 2098.)

329. **Identification Required.**—If the applicant is not so personally known, before filling the order or delivering the liquor, the permit holder shall require identification and the statement, in writing, of a reliable and trustworthy person, of good character and habit, known personally to him, that the applicant is not a minor nor in the habit of using intoxicating liquors as a beverage and is worthy of credit as to the truthfulness of the statements in the application. Said

*So in the law.

statement so made shall be legibly signed by the witness in his own name, stating his address correctly. (Id. § 2099.)

330. Penalties.—If any person shall make any false or fictitious signature, or sign any name other than his own, to any request for the purchase of intoxicating liquors as heretofore provided, or as may be hereinafter provided, or to any other paper required to be signed, or make any false statement in any paper or application or request signed to procure liquors, he shall be punished by a fine of not less than twenty dollars, nor more than one hundred dollars and costs of prosecution, and shall be committed until said fine and costs are paid, or shall be imprisoned not less than ten nor more than thirty days. (Id. § 2100.)

331. Change in Location.—Upon the expiration of the lease or the destruction of the building where such business is conducted, or for other good and sufficient cause shown, consent in writing of the bondsmen having been obtained therefor, or a new bond given, the District Court of the county which granted said permit, or a judge of said court, may change the place specified in said permit to some other place in the same city, town, or township upon motion therefor. (Id. § 2101.)

332. Notice to County Attorney.—A copy of the application mentioned in the last preceding section, and notice of the time when and the place where the same will be heard, shall be given to the county attorney of the county where said place is situated, at least five days before said hearing. (Id. § 2102.)

333. Violations.—If any holder of a permit shall sell, give, dispose of, or use intoxicating liquors in any manner or for any purpose other than for medical purposes as heretofore authorized, he shall be liable to all the penalties and proceedings provided for in this title. (Id. § 2103.)

334. Prescriptions Prohibited.—No physician shall issue a prescription for vinous or spirituous liquors for other than medical purposes, or in excess of the amount reasonably necessary for such purposes or in excess of the quantity heretofore specified; nor shall he issue or deliver such prescription to a person when he has reasonable grounds for believing that such person will use the liquors obtained thereunder for beverage purposes. (Id. § 2104.)

335. Record of Prescriptions.—Every physician shall keep, in his own handwriting and in his office, a permanent record, legibly written in ink, of every prescription for intoxicating liquors issued by him. Said record shall be alphabetically arranged under the name of the patient and shall show:

1. The date of the prescription.
2. The amount and kind of liquors prescribed.
3. The name of the patient and his postoffice address, including street number, if any.
4. The name of the person to whom the prescription was delivered and his postoffice address, including street number, if any.
5. The purpose or ailment for which the liquors are prescribed.
6. The directions for the use of said liquors, including the amount and frequency of the dose. (Id. § 2105.)

336. Reports Filed.—Every physician shall, on or before the twentieth day of January, April, July, and October, each year, file with the county auditor of the county of his residence an exact duplicate of the record provided for in the preceding section. Each filing shall cover the three calendar months preceding the filing. (Id. § 2106.)

337. Oath.—Said physician shall securely attach to each duplicate record so filed by him his oath in the following form:

"I, ..., do say on oath that the hereto attached record is an exact duplicate of the record of prescriptions kept by me in my office for the months of and, 19....; that said record has been accurately prepared and kept by me and shows every prescription for intoxicating liquors issued and delivered by me during said month; that I have in no case issued a prescription for such liquors for other than medical purposes or for a quantity of such liquors in excess of the amount reasonably necessary for said purposes or for a quantity of such liquors in excess of the quantity permitted by State or Federal statutes and regulations; nor have I issued such prescription to a person when I had reason to believe that such person would use the liquors obtained thereunder for beverage purposes." (Id. § 2107.)

338. Penalty—Suspension.—Upon conviction for a violation of any provision of the four preceding sections, the court, as a part of the judgment, shall order the certificate or license of such physician to practice his profession suspended for a period of not less than one year nor more than five years. (Id. § 2108.)

339. Effect of Suspension.—During the period of such suspension such physician shall be wholly barred from the practice of his profession in this state, and

the clerk of said court shall forthwith notify the state department of health of such suspension and the period thereof; and any physician practicing or attempting to practice his profession during the interim of such a suspension shall be guilty of a misdemeanor. (Id. § 2109.)

340. Conviction in Federal Courts.—When a physician or pharmacist, licensed under the laws of this state, is convicted in any federal court of this state of a violation of the federal statutes or regulations relating to intoxicating liquors, or to narcotics, and said judgment has become final, the county attorney of the county where said physician or pharmacist resides shall forthwith file in the office of the clerk of the district court of said county a duly certified copy of said judgment and thereupon said district court, or a judge thereof, shall, on such notice to the defendant in said judgment as the court or judge may prescribe, enter an order suspending for a period of not less than one year nor more than five years the license of such physician or pharmacist to practice his profession in this state. In such proceeding the county attorney shall appear on behalf of the state. (Id. § 2110.)

341. Revocation of License to Practice Pharmacy.—Upon proof of such violation by a licensed pharmacist, the court shall order his license revoked without the formality of a special proceeding for that purpose, as provided in title 8*, dealing with the practice of certain professions affecting the public health. In such event the clerk shall notify the State Department of Health as provided in such title. (Id. § 2111.)

342. Records.—The clerk of the court shall preserve as a part of the record and files all papers, except bonds, pertaining to the granting or revocation of permits, and keep suitable books in which bonds and permits shall be recorded. (Id. § 2112.)

343. Costs.—Whether said permit be granted or refused, the applicant shall pay the costs incurred in the case, and, when granted, he shall make payment before any permit issue, except the court may tax the cost of any witnesses summoned by private persons resisting said application, and the fees for serving such subpoenas, to such persons, when it is shown that such witnesses were summoned maliciously, or without probable cause to believe their evidence material. The fees shall be as provided in actions at law in the district court. (Id. § 2113.)

344. False Oath.—If any permit holder or his clerk shall make false oath touching any matter required to be sworn to, the person so offending shall be punished as provided by law for perjury. (Id. § 2114.)

345. False Return.—If any person holding a permit under this chapter purchases or procures any intoxicating liquor otherwise than as herein authorized, or fails to make the reports to the county auditor in the time or form required, or makes any false return to the county auditor, or fills a prescription for intoxicating liquors more than once, he shall be guilty of a misdemeanor and punished accordingly. (Id. § 2115.)

346. Civil and Criminal Liability.—Every permit holder or his clerk, violating this chapter, shall be subject to all penalties, forfeitures, and judgments, and may be prosecuted by all the proceedings and actions, criminal and civil, whether at law or in equity, provided for or authorized by this title, and the permit shall not shield any person who abuses the trust imposed by it or violates the law. (Id. § 2116.)

347. Destruction of Liquor.—In case of conviction in any proceeding, civil or criminal, the liquors in possession of the permit holder shall by order of the court be destroyed. (Id. § 2117.)

348. Evidence.—On the trial of an action or proceeding against any person for manufacturing, selling, giving away, or keeping with intent to sell, intoxicating liquors in violation of law, or for any failure to comply with the conditions or duties imposed by law, the prescriptions for liquors, the returns made to the auditor, the quantity and kinds of liquors sold or kept, purchased or disposed of, the purpose for which liquors were obtained by or from him and for which they were used, and the character and habits of sobriety or otherwise of the purchasers, shall be competent evidence, and may be considered, so far as applicable to the particular case (Id. § 2118.)

349. Production of Books and Papers.—In any suit, prosecution, or proceeding under this chapter, the court shall compel the production in evidence of any books or papers required to be kept by either federal or state statutes. (Id. § 2119.)

350. Revocation of Permit.—Permits shall be deemed trusts reposed in the recipients, and may be revoked, upon sufficient showing, by order of a court or judge. Complaint may be presented at any time to the district court or a judge thereof,

*Entitled, "The Practice of Certain Professions Affecting the Public Health." See No. 201.

which shall be in writing and signed and sworn to by three citizens of the county in which the permit was granted. (Id. § 2120.)

351. Service of Complaint.—A copy of the complaint shall, with a notice in writing of the time and place of hearing, be served on the accused five days before the hearing, and if the complaint is sufficient, and the accused appear and deny the same, the court or judge shall proceed without delay, unless continued for cause, to hear and determine the controversy. (Id. § 2121.)

352. Suspending Permit.—If continued or appealed at the instance of the permit holder, his permit may, in the discretion of the court, be suspended during the controversy. (Id. § 2122.)

353. Trial and Judgment of Revocation.—The complainant and accused may be heard in person or by counsel, or both, and proofs may be offered by the parties; and if it shall appear upon such hearing that the accused has in any way abused the trust, or that liquors are sold by the accused or his employees in violation of law, or dispensed unlawfully, or that he has in any proceeding, civil or criminal, been adjudged guilty of violating any of the provisions of this title, the court or judge shall revoke and set aside the permit. (Id. § 2123.)

354. Record—Entry of Order.—The papers and order in such case shall be immediately returned to and filed by the clerk of the court, and, if heard by a judge, the order shall be entered of record as if made in court. (Id. § 2124.)

355. Automatic Revocation.—If for any cause a licensed pharmacist who holds a permit shall cease to hold a valid license, his permit shall be forfeited and be null and void. (Id. § 2125.)

356. Clerks.—The acts of clerks employed by a permit holder in conducting his business shall be considered the acts of the permit holder, who shall be liable therefor as if he had personally done them. (Id. § 2126.)

357. Partners.—A partner who is a licensed pharmacist, not holding a permit, shall have the same rights and be subject to the same restrictions as clerks, and for his acts the permit holder shall be held responsible the same in all respects as for his clerks. (Id. § 2127.)

358. Death of Permit Holder.—In case a permit holder shall die, his personal or legal representative may continue the business, subject to the provisions hereof, through the agency of any reputable licensed pharmacist, upon the approval of the court or judge thereof, granting such permit, and the giving of a bond as hereinbefore provided. (Id. § 2128.)

359. Existing Permits.—All unexpired, uncanceled, and unrevoked permits to licensed pharmacists to sell and dispense intoxicating liquors, which have heretofore been issued under prior statutes, shall be deemed issued under and subject to the provisions of this chapter. (Id. § 2129.)

360. Wholesale Drug Corporation.—A corporation which is located and doing a wholesale drug business within this state may be granted a permit to purchase and sell intoxicating liquors, not including malt liquors, for the purpose hereinafter specified, and for use in the compounding and manufacture of patent and proprietary medicines, toilet articles, tinctures, extracts, and other like commodities, none of which is susceptible to use as a beverage, but which requires as one of its ingredients alcohol or vinous liquor. (Id. § 2130.)

361. Application.—Application for such permit shall be by petition which shall show:

1. The name of the corporation, and that it is actually engaged within this state in the wholesale drug business.

2. The place, particularly describing it, where said business will be conducted and where sales will be made under the proposed permit.

3. That neither said corporation nor any person financially interested therein has been adjudged guilty of any violation of the law relating to intoxicating liquors.

4. That one or more licensed pharmacists, specifically naming them, are financially interested in said corporation and actually engaged in the conduct of said business and will have personal charge of the sales of said liquors in case the permit is granted, and are not users of intoxicating liquors as a beverage.

5. Sworn verification by some managing officer of the corporation. (Id. § 2131.)

362. Procedure.—The petition shall be filed in the district court and all laws pertaining to permits granted to individual licensed pharmacists, in so far as applicable and not herein otherwise provided, shall apply to said application by a wholesale druggist and to the permit issued thereon. (Id. § 2132.)

363. Name of Pharmacists.—A permit to a wholesale drug corporation, in addition to all other requirements, shall specify the name of each licensed pharmacist who will have personal charge of sales under said permit. (Id. § 2133.)

364. Substitute Authorized.—Should said pharmacist die or for any other reason terminate his connection with the permit holder, the district court or a judge

thereof may, on written application by the permit holder, and on notice to the county attorney, order the substitution in said permit of the name of some other proper pharmacist. (Id. § 2134.)

365. Unlawful Sales—Cancellation of Permit.—Sales of liquors not made under the personal supervision of a pharmacist named in said permit shall be illegal and shall automatically cancel said permit. (Id. § 2135.)

366. Permit and Authority Thereunder.—The permit issued to a wholesale drug corporation shall authorize said corporation, under the limitations herein provided, to sell:

1. Alcohol for specified chemical and mechanical purposes to persons, firms, and corporations who have qualified, under federal and state statutes and regulations, to purchase and use alcohol for such purposes.

2. Alcohol and wine for the purpose of manufacturing patent and proprietary medicines and toilet articles and compounding medicines, tinctures, extracts, or other like commodities, none of which are susceptible of use as a beverage, to pharmacists who are registered under the laws of this state and who are actively engaged in this state in the retail drug business and in such compounding.

3. Alcohol and wine for the purpose of manufacturing patent and proprietary medicines and toilet articles and compounding medicines, tinctures, extracts, or other like commodities, none of which are susceptible of use as a beverage, to firms or corporations which are actively engaged in this state in the retail drug business and in compounding such medicines, tinctures, extracts, or other like commodities under the immediate supervision of a pharmacist licensed under the laws of this state.

4. Alcohol and wines for the purpose of manufacturing patent and proprietary medicines, tinctures, extracts, toilet articles, and perfume, or other like commodities, which require such liquors as an ingredient thereof, and which are not susceptible of use as a beverage, to persons, firms, and corporations who are holders of permits to so manufacture.

5. Intoxicating liquors to licensed pharmacists holding a permit to sell such liquors on prescription for medical purposes.

6. Intoxicating liquors to manufacturing and industrial establishments for the purpose of furnishing first aid treatment to injured persons as defined by federal statutes and regulations.

7. Intoxicating liquors for medical purposes, to bona fide hospitals or sanatoriums engaged in the treatment of persons suffering from recognized diseases and ailments.

8. Intoxicating liquors for medical purposes to bona fide hospitals or sanatoriums engaged in the treatment of chronic alcoholism by the tapering-off method.

9. Intoxicating liquors to licensed physicians for the purpose of use by them in accordance with federal statutes or regulations or in accordance with state statutes, for compounding such preparations as are necessary for use in their professional practice, and for sterilization and laboratory purposes.

10. Alcohol to licensed dentists for the purpose of sterilization, annealing gold, or other like nonbeverage purposes.

11. Alcohol to licensed veterinarians for any legitimate nonbeverage purpose.

12. Alcohol and other intoxicating liquors to any person, firm, or corporation located and doing business in any foreign state and legally entitled to purchase and receive such liquors under the laws of such foreign state.

The term "intoxicating liquors" as used in this section shall not embrace malt liquors. (Id. § 2136.)

367. Good Faith Practice Required.—The term "licensed physician," "licensed dentist," or "licensed veterinarian" as employed in the last preceding section shall be construed to embrace only those persons who are in good faith and actively engaged in the general practice of their respective professions. (Id. § 2137.)

368. Interpretative Clause.—Nothing herein contained shall be construed to authorize the manufacture or sale of any preparation or compound, under any name, form, device, which may be used as a beverage, and which is intoxicating in its character. (Id. § 2138.)

369. Limitation.—The authority granted to a wholesale druggist to sell intoxicating liquors shall in no case authorize a sale in a quantity in excess of that authorized by federal or state statutes and regulations. (Id. § 2139.)

370. Manner of Sale.—Such sales shall be made only on the written signed request of the purchaser. Said request shall also be countersigned by the licensed pharmacist, who has charge of the sale, with his name, the number of his license, and the date the liquors are delivered for transportation. (Id. § 2140.)

371. Form, Contents, and Requirements.—The form, contents, and requirements of said written requests shall be substantially as follows:

....., Iowa, ... 19....

.....
(Name of permit holder.)

..... hereby makes request for the purchase of the
(Name of purchaser.)

following intoxicating liquors:

Amount.

Kind.

.....
.....

The purchaser named above:

(Here describe the business and state the purpose for which the liquors are desired, which description and statement of purpose must be in accordance with section 2136.)

.....
.....

(Signature of purchaser)

I, ..., being the licensed pharmacist having personal supervision of the above sale, hereby countersign said request and certify that said liquors were, on the day of, 19...., delivered in the following manner, to wit:

.....
.....

Licensed pharmacist.

No.

(Id. § 2141.)

372. Requests—Preparation—Delivery.—Requests for intoxicating liquors may be made out and signed by the applicant at his place of business and forwarded to the permit holder of whom request is made, and the permit holder may, by his own conveyance, personally deliver said liquors to the applicant, or cause such delivery to be made by a common carrier. (Id. § 2142.)

373. Personal Delivery.—The applicant may personally present said written request for the purchase of such liquors to the permit holder and the permit holder may deliver said liquors directly to the applicant. (Id. § 2143.)

374. Reports.—The permit holder in making the reports required herein shall specify the manner in which each sale of liquors was delivered, to wit: whether a delivery was made by his own conveyance, or by a common carrier, or by direct delivery to the applicant. (Id. § 2144.)

375. Special Requirement.—No sale shall be made on a request unless such request is filled out with pen and ink. (Id. § 2145.)

376. Return of Requests.—Said request shall be preserved by the permit holder and filed with the county auditor at the time of the filing with the county auditor of the reports hereinafter provided for. (Id. § 2146.)

377. Oath.—Requests filed with the county auditor shall be accompanied by an affidavit by the licensed pharmacist or pharmacists having personal charge of the sales, showing that said requests comprise all the requests filled by said wholesale druggist during the time covered by said requests. (Id. § 2147.)

378. Manner of Shipping.—Intoxicating liquors shipped by a wholesale druggist under the aforesaid authorization shall not be inclosed in the same box, package, or carton with other drugs or merchandise. In all cases of such shipments the bill of lading shall set out the kind and amount of intoxicating liquors contained in the shipment, and one copy of the bill of lading shall be signed for the wholesale drug corporation by the licensed pharmacist having personal charge of the sale, or by an officer of such drug corporation. (Id. § 2148.)

379. Transportation.—Common carriers shall transport the liquors purchased or sold by a wholesale drug corporation under the authority of the permit herein provided, whether such shipment be interstate or intrastate:

1. When the consignor files with the agent of the carrier, at the point of origin, an affidavit stating: a. That the consignee is a person, firm, or corporation who has a legal right to make such purchase; b. That the liquors are consigned to the station nearest to the consignee's place of business; and c. That the consignor and consignee are in all respects acting lawfully in the transportation of said liquor.

2. When bill of lading is made out and signed as heretofore provided.

3. When carrier is furnished with copy of the permit held by the wholesale drug corporation and said copy is duly certified to be correct by the clerk of the court issuing the permit. (Id. § 2149.)

380. Affiant.—If the consignor is a corporation, the affidavit provided for in the last preceding section shall be made by the pharmacist having charge of the sales of such liquors or by some managing officer of the corporation. (Id. § 2150.)

381. Delivery.—The carrier shall not make delivery of such liquors:

1. Until the consignee files with the carrier an affidavit by the consignee himself or by the president, vice-president, secretary, or general manager or superintendent of the consignee, that said liquors are solely for the use and purposes specified in the written request for the purchase of such liquors, naming said purpose, and

2. Until the consignee personally signs the record book of intoxicating liquor shipments and deliveries required to be kept by common carriers. (Id. § 2151.)

382. Undelivered Shipments.—Should a consignee fail to comply with the law and obtain delivery of a shipment of intoxicating liquors within fifteen days after notice to him by mail, such carrier may make application to the district court, or to a judge thereof, of the county in which the liquors are being held, for an order for the delivery of said liquors by said carrier to the sheriff and for an order for the destruction thereof. (Id. § 2152.)

383. Effect of Delivery.—A delivery of said liquors to the sheriff under an order of the court shall discharge the carrier from all civil liability for said liquors. (Id. § 2153.)

384. Order.—The court shall summarily hear said application and, upon proof of the truth thereof, shall enter an order for the delivery of said liquors to the sheriff and for the destruction of said liquors. (Id. § 2154.)

385. Violations by Wholesale Druggists.—The failure of a permit holder hereunder to comply with any provision of this chapter* shall render such holder subject to all the penalties, forfeitures, and proceedings, civil and criminal, provided in this title for the unlawful sale and keeping for sale of intoxicating liquors. (Id. § 2155.)

386. Violations by Purchasers.—Any person, firm, or corporation, and the agents and officers thereof, who purchases or obtains any intoxicating liquors for any purpose authorized by this chapter or knows that such liquors have been so obtained, and uses or permits said liquors, or any part thereof, to be used for beverage purposes or for any purpose other than that for which it was purchased, or obtained, shall be fined in a sum not exceeding one thousand dollars and, in addition, if a person, be imprisoned in the county jail for a period not exceeding one year. (Id. § 2156.)

387. "Corporation" Construed.—The term "corporation" as used in this chapter shall be construed to include corporations, firms, and persons engaged in the general wholesale drug business within this state. (Id. § 2157.)

388. Sales Under Prior Statutes.—The right of a wholesale druggist under pre-existing statutes to sell intoxicating liquors under a permit granted to a licensed pharmacist who is financially interested in said wholesale drug business, unless sooner terminated for cause, is hereby continued until its expiration. (Id. § 2158.)

389. Reports Required.—A permit holder under either of the last two preceding chapters† shall make and file with the county auditor of the county in which the permit has been granted, the same reports covering all intoxicating liquors received, used, and sold as are required by federal statutes and regulations to be made and filed by said permit holder with the federal prohibition director. (Id. § 2159.)

390. Form of Reports.—A report under the preceding section may be in the form of an original draft made from the Federal report, or it may consist of a carbon copy made at the time of the making of said Federal report. Said blank forms may be exact reproductions of the blank forms furnished by the Federal department. (Id. § 2160.)

391. When Filed.—Said reports shall be filed with the county auditor within the time in which they are required to be filed with said director. (Id. § 2161.)

392. Return of Requests.—On or before the fifteenth day of January, March, May, July, September, and November of each year, each permit holder other than a wholesale druggist shall, in addition to all other requirements of this chapter,‡ make full returns to the county auditor, under oath, of all requests filed by him and his clerks during the two preceding months. (Id. § 2162.)

*Chapter 101, "Permits to Wholesale Druggists," which includes sections 2130-2158.

†Chapters 100 and 101, aforesaid.

‡Chapter 102, "Reports by Permit Holders," which includes sections 2159-2163.

393. Oath.—The oath provided for in the last preceding section shall be in the following form:

I, ..., being duly sworn, on oath state that the requests for liquors herewith returned are all that were received and filled at my pharmacy during the months of, A. D.; that I have carefully preserved the same, and that they were filled out, signed, and attested on the date shown thereon, as provided by law; that said requests were filled by delivering the quantity and kinds of liquors required, and that no liquors have been sold or dispensed under color of my permit during said months except as shown by the requests herewith returned, and that I have faithfully observed and complied with the conditions of my bond and oath taken by me thereon indorsed, and with all the laws, relating to my duties in the premises. (Id. § 2163.)

394. Patent and Proprietary Medicines.—Patent and proprietary medicines, tinctures, extracts, toilet articles, and perfume, and other like commodities, none of which are susceptible of use as a beverage but which require as one of their ingredients alcohol or vinous liquors, may be manufactured within this state, provided a permit so to manufacture is first obtained as hereinafter provided. (Id. § 2164.)

395. Application.—Any person, firm or corporation desiring such permit shall apply to the judge of the district court of the county in which the principal place of business is located by filing with the clerk of said court the affidavit of the person, member of the firm or secretary of other managing officer of the corporation, as the case may be, stating therein the following facts:

1. The name, place of business, and postoffice address of the person, firm, or corporation desiring such permit.

2. The business in which said person, firm, or corporation is engaged and the articles manufactured by them which require in their manufacture the use of alcohol or vinous liquors, and approximately the amount required during a calendar month.

3. That neither the applicant nor any member of the firm nor officer of the corporation has been convicted of any violation of the laws of this state with reference to the sale of intoxicating liquors within three years last past prior to the date of said affidavit. (Id. § 2165.)

396. Notice to County Attorney.—Upon the filing of said affidavit, together with other proof submitted, if any, the clerk shall immediately notify the county attorney of such application, and the county attorney shall appear in said proceeding on behalf of the state. (Id. § 2166.)

397. Granting Permit—Bond.—If, after a hearing, the judge is satisfied that the facts stated in said affidavit are true and that the applicant is a person fit and proper to be intrusted with the permit applied for, the same shall be issued upon the filing by the applicant of a bond in the sum of two thousand dollars, the sureties to be approved by the clerk, conditioned as the bond of licensed pharmacist permit holders. (Id. § 2167.)

398. Term of Permit.—A permit issued under this chapter* unless revoked for cause, shall remain in force for a period of five years from the date of its issuance. (Id. § 2168.)

399. Record.—It shall be the duty of said clerk to keep a record of permits issued hereunder and to give each permit holder a serial number. (Id. § 2169.)

400. Shipment to be Reported.—It shall be the duty of any manufacturer holding a permit under the provisions of this chapter whenever such manufacturer shall purchase any intoxicating liquor from any person, firm, or corporation, to file an affidavit immediately upon receipt of the shipment of such liquor, with the county auditor of the county in which such manufacturer shall have its place of business in the following form:

State of Iowa, }
..... County, } ss.

....., being first duly sworn on oath deposes and says that he is a managing officer of the company or corporation engaged in the manufacture of patent medicines, proprietary medicines, tinctures, extracts, toilet articles, perfumes or other like commodities, and that the location of the said company or corporation is in the city of, ... County, Iowa.

That on the day of 19...., said company or corporation ordered from the company or corporation of

(Number and street.)

*Chapter 103, "Permits to Manufacturers," which includes sections 2164-2170.

(City and state.)

the following liquors:

(Kinds of liquors and amounts.)

That the said liquors were received by this manufacturer on the day of, 19...., for a purpose and use authorized by the permit held by this manufacturer.

Subscribed and sworn to before me on this day of, 19....

Notary Public.

(Id. § 2169a1, as added L. 1925, c. 49.)

401. **Violations.**—Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and punished accordingly. (Code of Iowa 1924, § 2170.)

402. **Possession Prima Facie Evidence.**—In all actions, prosecutions and proceedings, criminal or civil, under the provisions of title six (6)* of the Code of Iowa, 1924, the finding of intoxicating liquors or of instruments or utensils in the manufacture of intoxicating liquors, or materials which are being used, or are intended to be used in the manufacture of intoxicating liquors, in the possession of or under the control of any person, under and by authority of a search warrant or other process of law, and which shall have been finally adjudicated and declared forfeited by the court, shall be prima facie evidence, in any action, criminal or civil, of maintaining a nuisance or bootlegging, or of illegal transportation of intoxicating liquors, as the case may be, by such person. (L. 1925, c. 42, § 1.)

403. **Defense.**—The possessor of liquor may show in defense, that the liquor found in his possession was manufactured, transported and sold to him legally, as the possessor of a permit issued according to the laws of the United States and the state of Iowa, or wine received from a minister authorized by the church of which he is a member to administer wine as a religious observance or that the liquor found in his possession was purchased from a pharmacist authorized to fill prescriptions for medical purposes, or lawfully furnished to him by a physician, and that the said liquor was owned and kept by him for medical purposes only.

Nothing in this act shall prevent any peace officer, in the discharge of his duty, from having possession of, or from transporting intoxicating liquor. (Id. § 2.)

404. **Prima Facie Evidence.**—The destruction of or attempt to destroy any liquid by any person while in the presence of peace officers or while a property is being searched by a peace officer, shall be prima facie evidence that such liquid is intoxicating liquor and intended for unlawful purposes. (L. 1925, c. 43, § 1.)

PART IV.

Miscellaneous Laws.

False Advertising.

405. **Fraudulent Advertisements.**—Any person, firm, corporation, or association who, with intent to sell, or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, causes to be made, published, disseminated, circulated, or placed before the public in this state, either directly or

*Entitled "Intoxicating Liquors" aforesaid, which includes sections 1922-2180.

indirectly, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact relating to said merchandise, securities, or service offered for sale, or relating to the sale thereof, which is untrue, deceptive, or misleading, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars or not more than one hundred dollars, or thirty days in jail for each offense. (Code of Iowa 1924, § 13069.)

406. Publishers Acting in Good Faith.—The provisions of the preceding section shall not apply to any owner, publisher, printer, agent, or employee of a newspaper or other publication, periodical, or circular who, in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of such advertisement. (Id. § 13070.)

Flag Desecration.

407. Desecration of Flag.—Any person who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color, ensign, shield, or other insignia of the United States, or upon any flag, ensign, great seal, or other insignia of this state, or shall expose or cause to be exposed to public view, any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, upon which shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, cast contempt upon, satirize, deride or burlesque, either by words or act, such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, or who shall, for any purpose, place such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, upon the ground or where the same may be tread [trod] upon, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered, with costs, in a civil action or suit in any court having jurisdiction. (Code of Iowa 1924, § 472.)

408. Actions for Penalty.—Such action or suit may be brought by and in the name of the state, on the relation of any citizen thereof, and such penalty, when collected, less the reasonable cost and expense of action or suit and recovery, to be certified by the clerk of the district court of the county in which the offense is committed, shall be paid into the county treasury for the benefit of the school fund, and two or more penalties may be sued for and recovered in the same action or suit. (Id. § 473.)

409. Federal Flag and Insignia Defined.—The words "flag, standard, color, ensign, shield, or other insignia of the United States" as used in this chapter,* shall include any flag, standard, color, ensign, shield, or other insignia of the United States, or any picture or representation of any of them, made of any substance or represented on any substance, and of any size, evidently purporting to be any such flag, standard, color, insignia, shield, or other insignia of the United States of America, or a picture or a representation of any of them. (Id. § 474.)

410. State Flag and Insignia Defined.—The words "flag, ensign, great seal, or other insignia of this State" as used in this chapter, shall include any flag, ensign, great seal, or other insignia, or any picture or any representation of any of them, made of any substance or represented on any substance, and of any size, evidently

*Chapter 30, "Desecration of Flag," which includes section 472-477.

purporting to be any such flag, ensign, great seal, or other insignia of the state, or a picture or a representation of any of them. (Id. § 475.)

411. Presumptive Evidence of Desecration.—The possession by any person other than a public officer, as such, of any flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, on which shall be anything made unlawful by this chapter, or of any article or substance or thing on which shall be anything made unlawful by this chapter shall be presumptive evidence that the same is in violation of this chapter. (Id. § 476.)

412. Enforcement.—It shall be the duty of the sheriffs of the various counties, chiefs of police, and town marshals to enforce the provisions of this chapter, and for failure to do so they may be removed as by law provided.

This chapter shall not be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in private correspondence, on any of which shall be printed, painted, or placed, said flag, disconnected from any advertisement.

Nothing in this chapter shall be construed as rendering unlawful the use of any trade-mark or trade emblem actually adopted by any person, firm, corporation, or association prior to January 1, 1895. (Id. § 477.)

Tobacco—Tobacco Products.

413. Definition of Terms.—The term "person" as used in this chapter* shall include corporation, firm, copartnership, and association; the term "paper" shall include "wrapper" and "tube." (Code of Iowa 1924, § 1552.)

414. Sale or Gift to Minor Prohibited.—No person shall furnish to any minor under twenty-one years of age by gift, sale, or otherwise, any cigarette or cigarette paper, or any paper or other substance made or prepared for the purpose of use in making of cigarettes.

No person shall directly or indirectly by himself or agent sell, barter, or give to any minor under sixteen years of age any tobacco in any other form whatever except upon the written order of his parent or guardian or the person in whose custody he is. (Id. § 1553.)

415. Violation.—Any person who shall violate any of the provisions of the preceding section shall for the first offense be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days. For a second or any subsequent violation such person shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than one month nor more than six months or by both such fine and imprisonment. (Id. § 1554.)

416. Minors Required to Give Information.—Any minor under twenty-one years of age in any place other than at the home of his parent or parents, being in the possession of a cigarette or cigarette papers, shall be required at the request of any peace officer, juvenile court officer, truant officer, or teacher in any school to give information as to where he or she obtained such article. (Id. § 1555.)

417. Violation.—Any minor under twenty-one years of age refusing to give information as required by the preceding section shall be guilty of a misdemeanor and if eighteen years of age or over, shall be punished by a fine not exceeding five dollars or by imprisonment in the county jail not exceeding five days, or by both such fine and imprisonment.

If such minor shall be under the age of eighteen years he or she shall be certified by the magistrate or justice of the peace before whom the case is tried, to the juvenile court of the county for such action as said court shall deem proper.

If any minor having been convicted of violating the preceding section shall give information which shall lead to the arrest of the person or persons having violated any of the provisions of the third preceding section and shall give evidence as a witness in any proceedings that may be prosecuted against said person or persons, the court in its discretion may suspend sentence against the offending minor. (Id. § 1556.)

418. Permit to Sell.—No person shall sell cigarettes or cigarette papers without first having obtained a permit therefor in the manner provided by this chapter. Such permit may be granted by resolution of the council of any city or town under any form of government and when so granted, may be issued by the clerk of such city or town. If issued to a person for use outside of a city or town such permit

*Chapter 78, "Cigarettes and Tobacco," which includes sections 1552-1586.

may be granted by resolution of the board of supervisors and when so granted shall be issued by the auditor of the county. Such permit shall remain in force and effect for two years following the July first after its issuance, unless sooner revoked. (Id. § 1557.)

419. Form of Permit.—Such permit shall:

1. Be granted only to a person owning or operating the place from which sales are to be made under the permit.

2. Not be transferable.

3. Be numbered and show the name and the residence of the person to whom granted and the place of business of the holder where sales are to be conducted under said permit. (Id. § 1558.)

420. Revocation.—The city or town council or board of supervisors, as the case may be, granting such permit shall revoke the permit of any person who has been convicted of violating any of the provisions of this chapter and no permit shall again be granted to a person for a period of two years from the date his permit has been revoked. (Id. § 1559.)

421. Issuance or Revocation Certified to State Treasurer.—The clerk of the city or town and the auditor of a county which has granted a permit shall upon the issuance or revocation of any permit granted under the provisions of this chapter immediately certify such issuance or revocation to the treasurer of the state. (Id. § 1560.)

422. Bond.—No permit shall be issued until the applicant therefor shall file a bond to be approved by the council or the board of supervisors granting the permit, which bond shall run to the city, town or county, as the case may be, for the benefit of all parties interested and shall be in the amount of not less than one thousand dollars, conditioned upon the faithful observance of all the provisions of this chapter, including the payment of all taxes, fines, penalties, and costs in said chapter provided, and for the payment of all damages that may result from the sale of cigarettes or cigarette papers in or upon the premises occupied by the obligor. (Id. § 1561.)

423. Sureties.—Said bond shall be signed by the obligor as principal and by a surety company authorized to do business in this State; or by two sureties who shall each qualify in double the amount of the bond, and neither of whom shall be surety on any other like bond. (Id. § 1562.)

424. Mulct Tax.—No permit shall be granted or issued until the applicant shall have paid to the treasurer of the city or town or county granting such permit, a mulct tax as follows:

1. In towns and other places outside any city or town, fifty dollars.

2. In cities of the second class, seventy-five dollars.

3. In cities of the first class, one hundred dollars.

Such mulct tax shall be paid for the period ending the first of July next following such permit and said permit shall become null and void if the holder thereof shall fail to pay a similar mulct tax on or before the first day of July each year thereafter, for the year then beginning. (Id. § 1563.)

425. When Payable.—Every person holding a permit or carrying on the business of selling or keeping for sale any cigarette or cigarette papers, or maintaining a place where cigarettes or cigarette papers are sold or kept with intent to sell, shall pay the mulct tax provided for in the preceding section, on or before the first day of July in each year, for the year then beginning. (Id. § 1564.)

426. Lien and Penalties.—The said mulct tax shall be a lien upon the real estate wherein or whereon the business is conducted or where a place for selling, or keeping with intent to sell, any cigarettes or cigarette papers is maintained, from the time said tax becomes due and payable. If the tax is not paid in the month of July when the same falls due a penalty of twenty per cent shall be added to the amount thereof for said month and one per cent per month thereafter until paid. (Id. § 1565.)

427. Return by Assessor—Certification of Tax.—In all cases where the mulct tax has not been paid the assessor of the city or town or township, as the case may be, shall on or after the twentieth of July of each year, return to the county auditor and the Treasurer of State a list of persons who are, or during the preceding year have been, engaged in carrying on within said city or town or township the business of selling or keeping for sale cigarettes or cigarette papers, or maintaining a place where they or any of them are sold or kept for sale, together with a description of the real estate wherein or whereon such business is carried on or such place maintained, with the name of the occupant or tenant or owner or agent.

The county auditor shall thereupon enter said mulct tax as provided for in section 1563 against the real estate so described and also certify said tax to the county treasurer for collection as other taxes.

Any assessor willfully failing to comply with the provisions of this section shall pay a fine of fifty dollars and costs for each offense. (Id. § 1566.)

428. Listing by Sheriff or Citizens.—Should the assessor for any reason fail to perform the duties prescribed in the preceding section, the sheriff or any three citizens of the county, may by verified statement on information and belief, addressed to the county auditor, procure the listing of names and description of property and places as provided in said section with the same force and effect as if done by the assessor. (Id. § 1567.)

429. When Tax Delinquent—Collection.—After the expiration of thirty days from the date when the mulct tax becomes due and payable, if not paid it shall be delinquent and collectible by the county treasurer in the same manner in which other delinquent taxes are collectible and all the provisions as to the collection of other delinquent taxes shall apply, including the provisions of law regarding tax sales for delinquent taxes in December of each year. (Id. § 1568.)

430. Tax Paid to General Fund.—All mulct taxes provided for in this chapter for cities and towns shall be paid to the treasurer of the city or town wherein the business for which such tax is paid is located and shall go into the general fund of said city or town. If paid for conducting business outside of any city or town it shall be paid to the county treasurer and credited to the general fund of such county. (Id. § 1569.)

431. State Stamp Tax—Schedule.—There is hereby levied and assessed and shall be collected and paid to the treasurer of state prior to or at the time of sale and delivery to the consumer, upon all cigarettes, cigarette papers, wrappers, and tubes sold, the following taxes:

1. Class A. On cigarettes weighing not more than three pounds per thousand, one mill on each such cigarette.

2. Class B. On cigarettes weighing more than three pounds per thousand, two mills on each such cigarette.

3. Class C. On cigarette papers or wrappers or any papers made or prepared for the purpose of making cigarettes, made up in packages, books or sets, on each such package, book, or set containing: a. More than twenty-five but not more than fifty papers, one-half cent. b. More than fifty papers but not more than one hundred papers, one cent. c. More than one hundred papers, one-half cent for each fifty or fractional part thereof.

4. Class D. On tubes, one cent for each fifty tubes or fractional part thereof. (Id. § 1570.)

432. Size of Package—Stamps Affixed—Cancellation.—All cigarettes sold under the provisions of this chapter shall be put up in packages containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each. Before being delivered to the consumer each package of cigarettes and each package, book, or set of papers or tubes shall have securely affixed thereto a suitable stamp denoting the tax thereon and said stamp shall be properly canceled prior to removal or consumption under such regulation as the treasurer of state shall prescribe. (Id. § 1571.)

433. Violation.—Any person violating any of the provisions of the last two preceding sections shall be punished by fine of not less than one hundred dollars, nor more than three hundred dollars, and be confined in the county jail until such fine is paid, but not exceeding six months. In addition all cigarettes, cigarette papers, and papers made or prepared for the purpose of making cigarettes, in his possession or in his place shall be confiscated and forfeited to the state. (Id. § 1572.)

434. Forgery—Counterfeiting.—Any person who, with intent to defraud the state, shall make, alter, forge, or counterfeit any license, [or] permit, provided for in this chapter, or who shall have in his possession any forged, counterfeited, spurious, or altered license, permit, or stamp with intent to use the same, knowing or having reasonable grounds to believe they are such, shall be fined not more than one thousand dollars, and be imprisoned in the state penitentiary nor [not] more than three years. (Id. § 1573.)

435. Stamps—How Handled.—The auditor of State shall prepare and have suitable stamps for use on each package. Upon requisition of the treasurer of state the auditor shall deliver to him the stamps designated in such requisition and shall charge the treasurer with the stamps so delivered, and shall keep an accurate record of all stamps coming into and leaving his hands. The treasurer of state shall sell the stamps only to dealers holding unrevoked permits. The moneys received from the sale of said stamps shall be turned into the general fund of the State. Any spoiled or unused stamps in the hands of either the auditor or treasurer shall be destroyed upon the joint certificate of the auditor, treasurer and state accountant,

setting forth the number, denomination and face value of the same. Such certificate shall relieve the accountable officer from accountability in the amount thereof. (Id. § 1574, as amended L. 1925, c. 146.)

436. Redemption of Stamps.—Upon the written request of the original purchaser thereof and the return of any unused stamps, the treasurer of state shall redeem such stamps and cause a refund to be made therefor. The treasurer shall prepare a voucher showing the amount of such refund due and the auditor shall draw his warrant on the treasurer for such amount. There is hereby appropriative out of any unappropriative funds in the state treasury a sum sufficient to carry out the provisions of this act. It shall be unlawful for any dealer to sell such unused stamps to any person whomsoever. (Id. § 1575.)

437. Additional Assistant—Compensation.—The State Treasurer is hereby authorized to appoint an additional assistant, whose sole duty it shall be to administer and enforce the provisions of this chapter, including the collection of all stamp taxes provided for herein. In such enforcement the State Treasurer may call to his aid the Attorney-General, the special agents of the state, any county attorney, or any peace officer. The treasurer is further authorized to appoint such clerks and additional help as may be needed to carry out the provisions of this chapter. The compensation of all persons employed hereunder shall be fixed by the executive council, and be paid from the revenues derived under the provisions of this chapter. (Code of Iowa 1924, § 1576.)

438. Violation—Nuisance—Abatement.—Any person violating any of the provisions of this chapter, or maintaining a place where cigarettes or cigarette papers are sold or kept with intent to sell in violation of the provisions of this chapter shall be guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale of cigarettes or cigarette papers in violation of the provisions of this chapter, shall be a nuisance and all persons keeping or maintaining the same or aiding or being concerned therein may be enjoined and such building or place abated as a nuisance.

The procedure in actions to enjoin and abate such nuisance or for contempt for violating any order of injunction in connection therewith shall be, so far as applicable, the same as those now provided by the laws of the state for enjoining and abating intoxicating liquor nuisance. (Id. § 1577.)

439. Search Warrant.—If any reputable citizen of the county shall make oath before a magistrate that he has reason to believe and does believe that any house, place or building, describing the same and naming the occupant or keeper thereof, is unlawfully used as a place in which to receive, keep, store, sell, or give away cigarettes or cigarette papers in violation of this chapter or that the keeper or occupant is in any way concerned, engaged, or employed in owning or keeping any such cigarettes or cigarette papers in such building or place with intent to violate the law or authorize or permit the same to be done, such magistrate shall issue a search warrant particularly describing the place to be searched, the person or persons to be apprehended or the articles or things to be seized, directed to any peace officer in the county, commanding him to search such house, building, or place and to seize such cigarettes or cigarette papers and for the arrest of the occupant or keeper thereof. (Id. § 1578.)

440. Seizure—Sale.—Any cigarette or cigarette papers seized under a search warrant and the occupant or keeper of the house, building or place where they were seized shall be brought before the magistrate who issued the search warrant. If the magistrate finds that such cigarettes or cigarette papers so seized were kept in violation of the law, he shall make and enter upon his docket an order for their forfeiture to the county in which they were seized and shall issue a special execution directing any peace officer of the county to whom the magistrate shall deliver it, to sell such forfeited goods to any person having a permit to keep and sell the same at the highest cash price he can obtain, and such peace officer shall be exempt from the provisions of this chapter providing for stamping such articles before sale. (Id. § 1579.)

441. Proceeds.—The proceeds derived from such sale shall be paid by the peace officer to the county treasurer and by him credited to the school fund of the county. (Id. § 1580.)

442. Return.—Such peace officer shall return the special execution to the court from which it was issued as in other cases. (Id. § 1581.)

443. Additional Tax Penalty Assessed by Magistrate.—Any magistrate who shall, in a search warrant proceeding, order the forfeiture and sale of any cigarette or cigarette papers which have been seized as having been kept for sale or with intent to sell in violation of the provisions of this chapter, shall certify a copy of the record of such finding and order to the county treasurer within ten days after

the entry of such order, and thereupon the county treasurer shall, in addition to all other penalties and taxes, assess a tax of three hundred dollars against the property, building, or place in or upon which such cigarettes or cigarette papers were unlawfully kept for sale, or with intent to sell in violation of the provisions of this chapter, and which tax the county treasurer shall collect in the same manner and by the same proceedings as other taxes and credit the same to the city or town or general fund of the county as the case may be. (Id. § 1582.)

444. Notice of Assessment.—Within ten days the receipt of the magistrate's certificate the county treasurer shall by registered mail notify the keeper or occupant of such house, building, or place and the owner of record thereof, if any, of such assessment. (Id. § 1583.)

445. Request to Exhibit Permit—Prima Facie Evidence.—The proprietor or keeper of any building or place wherein cigarettes or cigarette papers shall be kept for sale, or with intent to sell, shall upon request of any peace officer of the county exhibit to such peace officer his permit to so keep and sell. His refusal or failure to so exhibit such permit shall be prima facie evidence that such cigarettes or cigarette papers are kept for sale or with intent to sell in violation of the provisions of this chapter. (Id. § 1584.)

446. Advertisement Near Public School Prohibited.—No bills, pictures, posters, placards, or other matter used to advertise the sale of tobacco in any form shall be distributed, posted, painted, or maintained within four hundred feet of premises occupied by a public school or used for school purposes. This provision shall not apply to advertisement in newspapers regularly published and distributed to subscribers and purchasers as such. (Id. § 1585.)

447. Penalty.—Any person violating any of the provisions of the preceding section shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding thirty days. (Id. § 1586.)

Trade-Marks, Etc.

448. Registration.—Every person, firm, association, or corporation that has heretofore adopted or shall hereafter adopt for their protection any label, trade-mark, or form of advertisement, may file the same for record in the office of the secretary of state by leaving two copies, counterparts, or facsimiles thereof with the secretary of state. Said label, trade-mark or form of advertisement shall be of a distinctive character and not of the identical form or in any near resemblance to any label, trade-mark or form of advertisement previously filed for record in the office of the secretary of state. (Code of Iowa 1924, § 9867.)

449. Certification of Registration—Fees.—When the said Secretary of State is satisfied that the facsimile copies or counterparts filed are true and correct, and that they are not in any manner an infringement or are calculated to deceive, he shall deliver to such person, firm, association, or corporation so filing the same, a duly attested certificate of registration of the same for which he shall receive a fee of one dollar for filing and an additional fee of one dollar for a certificate of registration. (Id. § 9868.)

450. Prima Facie Proof of Right to Use.—Such certificate of registration shall in all actions and prosecutions be sufficient proof of the adoption of such label, trade-mark, or form of advertisement, and of the right of such person, firm, association, or corporation to adopt and use the same. (Id. § 9869.)

451. Alterations—Registration.—Should there be at any time any change alteration, or modification in such label, trade-mark, or form of advertisement so registered, the same shall be registered in the office of the secretary of state in the same manner and upon the payment in amount of the same fees as in the case of the original registration. (Id. § 9870.)

452. Injunction.—Every person, firm, association, or corporation adopting a label, trade-mark, or form of advertisement as specified in this chapter,* may proceed by action to enjoin the manufacture, use, display, or sale of any counterfeits or imitations thereof. (Id. § 9871.)

453. Damages and General Relief.—All courts having jurisdiction of such actions shall grant injunctions to restrain such manufacture, use, display, or sale, and shall award the complainant therein such damages resulting from such wrongful manufacture, use, display, or sale, and a reasonable attorney's fee to be fixed by the court, and said court shall also order that all such counterfeits or imitations in the

*Chapter 430, "Registration of Trade-Marks, Labels, and Advertisements," which includes sections 9867-9875.

possession or under the control of any defendant in such case be delivered to an officer of the court to be destroyed. (Id. § 9872.)

454. Persons Entitled to Sue.—Such actions may be prosecuted for the benefit of any firm, association, or corporation by any officer or member thereof. (Id. § 9873.)

455. Unlawful Use.—It shall be unlawful for any person, firm, association, or corporation to imitate any label, trade-mark, or form of advertisement adopted as provided in this chapter, or to knowingly use any counterfeit or imitation thereof, or to use or display such genuine label, trade-mark, or form of advertisement of such person, firm, association, or corporation unless authorized by him or it. (Id. § 9874.)

456. Penalty.—Any person violating any provision of the preceding section shall be imprisoned in the county jail not more than thirty days, or be fined not less than twenty-five nor more than one hundred dollars. (Id. § 9875.)

457. "Manufacturer" Defined.—Where the word "manufacturer" is used in this chapter* it shall be construed to mean any person, firm, or corporation engaged in manufacturing in the State. (Id. § 9876.)

458. Iowa State Manufacturers' Association.—When the organization now existing in the state and known as the Iowa State Manufacturers' Association shall have filed with the secretary of state verified proofs of its organization and the name of its president, vice president, secretary, and treasurer, and that it has one hundred bona fide members, such association shall be recognized as the Iowa State Manufacturers' Association, and be entitled to the benefits of this chapter. (Id. § 9877.)

459. Trade-Mark "Made in Iowa"—State Registration.—For the purpose of aiding in the promotion and development of manufacturing in Iowa, such association may adopt a label or trade-mark bearing the words "Made in Iowa," together with any other appropriate design or inscription, and this label or trade-mark shall be registered in the office of the secretary of state. (Id. § 9878.)

460. Federal or Foreign Registration.—Said association shall have the right to register or file such label or trade-mark under the laws of the United States or any foreign country which permits such registration, making such registration as an association or through an individual for the use and benefit of the association. (Id. § 9879.)

461. Board of Awards.—The said association shall by its articles of association provide for the election or appointment of a board of not less than fifteen manufacturers, who are residents of Iowa, which board shall be known as a board of awards. (Id. § 9880.)

462. Uniform Regulations.—The said board of awards shall then establish uniform regulations and shall then grant to any manufacturer in the state, who conforms to such regulations, the right to use said label or trade-mark. In making such regulations the said board of awards may make requirements as to good quality of such products, both as to materials and workmanship, and it may also fix a charge to be paid by such manufacturer for the use of such label. (Id. § 9881.)

463. Revocation of Right.—Upon failure to comply with any requirements established by the board of awards such privilege may be by them revoked, it being the purpose of this chapter to make the said label or trade-mark stand for Iowa-made goods, and also for goods of quality and merit. (Id. § 9882.)

464. Use of Trade-Mark Without Permission—Penalty.—No person, firm, or corporation shall use the said label or trade-mark or advertise the same, or attach or stamp the same upon any article or product except under permission obtained in accordance with the provisions of this chapter. Any person or persons who shall use the said label or trade-mark except as herein authorized shall be guilty of a misdemeanor. (Id. § 9883.)

465. Registration of Bottles, Boxes, and Containers.—Persons engaged in the manufacture, bottling, or selling of soda water, mineral or aerated waters, cider, milk, cream or other lawful beverages in bottles, boxes, casks, kegs, or barrels, with their names or other marks of ownership stamped or marked thereon, may file in the office of the recorder of the county in which such articles are manufactured, bottled, or sold a description of the name or marks so used by them, and cause notice thereof to be given by three consecutive publications in a weekly newspaper printed in the English language in said county. (Id. § 13063.)

466. Sale or Use of Registered Containers.—It shall thereupon be unlawful for any person, without the written consent of the owner, to fill such bottles, boxes, casks, kegs, or barrels so marked or stamped, for the purpose of sale, or to sell, dis-

*Chapter 431, "Trade-Marks for Articles Manufactured in Iowa," which includes sections 9876-9884.

pose of, buy, or traffic in or wantonly destroy the same, whether filled or not, and any violation of this section shall be a misdemeanor, and any person convicted thereof shall be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding thirty days. (Id. § 13064.)

467. Prima Facie Evidence of Misuse—Search Warrants.—The using by any other person than the rightful owner, without written permission, of any such cask, barrel, keg, bottle, or box, as prohibited in the preceding section, or the possession thereof by any junk dealer, or dealer in such casks, barrels, kegs, bottles, or boxes, the same being marked or stamped and registered as herein required, shall be prima facie evidence that such use, and the sale or possession, is unlawful, and search warrants may be procured for the discovery and seizure of such bottles, boxes, casks, kegs, or barrels, as in other criminal cases. (Id. § 13065.)

468. Fraudulently Using Stamped Cask, Package, or Box.—If any person, with intent to defraud, use any cask, package, box, or bale, marked, branded, or stamped by another, for the sale of merchandise or produce of an inferior quality or less in quantity or weight than is denoted by such mark, stamp, or brand, he shall be imprisoned in the county jail not more than one year, or fined not exceeding two hundred dollars, or both. (Id. § 13066.)

NOTE: See also Nos. 42d, 42e and the dairy law, No. 63 et seq.

Trading Stamps—Gift Enterprises.

469. Gift Enterprises.—All gift enterprises, as hereinafter defined, and all trade practices carried on in connection therewith are hereby prohibited and declared to be unlawful. (Code of Iowa 1924, § 9920.)

470. Gift Enterprise Defined.—Whenever two or more persons enter into any contract arrangement or scheme, whereby for the purpose of inducing the public to purchase merchandise or other property of one of the parties to said scheme, any other party thereto, for a valuable consideration and as a part of such scheme, advertises and induces or attempts to induce the public to believe that he will give gifts, premiums, or prizes to persons purchasing such merchandise or other property of such party to said scheme, and that stamps, or tickets will be given by the seller in connection with such sales entitling the purchaser of such property to receive such prizes or gifts from any other party to such scheme, the parties so undertaking and carrying out such scheme shall be deemed to be engaged in a "gift enterprise," unless the articles or things so promised to be given as gifts or premiums with or on account of such purchases, shall be definitely described on such stamp or ticket and the character and value of such promised prize or gift fully made known to the purchaser of such merchandise or other property at the time of the sale thereof, and unless the right of the holder of such stamp or ticket to the gift or premium so promised becomes absolute upon the completion upon the delivery thereof without the holder being required to collect any specified number of other similar stamps or tickets and to present them for redemption together, and the right of the holder of such stamp or ticket to the prize or gift so offered is absolute, and does not depend on any chance, uncertainty, or contingency whatever. (Id. § 9921.)

471. Violation.—Any person who engages in a gift enterprise such as is defined in the preceding section or who advertises the same in any manner or who in furtherance of such scheme as an inducement to purchasers, issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite article not described thereon, only when presented with a collection of other stamps or tickets of like kind by some other party to such scheme, and which unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a misdemeanor. (Id. § 9922.)

472. "Person" Defined.—The word "person" as used in the two preceding sections may in proper cases, in order to make the intent and meaning of the law effective, be construed to mean firm or corporation. (Id. § 9923.)

Weights and Measures.

473. Standard Established.—The weights and measures which have been presented by the department [of agriculture] to the federal bureau of standards and approved, standardized, and certified by said bureau in accordance with the laws of the congress of the United States shall be the standard weights and measures throughout the state. (Code of Iowa 1924, § 3227.)

474. Weight.—The units or standards of weight from which all other weights shall be derived and ascertained shall be the standard avoirdupois and troy weights

secured in accordance with the provisions of section 3227. The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred sixty, shall be divided into sixteen equal parts called ounces; the hundred-weight shall consist of one hundred avoirdupois pounds, and twenty hundredweight shall constitute a ton. The troy ounce shall be equal to the twelfth part of a troy pound. (Id. § 3230.)

475. Liquids.—The unit or standard measure, or capacity for liquids from which all other measures of liquids shall be derived and ascertained shall be the standard gallon secured in accordance with the provisions of section 3227. The gallon shall be divided by continual division by the number two so as to make half-gallons, quarts, pints, half-pints, and gills. The barrel shall consist of thirty-one and one-half gallons, and two barrels shall constitute a hogshead. (Id. § 3231.)

476. Dry Measure.—The unit or standard measure of capacity for substances not liquids from which all other measures of such substances shall be derived, and ascertained shall be the standard half-bushel secured in accordance with the provisions of section 3227. The peck, half-peck, quarter-peck, quart, pint, and half-pint measures for measuring commodities which are not liquids, shall be derived from the half-bushel by successively dividing the cubic inch capacity of that measure by two. (Id. § 3232.)

477. Bottomless Measure.—Bottomless dry measures shall not be used unless they conform in shape to the United States standard dry measure. (Id. § 3233.)

478. Sales of Dry Commodities to be by Weight.—All dry commodities unless bought or sold in package or wrapped form shall be bought or sold only by the standard weight or measure herein established, or by numerical count, unless the parties otherwise agree in writing, except as provided in the four following sections. (Id. § 3234.)

479. Drugs and Section Comb Honey Exempted.—The requirements of the preceding section shall not apply to drugs or section comb honey. (Id. § 3235.)

480. Bushel Measured by Avoirdupois Weight.—When any of the commodities enumerated in this section shall be sold by the bushel or fractional part thereof, except when sold as provided in the two following sections, the measure shall be determined by avoirdupois weight and shall be computed as follows:

<i>Commodities.</i>	<i>Pounds.</i>	<i>Commodities.</i>	<i>Pounds.</i>
Apples	48	Onions	52
Apples, dried	24	Onion top sets	28
Alfalfa seed	60	Onion bottom sets	32
Barley	48	Orchard grass seed	14
Beans, green, unshelled	56	Osage orange seed	32
Beans, dried	60	Parsnips	45
Beans, Lima	56	Peaches	48
Beets	56	Peaches, dried	33
Blue grass seed	14	Peanuts	22
Bran	20	Pears	45
Bromus inermis	14	Peas, green, unshelled	50
Broom corn seed	50	Peas, dried	60
Buckwheat	48	Plums	48
Carrots	50	Popcorn, on the cob	70
Castor beans, shelled	50	Popcorn, shelled	56
Charcoal	20	Potatoes	60
Cherries	40	Quinces	48
Clover seed	60	Rape seed	50
Coal	80	Redtop seed	14
Coke	40	Rutabagas	60
Corn on the cob (field)	70	Rye	56
Corn in the ear, unhusked (field) ..	75	Salt	80
Corn, shelled (field)	56	Sand	130
Corn meal	48	Shorts	20
Cucumbers	48	Sorghum saccharatum seed	50
Emmer	40	Spelt	40
Flaxseed	56	Sweet corn	50
Grapes, with stems	40	Sweet potatoes	50
Hempseed	44	Timothy seed	45
Hickory nuts, hulled	50	Tomatoes	50
Hungarian grass seed	50	Turnips	55
Kaffir corn	56	Walnuts, hulled	50
Lime	80	Wheat	60
Millet seed	50	All root crops not specified above ...	50
Oats	32		

(Id. § 3236.)

481. Sale of Certain Fruits and Vegetables by Dry Measure.—Blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets in quantities of one peck or less, may be sold by the quart, pint, or half-pint, dry measure. (Id. § 3237.)

482. Sale of Fruits and Vegetables in Climax Baskets.—Grapes, other fruits, and vegetables may be sold in climax baskets; but when said commodities are sold in such manner and the containers are labeled with the net weight of the contents in accordance with the provisions of section 3037,* all the provisions of the chapter relative to labeling foods† shall be deemed to have been complied with. (Id. § 3238.)

483. Berry Boxes and Climax Baskets.—Berry boxes sold, used, or offered or exposed for sale shall have an interior capacity of one quart, pint, half-pint dry measure. Climax baskets sold, used, or offered or exposed for sale shall be of the standard size fixed below:

1. Two-quart basket: length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches, and width five inches, outside measurement; basket to have a cover five by eleven inches, when a cover is used.

2. Four-quart basket: length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement; basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

3. Twelve-quart basket: length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven sixteenths of an inch, outside measurement; top of basket, length nineteen inches, height of basket, seven and one-sixteenth inches, width nine inches, outside measurement; basket to have cover nine inches by nineteen inches, when cover is used. (Id. § 3239.)

484. Hop Boxes.—The standard box used in packing hops shall be thirty-six inches long, eighteen inches wide, and twenty-three and one-fourth inches deep, inside measurement. (Id. § 3240.)

485. Milk Bottles.—The standard bottles used for the sale of milk and cream shall be of a capacity of one half-gallon, three pints, one quart, one pint, one half-pint, one gill, filled full to the bottom of the lip. (Id. § 3241.)

486. Flour.—A barrel of flour shall consist of one hundred ninety-six pounds avoirdupois, and one-fourth barrel consisting of forty-nine pounds shall be a sack of flour.

No barrel or sack of flour shall be sold which contains less than the amount herein specified. (Id. § 3242.)

487. Sales to be by Standard Weight or Measure.—All commodities bought or sold by weight or measure shall be bought or sold only by the standards established by this chapter‡ unless the vendor and vendee otherwise agree. Sales by weight shall be by avoirdupois weight unless troy weight is agreed upon by the vendor and vendee. (Id. § 3244.)

488. Sales of Hay or Straw by Bale.—No person shall sell, offer or expose for sale any bales of hay or straw without first attaching thereto a plain and conspicuous statement of the minimum net weight contained in such bales; but nothing in this section shall be construed to require a statement of weight on each bale where hay or straw is sold by the ton and a ticket showing the gross, tare, and net weight accompanies the delivery. (Id. § 3249.)

489. Inspection of Loaded Vehicles.—The department may stop any wagon, auto truck, or other vehicle loaded with any commodity being bought, offered or exposed for sale, or sold, and compel the person having charge of the same to bring the load to a scale designated by said department and weighed for the purpose of determining the true net weight of the commodity. (Id. § 3250.)

490. State Sealer.—The department [of agriculture] shall designate one of its assistants to act as state sealer of weights and measures. All weights and measures sealed by him shall be impressed with the word "Iowa." (Id. § 3251.)

491. Preservation of Standards.—The department shall maintain the State standards in good order, shall take all necessary precautions for their safekeeping, and shall submit them once in ten years to the national bureau of standards for certification. (Id. § 3252.)

*See No. 9.

†Chapter 149, "Labeling Foods." See No. 34.

‡Chapter 161, "Standard Weights and Measures," which includes sections 3227-3244.

492. Testing Weights and Measures.—Upon written request of any citizen, firm, or corporation, city, town, or county, or educational institution of the state made to the department, a test or calibration of any weights, measures, weighing or measuring devices, and instruments or apparatus to be used as standards shall be made. (Id. § 3253.)

493. Sealing Milk Bottles Not Required.—The State sealer shall not be required to seal bottles for milk or cream, but they shall be inspected from time to time in order to ascertain whether they are standard. (Id. § 3254.)

494. Sealer for Cities and Towns.—A sealer of weights and measures may be appointed in any city or town by the council, who shall hold his office during its pleasure, and may obtain from the department such standard weights and measures as the council may deem necessary. (Id. § 3255.)

495. Duties of City Sealer.—Each sealer in cities and towns, shall take charge of and provide for the safe keeping of the town or city standards, and see that the weights, measures, and all apparatus used for determining the quantity of commodities used throughout the town or city, agree with the standards in his possession. (Id. § 3256.)

496. Expenses.—All expenses directly incurred in furnishing the several cities and towns with standards, or in comparing those that may be in their possession, shall be borne by said cities and towns. (Id. § 3257.)

497. Definitions.—For the purpose of this chapter:*

1. "Public scale" shall mean any scale or weighing device for the use of which a charge is made or compensation is derived.

2. "Gasoline pump" shall mean any pump, meter, or similar measuring device used for measuring gasoline. (Id. § 3258.)

498. License Required.—Every person who shall use or display for use any public scale or gasoline pump shall secure a license for said scale or pump from the department. (Id. § 3259.)

499. Fee—Expiration of License.—The license fee shall be three dollars per annum and each license for a public scale shall expire on December thirty-first and for a gasoline pump on June thirtieth of each year. (Id. § 3260, as amended L. 1925, c. 62.)

500. Form of License.—The license shall be in the form of a metal plate bearing the words "Licensed by the State of Iowa, No." Each plate shall be numbered consecutively and bear the year for which the license is granted. (Code of Iowa 1924, § 3261.)

501. License to be Displayed—Removal—Penalty.—The license plate shall be displayed prominently on the front of the scale or pump, and the defacing or wrongful removal of such plate shall be punished as provided in chapter 147.† Absence of license plate shall be prima facie evidence that the weighing or measuring device is being operated contrary to law. (Id. § 3262.)

502. Oath of Weighmasters.—All persons keeping public scales, before entering upon their duties as weighmasters, shall be sworn before some person having authority to administer oaths, to keep scales correctly balanced, to make true weights, and to render a correct account to the person having weighing done. (Id. § 3263.)

503. Weighmasters to Keep Registers.—Weighmasters are required to make true weights and keep a correct register of all weighing done by them, giving the amount of each weight, date thereof, and the name of the person or persons for whom done, and give, upon demand, to any person having weighing done, a certificate showing the weight, date, and for whom weighed. (Id. § 3264.)

504. Penalty.—Any weighmaster violating any of the provisions of the two preceding sections, shall be guilty of a misdemeanor, and punished as provided in chapter 147† and be liable to the person injured for all damages sustained. (Id. § 3265.)

505. Duty to Inspect.—The department shall make an inspection of all weights and measures wherever the same are kept for use in connection with the sale of any commodity sold by weight or measurement, or where the price to be paid for producing any commodity is based upon the weight or measurement thereof; and when complaint is made to the department that any false or incorrect weights or measures are being made under said conditions, said department shall have the same inspected. (Id. § 3266.)

506. Inspection Fees.—An inspection fee shall be charged the person owning or operating the scale so inspected in accordance with the following schedule: Scales

*Chapter 164, "Public Scales and Oil Meters," which includes sections 3258-3265.

†Entitled "General Provisions." See Nos. 1-29.

with a five hundred pounds' capacity up to and including four thousand pounds' capacity, one dollar each; scales over four thousand pounds' capacity up to and including twenty-one thousand pounds' capacity, three dollars each; scales over twenty-one thousand pounds' capacity not including railroad track scales, five dollars each; railroad track scales, ten dollars each; all hopper or automatic scales, two dollars each. (Id. § 3267.)

507. Payment by Party Complaining.—When such inspection shall be made upon the complaint of any person other than the owner of the scale, and upon examination the scale is found by the department to be accurate for weighing, the inspection fee for such inspection shall be paid by the person making complaint. (Id. § 3268.)

508. Limitation on Number of Inspections.—No person shall be required to pay more than two inspection fees for any one scale in any one year unless additional inspections are made at the request of the owner of said scale. (Id. § 3269.)

509. Confiscation and Condemnation of Scales.—The department may seize without warrant and confiscate any incorrect scales, weights, or measures, or any weighing apparatus or part thereof which do not conform to the state standards or upon which the license fee has not been paid. If any weighing or measuring apparatus or part thereof be found out of order the same may be tagged by the department "Condemned until repaired," which tag shall not be altered or removed until said apparatus is properly repaired. (Id. § 3270.)

510. Possession of False Weights and Measures.—If any person engaged in the purchase or sale of any commodity by weight or measurement, or in the employment of labor where the price thereof is to be determined by weight or measurement of the articles upon which such labor is bestowed, has in his possession any inaccurate scales, weights, or measures, or other apparatus for determining the quantity of any commodity, which do not conform to the standard weights and measures, he shall be punished as provided in chapter 147.† (Id. § 3271.)

511. Transactions by False Weights or Measures.—Any person shall be deemed to have violated the provisions of this chapter‡ and shall be punished as provided in chapter 147:†

1. If such person, sell, trade, deliver, charge for or claim to have delivered to a purchaser an amount of any commodity which is less in weight or measure than that which is asked for, agreed upon, claimed to have been delivered, or noted on the delivery ticket.

2. If such person make settlement for or enter credit, based upon any false weight or measurement, for any commodity purchased.

3. If such person make settlement for or enter credit, based upon any false weight or measurement, for any labor where the price of producing or mining is determined by weight or measure.

4. If such person record a false weight or measurement upon the weight ticket or book. (Id. § 3272.)

512. Reasonable Variations—Small Packages.—In enforcing the provisions of the preceding section reasonable variations shall be permitted and exemptions as to small packages shall be established by rules of the department. (Id. § 3273.)

513. Power of Cities and Towns Limited.—Commodities weighed upon any scale bearing the inspection card, issued by the department, shall not be required to be reweighed by any ordinance of any city or town or city under special charter or under the commission form of government, nor shall their sale, at the weights so ascertained, and because thereof, be, by such ordinance, prohibited or restricted. (Id. § 3274.)

NOTE: See also Nos. 9 and 42c; the bread law, No. 45b et seq.; the dairy law, No. 63 et seq.

†Entitled, "General Provisions." See Nos. 1-29.

‡Chapter 165, "Inspection of Weights and Measures," which includes sections 3266-3274.

PART V.

Cases.

1. General Food and Drug Law.

Food—Original Package: *State v. Eckenrode, 148 Iowa 173, 127 N. W. 56 (1910).

Sale by Dealer of Small Amount From Package—Labeling: State v. Neslund, 141 Iowa 461, 120 N. W. 107 (1909).

2. Special Food Laws.

Beverages—Flavoring Extracts: State v. Klein et al., 174 N. W. 481 (1919).

Beverages—Jamaica Ginger: State v. Snyder, 185 Iowa 728, 171 N. W. 8 (1919).

Dairy Products—Poultry—Eggs—Grain—Discrimination in Purchase Price: *State v. Fairmont Creamery Co. of Nebraska, 153 Iowa 702, 133 N. W. 895, 42 L. R. A. (N. S.) 821 (1911).

Feeding Stuffs: State ex rel. Cosson v. Shores-Mueller Co., 182 Iowa 501, 166 N. W. 62, 5 A. L. R. 1305 (1918). *Standard Stock Food Co. v. Wright, State Food & Dairy Commissioner of Iowa, 225 U. S. 540, 32 S. Ct. 784, 56 L. Ed. 1197 (1912).

Ice Cream—Minimum Milk Fat Standard: *State v. Hutchinson Ice Cream Co. et al., 168 Iowa 1, 147 N. W. 195, L. R. A. 1917 B, 198 (1914), affirmed in *Hutchinson Ice Cream Co. et al v. Iowa, 242 U. S. 153, 37 S. Ct. 28, 61 L. Ed. 217, Ann. Cas. 1917 B, 643 (1916); *Sanders Ice Cream Co. et al. v. Iowa, 242 U. S. 153, 37 S. Ct. 28, 61 L. Ed. 217 (1916).

Lard—Compound Lard—Labeling: *State v. Snow, 81 Iowa 642, 47 N. W. 777, 11 L. R. A. 355 (1891).

Markets: City of Davenport v. Kelley, 7 Iowa 102 (1858); State, for the Use of City of Dubuque v. Leiber, 11 Iowa 407 (1860); City of Dubuque v. Miller, 11 Iowa 583 (1861); Le Claire v. City of Davenport, 13 Iowa 210 (1862); Miller v. City of Webster City, 94 Iowa 162, 62 N. W. 648 (1895).

Meat—Peddling: City of Burlington v. Dankwardt, 73 Iowa 170, 34 N. W. 801 (1887).

Meat: See *Markets*.

Milk—Adulteration: *State v. Schlenker, 112 Iowa 642, 84 N. W. 698, 51 L. R. A. 347, 348, 84 Am. St. Rep. 360 (1900).

Milk—Dairymen—License—Inspection: *Bear et al. v. City of Cedar Rapids, Mayor & City Council Thereof, et al., 147 Iowa 341, 126 N. W. 324, 27 L. R. A. (N. S.) 1150 (1910).

Oleomargarine: *State v. Armour Packing Co., 124 Iowa 323, 100 N. W. 59 (1904).

Sanitation: See *Hubbell et al. v. Higgins, 148 Iowa 36, 126 N. W. 914, Ann. Cas. 1912 B, 822 (1910).

3. Special Drug Laws.

Abortifacients: State v. Forsythe, 78 Iowa 595, 43 N. W. 548 (1889). See also: State v. Stafford, 145 Iowa 285, 123 N. W. 167 (1909).

Itinerant Vendors of Drugs—License: Snyder v. Closson, 84 Iowa 184, 50 N. W. 678 (1891); *State, To Use of Iowa Commission of Pharmacy, v. Gouss, 85 Iowa 21, 51 N. W. 1147 (1892); State v. Burk, 88 Iowa 661, 56 N. W. 180 (1893); *State v. Bair, 92 Iowa 28, 60 N. W. 486 (1894); *State v. Wheelock, 95 Iowa 577, 64 N. W. 620, 30 L. R. A. 429, 430n, 58 Am. St. Rep. 442 (1895); State v. Bonham, 96 Iowa 252, 65 N. W. 154 (1895); State v. Stewart, 138 Iowa 536, 116 N. W. 693 (1908). See also: *State v. Edmunds, 127 Iowa 333, 101 N. W. 431 (1904).

Narcotic Addict: *State v. Brooks, 146 Iowa 295, 125 N. W. 168 (1910); Addis v. Applegate, 171 Iowa 150, 154 N. W. 168, Ann. Cas. 1917 E, 332 (1915); In re Schrage, 182 Iowa 880, 164 N. W. 778 (1917).

Narcotics: State v. Bailey, 209 N. W. 403 (1926).

Pharmacy: *Hildreth v. Crawford et al., 65 Iowa 339, 21 N. W. 667 (1884); Braniff v. Weaver et al, 72 Iowa 641, 34 N. W. 456 (1887); Cocke v. Montgomery et al., 75 Iowa 259, 39 N. W. 386 (1888); McIntosh v. Wilson, 81 Iowa 339, 46 N. W. 1003 (1890); State v. Spaulding, 102 Iowa 639, 72 N. W. 288 (1897). See also: State v. Norton, 67 Iowa 641, 25 N. W. 842 (1885); State v. Mullenhoff, 74 Iowa 271, 37 N. W. 329 (1888); Erb v. German Insurance Co., 99 Iowa 398, 68 N. W. 701 (1896); Erb v. Fidelity Insurance Co., 99 Iowa 727, 69 N. W. 261 (1896); In re Application of Henery, Griswold & Smith, 124 Iowa 358, 100 N. W. 43 (1904); State v. Bresee, 137 Iowa 673, 114 N. W. 45, 24 L. R. A. (N. S.) 103 (1907).

Pharmacy—Patent Medicines: See *State v. Kendig, 133 Iowa 164, 110 N. W. 463 (1907).

Poisons: See Gibson v. Torbert, 115 Iowa 163, 88 N. W. 443, 91 Am. St. Rep. 147 (1901).

Serum: See Hollingsworth v. Midwest Serum Co. et al., 183 Iowa 280, 162 N. W. 620 (1917); Molyneux & Maher v. Julius, 184 Iowa 816, 169 N. W. 131 (1918).

Tuberculin: *See Fevold et al. v. Board of Supervisors of Webster County et al., 210 N. W. 139 (1926).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Drugs: Gwynn v. Duffield et al., 61 Iowa 64, 15 N. W. 594, 47 Am. Rep. 802 (1883); Same, 66 Iowa 708, 24 N. W. 523, 55 Am. Rep. 286 (1885); Hall v. Rankin, 87 Iowa 261, 54 N. W. 217 (1893); Rabe v. Sommerbeck, 94 Iowa 656, 63 N. W. 458 (1895); Burgess v. Sims Drug Co. et al., 114 Iowa 275, 86 N. W. 307, 54 L. R. A. 364, 89 Am. St. Rep. 359 (1901). See also: Ball v. Skinner, 134 Iowa 298, 111 N. W. 1022 (1907).

Feeding Stuffs: Swift & Co. v. Redhead, 147 Iowa 94, 122 N. W. 140 (1909); Peterson v. Dolan, 186 Iowa 848, 172 N. W. 950 (1919).

Food: Burk v. Creamery Package Manufacturing Co., 126 Iowa 730, 102 N. W. 793, 106 Am. St. Rep. 377 (1905); Davis v. Van Camp Packing Co., 189 Iowa 775, 176 N. W. 382, 17 A. L. R. 649 (1920). See also: Roundy & McMurray Co. v. Nicholson Produce Co., 166 Iowa 39, 147 N. W. 305 (1914); American Fruit Product Co. v. Davenport Vinegar & Pickling Works, 172 Iowa 683, 154 N. W. 1031 (1915); Rhynas v. Keck, 179 Iowa 422, 161 N. W. 486 (1917).

Gun Powder: McEldon v. Drew, 138 Iowa 390, 116 N. W. 147, 128 Am. St. Rep. 203 (1908).

Hog Cholera Serum: Hollingsworth v. Midwest Serum Co., et al., 183 Iowa 280, 162 N. W. 620 (1917); Balhorn v. Pitman Moore Co. et al., 200 N. W. 601, 39 A. L. R. 397 (1924); Howard v. United Serum Co., 211 N. W. 419 (1926). See also: Phillips v. Leuth, 200 Iowa 272, 204 N. W. 301 (1925).

Hog Remedy: De Zeeuw v. Fox Chemical Co., 189 Iowa 1195, 179 N. W. 605 (1920).

Phosphorus: Gibson v. Torbert, 115 Iowa 163, 88 N. W. 443, 91 Am. St. Rep. 147 (1901).

5. Miscellaneous.

Cigarettes: *McGregor v. Cone, 104 Iowa 465, 73 N. W. 1041, 39 L. R. A. 484, 65 Am. St. Rep. 522 (1898); *Cook & Plunkett v. Marshall County, 119 Iowa 384, 93 N. W. 372, 104 Am. St. Rep. 283 (1903), affirmed in *Cook v. Marshall County, Iowa, 196 U. S. 261, 25 S. Ct. 233, 49 L. Ed. 471 (1905); *Hodge & Tabor v. Muscatine County et al., 121 Iowa 482, 96 N. W. 968, 104 Am. St. Rep. 304 (1903), affirmed in *Hodge v. Muscatine County, Iowa, 196 U. S. 276, 25 S. Ct. 237, 49 L. Ed. 477 (1905); *State v. C. C. Taft Co., 183 Iowa 548, 167 N. W. 467, 9 A. L. R. 390 (1918), writ of error dismissed in C. C. Taft Co. v. State, 252 U. S. 569, 40 S. Ct. 345, 64 L. Ed. 720 (1920); *C. C. Taft Co. et al. v. Alber, 185 Iowa 1069, 171 N. W. 719 (1919); *Gaspari et al. v. Madison County et al., 195 Iowa 1103, 192 N. W. 855 (1923). See also: *State v. McGregor, 76 Fed., 956 (1896); In re Otto F. Lange Co., 159 Fed. 586 (1908).

Flaxseed or Linseed Oil: *State v. Holton, Gray & Co., 148 Iowa 724, 126 N. W. 1125 (1910).

Gift Enterprise: Brenard Manufacturing Co. v. Jessup & Barrett Co., 186 Iowa 872, 173 N. W. 101 (1919); State v. Ellis et al., 200 Iowa 1228, 206 N. W. 105 (1925).

Trade-Marks: Shaver v. Shaver et al., 54 Iowa 208, 6 N. W. 188, 37 Am. Rep. 194 (1880); Sartor v. Smith & Smith, 125 Iowa 665, 101 N. W. 515 (1904); Sartor v. Schaden, 125 Iowa 696, 101 N. W. 511 (1904); Atlas Assurance Co., Ltd. v. Atlas Insurance Co., 138 Iowa 228, 112 N. W. 232, 114 N. W. 609, 128 Am. St. Rep. 189, 15 L. R. A. (N. S.) 625 (1908); Iowa Auto Market v. Auto Market & Exchange et al., 197 Iowa 420, 197 N. W. (1924). See also: Grand Lodge of the Ancient Order of United Workmen of Iowa v. Graham et al., 96 Iowa 592, 65 N. W. 837, 31 L. R. A. 133 (1896); *Beebe v. Tolerton & Stetson Co., 117 Iowa 593, 91 N. W. 905 (1902); Dymont v. Lewis, 144 Iowa 509, 123 N. W. 244 (1909); Motor Accessories Manufacturing Co. v. Marshalltown Motor Material Manufacturing Co., Sinclair & Hansen, 167 Iowa 202, 149 N. W. 184 (1914); Lennox Furnace Co. v. Wrot Iron Heater Co., 181 Iowa 1331, 160 N. W. 356, 165 N. W. 395 (1916); Dubuque German College & Seminary v. St. Joseph's College, 169 N. W. 405 (1918); Brown Garage Co. v. Brown Auto & Supply Co., 196 Iowa 823, 195 N. W. 514 (1923); Harkert Cigar Co. v. Herman, 197 Iowa 287, 196 N. W. 986 (1924).

Weights and Measures: State v. Burge, 7 Iowa 255 (1858); *Davis et al v. Town of Anita et al., 73 Iowa 325, 35 N. W. 244 (1887); State v. Frolic, 95 Iowa 424, 64 N. W. 264 (1895); *Ewing v. City of Webster City et al., 103 Iowa 226, 72 N. W. 511 (1897); State v. Jamison & Crone, 110 Iowa 337, 81 N. W. 594 (1900); State v. Jameson & Crone, 117 Iowa 312, 90 N. W. 622 (1902); State v. Smith, 123 Iowa 654, 96 N. W. 899 (1903). See also: Harris v. Rutledge, 19 Iowa 388, 87 Am. Dec. 441 (1865).

KANSAS.*

PART I.

General Food and Drug Law.

1. Adulteration or Misbranding.—It shall be unlawful for any person to manufacture within the State of Kansas any article of food or drugs, medicines or liquors, which is adulterated or misbranded, or which contains any poisonous or deleterious substance, within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall upon conviction thereof be fined not to exceed three hundred dollars, or be imprisoned one year in the county jail, in the discretion of the court, and for each subsequent offense on conviction thereof shall be fined not less than five hundred dollars or be imprisoned for one year in the county jail, or shall receive both such fine and imprisonment, in the discretion of the court. (R. S. 1923, § 65-601.)

2. Sale of Adulterated or Misbranded Articles.—It shall be unlawful for any person to sell, keep for sale or offer for sale, within the State of Kansas, any article of food, drug or liquor which is adulterated or misbranded, within the meaning of this act, and any person who shall sell, keep for sale or offer for sale any article of food or drug or liquor which is adulterated or misbranded, within the meaning of this act, shall be guilty of a misdemeanor, and for each offense shall upon conviction thereof be fined in a sum not to exceed fifty dollars or be imprisoned in the county jail not exceeding one year, or be both fined and imprisoned, in the discretion of the court. (Id. § 65-602.)

3. Regulations by State Board of Health.—The State Board of Health is authorized and directed to make and publish uniform rules and regulations, not in conflict with the laws of this State, for carrying out the provisions of this act, which rules and regulations shall be published in the official State paper, which rules and regulations, among others, shall provide for the collection and examination of specimens of foods and drugs manufactured, kept for sale, offered for sale or sold in the State of Kansas; and said Board of Health is further authorized and empowered to make, define, adopt and publish standards of quality, purity and strength for foods and drugs. Any person who shall violate any of the rules and regulations so made and published in the official State paper shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine not exceeding fifty dollars or imprisonment in the county jail not more than six months, or both, in the discretion of the court. (Id. § 65-603.)

4. Examination of Foods and Drugs.—The examination of specimens of drugs shall be made at the University of Kansas, and such examinations shall be under the immediate supervision and direction of the dean of the School of Pharmacy. The examination of foods shall be made at the University of Kansas and the Kansas State Agricultural College, and such examinations shall be under the immediate supervision and direction of the directors of the departments of chemistry. The University of Kansas and the Kansas State Agricultural College shall employ such additional chemists and assistants as are necessary to properly and expeditiously analyze such drug and food products as are sent to them by the State food inspectors, for the purpose of determining from such examinations whether such articles are adulterated or misbranded, within the meaning of this act; and if it shall appear from any examination that any of such specimens is adulterated or misbranded, within the meaning of this act, the Secretary of the State Board of Health shall at once certify the facts to the county attorney of the county in which such sample was taken, with a copy of the results of the analysis of the examination of such article, duly authenticated by the analyst or officer making such examination, under the oath of such analyst or officer. (Id. § 65-604.)

*CITATIONS: "R. S. 1923" refers to the Revised Statutes of Kansas, 1923, published by authority of Chapter 207, Laws of 1921, and Chapter 144, Laws of 1923. "L. 1925" refers to the session laws of that year.

5. Prosecutions.—It shall be the duty of each county attorney to whom the Secretary of the State Board of Health shall report any violations of this act, or to whom any health officer of any county or city, or any other person, shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the State, without delay, for the enforcement of the provisions of this act. After judgment of the court, notice of such adulteration or misbranding shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 65-605.)

6. Terms "Drug" and "Food" Defined.—The term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use in force at the time the drug is prepared, sold or offered for sale, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals, whether simple, mixed, or compound. The term "food," as used herein, shall include all articles used for food or in the preparation of food, drink, confectionery or condiment by man, whether simple, mixed, or compound. (Id. § 65-606.)

7. When Articles Deemed Adulterated.—For the purpose of this act an article shall be deemed to be adulterated—In case of drugs: First, if when a drug is sold or dispensed under or by a name recognized in the United States Pharmacopœia or National Formulary it differs in composition or standard of strength, quality or purity from that recognized by the United States Pharmacopœia official at the time of sale or when dispensed, or if it differs in composition or standard from that recognized by the National Formulary official at the time of sale; second, if its strength or purity fall below the professed standard or quality under which it is sold. In case of confectionery: If it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound, or any narcotic drug. In case of food: First, if any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it be mixed, colored, powdered, coated, stained, or otherwise treated in a manner whereby damage or inferiority is concealed, or whereby it is made to appear better than it really is; fifth, if it contains any added poisonous or deleterious ingredient which may render such article injurious to health; provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the cover of the package, the provision of this act shall be construed as applying only when said products are ready for consumption; sixth, if it consist in whole or in part of a filthy, decomposed, tainted or putrid animal or vegetable substance or any portion of an animal unfit for food whether manufactured or not, or if it is the product of a diseased animal or one that had died otherwise than by slaughter. (Id. § 65-607.)

8. When Articles Deemed Misbranded.—The term "misbranded," as used herein, shall apply to all drugs or articles of food, or articles which enter into the composition of food, the container or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State in which it is manufactured or produced. That for the purpose of this act an article shall also be deemed to be misbranded—In case of drugs: First, if it be an imitation of or offered for sale under the name of another article; second, if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta-eucaine, chloroform, cannabis indica, chloral hydrate, phenacetin, acetanilid, or any derivative or preparation of any such substance, contained therein; provided, that drugs and medicines dispensed by or on the order of a physician's prescription, or in accordance with a formula submitted by the purchaser and intended for immediate or temporary use, need not bear any statement on the package as to its contents, when labeled with directions for use.

In the case of foods: First, if it be an imitation of or offered for sale under the distinctive name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when

not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta-eucaine, chloroform, cannabis indica, chloral hydrate, phenacetin, acetanilid, or arsenic, or any derivative or preparation of any such substance contained therein, or which shall omit to state the presence of any artificial coloring matter contained therein; third, if in package form, and the contents are stated in terms of weight, measure or quantity, the net weight, measure or quantity is not plainly and correctly stated on the outside of the package; fourth, if the package containing it, or its label, shall bear any statement, design or device regarding the ingredients, or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases: First, in the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with the statement of the place where said article has been manufactured or produced; second, in the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods, which contain no unwholesome ingredients, to disclose their trade formulas, except in so far as the provisions of this act, or the rules and regulations of the State Board of Health, may require to secure freedom from adulteration or misbranding. (Id. § 65-608.)

9. Guaranty.—No dealer shall be deemed guilty under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party from whom he purchased such articles to the effect that the same is not adulterated or misbranded, within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this act; provided, that this exemption shall not apply when such dealer knew or ought to have known that such drugs, liquors or foods so sold, offered or kept for sale were adulterated or misbranded, within the meaning of this act. (Id. § 65-609.)

10. "Person" Defined; Acts of Agents.—The word "person," as used in this act, shall be construed to include both the plural and singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person. (Id. § 65-610.)

11. Co-operation With Federal Officers.—The Secretary of the State Board of Health is authorized to confer and co-operate with the United States Department of Agriculture in the enforcement of the national pure food law, as it may apply to food, liquor and drug products received in this State from other States, territories, or foreign countries. (Id. § 65-611.)

12. Entry and Inspection by Food Inspectors.—For obtaining information regarding suspected violations of law, the chief food inspector or his duly appointed assistants shall have access to all places where any article of food or other article, the manufacture or sale of which is restricted, regulated or prohibited by this chapter, is stored or prepared for sale, or may be manufactured, kept for sale, or sold, and to places where food is or may be cooked, prepared, sold or kept for sale to or for the public, or distributed as a part of the compensation of servants and agents, including public and private hospitals, railroad camps, inns, boarding and eating houses, drinking places, dining cars, boats, and other places where any of said articles may be sold, and they may inspect any packages

or receptacle found therein apparently containing any article of food or ingredient thereof, or any other article the manufacture or sale of which is restricted, regulated or forbidden by this chapter, and may take samples therefrom for analysis, tendering payment therefor. Any person obstructing such entry or inspection, or failing upon request to assist therein, shall be guilty of a misdemeanor. (Id. § 65-612.)

13. Standards of Quality, Purity and Strength.—The standards of quality, purity and strength for foods and drugs that have been adopted by the United States Department of Agriculture are hereby declared to be the standards of purity, quality and strength for foods and drugs in the State of Kansas until other standards are prescribed by the State Board of Health; in which case such standards so adopted by the State Board of Health shall be official for the State of Kansas from and after their publication in the official State paper. (Id. § 65-613.)

14. Penalty For Violation of Preceding Sections.—Any person who shall violate any of the provisions of this act for which no other penalty is prescribed herein shall on conviction be fined in a sum not less than ten dollars or more than one hundred dollars or be imprisoned in the county jail not more than three months, or by such fine and imprisonment, in the discretion of the court. (Id. § 65-614.)

Miscellaneous General Provisions.

15. Making of Analysis of Foods.—It shall be and is hereby made the duty of the departments of chemistry of the Kansas State University and State Agricultural College of the State of Kansas to make a thorough and complete analysis of all samples of food products and beverages manufactured or prepared for domestic use sent to said chemistry departments by the State Board of Health, or any county or city board of health of the State of Kansas, and make a report to the State Board of Health, giving a correct analysis of all such samples of food or beverage, together with the name of the article or sample analyzed and of the manufacturer thereof, when the same is known to the State Chemist in charge. (R. S. 1923, § 65-154.)

16. Duties of State Board as to Food Products.—It shall be the duty of the State Board of Health to make a record of the reports received from the said chemistry departments of the said Kansas University and the State Agricultural College, and said State Board of Health shall have compiled and printed quarterly, and a copy thereof sent to each county and city board of health within the State of Kansas. Said Board of Health shall examine said reports and analyses therein contained, and in all cases wherein any impure or poisonous substance is contained, detrimental or injurious to the health of those consuming or using the same as food or drink, said Board of Health shall publish and cause to be made public the name of the article or articles so found to be impure and injurious to health and the name of the manufacturer thereof, where the same can be ascertained, the same to be published in the official county paper, and paid for as other county or city printing. (Id. § 65-155.)

NOTE: See also No. 103.

PART II.

Special Food Laws.

Beverages.

See Nos. 15-16 and 127 et seq.

Bread.

See No. 178.

Cold Storage.

See No. 63.

Confectionery.

See No. 7.

Dairy Products—Substitutes For Dairy Products.

17. Dairy Commissioner.—There is hereby created the office of the State Dairy Commissioner and immediately upon the taking effect of this act the State Board of Agriculture shall appoint a State Dairy Commissioner and such deputies as in its judgment may be necessary to carry out the provisions of chapter 65, article 7, of the Revised Statutes of Kansas of 1923,* and fix their compensation. Said State Dairy Commissioner and deputies shall act under the control and direction of the State Board of Agriculture and shall be subject to removal by said board. Said State Dairy Commissioner shall be furnished office space in the Statehouse at Topeka. (R. S. 1923, § 75-1401, as amended L. 1925, c. 261.)

18. Inspections and Regulations.—It shall be the duty of the State Dairy Commissioner to inspect or cause to be inspected all the creameries, public dairies, butter, cheese and ice cream factories, or any place where milk or cream or their products are handled or stored within the State, at least once a year, or oftener if possible, and in connection with the board of administration to formulate and prescribe such reasonable rules and regulations for the operation of creameries, butter, cheese and ice cream factories and public dairies as shall be deemed necessary by such board to fully carry out the provisions of this act, and all laws now in force or that may hereafter be enacted relative to dairy products and for the promotion and maintenance of the public health and safety, and also for advancing the value to the outside world of Kansas dairy products. He shall act on such reports and complaints as he may receive from owners and managers of public dairies, creameries, butter, cheese and ice cream factories, or other persons, wherein is reported to him the names and locations of one or more producers of milk or cream, butter, cheese or ice cream who are offering for sale milk, cream, butter, cheese or ice cream that is not fresh and clean; and in such instances he may inspect barns or farmhouses, creameries, factories or other places where dairy products or utensils are produced, kept, handled or sold, give advice and instructions in the proper performance of the work, and where such instructions are disobeyed, to prohibit the sale of unclean or unwholesome milk, cream, butter, cheese or ice cream until such time as his instructions are complied with. It shall further be his duty to condemn for food purposes all unclean or unwholesome milk, cream, butter, cheese or ice cream, wherever he may find them. He shall compile and publish annually statistics and information concerning all phases of the dairy industry in this State, and the manufacturers of dairy products, upon his request, shall furnish the Dairy Commissioner with such reports and statistics as he may require, and such reports shall be used for the purpose of compiling statistical reports of general dairy interest. He shall co-operate with the Kansas State Agricultural College in the holding of farmers' institutes and special dairy meetings in so far as it will not conflict with the performance of his official duties, and in general strive for the promotion of the best interests of the dairy industry throughout the State. He shall preserve in his office all correspondence, records, documents and property of the State pertaining thereto, and turn over same to his successor. The State Dairy Commissioner and his deputies shall each devote his whole time to the duties of his office, and during his term shall hold no other official or business position, nor any professorship in any educational institution. (R. S. 1923, § 65-701.)

19. Authority of Officers; Analysis and Investigations.—In the performance of their official duties the State Dairy Commissioner and his deputies are hereby authorized and empowered to enter, during business hours, all creameries, public dairies, cheese and ice cream factories, or other places where dairy products are manufactured, produced, stored, sold or kept for sale or transportation, for the purpose of inspecting the same; to take samples anywhere of any dairy products or imitation thereof suspected of being made or sold in violation of law, and cause the same to be analyzed or satisfactorily tested by the chemist of the Kansas Experiment Station. Such analysis or tests shall be preserved and recorded as evidence, and the certificate of such test, when sworn to by such chemist, shall be admitted in evidence in all prosecutions that may result under the operation of this act. They shall also have power to examine, under oath or otherwise, any person whom they may believe has knowledge concerning the unlawful operation of any creamery, public dairy, butter, cheese or ice cream factory. The Dairy Commissioner shall have power to issue subpoenas requiring the appearance of witnesses and the production of books and papers, and to administer oaths with

*See Nos. 18-34.

like effect as is done in courts of law in this State. It shall be the duty of any District Court or the judge thereof, upon the application of said State Dairy Commissioner, to issue an attachment for such witnesses, and compel him or them to attend before the commissioner and give testimony upon such matters as he or they shall be lawfully required to give by such commissioner, and said court or judge shall have power, in cases of refusal, to punish for contempt, as in other cases of refusal to obey the orders and process of the court. (Id. § 65-702.)

20. Definition of Terms; Sales.—The term "creameries, public dairies, butter, cheese and ice cream factories," for the purposes of this act, shall be considered to mean such as produce or manufacture for sale dairy products, either at wholesale or retail. All milk or cream, butter, cheese, ice cream, or dairy products, sold or offered for sale shall be delivered pure and fresh and handled with clean utensils. In all cases it shall be unlawful to sell or offer for sale milk or cream from diseased or unhealthy animals or handled by any person suffering from or coming in contact with persons afflicted with any contagious disease. In all prosecutions and proceedings for the enforcement in any of the courts of this State of all laws and regulations of whatsoever nature now in force, or that may hereafter be enacted, pertaining to the production, sale and distribution of dairy products of any kind whatsoever, the standards of purity and the definition of said products shall be such as are hereafter stated, and whosoever shall sell or offer or expose for sale anywhere in this State milk, cream, butter, cheese or ice cream containing any foreign substances or preservatives of any kind whatsoever except common salt, or the milk or cream of any diseased or unhealthy animal, or that shall not comply with the standards hereinafter provided, shall be guilty of a misdemeanor. (Id. § 65-703.)

21. Babcock Test.—It shall be unlawful for any person or persons engaged in buying, selling, testing or handling, or engaged in determining the value of milk, cream or other dairy products by the use of the Babcock test, to give any false reading or any way manipulate the test so as to give a higher or lower per cent of butter fat than the milk, cream or other dairy products actually contain, or to cause any inaccuracy in reading the per cent of butter fat by securing from any quantity of milk, cream or other dairy products to be tested an inaccurate sample for the test. All test tubes, bottles, pipettes or instruments used in connection with testing or determining the value of milk, cream or other dairy products by the use of the Babcock test shall be approved by the State Dairy Commissioner. It shall be unlawful for any person or persons to use any test tube, bottle, pipette or instrument in connection with such test which is not perfectly clean; for the purposes of this act, any unclean test bottle, tube or pipette is declared inaccurate. Only such centrifuge or scales shall be used as shall meet the approval of the State Dairy Commissioner. All tests shall be maintained at a temperature of 130 degrees F. for at least ten minutes before the reading of the per cent of butter fat is made and recorded. In reading cream tests glymol must be used, and the samples under test must be held in a water bath of such a temperature that the tests shall be read at 135 degrees F. The water in bath must extend above the butter fat column in the neck of the bottle. (Id. § 65-704.)

22. Official Tests.—It shall be the duty of the Dairy Commissioner and his deputies and they are hereby authorized to test milk, cream and other dairy products for the purpose of ascertaining the percentage of butter fat or other ingredients contained therein; and if said Dairy Commissioner or any of his deputies shall find upon test that there is a variance of more than one per cent between his test and that made by any person engaged in testing, buying or selling milk, cream or other dairy products, said commissioner or deputy commissioner shall cause his test to be verified and substantiated by the chemist of the Kansas Experiment Station; and if such chemist shall find that the test made by such commissioner or deputy commissioner is correct, the test thus made and verified shall, in all prosecutions for violations of the provisions of this act, be prima facie evidence that the test made by the person engaged in testing, buying or selling such milk, cream or other dairy products was falsely and fraudulently made. (Id. § 65-705.)

23. Cleanliness of Premises; Shipments.—It shall be unlawful for any person, persons, company, partnership, corporation or association, or any manager, employee or agent thereof, to handle milk, cream, butter, ice cream or other dairy products in unclean or insanitary places, or in an insanitary manner, or to keep, store, handle or care for the same in any room, building or inclosed place in which oils, vegetables, eggs, poultry or other strongly flavored products are kept or handled, or in any room having a door opening into any other room or inclosed place in which any such oils, vegetables, eggs, poultry or other strongly flavored products are kept or handled, or to keep, store or handle any milk, cream or other dairy products

in any place opening upon or connected with any cow, horse or hog barns or sheds, or other places where live stock is kept, housed or handled; and the State Dairy Commissioner and his deputies shall have the power and they are hereby authorized to forbid the handling of cream, milk, butter, ice cream or other dairy products in any such place or places as in their judgment are insanitary and will affect the purity of the milk, cream, butter, ice cream or other dairy products handled therein, or that will in any way injure the flavor or market value thereof. It shall be unlawful for any person, persons, firm, partnership, company, corporation or association to handle, test or ship milk, cream or ice cream or other dairy products in unclean or insanitary vessels, or to expose milk, cream or ice cream or other dairy products to flies or other contaminating influences liable to convey pathogenic or other injurious bacteria to such milk, cream, ice cream or other dairy products; and it shall be unlawful for any common carrier to neglect or fail to remove or ship from any railroad depot, on the day of its arrival there for shipment, any milk, cream or other dairy products left at such depot for transportation; and it shall be unlawful for any person, firm, partnership, company, corporation or association using cans in which milk or cream is shipped to allow the same to remain at a railroad depot longer than one day from the date of their arrival, or to allow them to stand more than one day without removing the covers and inverting the cans in pure air. It shall be unlawful to use, lend or lease for use any cream or milk can or ice cream packer or container for any other purpose than the handling, storing or shipping of milk, cream or ice cream. (Id. § 65-706.)

24. Constituents, Tests and Handling of Milk, Cream, Butter, Cheese and Ice Cream.—(a) (1) Whole milk is the lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and five days after calving, and contains not less than three and one-fourth per cent of butter fat; (2) milk for butter making may contain less than three and one-fourth per cent of butter fat but must be delivered pure, sweet and clean. (b) (1) Cream is that portion of milk rich in butter fat which rises to the surface of the milk on standing or is separated from it by centrifugal force, and contains not less than eighteen per cent of butter fat; (2) cream to be used in the manufacture of butter that is not delivered to point of shipment within twenty-four hours after milking must contain not less than twenty-five per cent of butter fat and shall be delivered in wholesome condition. No part of any shipment of cream to be used in the manufacture of food products shall be delivered to the carrier in an unwholesome condition. Such cream must not be delivered at the point of shipment more than one hour before the schedule time of the train on which it is to be shipped unless kept in a protected, cool and sanitary place, free from foul odors. (c) (1) Butter is the product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass which also contains not less than eighty per cent of butter fat and less than sixteen per cent of water, or such test as shall be established by the Department of Agriculture of the United States: provided, that the amount of butter fat or water in the product of any one manufacturer or in any given quantity of butter shall be determined as hereinafter provided with reference to renovated or process butter; butter may also contain a harmless vegetable coloring matter; (2) renovated or process butter is the product made by melting butter and reworking without the addition or use of chemicals or any substance except milk, cream or salt, and contains not less than eighty per cent of butter fat and less than sixteen per cent of water, or such test as shall be established by the Department of Agriculture of the United States: provided, that the amount of butter fat or water in the product of any one manufacturer, or in any given quantity of butter, renovated or process butter, shall be ascertained in the following manner, to wit: Five samples shall be taken from five different packages of any one manufacturer or from any one tub or churning of butter, and a careful analysis made by the official method adopted by the Association of Agricultural Chemists. If this analysis shall show less than eighty per cent of butter fat or sixteen per cent or more of water, butter or process butter thus analyzed shall be deemed adulterated butter and shall be condemned for food purposes by the commissioners. Renovated or process butter may also contain a harmless vegetable coloring matter. (d) (1) Cheese is the solid and ripened product made by coagulating the casein of milk by means of rennet or acids, with or without the addition of ripening ferments or seasoning; cheese may also contain harmless vegetable coloring matter; (2) whole milk or full cream cheese is cheese made from milk from which no portion of the fat has been removed and contains not less than fifty per cent of butter fat in proportion to total solids; (3) skim milk cheese is cheese made from milk from which any portion of the fat has been removed. (e) (1) Ice cream is a frozen product containing not less than ten per cent milk fat and not less than

a total of twenty per cent milk solids, said product consisting of a flavored, sugar-sweetened mixture of cream or cream and milk, or the sweet, pure products of cream and milk, with or without the addition of gelatine, vegetable gums or such other wholesome stabilizers as may be approved by the State Dairy Commissioner, to which mixture may be added pure, fresh, sweet, wholesome eggs, fruit or fruit juice, cocoa, chocolate or nuts; (2) ice cream offered for sale or sold shall weigh not less than four and three-quarters pounds per gallon. Violation of this provision shall subject the offender to the penalties of this act. (3) All milk, cream and milk products shall be pasteurized before used in the manufacture of ice cream. Pasteurization for the purposes of this act is defined to mean the heating of the milk, cream or milk products used in the manufacture of ice cream to a temperature of at least 145 degrees Fahrenheit and held at said temperature for thirty minutes; or the heating thereof to 180 degrees Fahrenheit for thirty seconds. (f) (1) Samples of ice cream taken for official test under section 3 of this act [65-702] shall be taken with a butter trier from a full or nearly full can of ice cream in solid condition or from the ice cream freezer; (2) every person, firm or corporation purchasing ice cream in cans which are to be returned to the manufacturer by a common carrier shall cause such cans to be washed and cleansed as soon as emptied and shall, within seventy-two hours thereafter, deliver the same to the common carrier for shipment to the owner. Failure to do so shall be unlawful and subject the offender to the penalties provided by this act. (g) (1) It shall be unlawful for any person, firm or corporation except churches, lodges or other benevolent societies to engage in the manufacture of ice cream for sale without having first obtained a permit granted by the State of Kansas signed by the Dairy Commissioner and bearing his official seal. Such permit shall be granted for a period of one year or from the date of issuance to the succeeding first of March. Any violation of this provision shall subject the offender to the penalties provided by this act and in addition thereto his license may be revoked upon conviction. (Id. § 65-707.)

25. Test Permits.—It shall be unlawful, after January 1, 1910, for any person to sample or test cream, milk or other dairy products without first having a permit granted by the State of Kansas, signed by the Dairy Commissioner, bearing the seal of his office, and such permit shall be conspicuously displayed in his place of business. This permit shall be granted to those who have a certificate from some recognized college or dairy school where the art of testing dairy products is taught or to those who have passed a satisfactory examination under the direction of the State Dairy Commissioner. This permit shall be granted for the period of three years from the date of issue, subject to cancellation by the State Dairy Commissioner at any time that he shall find that the person holding said permit is guilty of violating any of the provisions of this act or the regulations based thereon. The provisions of this section shall not include farmers or others who are testing the milk or cream of their own cows for the purpose of keeping a record of the same, or those who test milk or cream for any other purpose than to determine its value when bought or sold, or shall not conflict with the inspectors of the Food and Drug Law or provisions thereof in taking samples of dairy products. (Id. § 65-708.)

26. Violation of Preceding Sections.—Any person, company or corporation, or any agent of any company or corporation, violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five nor more than two hundred dollars for each offense. (Id. § 65-709.)

27. Selling, Buying and Using Diluted or Unclean Milk.—Whoever shall knowingly sell, supply or bring to be manufactured to any cheese manufactory in this State any milk diluted with water or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as skim milk; or whoever shall keep back any part of the milk known as "strippings"; or whoever shall knowingly bring or supply milk to any cheese manufactory that is tainted or partly sour from want of proper care in keeping pails, strainers, or any vessel in which said milk is kept, clean and sweet, after being notified of such taint or carelessness; or any cheese manufacturer who shall knowingly use, or direct any of his employees to use, for his or their individual benefit, any cream from the milk brought to said cheese or butter manufacturers, without the consent of all the owners thereof, shall for each and every offense forfeit and pay a sum not less than twenty-five dollars nor more than one hundred dollars, with costs, to be recovered in a criminal action. (Id. § 65-710.)

28. Adulteration of Cheese or Milk.—Whosoever shall knowingly sell to any person or persons, or sell, deliver or bring to be manufactured to any cheese or butter manufactory in this State any milk diluted with water or in any way adulterated, or milk from which any cream has been taken, or milk commonly

known as skimmed milk, or shall keep back any part of milk known as strippings, with intent to defraud, or shall knowingly sell milk the product of a diseased animal or animals, or shall knowingly use any poisonous or deleterious material in the manufacture of cheese or butter, shall upon conviction thereof be fined in a sum not less than twenty-five dollars nor more than one hundred dollars, and liable in double the amount of damages to the person or persons, firm, association or corporation upon whom such fraud shall be committed. (Id. § 65-711.)

29. Standards For Condensed Milk.—No person, firm, or corporation, by himself, or by his, their, or its agents or employees, shall sell, keep for sale, or offer for sale any condensed or evaporated milk, concentrated milk, sweetened condensed milk, sweetened evaporated milk, sweetened concentrated milk, sweetened condensed skimmed milk, sweetened evaporated skimmed milk, sweetened concentrated skimmed milk, which shall not conform at least to the minimum standards hereinafter provided.

Condensed milk, evaporated milk, concentrated milk, is the product resulting from the evaporation of a considerable portion of the water from the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains, all tolerances being allowed for, not less than twenty-five and five-tenths per cent (25.5%) of total solids and not less than seven and eight-tenths per cent (7.8%) of milk fat.

Sweetened condensed milk, sweetened evaporated milk, sweetened concentrated milk, is the product resulting from the evaporation of a considerable portion of the water from the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than twenty-eight per cent (28.0%) of total milk solids, and not less than eight per cent (8.0%) of milk fat.

Condensed skimmed milk, evaporated skimmed milk, concentrated skimmed milk, is the product resulting from the evaporation of a considerable portion of the water from skimmed milk, and contains, all tolerances being allowed for, not less than twenty per cent (20.0%) of milk solids.

Sweetened condensed skimmed milk, sweetened evaporated skimmed milk, sweetened concentrated skimmed milk, is the product resulting from the evaporation of a considerable portion of the water from skimmed milk to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than twenty-eight per cent (28.0%) of milk solids. (Id. § 65-712.)

30. Addition of Fat or Oil to Milk or Cream.—No person, firm, or corporation by himself, or by his, their, or its agents or employees, shall manufacture, sell, keep for sale, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products, or articles or the derivatives thereof, or under any fictitious or trade name whatsoever. (Id. § 65-713.)

31. Milk Containers.—No person, firm, or corporation, by himself, or by his, their, or its agents, or employees, shall sell, keep for sale or offer for sale any condensed or evaporated or powdered skim milk in containers holding less than ten (10) pounds avoirdupois net weight and each said container shall bear the name and address of the manufacturer, distinctly branded, indented, labeled or printed thereon, together with the words "condensed skim milk," or "powdered skim milk," as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand, indentation or label. (Id. § 65-714.)

32. Violation of Preceding Sections.—Any person, firm, or corporation, and any officer, agent, servant, or employee of such person, firm or corporation who violates any of the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars. (Id. § 65-715.)

33. Enforcement of Act.—The Dairy Commissioner, by himself or his deputies shall be charged with the enforcement of the provisions of this section [act]. (Id. § 65-716.)

34. Interstate Shipments.—Nothing in this section shall be construed to prohibit the shipment into this State from a foreign State and the first sale thereof in this State in the original package intact and unbroken, of any of

the products or articles, the manufacture, sale or exchange of which or possession of which, with intent to sell or exchange is prohibited hereby. (Id. § 65-717.)

NOTE: See also Nos. 177 and 179.

Eggs.

See No. 23.

Feeding Stuffs.

35. Definition.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except the following: (a) Whole seeds or grains. (b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and milo. (c) Whole hays, straws, cottonseed hulls and corn stover, when unmixed with other materials. (d) All other materials consisting of 60 per centum or more of water. (R. S. 1923, § 2-1001.)

36. Label.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language clearly and truly certifying: (a) the net weight of the contents of the package, lot or parcel; (b) the name, brand or trade-mark; (c) the name and principal address of the manufacturer, or person responsible for placing the commodity on the market; (d) the minimum per centum of crude protein; (e) the minimum per centum of crude fats; (f) the maximum per centum of crude fibre; (g) [the] per centum of carbohydrates; (h) [the] per centum free nitrogen; (i) the specific name of each ingredient used in its manufacture. The crude protein, crude fats and crude fibre shall be determined by the methods in force at the time by the association of official agricultural chemists of North America. (Id. § 2-1002.)

37. Certified Statement by Producer.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs, he or they shall file with the secretary of the State Board of Agriculture of the State of Kansas, a certified copy of the statement specified in section 2 [2-1002], with the exception of subdivision (a), for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the secretary of the State Board of Agriculture shall so request, by a sealed package, containing at least one pound of the commercial feeding stuffs to be sold, offered or exposed for sale or distributed in this State, and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative of the commercial feeding stuffs offered for registration. (Id. § 2-1003.)

38. Inspection Fee; Shipping and Sale Tags.—Each and every manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs, as defined in section 1 of this act [2-1001], shall pay to the secretary of the State Board of Agriculture an inspection tax or fee of eight cents (8c) per ton, for each brand of commercial feeding stuffs sold, offered or exposed for sale or distributed in this State, and shall affix to or accompany each lot shipped in bulk; and to each parcel of such commercial feeding stuffs, tags or stamps to be furnished by the secretary of the State Board of Agriculture, stating that all charges specified in this section have been paid. (Id. § 2-1004, as amended L. 1925, c. 4.)

39. Name of Feeding Stuffs; Cancellation of Registration; Lowering or Change of Analysis.—The said secretary shall have power to refuse to register any commercial feeding stuffs under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each and all ingredients used in its manufacture are not stated. He shall also have the power to refuse to register more than one commercial feeding stuffs under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be registered in this State, and it is afterward discovered that such registration is in violation of any of the provisions of this act, the Secretary of Agriculture shall have the power to cancel such registration; the said secretary shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation, or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeding stuffs during the term for which

registered, unless satisfactory reasons are presented for making such change or changes. (R. S. 1923, § 2-1006.)

40. Persons Exempt From Registration.—Whenever a manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling a brand of commercial feeding stuffs shall have filed the statement required by section 3 [2-1003], and paid the inspection tax or fee, as required by section 4 of this act [2-1004], no other agent, importer, jobber, firm, association, corporation or person shall be required to file such statement or pay such tax or fee upon such brand. (Id. § 2-1007.)

41. Samples For Analysis.—The said State Board of Agriculture is authorized in person or by deputy to have free access to all places of business, mills, buildings, vessels of whatsoever kind, used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuff and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuff and to take therefrom in the manner prescribed in section 9 [2-1009] samples for analysis and shall tender therefor the retail price of the sample or samples procured: provided, that such agent or agents of the said State Board of Agriculture, before entering the premises, shall make application to party or parties in charge of any manufacturer, importer, jobber, firm, association, corporation or person who sells, offers or exposes for sale or distributed [distribution] in this State any commercial feeding stuffs defined in this act. (Id. § 2-1008.)

42. Analysis of Samples.—A representative sample of each brand of commercial feeding stuffs found sold, offered or exposed for sale shall be taken by the said secretary or his duly authorized representative in the presence of at least one witness. No action shall be maintained for a violation of the provisions of this act based upon an analysis of a sample from not less than five separate original packages unless there be less than five separate original packages in the lot, in which case portions for the official sample shall be taken from each original package; if the commercial feeding stuffs is in bulk, portions shall be taken from not less than five different places in the lot: provided, that this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. Said sample shall be divided into two parts and shall be placed in packages and sealed in the presence of said witness, one of said packages so sealed shall be tendered, and if accepted, delivered to the person apparently in charge of such feeding stuffs; the other package the said secretary shall analyze or cause to be analyzed and the result of such analysis, together with such additional information as the said secretary may deem advisable, shall be promptly transmitted to the manufacturer or person responsible for the placing of the commodity on the market and shall be published in reports or bulletins from time to time. If the manufacturer or person responsible for the placing of any commodity so sampled upon the market be unable to secure the sample delivered to the person apparently in charge of the feeding stuffs sampled, he shall upon request to the secretary be furnished with a portion of the official sample referred to in this section. The methods of analysis shall be those in force at the time by the Association of Official Agricultural Chemists of North America. (Id. § 2-1009.)

43. Prosecutions.—If it appears that any provisions of this act have been violated, the said secretary shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the result of the analysis or other examination of such feeding stuffs duly authenticated by the analyst or other officer making the determination under the oath of such officer: provided, that if it shall appear from any such examination that any provisions of this act have been violated the said secretary shall cause notice to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the said secretary of the State Board of Agriculture before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this act, certificates of the analyst making the analysis, when duly sworn to by such analyst, shall be prima facie evidence of the fact or facts therein certified. (Id. § 2-1010.)

44. Offenses.—Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs without having attached thereto or furnished therewith such tax stamps, labels or tags as required by the provisions of this act, or who shall use the required tax stamps, labels or tags a second time, or use a counterfeit of such tax or stamps, labels or tags, or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said secretary or his

authorized agent in the performance of his duty in connection with the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section 1 [2-1001] without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs which contain a smaller per centum of crude protein or crude fat or larger per centum of crude fibre than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) for each subsequent violation. Any manufacturer, importer, jobber, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of live stock or poultry shall be deemed guilty of a violation of the provisions of this act and in addition to the penalty provided in this section, the lot of feeding stuffs shall be subject to seizure and condemnation and sale as the court may direct; the proceeds from such sale, and all penalties recovered under this act shall be covered into the school fund of the county wherein the offense was committed. The court may in its discretion release the feeding stuffs so seized when the requirements of the provisions of this act have been complied with and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure. (Id. § 2-1011.)

45. Regulations.—The Secretary of the State Board of Agriculture is hereby empowered to enforce the provisions of this act and to prescribe the form of tags, stamps or labels to be used to show that the inspection tax or fee has been paid, and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the lawful intent and meaning of this act. (Id. § 2-1013.)

NOTE: See also Nos. 76-78.

Fish.

See Nos. 64 and 73-74.

Flour—Meal.

See No. 168.

Fruits, Vegetables, Etc.

See Nos. 23, 67 and 168 et seq.

Grain.

46. State Grain Inspection Department; Creation and Functions.—A department of record for the inspection, sampling, sampling for inspection and weighing of grain is hereby established to be called the State Grain Inspection Department. Said department shall have full charge of the inspection, sampling, sampling for inspection and weighing of grain at all railroad terminals, public warehouses and mills or other points within the State wherever the business transacted will, by the fees provided by law, pay the salary of an assistant inspector and weighmaster, or wherever, upon request by parties interested to the chief inspector, he may establish inspection and arrange that the officer in charge accept as full compensation for his services an amount equal to the net revenue obtained at such a place or a guaranteed salary by the industries at such station; provided, that the owner may direct that his grain may not be inspected by writing or stamping upon the bill of lading thereof "No inspection desired" or words to that effect. (R. S. 1923, § 34-101.)

47. Duties of Chief Inspector; Certificates of Weight; Scale Tickets; Grain Cleaners.—It shall be the duty of the chief inspector to have a general supervision of the inspection, sampling, sampling for inspection and weighing of grain, as required by this act or the laws of the State; to supervise the handling, inspection, sampling, sampling for inspection and weighing and storage of grain; to establish necessary rules and regulations therefor, and for the management of the public warehouses of the State, as such rules and regulations may be necessary to enforce the provisions of this act or any law of this State in regard to the same; to keep proper records of all the inspection, sampling, sampling for inspection and weighing done into and out of warehouses licensed by law to do business in this State, for which purpose he shall have provided books, blanks and other material

needed in order to keep perfect and proper records. He shall investigate all complaints of fraud or oppression in the grain trade and correct the same so far as may be in his power. It is hereby declared unlawful for boards of trade, chambers of commerce or any civic or commercial organizations of similar character to have charge of weighing or issue certificates of weight on grain at any point within the State. All certificates of weight, except those issued by private industries for the purpose of making settlement with their own customers, shall be issued by officials or employees of the Kansas State Grain Inspection and Weighing Department on the regular form of weight certificate adopted and approved by the chief inspector. All scales over which official State weights of carlots of grain are taken shall be equipped with type-registering beams in order that an original punched scale ticket may be taken of each draft weighed. The original punched scale tickets shall become the property of the Kansas State Grain Inspection and Weighing Department and shall be filed as a record of the weight. It is hereby declared unlawful for any person, company or corporation to install or continue to maintain at any elevator, mill or warehouse where official State weights are given, any blower, suction fan, cleaner or other device for the purpose of removing dirt, seeds, sticks, chaff or any like substance from grain unloaded into said elevator, mill or warehouse before the grain has been officially weighed. It is hereby declared to be unlawful for any person, persons, firm or corporation to in any manner change or alter an official State inspection or weight certificate after it has been issued. Where an official State weight certificate has been issued on any lot of grain the purchaser must make settlement on the basis of the amount of grain shown on the said weight certificate. Any person, persons, firm or corporation who shall violate the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not less than one hundred dollars or more than five hundred dollars or imprisoned in the county jail for a period of not less than thirty days or more than one year or both fine and imprisonment. (Id. § 34-102.)

48. Inspection Fees.—The fees for services of the officers of the department shall be as follows: For inspecting or sampling each carload, and moisture tests, one dollar; for inspecting each wagon or cart load, ten cents; for weighing in or out of elevators or warehouses, one dollar per car; duplicate certificates ordered after service is performed, ten cents; extra moisture tests, twenty-five cents; extra samples, twenty-five cents: Provided, when there has been accumulated in the revolving fund, from the fees provided for by this section, the sum of \$80,000, then the fee for inspecting or sampling each carload, moisture tests, and the fee for weighing in or out of elevators or warehouses shall be reduced to sixty cents per car, and shall remain at sixty cents a car until the surplus in the revolving fund shall be reduced to \$40,000, when the fees shall revert to one dollar per car. The chief inspector shall have the power to fix the manner in which the fees shall be collected. In case any persons, warehouse or railroad corporation or any of their agents or employees shall refuse or prevent the officers of the department from having access to their scales, elevators, warehouses and other places in the regular performance of their duties in inspecting, sampling, sampling for inspection and weighing grain or other property in accordance with the tenor and meaning of this act or any other law now in force or that may be enacted in relation to the same, such persons or corporations shall be guilty of a misdemeanor. (Id. § 34-103, as amended L. 1925, c. 179.)

49. Charges For Inspection and Weighing Grain in Transit.—The charges for inspection, sampling and weighing of grain so inspected, sampled or weighed, and whenever such grain is in transit the said charges shall be treated as advanced charges, shall be collected and paid by the common carrier in whose possession the same is at the time of such inspection, sampling or weighing. (R. S. 1923, § 34-104.)

50. Inspectors.—The inspection, sampling, sampling for inspection or weighing of grain in this State, whether into or out of public warehouses or elevators, or in cars arriving at points where a State grain inspection is established, shall be performed by such persons only as have been duly appointed by the chief inspector of the State of Kansas Grain Inspection Department, and qualified according to law and any person who shall act as such inspector, sampler, sampler for inspection or weigher of grain who has not been duly appointed and qualified, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not to exceed thirty days, or by both such fine and imprisonment; provided, nothing in this act shall apply to grain when the bill of lading is marked "No inspection desired" or words to that effect, as provided in section 1 of this act [34-101]. (Id. § 34-106.)

51. Control of Inspection.—The chief inspector and assistant and officers of the Grain Inspection Department shall have exclusive control of the inspection, sampling, sampling for inspection and weighing of grain in all places where inspection, sampling, sampling for inspection or weighing is or shall be established under this act; the action and certificate of such officer shall be conclusive to all parties interested, unless appealed from as provided by law. (Id. § 34-107.)

52. Bribery.—Any person, or any representative of a firm, trust, corporation, or association, who shall bribe or offer to bribe any of the officers created under this act shall be deemed guilty of a felony, and upon conviction shall be punished by confinement at hard labor in the penitentiary for a term not exceeding seven years. (Id. § 34-108.)

53. Certificates; Reinspection; Appeals Committee; Inspection on Cars.—Whenever inspection is made as herein provided, the officer making the same shall give to the person, persons, firm or corporation, a certificate showing the result of such inspection. A reinspection may be had if called for within forty-eight hours after the previous inspection, at the same station, or if desired at a different station within forty-eight hours after the arrival of the car at such station. In case any owner, consignee, or shipper of grain, or any warehouse manager shall be aggrieved by the decision of any inspector on any inspection or reinspection, he or they may take an appeal within forty-eight hours to an appeal committee, constituted as hereinafter provided. The appeal committee shall be a permanent committee, appointed by the chief grain inspector in every community in which State inspection shall be established. Said committee shall be composed of three persons who shall be experienced grain men and their decision shall be final in the controversy; provided, that in case the findings as shown by such certificate made in the previous inspection is sustained, the party or parties demanding such reinspection shall pay the expenses caused by such reinspection. A certificate by any officer of this department showing such inspection made at any point within the State of Kansas shall be valid and effective at any other point within the State, and any party interested shall have the right to demand a reinspection of said grain within forty-eight hours after its arrival at any other point within the State, as above provided. When appeals are taken to the appeals committee as herein provided, the party taking such appeal shall pay to the said committee a sum not to exceed three dollars per case before said appeal shall be heard, and in case said appeals committee shall find the inspection or reinspection to be correct as shown by the certificates issued by the officer making such inspection or reinspection, the said three dollars so deposited shall be forfeited to the State Grain Inspection Department, but if said committee shall find an error in the inspection or reinspection as shown by such certificate, then the three dollars so deposited shall be returned to the party making such appeal. The arbitration committee shall receive three dollars in full for their services for each appeal arbitrated by it, from the State Grain Inspection Department: Provided, that any person, persons, firm or corporation within the State of Kansas desiring an inspection upon any car or cars of grain at any point other than where regular grain inspection stations are maintained, shall be entitled to the same by applying to the deputy inspector at the nearest established grain inspection station, by paying to such deputy inspector the actual cost to the department of making such inspection. (Id. § 34-109.)

54. Sale of Grain by Sample; Act Not to Apply to Grain in Store When Act Passed.—Nothing in this act shall be construed so as to prevent any person from selling grain by sample, regardless of grade; but the provisions of this act shall not change the liabilities of the warehouseman on grain now in store, nor the inspection thereof, but said inspection shall be had under the same system under which it was received into store. (Id. § 34-110.)

55. Duty of Attorney-General and County Attorney.—The Attorney-General of the State of Kansas shall be ex officio attorney for the Chief Inspector, and shall give him such counsel and advice as he may from time to time require, and said Attorney-General shall institute and prosecute all suits which said Chief Inspector may deem expedient and proper to institute; and he shall render to said Chief Inspector all counsel, advice and assistance necessary to carry out the provisions of this act, according to the true meaning and intent thereof. In all criminal prosecutions against a warehouseman for a violation of any of the provisions of this act, it shall be the duty of the county attorney of the county in which such prosecution is brought to prosecute the same to a final issue. (Id. § 34-111.)

56. Duty of Department in Inspecting Cars; Leakage in Car.—Whenever cars of grain require inspection, it shall be the duty of the officers of the Grain Inspection Department, inspecting or weighing such grain, to show upon the certifi-

cate the grade and weight thereof, and also a record of the seal broken and applied, and also to note thereon any condition of leakage found in any car so inspected. (Id. § 34-112.)

57. Shipper to be Furnished Weight.—Any shipper of grain, which grain has been weighed by the Grain Inspection Department of this State, may, on request in writing to the chief inspector and inclosing a stamp for reply, receive, and it shall be the duty of the chief inspector to furnish such shipper, free of charge, the weight of any such grain, by forwarding to him promptly a statement showing such weights; provided, that such written request shall set forth the number and initials of the cars, the weights of which are so desired. (Id. § 34-113.)

58. Standard Bushel.—No person purchasing, selling or storing grain in any terminal public warehouse or local public warehouse in this State, as the same is now or may be hereafter defined by law, shall use any other measure for such grain than the standard bushel, and no other number of pounds shall be used or called a bushel than the number of pounds provided by law as the standard weight of the kind of grain in question. (Id. § 34-220.)

NOTE: See also Nos. 168 and 190-191.

Meat—Meat Products.

59. Chemicals in Meat Products.—The use of sulphites, any preparation containing sulphur dioxide, or any secret preparation the ingredients of which are unknown, in the manufacture or preparation of meat products, and the manufacture, selling, keeping or offering for sale of any meat products containing sulphites, sulphur dioxide, or the ingredients of any secret preparation, is hereby prohibited, and said meat products are hereby declared to be adulterated within the meaning of the provisions of chapter 266 of the Session Laws of 1907, as amended by Laws 1909, chapter 184,* and the manufacture, sale, keeping or offering for sale of any such meat product shall subject the offender to the penalties prescribed in said chapter 266 of the Session Laws of 1907, relating to adulterated foods. (R. S. 1923, § 65-619.)

60. Sale of Diseased Animals.—Any person or persons who shall kill, sell or trade or exchange, or offer to sell, trade or exchange, for human consumption, any diseased animal or animals, knowing them to be diseased, shall be guilty of a misdemeanor; provided, that this act shall not apply to animals sold for immediate slaughter under State or Federal inspection. (Id. § 65-620.)

61. Purchase of Diseased Animals.—Any person or persons who shall purchase or get by trade or exchange or in any other way come in possession of any diseased animal or animals, knowing the same to be diseased, for the purpose and with the intent of disposing [of] the same for food, except for immediate slaughter under State or Federal inspection, shall be guilty of a misdemeanor. (Id. § 65-621.)

62. Penalty For Violation of Two Preceding Sections.—Every person found guilty of violating any of the provisions of this act shall be fined in any sum not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. (Id. § 65-622.)

63. Sale of Cold-Storage Meats.—Every person who shall offer or expose for sale at retail, for human food, at any public market, store, shop, or house, or in or about any street or other public place, any slaughtered domestic or wild fowls, rabbits, squirrels, or other small animals, wild or tame, that have been preserved by refrigeration or cold storage, unless the entrails, crops and other offensive parts are properly drawn and removed, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than fifty dollars nor more than one hundred dollars for each offense. (Id. 65-623.)

64. Protection of Meat.—Every dealer in slaughtered fresh meats, fish, fowl or game for human food, at wholesale or retail, at any established place, or as a peddler in the transportation of such food from place to place to customers, shall protect the same from dust, flies and other vermin or substance which may injuriously affect it, by securely covering it while being so transported. Every violation of this provision shall be a misdemeanor punishable by a fine of not less than ten dollars, or by imprisonment in the county jail for not less than ten days. (Id. § 65-624.)

NOTE: See also Nos. 7, 23 and 71 et seq.

*See Nos. 1-14.

Vinegar.

65. Cider Vinegar.—Every person who manufactures for sale or exposes for sale as cider vinegar, any vinegar not the product of pure apple juice known as apple cider, or vinegar not made exclusively of apple cider, or vinegar into which any deleterious substances, drugs or acids have been introduced, shall for each offense be punished by a fine of not less than fifty nor more than one hundred dollars. (R. S. 1923, § 65-627.)

66. Adulteration of Vinegar.—Every person who manufactures for sale, sells or offers for sale any vinegar which contains any preparation of lead, copper, sulphuric acid, or other ingredients injurious to health shall for each such offense be punished by a fine of not less than fifty nor more than one hundred dollars. (Id. § 65-628.)

67. Preparations Containing Vinegar.—The provisions of sections one and two [65-627 and 65-628] shall apply to all preparations of vegetables, fruits and other products in which vinegar is one of the principal ingredients. (Id. § 65-629.)

68. Branding Vinegar.—Every person making or manufacturing cider vinegar shall brand on one head of the cask, barrel, or keg containing such cider vinegar the name and residence of the manufacturer, and the words "cider vinegar;" and any person or manufacturer who brands any cask, barrel, keg, or other vessel with the name of "cider vinegar" which contains any liquid other than pure cider vinegar, shall upon conviction be fined not less than fifty nor more than one hundred dollars for each barrel, cask, keg, or other vessel so branded. (Id. § 65-630.)

Water.

68a. Regulations and Fees.—The State Board of Health shall make rules and regulations for the collection of samples and analysis of water, either natural or treated, furnished by municipalities, corporations, companies or individuals to the public, and shall fix the fees for any services rendered under said rules and regulations to cover the cost of the services, which fees shall be approved by the State Board of Administration before they become operative. (R. S. 1923, § 65-156.)

68b. Analysis in Laboratory; Disposition of Fees.—The analysis of all waters required in the rules and regulations shall be made at the water and sewage laboratory of the State Board of Health in the University of Kansas, and the fees collected under the provisions of this act shall be turned into the State Treasury for the benefit of said laboratory of the University of Kansas. (Id. § 65-157.)

68c. Failure to Comply With Regulations.—Every corporation, railway, common carrier, company or individual that shall fail to comply with the rules and regulations prescribed by the State Board of Health under this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$50 nor more than \$500. (Id. § 65-158.)

Sanitation.

69. Conditions of Places of Sale.—Every place occupied or used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food or drug shall be properly lighted, drained, plumbed, ventilated, screened and conducted with strict regard to the influence of such condition upon the health of operatives, employees, clerks or other persons therein employed, and the purity and wholesomeness of the foods or drugs therein produced. (R. S. 1923, § 65-625.)

70. Food Regulations by Board.—The State Board of Health is hereby authorized and directed to make and cause to be published in the official State paper such sanitary rules and regulations as are necessary in food and drug inspection and to carry out the provisions of this act; and any person or persons or associations violating the provisions of this act, or any of the rules and regulations made or published under the provisions of this act, shall, upon conviction, be fined in a sum not exceeding one hundred dollars. (Id. § 65-626.)

71. Permitting Slaughterhouses to Remain Unclean.—If any owner or owners, occupier or occupiers of any slaughterhouse, or of any premises where hogs, bees or other animals are slaughtered shall permit the same to remain unclean, to the annoyance of the citizens of this State or any of them, every person so offending

shall be fined for every such offense any sum not less than five nor more than fifty dollars; and if said nuisance be not removed within five days thereafter, it shall be deemed a second offense against the provisions of this act; and every like neglect of each succeeding five days thereafter shall be considered an additional offense against the provisions of this act. (Id. § 21-1210.)

72. Permitting Factory to Remain Unclean.—If any owner or owners, occupier or occupiers of any soap factory, candle factory, oil factory, glue factory, varnish factory, pork house, sausage house or lard house shall permit the same to remain unclean, to the annoyance of the citizens of this State, or any of them, to a greater extent than is required for the necessary prosecution of their business, every person so offending shall be fined for every such offense any sum not less than ten nor more than one hundred dollars; and if such nuisance be not removed within five days thereafter, it shall be deemed a second offense against the provisions of this act; and for every like neglect of each succeeding five days thereafter shall be considered an additional offense against the provisions of this act. (Id. § 21-1211.)

73. Inspection of Markets.—It shall be the duty of the Fish and Game Warden at reasonable intervals to inspect all places of the State where meat, fish and game are kept for sale or shipment or stored; and it shall be the duty of any person or persons engaged in the business of buying, selling, shipping or storing meat, fish or game within the State, upon the demand of the Fish and Game Warden, to permit an inspection of their place of business by such warden; and any such person or persons who shall refuse upon demand to permit the inspection herein provided for shall be deemed guilty of a misdemeanor and upon conviction thereof in any court of competent jurisdiction be punished as provided in section 37 [32-136]. (Id. § 32-134.)

74. General Penalty For Offenses.—For the violation of any of the provisions of this act the following penalties shall be imposed: Unless otherwise provided herein, for the first offense, a fine of not less than five dollars nor more than twenty-five dollars; for the second offense, a fine of not less than fifty dollars nor more than two hundred dollars; for the third and each subsequent offense, a fine of not less than one hundred dollars nor more than five hundred dollars, and shall be adjudged to pay the cost of the prosecution and shall be committed to the jail of the county in which the offense was committed until such cost and fine are paid. (Id. § 32-136.)

75. Clean and Sanitary Conditions; Toilets.—In every hotel or restaurant the kitchen, dining room, cellar, office, ice boxes, refrigerators and all places where foods are prepared, kept or stored, shall be kept clean and in a sanitary condition. The toilets and outclosets shall at all times be kept in a clean and sanitary condition in hotels, restaurants, rooming houses or apartment houses. (Id. § 36-107.)

NOTE: See chapter 36, page 577 et seq., of the Revised Statutes of 1923, for other provisions relating to restaurants, etc.

76. Disinfection of Food Sacks.—It shall be unlawful for any person to ship into Kansas or offer for sale in Kansas any food for live stock contained in sacks which have not first been thoroughly disinfected or fumigated in accordance with the requirements of the Live Stock Sanitary Commissioner. It shall likewise be unlawful for any person to offer for sale in Kansas any food for live stock manufactured within the State that shall be contained in sacks which have not been disinfected or fumigated as above required. (Id. § 47-654.)

77. Second-hand Sacks.—It shall be unlawful for any person to sell or offer for sale any old or second-hand sacks until the same have been thoroughly disinfected or fumigated as required by the Live Stock Sanitary Commissioner. (Id. § 47-655.)

78. Violation of Two Preceding Sections.—Any person violating the provisions of this act shall be guilty of a misdemeanor and fined in a sum not less than ten dollars nor more than one hundred dollars for such offense. (Id. § 47-656.)

NOTE: See also the dairy law, No. 17 et seq.; the meat law, No. 64.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

79. Obscene Publications and Advertisements; Lotteries.—If any publisher or other person shall by printing, writing, or in any other way publish or cause to be published, or expose to sale any obscene pictures; an account, advertisement or description of any drug, medicine, instrument or apparatus used or recommended to be used, for the purpose of preventing conception, or procuring abortion or miscarriage; or shall by writing or printing, in any circular, newspaper, pamphlet or book, or in any way publish or circulate any advertisement or obscene notice herein recited; or shall within the State of Kansas keep for sale or for gratuitous distribution any newspaper, circular, book or pamphlet containing such notice or advertisement of such drugs, medicines, instruments or apparatus; or shall keep for sale any secret nostrum, drug, medicine, instrument or apparatus named; or shall advertise lotteries, or the sale of lottery tickets, such publisher or other person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined not less than fifty nor more than one thousand dollars, or imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, at the discretion of the court; provided, that nothing in this act shall be so construed as to prevent the publication and sale of standard medical works. (R. S. 1923, § 21-1101.)

80. Dealing in Obscene Literature.—Every person or persons who shall bring or cause to be brought into the State, or shall buy, sell or cause to be sold, or shall advertise, lend, give away, offer, show, exhibit, or shall have in his possession, with the intent to sell, lend, give away, offer, show, exhibit, distribute or cause to be distributed, or shall design, copy, draw, photograph, print, etch, or engrave, cut, carve, make, publish, or otherwise prepare or assist in preparing or shall receive subscriptions for any indecent or obscene book, pamphlet, paper, picture, print, drawing, figure, image, or other engraved, printed or written matter, or any article or instrument of immoral use, or any book, pamphlet, magazine, or paper devoted principally or wholly to the publication of criminal news or pictures, or stories of deeds of bloodshed or crime, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than three hundred dollars or be imprisoned not to exceed thirty days, or both. (Id. § 21-1102.)

Dangerous Caustic or Corrosive Substances.

80a. Definitions.—When used in this act, unless the context or subject matter otherwise requires, the following shall be held and construed to mean as follows:

A. The terms "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten per centum or more; (b) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of ten per centum or more; (c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five per centum or more; (d) carboic acid ($\text{C}_6\text{H}_5\text{CH}$), otherwise known as phenol, and any preparation containing carboic acid in a concentration of five per centum or more; (e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of ten per centum or more; (f) any salt of oxalic acid and any preparation containing any such salt in a concentration of ten per centum or more; (g) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of twenty per centum or more; (h) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna

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paste, in a concentration of ten per centum or more; (j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten per centum or more; (k) silver nitrate sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of five per centum or more; and (l) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "Hartshorn" in a concentration of five per centum or more.

B. The term "misbranded parcel, package or container" means a retail parcel, package or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller or distributor; (c) the word "poison" running parallel with the main body of reading matter on said label or sticker on a clear, plain background or a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size, unless this is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.

C. The words "person" or "persons" shall be held, understood and construed to mean every person, natural or artificial, and all firms, copartnerships, trust estates, corporations and the principal officers and agents thereof. (Act of Feb. 21, 1927, § 1.)

80b. Sale of Misbranded Packages Prohibited.—No person shall sell, barter or exchange, or receive, hold, display or offer for sale, barter or exchange, in the State of Kansas, any dangerous caustic or corrosive substance in a misbranded parcel, package or container, said parcel, package or container being designed for household use. (Id. § 2.)

80c. Misbranded Packages May be Seized; Proviso.—Any dangerous caustic or corrosive substance in a misbranded parcel, package or container suitable for household use, that is being sold, bartered or exchanged, or held, displayed or offered for sale, barter or exchange, shall be liable to be proceeded against in any court of competent jurisdiction. If such substance is condemned as misbranded by said court, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds, less the actual costs and charges, shall be paid over to the clerk of the District Court of the county in which such sale is had, but such substance shall not be sold contrary to the laws of the State: Provided, however, that upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond, to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may order direct that such substance be delivered to the owner thereof. Such condemnation proceedings shall conform as near as may be to proceedings in confiscation of intoxicating liquors. Id. § 3.)

80d. Enforcement of Act; Registration of Brands and Labels.—The Attorney-General and the county attorneys of the respective counties of this State shall enforce the provision of this act, and they are hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this act as may be submitted to him for that purpose and as may, in his judgment, conform to the requirements of this statute. (Id. § 4.)

80e. Penalty.—Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than two hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 5.)

80f. Prosecuting Officers to Institute Proceedings.—The Attorney-General and the county attorneys of the respective counties of the State to whom there is presented, or who in any way procures satisfactory evidence of any violation of the provisions of this act, shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided. (Id. § 6.)

80g. Sale of Household Products Regulated.—Household products for cleaning and washing purposes subject to this act and labeled in accordance therewith may be sold, offered for sale, held for sale and distributed in this State by any dealer, wholesaler or retailer. (Id. § 7.)

80h. Inconsistent Acts Repealed.—That all acts and parts of acts in conflict with this act are hereby repealed. (Id. § 8.)

80i. Act Effective, When.—This act shall take effect from and after its due publication in the statute book. (Id. § 9.)

Insecticides.

81. Mixtures For Extermination of Grasshoppers.—Every such Board of County Commissioners shall provide for the purchase and distribution of a mixture containing Paris green or other like poison for the control of grasshoppers within its county and shall make and enforce rules and regulations for the distribution and use thereof and shall distribute the ingredients of such mixture to the persons living in such county who make application therefor. In purchasing and preparing the ingredients of such mixture such Board of County Commissioners shall use and require the use of the formula prescribed and recommended by the Kansas State Agricultural College or any of its branch experimental stations as far as practicable. (R. S. 1923, § 19-2403, as amended L. 1925, c. 136.)

82. Violations of Act.—Any person violating any provision of this act, by failing to distribute in strict accordance with the rules and regulations prescribed by the Boards of County Commissioners, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for every offense. (Id. § 19-2408.)

Live-stock Remedies.

83. Live-stock Remedy Defined.—The term "live-stock remedy" shall be held to include all condimental foods, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, condition powders, conditioners, animal regulators, proprietary medicines or any preparations of like nature in either solid or liquid form used for any animal except man and administered internally for their stimulating, invigorating, curative or other powers. (L. 1925, c. 194, § 1.)

84. Registration.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in Kansas any live-stock remedy he shall file for registration with the secretary of the State Board of Agriculture a statement that he desires to offer such live-stock remedy for sale in this State; also a certificate, the execution of which shall be sworn to before a notary public or other proper official, stating: first, name and principal address of manufacturer or person responsible for placing such live-stock remedy on the market; second, the name, brand or trade-mark under which the remedy is to be sold; third, the minimum net contents of the package, lot or parcel of such live-stock remedy (expressed by weight in the case of solids and by measure in the case of liquids); and fourth, the English name of each ingredient used in the manufacture of remedy registered; and it is further provided, that when any of the substances, to wit: mineral acids, the following elements or their salts: copper, mercury, arsenic and antimony; the following substances or any of their derivatives or preparations; opium, belladonna, nux vomica, pilocarpus, santonica, areca nut, wormwood, digitalis, strophanthus, calabar bean, aconite, veratrum, croton oil, ergot, cotton root bark and cantharides are included in the ingredients of a live-stock remedy the percentage of such ingredient or ingredients must be stated on the certificate; also that when such substances as common salt, charcoal, sulphur, earth, humus, elevator dust or other like substances are used as a "filler," the maximum percentage of such substance or substances shall be stated. Said certified copy to be accompanied, when the secretary of the State Board of Agriculture or his authorized agent shall so request, by a sealed package of such live-stock remedy to be sold, offered or exposed for sale or distributed in this State, and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative and a true sample of such live-stock remedy offered for registration. (Id. § 2.)

85. Labels.—Every sack, box, carton, bottle or other package of live-stock remedy sold, offered or exposed for sale or distributed within this State shall have a label affixed thereto in a conspicuous place on the outside thereof bearing a legible and plainly printed statement in the English language clearly and truly certifying: first, the name and principal address of the manufacturer or person responsible for placing such live-stock remedy on the market; second, the name, brand or trade-mark under which the live-stock remedy is sold; third, the minimum net contents of the sack, box, carton, bottle or other package; and fourth, the English name of each ingredient used in the manufacture of the live-stock remedy contained therein, according to the manner required in the certificate as provided in section 2. The United States Pharmacopœia shall be the authority as to terms or standards. (Id. § 3.)

86. Inspection Fee or Tax; Sale of Remedy in Bulk; Tags.—Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing, selling or distributing any live-stock remedy as defined in section 1 of this act shall pay to the secretary of the State Board of Agriculture an inspection tax or fee of two cents per hundredweight for each hundredweight (and in the case of liquids, two cents for each one hundred pints) of live-stock remedy sold, offered or exposed for sale or distributed in this State and shall deliver with each lot shipped in bulk and affix to each package of such live-stock remedy a tax tag or stamp to be furnished by the said secretary stating that all charges provided for in this section have been paid; provided, that such tax tags or stamps shall be issued to cover five, or multiples of five, pounds or pints. The money for said tags or stamps shall be forwarded to the said secretary of the State Board of Agriculture and such money shall be paid monthly by the said secretary into the State treasury and there set apart as a fund to be used by the secretary of the State Board of Agriculture in the conduct of this department. Such fund is hereby appropriated to the State Board of Agriculture; and any unexpended balance at the close of any fiscal year is hereby reappropriated to the State Board of Agriculture for the ensuing year. The State Auditor is hereby authorized to draw warrants upon the State Treasurer for any money paid in and received under the provisions of this act upon presentation to him of properly itemized and duly verified vouchers, approved by the secretary of the State Board of Agriculture. (Id. § 4.)

87. Samples For Analysis.—The said secretary of the State Board of Agriculture or his authorized agent shall have free access to all places of business, mills, factories, buildings, vehicles, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any live-stock remedy and shall have the power and authority to open any parcel containing or supposed to contain any live-stock remedy and to take therefrom in the manner prescribed in section 6 samples for analysis. He shall tender therefor the retail price of the sample or samples procured. In so far as is practicable and the revenue provided by this act may suffice, it shall be the duty of the said secretary to annually cause to be analyzed at least one sample so taken of every live-stock remedy sold, offered or exposed for sale or distributed in this State. (Id. § 5.)

88. Method of Sampling Remedies.—An official representative sample of each brand of live-stock remedy sold, offered or exposed for sale or distributed within the State shall be taken by the secretary of the State Board of Agriculture or his duly authorized agent in the presence, when practicable, of at least one witness. An unbroken original package must be taken as an official sample where the live-stock remedy is packed in small bottles, cartons or other small packages. Where the remedy is packed in large containers, portions for the official sample must be taken from not less than five separate original packages unless there be fewer than five separate original packages in the lot in which case portions for the official sample must be taken from each original package; if the live-stock remedy is in bulk, portions shall be taken from not less than five different places in the lot; provided, that this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. All official samples shall be sealed for delivery to the said secretary who shall cause them to be examined or analyzed and the results of such examination or analysis, together with such additional information as the said secretary may deem advisable, shall be promptly transmitted to the manufacturer or person responsible for placing the commodity on the market and shall be published in reports or bulletins from time to time. If the manufacturer or person responsible for placing upon the market any live-stock remedy be unable to secure a portion of the package or lot of live-stock remedy in question, he shall, upon request to the secretary of the State Board of Agriculture within ten days from the date of the report of the analysis or other examination, be furnished with a portion of the official sample and be given sufficient time, not to exceed fifteen days, in which to review the work of the official analyst. (Id. § 6.)

89. Prosecutions.—If it shall appear that any manufacturer, importer, jobber, firm, association, corporation or person has violated any of the provisions of this act the secretary of the State Board of Agriculture shall cause notice to be given to the said manufacturer, importer, jobber, firm, association, corporation or person that a hearing in relation thereto will be had at a date and place named in said notice. Whereupon said secretary of the State Board of Agriculture or his authorized agent shall hold a hearing and may take testimony under oath giving

said manufacturer, importer, jobber, firm, association, corporation or person or their representative an opportunity to be heard in his or their defense under such rules and regulations as may be prescribed by the said secretary of the State Board of Agriculture. In case any manufacturer, importer, jobber, firm, association, corporation or person shall fail to appear at the time and place designated in said notice the said secretary of the State Board of Agriculture or his authorized agent shall conduct the hearing the same as though said manufacturer, importer, jobber, firm, association, corporation or person, were present. If it be established by such hearing, either in the presence or absence of such manufacturer, importer, jobber, firm, association, corporation, or person to the satisfaction of the said secretary that prosecution is warranted the said secretary shall certify the facts to the proper prosecuting attorney and furnish that officer with an official report of the result of such hearing and a copy of the result of any analysis or other examination which may have a bearing on the case, duly authenticated by the analyst or other officer making the examination, under the oath of such officer. Such prosecuting attorney shall thereupon proceed to file and prosecute such case. (Id. § 7.)

90. Refusal or Cancellation of Registration; Change of Ingredients.—The secretary of the State Board of Agriculture shall have power to refuse to register any live-stock remedy under a name, brand, or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the English name of each ingredient used in its manufacture is not stated. He shall also have the power to refuse to register more than one live-stock remedy under the same name, or brand, when offered by the same manufacturer, importer, jobber, firm, association, corporation, or person. Should it be established by a hearing, as provided for in section 7 of this act, to the satisfaction of the secretary of the State Board of Agriculture that any brand or brands of live-stock remedy have been registered in error, or have been sold in violation of any of the provisions of this act, the said secretary shall have power to cancel the registration of such brand or brands of live-stock remedy. The said secretary shall refuse to allow any manufacturer, importer, jobber, firm, association, corporation, or person to change the ingredients of any brand of his or their live-stock remedy registered for sale in this State unless satisfactory reasons are presented for making such change or changes. The said secretary of the State Board of Agriculture is hereby empowered to enforce the provisions of this act and to prescribe the form of labels and of tax tags or stamps to be used to show that the live-stock remedy has been registered and the inspection tax has been paid, and to prescribe and enforce such rules and regulations relating to the sale of live-stock remedies as he may deem necessary to carry into effect the full intent and meaning of this act. It is provided that the said secretary shall not be required to sell tax tags or stamps in less amount than to the value of five dollars (\$5) or multiples of five dollars for any one live-stock remedy; provided further, that the said secretary shall not be required to register any live-stock remedy unless the certificate is accompanied by an order and fees for tax tags or stamps to the value of five dollars (\$5) or some multiple of five dollars for each live-stock remedy offered for registration; provided further, that such tax tags or stamps are good until used. (Id. § 8.)

91. Offenses.—Any manufacturer, importer, jobber, firm, association, corporation, or person who shall sell, offer or expose for sale, or distribute in this State or who shall take or receive from any firm, association, corporation, or person in this State any order for any live-stock remedy as defined in section 1 of this act; or who shall directly or indirectly contract with any manufacturer, importer, jobber, firm, association, corporation, or person in this State for the sale of such live-stock remedy, to be delivered in this State by common carrier or otherwise; without there being affixed thereto such labels and tax tags or stamps as are required by the provisions of this act or who shall use such required tax tags or stamps a second time, or use a counterfeit of such required tax tags or stamps or without truly stating the English name of each and every ingredient used in its manufacture as required by section 2 of this act or who shall impede, obstruct, hinder, or otherwise prevent, or attempt to prevent, said secretary of the State Board of Agriculture or his authorized agent, in the performance of his duty in connection with the provisions of this act, or without complying with any requirement of the provisions of this act, shall be deemed guilty of a violation of the provisions of this act and upon conviction thereof shall be fined not more than \$100 for the first violation and not less than \$100 for such [each] subsequent violation. Penalties recovered under this act shall be converted into the school fund of the county wherein the offense was committed. (Id. § 9.)

Pharmacy, Poisons and Narcotics.

92. Practice of Pharmacy.—It shall hereafter be unlawful for any person within the State of Kansas to open or conduct any pharmacy, or store for retailing, dispensing or compounding medicines or poisons, unless such person be a registered pharmacist within the meaning of this act, or shall employ a registered pharmacist to conduct the same. And it shall be unlawful for any person to compound and sell at retail any medicines or poisons, or to compound or dispense any physicians' prescriptions, unless such person be a registered pharmacist, or a registered assistant pharmacist, within the meaning of this act, except as hereinafter provided. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every such offense. (R. S. 1923, § 65-1601.)

93. Register.—The Board of Pharmacy shall register in a suitable book, a duplicate of which shall be kept in the office of the Secretary of State, the names and places of residence of all persons to whom they issue certificates, and the date thereof. A copy of the records of the board, or of any portion thereof, certified by its secretary, shall be deemed lawful evidence in any court of this State. (Id. § 65-1602.)

94. Registration of Assistant Pharmacists.—Any person twenty-one years of age or over who may desire a certificate as a registered assistant pharmacist shall apply to the Board of Pharmacy for examination, and shall pay to the secretary of the board the sum of ten dollars (\$10). If the board shall find that he has had two years' practical experience in handling drugs and medicines and in the general duties of pharmacy in a drug store or pharmacy where physicians' prescriptions were compounded and dispensed, or in lieu thereof that he has completed two years' work in a recognized school of pharmacy, and has completed four years of high school work or its equivalent, and is otherwise duly qualified, they shall duly register him and issue him a certificate as a registered assistant pharmacist. In case of failure to pass a satisfactory examination, a second examination shall be granted at any meeting of the board within six months without further payment. No registered assistant pharmacist shall open or conduct a pharmacy on his own account or be granted a certificate as a registered pharmacist until he shall have passed an examination in the manner provided by law. (Id. § 65-1603.)

95. Lists of Pharmacists.—Every registered pharmacist or assistant pharmacist who shall change his place of business shall by letter notify the Secretary of the Board of Pharmacy of such change and inclose a fee of fifty cents. and upon receipt of said notice and fee the said secretary shall make the proper alterations in the register. Annually during the month of September the Secretary of the Board of Pharmacy shall cause to be published, or shall print, a list of all persons whose names then rightfully remain upon the register as pharmacists or assistant pharmacists, and shall mail a copy of such list to each and every registered pharmacist and assistant pharmacist in the State. Previous to the publication or printing of said list, the said secretary shall first remove from the register the names of all pharmacists and assistant pharmacists who may have died, or failed to reregister, or who shall have been convicted of making any false statement under this act, or who for any other legal reason are no longer entitled to have their names remain upon the register. (Id. § 65-1604.)

96. Unlawful Display of Certificate.—It shall be unlawful for any registered pharmacist or registered assistant pharmacist, not actively and continuously engaged in the profession of pharmacy to permit his certificate of registration to be displayed or permit the use of such certificate in any manner whereby it might lead to the belief that any place of business is under the charge or management of such registered person. (Id. § 65-1605.)

97. Cancellation of Certificates.—The Board of Pharmacy shall cause to be investigated complaints of violation of this provision, and in any case where it appears the law has been violated, such misused certificate of registration shall be canceled and the name stricken from the register. (Id. § 65-1606.)

98. Examination of Pharmacists.—Any person who may desire a certificate as a registered pharmacist shall apply to the Board of Pharmacy for an examination and shall pay the secretary of said board the sum of ten dollars (\$10). If the board shall find that he has had two years' experience as a registered assistant pharmacist and has completed at least four years of high school work, or its equivalent, and has otherwise duly qualified; or, if said board shall find that

he has had two years' practical experience in handling drugs and medicines and in the general duties of pharmacy in a drug store or pharmacy where physicians' prescriptions were compounded and dispensed and has completed two years of work in a recognized school of pharmacy above the grade of four years' high school work and that he has otherwise duly qualified; or if said board shall find that he has completed a four years' college course in a recognized school of pharmacy and that he is otherwise duly qualified, they shall duly register him and issue him a certificate as a registered pharmacist. In case of failure to pass the examination a second examination may be granted within six months without further payment. (Id. § 65-1607.)

99. Nonresident Pharmacists.—Any person holding a certificate as a registered pharmacist or registered assistant pharmacist issued by any other State may appear before the Board of Pharmacy and ask for registration as a registered pharmacist or registered assistant pharmacist within the meaning of the Kansas law, and if proper evidence is submitted, showing such person to be of proper moral fitness and ability to handle drugs and medicines they may issue such person a certificate of registration upon payment of a fee of twenty-five dollars (\$25). (Id. § 65-1608.)

100. Sale of Drugs.—Pharmacists registered as herein provided and dispensers of medicine shall have the right to keep and sell, under such restrictions as herein provided, all drugs, medicines, and poisons authorized by the National Formulary, the United States Pharmacopœia and other standard pharmaceutical and medical works of recognized utility; provided, that nothing herein contained shall be so construed as to shield any apothecary or pharmacist who violates or in any way abuses this trust for the legitimate and actual necessities of medicine from the utmost rigor of the law relating to the sale of intoxicating liquors; morphine, cocaine, or chloral, and upon the conviction of any violation of the prohibitory law, or of this law, his name shall be stricken from the register, and in addition thereto shall be fined not less than one hundred dollars nor more than three hundred dollars, and not less than thirty days nor more than ninety days in jail, or both such fine and imprisonment. It shall be unlawful for any person on and after the passage of this act to retail any articles enumerated in schedules A, B and C, except as provided in sections 1 and 4 [65-1601 and 65-1610].

Schedule A. Arsenic and its preparation[s], corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, chloroform, strychnine and all other poisonous vegetable alkaloids and their salts, and essential oil of bitter almonds, or opium and its preparations, excepting paregoric and other preparations of opium containing less than 2 grains to the ounce; or other habit-producing drugs, or preparations containing same having same effect.

Schedule B. Aconite, belladonna, colchicom, conium, nux vomica, henbane, cantharides, creosote, digitalis and their pharmaceutical preparations, croton oil, sulphate of zinc, sugar of lead, mineral acids, carbolic acid, oxalic acid, permanganate of potassium, formaldehyde, and all other virulent poisons except poison fly-killers, lye, ammonia, Paris green, arsenate of lead, wood alcohol, London purple, commercial poison for rats, mice and bed bugs, and denatured alcohol when sold in sealed packages and plainly labeled, "Not for medicinal use, poison," may be sold through the regular channels of trade.

Schedule C. Oil of savin, oil of tansy, ergot and its preparations, cotton root and its preparations and all other active emmenagogues or abortives. (Id. § 65-1609.)

101. Regulations For Such Sales; Prescriptions.—Articles enumerated in schedules A and B shall not be sold without distinctly labeling the box, vessel, or paper in which said poison is contained; also, the outside and inside wrapper or cover with the name of the article, the word "poison" and the name and place of business of the seller. Nor shall it be lawful for any person to sell or deliver any poison enumerated in schedules A and B unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for a legitimate purpose; nor shall it be lawful for any registered pharmacist or assistant registered pharmacist to sell or deliver any articles included in schedules A and B without before delivering the same to the purchaser, causing an entry to be made in a book for that purpose, stating the date of sale, the article sold, the quantity thereof, the purpose for which it is represented by the purchaser to be required, the name of the dispenser and the name and address of the purchaser, signed by himself; such book to be always open to inspection by the proper authorities and to be preserved for at least five years. No article in schedule C shall be sold except on the prescription of a legally qualified physician.

The provisions of this section shall not apply to the sale of poisons in not unusual doses and quantities upon the prescriptions of licensed practitioners of medicine. All prescriptions of practicing physicians shall be filed and retained by the dispenser, serially numbering, dating, and filing the same. Said serial number and date and signature together with proper directions shall be placed upon package or container in which said medicine is dispensed. Failure to keep prescription files in accordance with the provisions of this act, shall be prima facie evidence of violation of this law. The prescription files of the pharmacist shall be open to inspection by the proper authorities at all times. (Id. § 65-1610.)

102. Dispensing of Drugs by Physicians; Sale of Domestic Remedies.—Nothing hereinbefore contained in this act shall prohibit any practitioner of medicine from compounding his own prescriptions and administering or supplying to his patients such articles as may be fit, proper and necessary; provided, drugs and medicines dispensed by him shall comply with the Kansas food and drug law and be subject to inspection as provided in said law, and it is also further provided, that it shall be lawful for retail dealers to sell the usual domestic remedies and medicines in unbroken packages, not including any article enumerated in schedules A and B of this act, in case such dealer shall procure a license from the Board of Pharmacy at a fee of \$2.50 annually, not as a registered pharmacist but as a registered dealer; and said annual fee to be paid within thirty days from the expiration of said license, otherwise said annual fee to be five dollars. (Id. § 65-1611.)

103. Quality of Drugs Sold.—Every proprietor or conductor of a drug store or pharmacy and every one who dispenses from a private stock of drugs shall be responsible for the quality of all drugs, chemicals, and medicines he may sell or dispense; and should he knowingly and fraudulently adulterate, or cause to be adulterated such drugs, chemicals or medicinal preparations, he shall be deemed guilty of a misdemeanor. (Id. § 65-1612.)

104. Regulations and Analyses by Pharmacy Board.—The State Board of Pharmacy is authorized and directed to make and publish uniform rules and regulations not in conflict herewith, which rules and regulations may include, if necessary for the proper execution of this law, the collection and examination of medicines and drugs kept for sale, offered for sale or for dispensing or sold in the State of Kansas by any pharmacist, or kept in stock by any physician, merchant or dispenser. Samples thus collected may be submitted for analysis to the drug laboratory established under the food and drug act, section 4, chapter 266 Laws of 1907,* and the results of the analysis may be published in the bulletin of the Board of Health, which said rules and regulations shall be published in the official State paper of the State. (Id. § 65-1613.)

105. Violations of Act.—Any person who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not to exceed fifty dollars or imprisonment in the county jail for not more than six months, or both in the discretion of the court. (Id. § 65-1614.)

106. Apprentices in Pharmacies.—Nothing in this act, or of the act of which this is supplementary and amendatory, shall be so construed as to prohibit the employment in any pharmacy of an apprentice for the purpose of being instructed in the practice of pharmacy; but such apprentice shall not be permitted to prepare and dispense physicians' prescriptions, or to sell or furnish poisons except in the presence of and under the supervision of a registered pharmacist, or a registered assistant pharmacist. (Id. § 65-1615.)

107. Prosecutions.—It shall be the duty of the State Board of Pharmacy to investigate all complaints of disregard, noncompliance with or violations of the provisions of this act, and the act to which this is supplemental and amendatory, and to bring all such cases to the notice of the county attorney of the county where such person is doing business; and it shall be the duty of such county attorney to diligently prosecute to effect any such violation. (Id. § 65-1616.)

107a. Annual Report of Pharmacy Board.—Said State Board of Pharmacy shall, on or before the 10th day of January of each year, make an annual report to the Governor of its proceedings for the preceding calendar year, together with an account of all moneys received and disbursed by them in pursuance of this act. (Id. § 65-1617.)

108. Certificate of Fact of Registration.—The Secretary of the State Board of Pharmacy shall, on the application of any party, issue to such applicant a certificate or statement showing that the person named in the application is a

*See No. 4.

registered pharmacist, a registered assistant pharmacist, or neither, as the case may be. The secretary shall be entitled to and receive a fee of twenty-five cents for each such certificate or statement which he may issue, such fee to accompany the application. (Id. § 65-1618.)

109. Fraudulent Registration; Intoxication.—Any person who shall procure or attempt to procure registration for himself or for another under this act, by making or causing to be made any false representation, and any registered pharmacist who shall be in the habit of being intoxicated, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be liable to a penalty of not less than twenty-five nor more than one hundred dollars; and the name of the person so fraudulently registered shall be stricken from the register. (Id. § 65-1619.)

110. Renewal of Registration; False Statements.—Any holder of certificate of registration as pharmacist or assistant pharmacist heretofore issued under the provisions of law, and remaining uncanceled, shall be entitled to have such certificate annually renewed by registration by the Secretary of the Board of Pharmacy, on paying the said secretary an annual fee of two dollars. On the first day of July each year the Secretary of the Board of Pharmacy shall send written notice to this effect to every registered pharmacist, and every registered assistant pharmacist, and shall enclose with each notice a proper blank for such registration, and if said blanks so filled out, together with the said fee of two dollars, shall not, on or before the first day of August of the same year, be received by said secretary from any pharmacist or assistant pharmacist so notified, said secretary shall strike from the register the name of such pharmacist or assistant pharmacist; but at any time thereafter, any pharmacist or assistant pharmacist whose name shall have been so removed from the register, since the date of the taking effect of this act, may have the same restored by the said secretary by paying to him a fee of five dollars, if satisfactory proof at that time is submitted of his moral fitness. Any person who shall make a false statement in order to secure registration or the continuance of his name upon the register, under the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five or more than one hundred dollars, and the justice of the peace of the court before whom or which such conviction shall be had shall immediately certify the fact to the Secretary of the Board of Pharmacy, who upon receipt of such certificate, or in default thereof, upon satisfactory information of such conviction otherwise obtained, shall strike from the register the name of the person so convicted. (Id. § 65-1620.)

111. Board of Pharmacy.—Immediately upon the passage of this act the Governor shall appoint five reputable and practicing pharmacists, doing business within the State of Kansas. Said pharmacists so appointed shall constitute the Board of Pharmacy of the State of Kansas, and shall hold office as respectively designated in their appointments—two for the term of one year, two for the term of two years, and one for the term of three years, respectively, as herein-after provided, and until their successors have been duly appointed and qualified. The Kansas State Pharmaceutical Association shall annually nominate and certify to the Governor the names of ten registered pharmacists, residents of the State of Kansas, and who are at that time actually engaged in the business of pharmacy, and have ten years' practical experience in dispensing physicians' prescriptions, from which list the Governor shall annually appoint one or more pharmacists to fill the vacancy annually occurring in said board. The term of office in said board shall be three years. In case of death, resignation or removal from the State, of any member of the said board, or from a vacancy occurring from any cause, the Governor shall fill the vacancy by appointing a registered pharmacist from the list last certified to him, to serve as a member of the board for the remainder of the term. It shall be the duty of the members of this board after the receipt of notification of their appointment to make and subscribe to an oath properly and faithfully to discharge the duties of their office, and within thirty days thereafter meet and organize by the election of a president, secretary, and treasurer, to be selected from the members of the board. (Id. § 74-1601.)

112. Meetings; Compensation, Expenses and Fees.—Said Board of Pharmacy shall meet at least once in three months, in at least four different parts of the State, in each year, to perform the duties required by this act. The members of the board shall receive the sum of three dollars for each day engaged, together with actual traveling expenses, in the performance of the duties required of them by law, except the secretary, who shall receive the sum of six hundred dollars per year, together with all necessary traveling expenses, all to be paid from the treasury of the Kansas Board of Pharmacy. All fees collected under the provisions of this act shall be paid over at once to the treasurer of

said board, and the treasurer of said board shall remit ten per cent (10%) of all fees collected to the State Treasurer, to be credited to the general fund of the State. And the treasurer of said board shall give such bond from time to time as the board may direct. (Id. § 74-1602, as amended Act of Mar. 16, 1927, § 1.)

112a. Act Effective, When.—This act shall take effect and be in force from and after July 1, 1927, and after its publication in the statute book. (Act of Mar. 16, 1927, § 3.)

113. Limiting Use of Terms "Drug Store," etc.—It shall be unlawful for any person, who is not legally licensed as a registered pharmacist, by the Kansas Board of Pharmacy, or any person, firm or corporation, who does not have in his or its continuous employ, at each place of business, a duly registered pharmacist licensed by the Kansas Board of Pharmacy, to take, use, or exhibit the title "drug store," "pharmacy" or "apothecary" or any combination of such titles, or any title or description of like import, or any other term designed to take the place of such title. (L. 1925, c. 205, § 1.)

114. Penalties.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) for the first offense and not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each succeeding offense. (Id. § 2.)

115. Selling Poisons Without Labels, or to Minors.—Every person who shall sell or deliver to any other any arsenic, corrosive sublimate, prussic acid or any other substance or liquid usually denominated poisonous, without having the word "poison" plainly written or printed on a label attached to the vial, box, vessel or package containing the same, or who shall sell or deliver any tartar emetic without having the true name written or printed on a label and attached to the vial, box, vessel or package containing the same, or who shall sell or deliver such substance or liquid to any minor without a written permission from the guardian of such minor specifying the kind of drug that such minor is authorized to purchase, shall, on conviction, be adjudged guilty of a misdemeanor and punished by a fine not exceeding fifty dollars. (R. S. 1923, § 21-957.)

116. Physician Not Required to Label; Prescription.—So much of the preceding section as requires the word "poison" or the name of the drug sold or delivered to be labeled on the box, vial or other package containing the same shall not extend to any practicing physician who shall deliver any of the articles therein mentioned with a prescription for the use of the article. (Id. § 21-958.)

117. Keeping of Opium or Coca Leaves.—It shall be unlawful for any person to keep or have in his possession or under his control for personal use or otherwise any opium or coca leaves or any compound, salt, derivative or preparation thereof, and such possession or control shall be presumptive evidence of a violation of this section; or to permit another to have or keep or use any of said drugs on any premises owned or controlled by him, or to sell or give away or furnish any of said drugs to another, except physicians, dentists, veterinary surgeons, registered nurses or registered pharmacists as hereinafter provided. Any person violating the provisions of this section shall be deemed guilty of a felony and on conviction thereof shall be fined not less than \$500 or more than \$5,000 and shall be imprisoned not less than one year nor more than seven years in the penitentiary. (Id. § 65-615, as amended Act of Mar. 2, 1927, § 1.)

118. Sale Thereof.—It shall be unlawful for any person to sell, barter, exchange or give away any of the aforesaid drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged or given away, on a form to be issued on a blank for that purpose by the Commissioner of Internal Revenue. Any person who shall accept any such order and in pursuance thereof shall sell, barter, exchange or give away any of the aforesaid drugs shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department of the United States duly authorized for that purpose, and the State, county and city officials charged with the enforcement of this act. Every person who shall give an order as herein provided to any other person for any of the aforesaid drugs shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue, and in case of the acceptance of such order shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees and officials hereinbefore mentioned. Nothing contained in this section shall apply:

(a) To the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist or veterinary surgeon registered under the laws of the State of Kansas in the course of his professional practice only: provided, that

such physician, dentist or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in this act.

(b) To the sale, dispensing or distribution of any of the aforesaid drugs by a registered pharmacist to a consumer under and in pursuance of a written prescription issued by a physician, dentist or veterinary surgeon registered under the laws of the State of Kansas: provided, however, that such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist or veterinary surgeon who shall have issued the same: and provided, further, that such registered pharmacist shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and any person violating the provision of this section shall be deemed guilty of a felony, and on conviction thereof shall be fined not less than \$500 nor more than \$5,000 and imprisoned not less than one year nor more than seven years in the penitentiary. (R. S. 1923, § 65-616, as amended Act of Mar. 2, 1927, § 2.)

119. Preparations Containing Opium.—The provisions of this act shall not be construed to apply to the sale, distribution, giving away, dispensing or possession of preparations or remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or derivative of any of them, in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: provided, that such remedies and preparations are sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intentions and provisions of this act. The provisions of this act shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine. (R. S. 1923, § 65-617.)

120. City Opium Regulations.—Cities of the first, second and third classes are hereby authorized to pass ordinances not inconsistent herewith and to provide penalties for the violation thereof not exceeding those herein specified. (Id. § 65-618.)

121. Sale of Peyote or Mescal Button, Etc., Regulated.—It shall be unlawful for any person, firm, corporation or association to plant, cultivate, protect, harvest, cure, prepare, barter, sell, give away or use, or offer to sell, furnish or give away, or to have in his or its possession peyote (pellote), botanically known as *Lophophora williamsii*, or *Agave americana*, commonly known as mescal button; or *Cannabis indica*, *Cannabis sativa*, commonly called Indian hemp (marihuana); or any drug or preparation made from any species or variety of the botanical genus *Cannabis*; or any compounds, derivative or preparation of the above-mentioned plants: Provided, that it shall not be unlawful to possess, barter, sell, furnish or give away the bast fibers alone, or any cloth, cordage, rope, or other materials composed of the bast fibers alone, of either of these plants, provided said bast fibers have been properly retted: Provided, however, that it shall not be unlawful for any licensed pharmacist, physician, dentist or veterinary surgeon to have in possession any of said drugs or derivatives of said plants for sale upon written prescription as hereinafter provided, or to sell or use said drugs or derivatives of said plants on the written prescription of a physician, dentist or veterinary surgeon licensed to practice in this State, or to cultivate the century plant (*Agave americana*) for ornamental purposes exclusively. (Id. § 21-2168, as amended Act of Mar. 12, 1927, § 1.)*

122. Penalty For Violating Preceding Section.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed \$500, or imprisoned in the county jail for a period of not to exceed six months, or by both such fine and imprisonment. (R. S. 1923, § 21-2169.)

*This act shall take effect and be in force from and after its publication in the statute book. (Act of Mar. 12, 1927, § 3.)

Serum, Tuberculin.

123. Sale of Anti-Hog Cholera Serum.—Any person or corporation selling or offering for sale within the State of Kansas, any anti-hog cholera serum for the purpose of preventing, curing, or controlling hog cholera or swine plague shall first register such serum with the director of the experiment station of the Agricultural College at Manhattan, Kansas, and obtain from said director a permit or certificate to sell such serum within the State of Kansas, and paying for the same a registration fee of ten dollars. The amount raised by such registration fee shall be paid into the State treasury and become a part of the general State fund. The permit thus granted may be canceled at any time by the said director in his discretion. (R. S. 1923, § 47-628.)

124. Injecting Virulent Cholera Blood Into Hog.—It is hereby declared unlawful for any person to knowingly inject any virulent hog cholera blood into any hog, in the State of Kansas, except under the direction of the Live Stock Sanitary Commissioner; provided, that this section shall not apply to the authorities of the State Agricultural College at Manhattan, Kansas. Any person violating the provisions of this section shall upon conviction thereof be adjudged guilty of a misdemeanor and fined in a sum of not less than one hundred and not more than five hundred dollars for each and every offense. (Id. § 47-629.)

125. Unlawful to Sell Anti-Hog Cholera Serum Without Complying With Act.—It shall be unlawful for any person to offer for sale any anti-hog cholera serum, without first complying with the provisions of this act; and any person violating any of such provisions shall be deemed guilty of a misdemeanor and upon conviction thereof in a court of competent jurisdiction shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars. (Id. § 47-630.)

126. Rules For Tuberculin Test.—The Live Stock Sanitary Commissioner, whenever he may deem it necessary, shall formulate and announce the rules under which the tuberculin test for tuberculosis in domestic animals shall be applied and for all proceedings subsequent to such application: (a) No tuberculin shall be used other than that furnished by the United States government. (b) No person other than one indicated for that purpose by the Live Stock Sanitary Commissioner shall inject any tuberculin into any animal in this State. (c) All charts giving the temperatures and conditions existing at the time the animal was tested, accompanied by a history and description of the animal, shall be, immediately after the test is made, submitted to the State Live Stock Sanitary Commissioner, who shall thereupon render his opinion thereon, which decision shall be final, and shall be recorded in his office. (d) The State Live Stock Sanitary Commissioner shall at once apply the quarantine and other regulations issued by him under the provisions of this act to animals found infected with tuberculosis. (Id. § 47-631.)

Intoxicating Liquors.

127. Unlawful Manufacture, Sale or Possession.—It shall be unlawful for any person to directly or indirectly manufacture, sell, barter, or give away, furnish or keep or have in his possession for personal use or otherwise any spirituous, malt, vinous, fermented or other intoxicating liquors, or permit another to have or keep or use any such liquors on any premises owned or controlled by him, except druggists or registered pharmacists, as hereinafter provided. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than one hundred dollars, nor more than five hundred dollars, and be imprisoned in the county jail not less than thirty days nor more than six months. (R. S. 1923, § 21-2101.)

128. Liability of Carriers.—It shall be unlawful for any common carrier, firm or corporation or any other person for hire or without hire to bring or carry into this State, or carry from one place to another within this State, intoxicating liquors for another or for itself or himself, even when intended for personal use; and it shall be unlawful for any common carrier, its agent or employee to deliver any intoxicating liquors that may be in its possession to any person for any purpose whatsoever. Any person violating any of the provisions of this act shall, on conviction, be adjudged guilty of a misdemeanor and punished by a fine of not less than one hundred dollars nor more than five hundred dollars and by imprisonment in the county jail not less than thirty days nor more than six months, and if a corporation, by a fine of not less than one hundred dollars nor more than five hundred dollars. (Id. § 21-2102.)

129. Receiving Liquor From Carrier or Possession of Liquor so Received.—It shall be unlawful for any person in this State to receive, directly or indirectly, intoxicating liquor from a common carrier or other carrier or person, and it shall also be unlawful for any person in this State to possess intoxicating liquors received directly or indirectly from a common carrier, other carrier or person. This section shall apply to such liquors intended for personal use as well as otherwise and to interstate as well as intrastate carriage. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than one hundred dollars nor more than five hundred dollars and be imprisoned in the county jail not less than thirty days and not more than six months. (Id. § 21-2103.)

130. Sales by Wholesale Druggists; Carriers.—Nothing in this act shall be construed as prohibiting any person, copartnership or corporation engaged in the wholesale drug business and having a stock, exclusive of alcohol, of not less than \$20,000, from selling alcohol for medicinal, mechanical and scientific purposes to hospitals, schools and manufacturers provided for in section 6 [21-2106], and to pharmacists who are actually and in good faith engaged in the retail drug business, and nothing herein provided shall prevent any such person, copartnership or corporation engaged in the wholesale drug business from receiving alcohol in quantities for the purpose of selling the same to registered pharmacists as hereinbefore provided; and nothing herein contained shall be construed as prohibiting a common carrier from delivering to such person, corporation or copartnership engaged in the wholesale drug business or to such registered pharmacists who are actually and in good faith engaged in the retail drug business, the alcohol sold as above provided for; provided, that before any such alcohol shall be delivered to any such registered pharmacist, such registered pharmacist must make and file with the common carrier a statement setting out that he is a registered pharmacist, and that he is receiving the alcohol for the purposes herein mentioned and no other, which statement shall be filed with the county clerk of the county wherein the delivery is made within ten days from the date of its filing with the common carrier; and provided, further, that any common carrier who shall make delivery to any registered pharmacist without the statement above required, or who shall make delivery to such pharmacist of any alcohol except as herein provided, or any pharmacist who shall receive any alcohol except as herein provided, or who shall make any false statement to said common carrier, and any person, copartnership or corporation engaged in the wholesale drug business as herein provided, who shall receive or sell any alcohol except as herein provided, shall on conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than five hundred dollars and not more than two thousand dollars and by imprisonment in the county jail not less than sixty days nor more than one year; provided further, that any registered pharmacist who shall violate any of the provisions of this act shall forfeit his certificate of registration as a registered pharmacist, and it shall be the duty of the State Board of Pharmacy, whenever complaint is made that any registered pharmacist has violated any of the provisions of this act to forthwith investigate such complaint and if it finds such complaint to be true, such board shall immediately revoke the said certificate of registration of such registered pharmacist. (Id. § 21-2105.)

131. Alcohol For Hospitals, Schools or Manufacturers.—Nothing in this act shall be construed as prohibiting any regularly established hospital, that is engaged in caring for the sick or injured, or any school providing a medical, scientific or mechanical course, or any person, company or corporation regularly engaged in manufacturing, from buying, receiving and possessing such amounts of alcohol as are necessary for their respective needs for medicinal, mechanical and scientific purposes only; and nothing herein contained shall be construed as prohibiting a common carrier from delivering to the above-mentioned hospital, schools or manufacturers, or their authorized agent, the alcohol as herein provided for; provided, that before any such alcohol shall be delivered to any such hospital, school or manufacturer, or authorized agent, such hospital, school or manufacturer or authorized agent shall make and file with the common carrier a statement setting out the character of the institution and the fact that the alcohol so received is for the purposes herein mentioned and no other; which statement must be filed with the county clerk of the county where such delivery is made, within ten days from the date of its filing with the common carrier. A common carrier delivering such alcohol without taking such statement and any person making a false statement, shall on conviction, be adjudged guilty of a misdemeanor and be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and imprisonment in the county jail of not less than thirty days nor more than six months; provided further, any person, company or corporation permitted to receive alcohol for medicinal, mechanical or

scientific purposes as hereinbefore set forth, that shall sell, give away or permit to be sold, given away or carried away, alcohol secured for purposes herein mentioned, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and such person, company or corporation so convicted, shall, in addition to punishment above prescribed, forfeit the right, from the date of such conviction, to purchase, secure or have on hand any alcohol. (Id. § 21-2106.)

132. Validity of Bone-dry Law.—If for any reason any part of this act shall be held void, such holding shall not invalidate any other portion of this act. (Id. § 21-2107.)

NOTE: The "bone-dry law" referred to is contained in sections 21-2101 to 21-2108, inclusive, of the Revised Statutes of 1923. See Nos. 127-133.

133. Supplemental Nature of Bone-dry Law.—This act shall be considered as supplemental to laws now in force relating to intoxicating liquors. (Id. § 21-2108.)

134. What Liquors Deemed Intoxicating.—All liquors mentioned in Laws of 1917, ch. 215, sec. 1 [21-2101], as amended, shall be construed and held to be intoxicating liquors within the meaning of this act. (Id. § 21-2109.)

135. Chemical Tests.—The provisions of this act shall not be construed so as to interfere with the work of legitimate chemical testing laboratories in distilling or separating by any process of evaporation, alcoholic spirit from any substance for the purpose of ascertaining the alcoholic contents thereof, or for any legitimate purpose not in violation of the spirit of the prohibitory liquor law of this State. (Id. § 21-2112.)

136. Penalty For Violations.—Every person who shall be convicted of violating any of the provisions of this act shall be punished by confinement in the county jail for a term of six months and by a fine of not less than one hundred dollars nor more than five hundred dollars. (Id. § 21-2113.)

137. Act of 1923 Supplemental.—This act shall be considered as supplemental to laws now in force relating to intoxicating liquor. (Id. § 21-2114.)

NOTE.—The act of 1923 is contained in sections 21-2110 to 21-2114, inclusive, of the Revised Statutes of 1923.

138. Taking or Receiving Order or Contracting For Sale of Liquor.—Any person who shall take or receive any order for intoxicating liquor from any person in this State, or any person who shall, directly or indirectly, contract for the sale of intoxicating liquor with any person in this State, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished therefor as provided in this act, for selling intoxicating liquor. (Id. § 21-2115.)

139. Gifts of Liquor; Shifts or Device to Evade Law.—The giving away of intoxicating liquor, or any shifts or device to evade the provisions of this act, shall be deemed an unlawful selling within the provisions of this act. (Id. § 21-2119.)

140. Possession as Prima Facie Evidence.—In all prosecutions, either under the State laws or under municipal ordinances, for maintaining a common nuisance as hereinbefore defined, the finding of intoxicating liquors in the possession of one not legally authorized to sell the same, shall be prima facie evidence that such liquors are kept for sale or use in violation of law. (Id. § 21-2139.)

141. Persistent Violations.—Any person who, having once been duly convicted of violations of the prohibitory law and who shall thereafter, directly or indirectly violate the provisions of the prohibitory liquor law shall be considered a persistent violator of the prohibitory liquor law and shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the State Penitentiary at hard labor for not more than one year; and every violation, directly or indirectly, of any provision of the prohibitory liquor law, by a person who has heretofore been or shall hereafter be once convicted of any violation of the prohibitory liquor law, shall be considered a separate and distinct felony. (Id. § 21-2146.)

142. Carrying Liquor Into or Within State.—It shall be unlawful for any railroad company, express company, or other common carrier, or for any person, company or corporation to carry any intoxicating liquor into this State or from one point to another within the State for the purpose of delivery or to deliver the same to any person, company or corporation within the State except for lawful purposes. (Id. § 21-2149.)

PART IV.

Miscellaneous Laws.

False Advertising.

143. False, Misleading and Fraudulent Advertising.—Any person, firm, corporation or association, who, with intent to sell or in any wise dispose of any merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the sale or consumption thereof, or to induce the public or any person in any manner to enter into any obligation relating thereto, or to acquire title to or an interest therein; who makes, publishes, disseminates, circulates or places before the public, or causes the same to be done, either directly or indirectly, in this State, whether by newspaper publication or otherwise, as herein provided, any label, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, any advertisement of any kind or character regarding merchandise, securities, service, or any other thing or commodity offered to the public, which advertisement contains any assertion, representation or statement which is in fact untrue, deceptive or misleading, shall be deemed guilty of a misdemeanor and, upon conviction in any court of competent jurisdiction, shall be punished by a fine in any sum not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment for every such offense, and each day such publication or communication shall be published or disseminated shall constitute a violation of the provisions of this act and shall be deemed a separate and distinct offense; provided, also, that the provisions of this act shall not apply to the publisher of any newspaper or other publication, who publishes or causes to be published, disseminated or circulated any written or printed statement prohibited by the provisions of this act, without knowledge that it is false. (R. S. 1923, § 21-1112.)

144. Duty to Prosecute Such Offenders.—It shall be the duty of the Attorney-General of the State of Kansas and each county attorney of each county in Kansas on complaint being made to them to vigorously prosecute any and all offenders against the provisions of this act. (Id. § 21-1113.)

145. Act Not to Affect Other Laws.—This act shall not be construed to impair, amend, modify or repeal the provisions of any law now in force. (Id. § 21-1114.)

Flag Desecration.

146. Desecrating Flag of United States.—Any person who in any manner, for exhibition or display, shall place, or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color or ensign of the United States of America, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign upon which shall be printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature; or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale or to give away, or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise, upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color, or ensign, to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed; or who shall publicly mutilate, deface, defile, or defy, trample upon, or cast contempt, either by words or act, upon any such flag, standard, color, or ensign, shall be deemed guilty of a misdemeanor, and shall upon conviction be punished by a fine not exceeding one hundred dollars, or by imprisonment for not more than thirty days, or both. (R. S. 1923, § 21-1301.)

147. Definition of Terms.—The words "flag," "standard," "color," or "ensign," as used in this act, shall include any flag, standard, color, or ensign, or any picture or representation of either thereof, made of any substance, or represented upon any substance, and of any size, evidently purporting to be either of said flag, standard, color or ensign of the United States of America,

or a picture or a representation of either thereon, upon which shall be shown the color, the stars and the stripes, in any number of either thereof, or by which the one seeing the same, without deliberation, may believe the same to represent the flag, colors, standard or ensign of the United States of America. (Id. § 21-1302.)

148. Act Not to Apply in Certain Cases.—This act shall not apply to any act permitted by the statutes of the United States of America or by the United States army and navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, society or lodge emblem, ornamental picture, or stationery for use in correspondence, on any of which shall be printed, painted or placed said flag, disconnected from any advertisement. (Id. § 21-1303.)

Tobacco—Tobacco Products.

149. Sale or Gift of Cigarettes Generally; Seizures; Prima Facie Evidence.—It shall be unlawful for any person, company or corporation to barter, sell or give away any cigarettes or cigarette papers, or any disguise or subterfuge of either of these, or to have any cigarettes or cigarette papers in or about any store or other place for barter, sale or free distribution. If, upon what seems to be reasonable evidence any person, company or corporation is suspected of having in his or its possession any cigarettes or cigarette papers intended to be offered for barter, sale or free distribution, then, upon the sworn complaint of any citizen of the State of Kansas, specifying fully as to the alleged facts in the case, any officer authorized to make arrests may search the premises of such person, company or corporation and may confiscate any cigarettes or cigarette papers so found. The possession of such cigarette materials shall be considered prima facie evidence of a direct violation of this act. (R. S. 1923, § 21-2201.)

150. Cigarette Advertisements.—It shall be unlawful for any person, company or corporation to advertise cigarettes or cigarette papers, or any disguise or subterfuge of either of these, in any circular, newspaper or other periodical published, offered for sale or for free distribution within the State of Kansas. It shall also be unlawful for any person, company or corporation to advertise cigarettes or cigarette papers on any street sign, placard or billboard; or in any package of merchandise, store window, show case, or any other public place within the State of Kansas. (Id. § 21-2202.)

151. Sale or Gift of Cigarettes, Tobacco or Smoking Materials to Minors; Permitting Minors in Place of Business.—It shall be unlawful for any person, company or corporation to sell or give away to any minor under 21 years of age, any cigarettes, cigars, cigarette papers, tobacco or any other such materials connected with the smoking of tobacco. And it shall likewise be unlawful for the proprietor of any place of business to permit minors under 21 years of age to frequent such place of business while in the act of using tobacco in any form. The term "place of business" as herein used shall apply to any and all such places as shops, stores, factories, offices, theatres, recreation and dance halls, pool rooms, cafes, restaurants, hotels, lodging houses, street cars, interurban and railway passenger coaches and waiting rooms. (Id. § 21-2203.)

152. Penalty For Violating Three Preceding Sections.—Any person, company or corporation violating any part of section 1, 2 or 3, of this act [21-2201 to 21-2203], shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than \$25 or more than \$100 for each and every such offense. (Id. § 21-2204.)

153. Prosecutions Under Cigarette Act.—If any county attorney of any county or city attorney of any city within the State of Kansas shall have knowledge of any violation of any of the provisions of the foregoing sections of this act, or if any other officer or other person having knowledge of the same shall notify him of such violation, then it shall be his duty forthwith diligently to inquire into the facts of such violation and proceed as in other violations of law; and for the purpose of such inquiry he is hereby authorized to issue subpoenas and to compel witnesses to testify, as is provided in the statutes referring to the investigations of and inquiry into the violation of the law respecting the sale of intoxicating liquors. And the Attorney-General, or his assistants, are hereby authorized to assist the county attorneys in the enforcement of this act. (Id. § 21-2205.)

Trade-Marks, Etc.

154. Registration.—Any and all persons or corporations who may be the owners of cans, tubs, firkins, boxes, bottles, casks, barrels, kegs, siphons, cartons, tanks, fountains, vessels, or containers, with his, her, its or their names, brands, designs, trade-marks, devices or other marks of ownership stamped, impressed, labeled, blown in or otherwise marked thereon, may file with the Secretary of State a written statement or description verified by affidavit of such owner, or his, her or its agent, of the names, designs, brands, trade-marks, devices or other marks of ownership so used by him, her, it, or them, and of the said article upon which the same are used. Said statement shall be published once a week for three successive weeks in a newspaper printed in the English language, and of general circulation in the county where such persons shall have their principal place of business, and the publication be paid for by the party applying for registration, a copy of which publication, proved in the same manner as proof of publication is now required to be made by law, shall also be filed with the Secretary of State. All such written statements or descriptions and all such certificates of publication so filed with the Secretary of State shall be recorded at large by him in a book to be kept by him for the purpose, and such book shall be subject at all reasonable hours to the inspection of all persons who may choose to inspect the same. The Secretary of State shall deliver to any person who may apply therefor copies of all such written statements or descriptions of names, brands, designs, trade-marks, devices, or other marks of ownership, and all certificates of publication so filed with them, duly certified to by them in the usual manner, and such certified copies shall be admissible in evidence in all prosecutions under this act, and shall be prima facie evidence that the provisions of this section have been complied with, and of the title of the owner or owners named therein to the property upon which the name, brand, design, trade-mark, device or other marks of ownership of such owner or owners may appear as described therein. The Secretary of State shall receive a fee of one dollar for each statement and certificate of publication, to be paid for by the person filing or applying for same. (R. S. 1923, § 81-101.)

155. Unlawful Use of Receptacles.—It shall be unlawful for any person or persons or corporation, or any of the agents of such person or persons or corporation, without the written consent of the owner thereof, to willfully use or fill with any similar substance as the same originally contained any of the receptacles enumerated in section 1 of this act [81-101], bearing a trade-mark so registered as aforesaid, with intent to sell, barter or exchange the same as genuine, or to change, shift, intermix, dilute or adulterate the original contents of any such receptacle, with intent to sell, barter, exchange the same as if it were genuine and original; provided, however, that nothing herein shall prevent the owner or owners of any such receptacles bearing his or their trade-mark from refilling, or authorizing others to refill, such receptacles, or to prohibit such owner or owners thereof to change, alter or improve the substance, color, quality or flavor of any substance or liquid intended for such receptacle. (Id. § 81-102.)

156. Penalty For Violations.—Any person or persons or any officer or agent of any person or persons, or corporation, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be fined not to exceed one hundred dollars, or committed to imprisonment in the county jail for a period not exceeding three months. (Id. § 81-103.)

157. Trade-mark Injunction and Damages.—Every person having complied with the provisions of this act aforesaid may proceed by suit to enjoin any other person or corporation from the using, handling, buying, selling or trafficking in any of the articles enumerated in section 1 [81-101], in any manner, in violation of the foregoing provisions, and upon a decree being rendered in any such case and against such defendant, the complainant shall be entitled to recover the damages he may have sustained by reason of the acts of the defendant, and the court rendering such decree shall assess and award such damages, or cause the same to be assessed and awarded under its direction, and render judgment therefor, with costs. (Id. § 81-104.)

Trading Stamps.

158. Trading Stamps.—Every person, firm or corporation who shall use, and every person, firm or corporation who shall furnish to any other person,

firm or corporation to use, in, with, or for the sale of any goods, wares, or merchandise, any stamps, coupons, tickets, certificates, cards, or other similar devices, which shall entitle the purchaser receiving the same with such sale of goods, wares or merchandise to procure from any person, firm, or corporation any goods, wares, or merchandise, free of charge, or for less than the retail market price thereof, upon the production of any number of said stamps, coupons, tickets, certificates, cards, or other similar devices, shall, before so furnishing, selling or using the same, obtain a license from the county clerk of each county wherein such furnishing, selling or using shall take place, for each and every store or place of business in that county, owned or conducted by such person, firm, or corporation from which such furnishing or selling, or in which such using shall take place; provided, however, that the provisions of this section shall not apply to the furnishing or issuance of any stamps, coupons, tickets, certificates, cards, or other similar devices, redeemable at their face value, in cash or merchandise from the general stock of said merchant at regular retail prices at the option of the holder thereof. (R. S. 1923, § 19-2210.)

159. Trading Stamp License Fees.—In order to obtain such license, the person, firm, or corporation applying therefor shall pay to the county treasurer of the county for which such license is sought an annual license fee, based upon population as follows:

In counties of 30,000 or less.....	\$4,000
In counties of 30,000 to 50,000.....	5,000
In counties of 50,000 to 70,000.....	6,000
In counties of over 70,000.....	7,000

Upon such payment being made to the county treasurer, he shall issue his receipt therefor, which shall be presented to the county clerk, who shall issue to the person, firm or corporation making such payment a license to furnish or sell, or a license to use, for one year, the stamps, coupons, tickets, certificates, cards, or other similar devices mentioned in section 1 of this act [19-2210]. Such license shall contain the name of the grantee thereof, the date of its issue, the date of its expiration, the town or city in which and the location at which the same shall be used, and such license shall be used at no other place than that mentioned therein. (Id. § 19-2211.)

160. Place of Dealing in Trading Stamps.—No person, or firm, or corporation shall furnish or sell to any other person, firm, or corporation to use, in, with, or for the sale of any goods, wares, or merchandise, any such stamps, coupons, tickets, certificates, cards, or other similar devices for use in any town, city or county in this State other than that in which such furnishing or selling shall take place. (Id. § 19-2212.)

160a. Validity of Trading-Stamp Act.—If any section or provision of this act shall be held unconstitutional by the courts, such decision shall not affect the validity or constitutionality of any other section or provision herein contained. (Id. § 19-2213.)

161. Violations of Trading Stamp Act.—Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$500 or be imprisoned in the county jail for not less than 60 days, or by both such fine and imprisonment, at the discretion of the court. (Id. § 19-2214.)

Weights and Measures.

162. Standards.—Such standard weights and measures as have been furnished to this State by the government of the United States, in accordance with a joint resolution of Congress, approved June 14, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances and measuring devices, in addition thereto, or in renewal thereof, shall be the authorized standards of the State of Kansas. (R. S. 1923, § 83-101.)

163. Units of Standards of Weight.—The units of standards of weight, from which all other weights shall be derived and ascertained, shall be the standard weights designated in this act. The hundredweight consists of 100 avoirdupois pounds, and a ton contains 20 hundredweights. Wherever hereafter in this act the word pound is used it shall mean the avoirdupois pound unless otherwise distinctly specified. (Id. § 83-103.)

164. Units of Standards of Dry Measure.—The units of standards of measure of capacity for commodities not liquids, from which all other measures shall

be derived and ascertained, shall be the standards for such commodities designated in this act. The peck, half peck, quarter peck, quart, pint and half pint measures for measuring commodities which are not liquids shall be derived from the half bushel by successively dividing that measure by two. (Id. § 83-104.)

165. Units of Standards of Liquid Measure.—The units of standards of measure of capacity for liquids, from which all other measures shall be derived and ascertained, shall be the standard liquid measure designated in this act. The liquid gallon shall be divided by continual division by the number two so as to make half gallons, quarts, pints, half pints and gills. (Id. § 83-105.)

166. Metric System.—The weights and measures of the metric system shall be legal weights and measures in the State of Kansas. (Id. § 83-107.)

167. Board of Health to Enforce Act.—The State Board of Health shall be charged with the duties of enforcing the provisions of this act. (Id. § 83-108.)

168. Barrel or Bushel of Grain, Fruits or Vegetables.—Mill products and vegetable products hereinafter mentioned shall have only the following standard weights, and whenever any of the following articles shall be contracted for or sold or delivered and no special contract or agreement shall be made to the contrary, such sale and all computations for payment or settlement therefor shall be by net weight, the net weight to be plainly marked on the outside of the barrel, sack, package or bale as the case may be, and the net weight, whether stated in words or otherwise, shall be as follows:

Barrels of wheat and rye flour and corn meal, one hundred and ninety-six pounds net.

One-half barrels, ninety-eight pounds net.

One-fourth barrels, forty-eight pounds net.

One-eighth barrels, twenty-four pounds net.

One-sixteenth barrels, twelve pounds net.

Provided, however, that corn meal may be packed and sold in sacks of thirty-five pounds net, seventeen and one-half pounds net, and eight and three-fourths pounds net. When hay and straw are sold in bales, the correct weight which said bale contains, when sold at retail by the bale.

Cottonseed meal in sacks, one hundred pounds net.

Bran in sacks, one hundred pounds net.

Shorts in sacks, one hundred pounds net.

Tankage in sacks, one hundred pounds net.

Oil meal in sacks, one hundred pounds net.

Meat meal in sacks, one hundred pounds net.

And all other feeds made from cereals of any kind, whether pure, mixed, or adulterated, one hundred pounds per sack net.

The net weight per bushel of the following articles shall be as follows, and any fractional part of a bushel shall be the like fractional part of the said weight per bushel, net:

	<i>Pounds.</i>
Alfalfa seed	60
Apples	48
Apples, dried	24
Barley	48
Beans	60
Beans, unshelled green	38
Beans, castor	46
Beets	56
Bluegrass seed, native	14
Bluegrass seed, English	22
Broom corn seed	30
Buckwheat	48
Cane seed	50
Carrots	50
Cherries, without stems	64
Cherries, with stems	56
Clover seed	60
Corn, shelled	56
Corn, in the ear, husked	70
Cucumbers	48
Flaxseed (linseed)	56
Feterita	56
Grapes, with stems	48
Grapes, without stems	60

Hemp seed	44
Kafir corn	56
Lime, unslacked	80
Malt	38
Millet seed, Hungarian	50
Milo maize	56
Nuts, black walnut	50
Nuts, hickory	50
Oats	32
Onions	55
Parsnips	48
Peaches	48
Peaches, dried	33
Pears	50
Peas	60
Peas, green, in pods	30
Plastering hair, washed	4
Plastering hair, unwashed	8
Plums	52
Popcorn, on cob	70
Popcorn, shelled	56
Potatoes	60
Quinces	48
Rutabagas	50
Rye	56
Salt	80
Sorghum seed	50
Spelts or emmer	40
Spinach	14
Sweet potatoes	50
Sweet potatoes, seed (sorted $1\frac{1}{4}$ inches in diameter and under)	45
Timothy seed	45
Tomatoes	56
Turnips	55
Wheat	60
Sudan grass seed	40

And the standard barrel for all fruits and vegetables and other dry commodities shall contain 7,056 cubic inches, and for sweet potatoes and apples the two-bushel box shall contain 4,704 cubic inches and one-bushel box shall contain 2,352 cubic inches. (Id. § 83-109.)

169. Climax Baskets.—The standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket and twelve-quart basket, respectively: (a) The standard two-quart Climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurements. Top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used. (b) The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used. (c) The standard twelve-quart Climax basket shall be of the following dimensions: length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used. (Id. § 83-110.)

170. Containers For Small Fruits or Vegetables.—The standard basket or other container for small fruits, berries and vegetables shall be of the following capacities, namely, dry one-half pint, dry pint, dry quart or multiples of the dry quart. (a) The dry half-pint shall contain sixteen and eight-tenths cubic inches. (b) The dry pint shall contain thirty-three and six-tenths cubic inches. (c) The dry quart shall contain sixty-seven and two-tenths cubic inches. (Id. § 83-111.)

171. Apple Boxes.—The standard apple box shall have inside dimensions of ten and one-half inches by eleven and one-half inches by eighteen inches and shall contain twenty-one hundred and seventy-three and five-tenths cubic inches. (Id. § 83-112.)

172. Baskets or Boxes Not Complying With Act.—It shall be unlawful to manufacture for sale or shipment, sell, offer for sale, or ship within the State, Climax and other baskets and apple boxes, either filled or unfilled, which do not comply with this act. Any individual, partnership, association or corporation that willfully violates this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$100. (Id. § 83-113.)

173. Inspection of Containers; Variations From Standards.—The examination and test of Climax baskets, baskets or other containers for small fruits, berries and vegetables for the purpose of determining whether such baskets or other containers comply with the provisions of this act, shall be made by the secretary of the State Horticultural Society, and its secretary shall establish and promulgate rules and regulations allowing such reasonable tolerances and variations as may be found necessary. (Id. § 83-114.)

174. Contract, Sales or Purchases Taken and Construed in Terms of Weights and Measures.—All contracts, sales or purchases hereafter made for work to be done, or for anything to be sold or delivered or done, by weight or measure, within this State, shall be taken and construed in terms of and according to the standards of weights and measures adopted by this act, except where parties have agreed upon any other calculations or measurement; and all statements and representations of any kind referring to the weights or measures of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid. (Id. § 83-115.)

175. Sale of Dry Commodities.—All dry commodities not otherwise specified in this act shall be sold only by standard dry measure, standard weight, or numerical count, except where parties otherwise agree. (Id. § 83-116.)

176. Sale of Berries and Small Fruits in Boxes.—Berries and small fruits whenever sold in boxes shall be sold in boxes containing standard liquid quart or liquid pint, and if said boxes contain less than this amount the information must be given to the purchaser by such package being labeled with a statement of the net contents. (Id. § 83-117.)

177. Sale of Liquids, Milk or Cream.—All milk or cream that shall be sold in bottles shall be sold only in bottles containing half-pints, pints, quarts, half-gallons or gallons. All other liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree. (Id. § 83-118.)

178. Weight of Loaf of Bread.—A loaf of bread for sale shall be two pounds in weight. Bread, unless composed in chief part of rye or maize, shall be sold only in whole, half and quarter loaves and not otherwise. Bread, when sold, shall, upon the request of the buyer, be weighed in his presence, and if found deficient in weight, additional bread shall be delivered to make up the legal weight, except that this section shall not apply to rolls or to fancy bread weighing less than one-quarter of a pound. Every loaf, half-loaf or quarter-loaf of bread which does not weigh the full weight required by this section shall be plainly labeled with the exact weight. (Id. § 83-119.)

179. Weight of Print or Package of Butter.—A print or package of butter shall contain sixteen ounces avoirdupois, and when a print or package of butter containing less than sixteen ounces avoirdupois shall be sold its net weight shall be disclosed by the seller to the buyer, or a statement of the net weight be made upon a label attached thereto. (Id. § 83-120.)

180. False Weights or Measures.—A person who, by himself or by his servant or agent, or as the servant or agent of another, uses a weight, measure, balance or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, or sells or exposes for sale less than the quantity which he represents, or sells or offers for sale commodities in a manner contrary to law, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined in a sum not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. He shall also be liable to the injured party in double the amount of the property wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction. The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of representations on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary

leakage, evaporation or waste that there may be from the time the package is filled by the vendor until the selling of the same; a slight variation from the stated weight, measure or quantity for individual packages is permissible, provided this variation is as often above as below the weight, measure or quantity stated. (Id. § 83-121.)

181. State Sealer of Weights and Measures; Care and Custody of Standards; Verification.—The Chancellor of the University of Kansas, at Lawrence, shall be ex-officio State Sealer of Weights and Measures (hereafter referred to in this act as the State Sealer), and shall have the care and custody of the authorized public standard weights and measures and of balances and other apparatus of all kinds owned by the State under section 1 of this act [83-101]. He shall maintain the State standards in good order and submit them at least once in every ten years to the National Bureau of Standards for verification. He shall compare and adjust by the State standards all county, municipal and other official standard weights, measures, balances and measuring devices which may be sent or brought to him for that purpose, and shall seal the same when found or made to conform to the State standards by stamping upon each the letter "K" and the last two figures of the year in which the said comparison and adjustment has been made with seals which he shall have and keep for that purpose: provided, that he may refuse to compare and seal any weights, measures, balances or measuring devices as standard for any county, municipality or public offices which do not conform to the type approved by the National Bureau of Standards for such use. (Id. § 83-122.)

182. Test and Sealing of Weights and Measures by State Sealer.—The State Sealer may try and prove weights, measures, balances and other measuring devices on request for any person, corporation or institution, and when the same are found or made to conform to the State standards, and otherwise fulfill such reasonable requirements as he shall make he may seal the same with a seal which he shall have and keep for that purpose. (Id. § 83-123.)

182a. Records and Reports of State Sealer; Regulations for Local Sealers.—The State Sealer shall keep a record of all of the weights, measures, balances or other measuring devices sealed or condemned by him, and shall make an annual report to the Governor on or before January 1, of each year, a copy of which shall be filed with the national bureau of standards. He shall issue from time to time regulations for the guidance of county, municipal and all other inspectors or sealers of weights and measures, and the said regulation shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 83-124.)

182b. Deputy State Sealer.—The State Sealer may appoint a Deputy State Sealer, who shall perform such duties as may be prescribed by the State Sealer, and he shall be a member of the faculty of the State University and receive no other compensation than his salary as a member of the faculty. (Id. § 83-125.)

182c. County Sealer.—The county clerk of each county shall be the sealer of weights and measures for the county, and shall have the care and custody of the county standards. He shall procure, when ordered by the board of county commissioners, at the expense of the county, when not already provided, a full set of weights, measures, balances and measuring devices, which he shall cause to be tried, proved and sealed by the State standards under the direction of the State Sealer. He shall maintain the standards and other apparatus under his charge in good order and repair and submit the same to the State Sealer for verification when in the judgment of the commissioners it seems necessary. (Id. § 83-126.)

182d. Sets of Standards for County and Local Sealers.—Sets of standards for county and local sealers, if procured, shall include the following weights, measures and balances, and they shall be of a type approved for such use by the State Sealer: One yard measure divided into feet and inches, and at least one of the inches divided into thirty-seconds of an inch. Dry capacity measures: One-half bushel, one peck, one quart and one pint. Liquid capacity measures: One gallon, one quart and one pint. Avoirdupois pound weights in the following number and denomination: One fifty-pound, one twenty-pound, two ten-pound, one five-pound, two two-pound, and one one-pound. Avoirdupois ounce and fractional ounce weights in the following number and denomination: One eight-ounce, one four-ounce, one two-ounce, two one-ounce, one one-half-ounce, one one-quarter-ounce, one one-eighth-ounce, and two one-sixteenth-ounce. Twenty test weights each of fifty pounds for testing platform scales and other large scales, if the same are to be tested. One equal arm balance of capacity of fifty pounds to one-sixteenth of an ounce. (Id. § 83-127.)

182e. Test and Sealing of Weights and Measures by Local Sealers; False Devices.—The several county and local sealers shall try and prove all weights, measures, balances and measuring devices when requested so to do, and when the same are found or made to conform to the authorized standards they shall seal and mark such weights, measures, balances and measuring devices with a seal to be kept by them for that purpose. When any weight, measure, balance or measuring device is found by any authorized inspector or sealer to be false or untrue or not of an approved type, or which does not conform to the standards, or which cannot be made to conform to the standards by such means as the said inspector or sealer may have at his disposal, he shall condemn the same and mark it condemned in a conspicuous manner, and such condemnation mark shall not be removed or defaced except by authorization of the said inspector or sealer. (Id. § 83-128.)

182f. Neglect of Duty by County Sealer.—Any county clerk who neglects to keep the standards under his charge in good order or repair, or who suffers any of them through his neglect to be lost, damaged or destroyed, or who fails to perform any of the duties imposed upon him by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be subject to a fine of not less than ten dollars nor more than two hundred dollars. (Id. § 83-129.)

182g. Fees of Sealers.—Each sealer of weights and measures, including the county clerk or any deputy sealer of weights and measures, shall receive fees as follows: One dollar for inspecting or sealing each platform scale, if weighing five thousand pounds or more, and fifty cents if weighing less than that amount; for sealing or marking every beam, ten cents. For sealing or marking measures of extensions, ten cents per yard or fraction thereof, not exceeding fifty cents for any one measure. For sealing or marking every weight, five cents. For sealing or marking liquid or dry measures, ten cents for each measure. The county clerk or his deputy shall be entitled to collect from the owner or custodian of such scales, dry measures, liquid measures or measures of extension, all necessary expenses incurred by such county clerk or his deputy in performing his duties as county sealer of weights and measures. The State sealer shall not require any fee from any county or city, and all fees collected by the State, county or city sealer shall be paid into the State, county or city treasury, as the case may be. (Id. § 83-130.)

183. Entry on Premises by Sealers.—All State, county and local sealers, or their deputies and other authorized inspectors of weights and measures, shall have full power to enter any premises in or on which any weights, measures, balances or measuring devices may be located or used for the purposes of trade, for the purpose of inspecting, adjusting and sealing or condemning the same. Whoever hinders, obstructs or in any way interferes with any sealer or other person authorized to inspect weights and measures, while in the performance of said inspection, or whoever fails to produce, upon demand by such authorized sealer or inspector, all weights, measures, balances or measuring devices in or upon his place of business or in his possession for use in manufacture or trade, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than five dollars nor more than one hundred dollars. (Id. § 83-131.)

184. Sealing or Condemnation of Weights or Measures Without Testing.—Any State or local sealer or deputy who shall seal any weight, measure, balance or measuring device before first testing and making the same conform to the authorized standard, or who shall condemn any weight, measure, balance or measuring device without first testing the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than five dollars nor more than one hundred dollars. (Id. § 83-132.)

184a. Records and Reports of Local Sealers.—The several county and municipal sealers and other persons authorized to inspect weights and measures shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by them, giving the name of the owner or agent, the place of business, the date of inspection, and kind of apparatus so inspected, sealed or condemned, and shall make an annual report of the same to the State Sealer on or before the first day of September of each year, giving, in addition to the above, an inventory of the standards and apparatus in his possession, and such other information as he may deem important or that the State Sealer may require. (Id. § 83-133.)

185. Departments of Inspection of Weights and Measures.—Any city or municipality in the State may establish a department of public inspection of

weights and measures, and shall have power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances not in conflict with the State laws as may be deemed necessary; and if a city or municipality shall establish such a department it shall provide the sealer with suitable quarters, a set of standards as hereinbefore specified in this act, and all other equipment for the proper performance of his duties. All city and municipal standards shall be tried, proved and sealed under the direction of the State Sealer, and shall be returned to him for verification at least once in every five years. (Id. § 83-134.)

186. Investigations by Local Sealers.—The county or local sealer who may have reason to believe that any weight, measure, balance or measuring device used in trade is inaccurate, or not according to the standard, shall have authority to make an immediate examination of the same and require that the same be tried and tested and conform to the standards herein required. (Id. § 83-135.)

187. Co-operation by State Board of Health and Food and Drug Inspectors With State and Local Sealers.—It is hereby made the duty of the State Board of Health and its several food and drug inspectors to co-operate with the State and local sealers in carrying out the provisions of this act and all other acts relating to weights and measures, and the said food and drug inspectors are hereby authorized and empowered to act as inspectors of weights and measures used in trade. The State Board of Health shall procure, at the expense of the State, a full set of standard weights, measures and balances, including sets of standard apothecary's weights and measures, and cause the same to be proved and sealed by the State standards under the direction of the State Sealer, together with the necessary working sets of weights, measures, balances and measuring devices for the use of the said inspectors, which must be officially sealed, and such weights and measures, balances and measuring devices provided for such inspectors shall be competent evidence in all courts in this State in criminal or civil actions. (Id. § 83-136.)

188. Standard Weight Per Gallon of Oils.—Whenever any of the following named articles shall be contracted for or sold or delivered by wholesale or in the original packages within the State of Kansas, and no special contract or agreement shall be made to the contrary, such sale and all computations for payment and settlement therefor shall be by weight. The weight per gallon shall be as follows: Naphtha, five and three-fourths pounds; kerosene oil, six and one-half pounds; paraffine oil, seven and one-half pounds; castor oil, eight pounds; olive oil, seven and five-eighths pounds; linseed oil, raw, seven and one-half pounds; linseed oil, boiled, seven and one-half pounds; menhaden oil, seven and one-half pounds; cod liver oil, seven and one-half pounds; whale oil, seven and one-half pounds; lard oil, seven and one-half pounds; neat's foot oil, seven and one-half pounds; sperm oil, seven and one-fourth pounds; turpentine, seven pounds; miners' oil, seven and one-half pounds; gasoline, seven and one-fourth pounds. (Id. § 83-137.)

189. Taking Greater Number of Pounds of Oil to Gallon or Giving Less Number of Pounds.—Whoever in buying any of the articles mentioned in the preceding section shall take any greater number of pounds thereof to the gallon, or in selling any of said articles shall give any less number of pounds thereof to the gallon than is allowed by said section, with intent to gain advantage thereby, except when expressly authorized so to do by special contract or agreement to that effect, shall be liable to the party injured in double the amount or value of the property so wrongfully taken or not given, and ten dollars in addition thereto, to be recovered in any court of competent jurisdiction. (Id. § 83-138.)

190. Sale of Grain, Seed, Hay or Coal.—Every sale of grain, seed, hay or coal shall be deemed to be made on the basis of the actual weight thereof, unless a different basis is established by the express agreement of the parties to the transaction. Any purchaser of grain, seed hay or coal who, without express agreement with the seller thereof, shall knowingly deduct any quantity or amount from the actual weight or measure of the article purchased, and withhold payment therefor under claim of right so to do by reason of any custom, rule of a board of trade or any other pretense whatsoever, shall be deemed guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense. No agent or broker selling grain, seed, hay or coal for the owner thereof shall be presumed to have authority to sell any grain, seed, hay or coal on a basis other than that of the actual weight or quantity thereof, but express authority to allow any deduction must be proved. (Id. § 83-139.)

191. Deduction by Purchaser of Grain, Seed, Hay or Coal.—In case any purchaser of grain, seed, hay or coal, shall deduct any amount from the actual weight or measure thereof, and shall knowingly withhold from the seller the purchase price of the quantity so deducted without the express agreement of the seller

thereof, such seller may recover from such purchaser three times the amount so withheld, together with reasonable attorney's fees, to be taxed in each court in which the action may be brought or to which an appeal may be taken. (Id. § 83-140.)

NOTE: See also No. 8; the dairy law, No. 17 et seq.; the grain law, No. 46 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Food and Drug Inspector—Holding Two Offices: See *Congdon v. Knapp & Payne, 106 Kan. 206, 187 Pac. 660 (1920).

Milk—Adulteration: State v. Meyer, 94 Kan. 647, 146 Pac. 1007 (1915).

Syrup—Misbranding: Corn Products Refining Company v. Eddy et al., 99 Kan. 63, 163 Pac. 615 (1916), affirmed in *Same, 249 U. S. 427, 39 S. Ct. 325, 63 L. Ed. 689 (1919).

2. Special Food Laws.

Beverages—Extracts, Bitters, Cordials, Tonics, Perfumes, Etc.: Intoxicating Liquor Cases, 25 Kan. 751, 37 Am. Rep. 284 (1881).

Beverages—Jamaica Ginger: State v. Miller & Pennell, State v. Kibbey & Steadman, State v. Baskin, 92 Kan. 994, 142 Pac. 979 (1914).

Bread—Bakery Products—License: *In re Irish, 121 Kan. 72 (1926); *Same, 122 Kan. 33, 250 Pac. 1056 (1926).

Bread—Weight: *State v. McCool, 83 Kan. 428, 111 Pac. 477 (1910).

Butter—Weight: *State v. Belle Springs Creamery Co., 83 Kan. 389, Ill. Pac. 474, L. R. A. 1915 D, 515 (1910).

Feeding Stuffs: *George H. Lee Co. v. Webster, 190 Fed. 353 (1911).

Grain—Inspection: Jones v. Board of Trade of Kansas City, 52 Kan. 95, 34 Pac. 453 (1893); State ex rel. Dawson v. Atchison, T. & S. F. R. Co. et al., 87 Kan. 348, 565, 125 Pac. 98 (1912); *Hicks v. Davis, 97 Kan. 312, 154 Pac. 1030 (1916), rehearing denied in *Same, 97 Kan. 662, 156 Pac. 774 (1916).

Meat—Inspection Before Slaughter: *Ex parte Kieffer, 40 Fed. 399 (1889).

Meat—Sale of Diseased Animals: State v. Wigglesworth, 93 Kan. 610, 144 Pac. 831 (1914).

Meat—Slaughterhouse—Sanitation: State v. Knowles et al., 34 Kan. 393 (1885).

Milk—Adulteration: State v. Miller, 87 Kan. 454, 124 Pac. 361 (1912); *Kansas City v. Henre, 96 Kan. 794, 153 Pac. 548 (1915). See also *Milk—Adulteration*, *supra*.

Milk—Dairy Inspector—Removal: Bassler v. Gordon et al., 119 Kan. 40, 237 Pac. 907 (1925); Same, 122 Kan. 692 (1927).

Milk—Dairymen—License: *City of Lawrence v. Kagi, 105 Kan. 520, 185 Pac. 60 (1919).

3. Special Drug Laws.

Narcotics: State v. Carter, 122 Kan. 524 (1927). See also: Gillmore v. Gillmore et al., 91 Kan. 293, 137 Pac. 958 (1914); Same, 91 Kan. 707, 137 Pac. 386 (1914).

Pharmacy: Swisher v. Dunn & The First State Bank of Tribune, 89 Kan. 412, 131 Pac. 571 (1913), rehearing denied in Swisher v. Dunn et al., 132 Pac. 832 (1913).

Pharmacy—Hydrogen Peroxide Not Subject to Law: State v. Hanchette, 88 Kan. 864, 129 Pac. 1184 (1913).

Poisons—Wood Alcohol: See Campbell v. Brown, 81 Kan. 480, 106 Pac. 37 (1910); Same, 85 Kan. 527, 117 Pac. 1010 (1911).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Drugs: Campbell v. Brown, 81 Kan. 480, 106 Pac. 37 (1910); Same, 85 Kan. 527, 117 Pac. 1010 (1911); Daniels v. Dick et al., 95 Kan. 72, 147 Pac. 845 (1915). See also: Gillmore v. Gillmore et al., 91 Kan. 293, 137 Pac. 958 (1914); Same, 91 Kan. 707, 139 Pac. 386 (1914).

Feeding Stuffs: Lukens et al. v. Freuind, 27 Kan. 664, 41 Am. Rep. 429 (1882).

Food: Malone v. Jones et al., 91 Kan. 815, 139 Pac. 387 (1914), rehearing granted in Same, 139 Pac. 1199 (1914) and judgment modified and affirmed in Same, 92 Kan. 708, 142 Pac. 274 (1914); Parks et al. v. C. C. Yost Pie Co. et al., 93 Kan. 334, 144 Pac. 202, L. R. A. 1915 C, 179 (1914). See also: Bigger v. Bovard, 20 Kan. 204 (1878); Nixa Canning Company v. Lehmann-Higginson Grocer Company, 70 Kan. 664, 79 Pac. 141 (1905); Kaull et al. v. Blacker et al., 107 Kan. 578, 193 Pac. 182 (1920).

5. Miscellaneous.

Black Powder: *In re Williams, 79 Kan. 212, 98 Pac. 777 (1908), affirmed in *Williams v. Walsh, 222 U. S. 415, 32 S. Ct. 137, 56 L. Ed. 253 (1912).

Cigarettes: *State v. Nossaman, 107 Kan. 715, 193 Pac. 347, 20 A. L. R. 921 (1920), appeal dismissed in Nossaman v. Kansas, 258 U. S. 633, 42 S. Ct. 314, 66 L. Ed. 802 (1922); State v. Baumgardner, 112 Kan. 803, 212 Pac. 677 (1923). *Post Printing & Publishing Co. v. Brewster et al., 246 Fed. 321 (1917).

Flag Desecration: State v. Shumaker, 103 Kan. 741, 175 Pac. 978 (1918).

Gift Enterprise: State v. Kansas Mercantile Association et al., 45 Kan. 351 (1891); Davenport v. City of Ottawa, 54 Kan. 711 (1895).

Trade-Marks: Aetna Mill & Elevator Company v. Kramer Milling Co., 82 Kan. 679, 109 Pac. 692, 28 L. R. A. (N. S.) 934 (1910). See also: Kansas Milling Co. v. Kansas Flour Mills Co., 89 Kan. 855, 133 Pac. 542 (1913); Harryman et al. v. Harryman et al., 93 Kan. 223, 144 Pac. 262, Ann. Cas. 1915 B, 369 (1914); Powell & Platz v. Valentine, 106 Kan. 645, 189 Pac. 163 (1920); Middlebrook v. Winterscheidt, Winterscheidt & The Golden Rule Mercantile Company, 118 Kan. 731, 236 Pac. 825 (1925).

Trading Stamps: *State v. Wilson, 101 Kan. 789, 168 Pac. 679, L. R. A. 1918 B, 374 (1917); *State v. Crosby Bros. Mercantile Co., *State v. Sperry & Hutchinson Co., *State v. Surety Coupon Co., 103 Kan. 733, 176 Pac. 321 (1918), rehearing denied in Same, 103 Kan. 896, 176 Pac. 670 (1918).

Turpentine, Linseed Oil, Flaxseed Oil—Required Declaration of Proportion of Ingredients of Compounds: *American Linseed Oil Co. v. Crumbine, 207 Fed. 332 (C. C. A.) (1913).

Weights and Measures: In re Martin, 80 Kan. 245, 101 Pac. 1006 (1909); *State v. Belle Springs Creamery Co., 83 Kan. 389, 111 Pac. 474, L. R. A. 1915 D, 515 (1910); *State v. McCool, 83 Kan. 428, 111 Pac. 477 (1910); State v. Molz, 91 Kan. 901, 139 Pac. 376 (1914). See also: Cardwell v. Union Pacific Railroad Co. et al., 90 Kan. 707, 136 Pac. 244 (1913).

KENTUCKY.*

PART I.

General Food and Drug Law.

1. **Manufacture, Exposure for Sale, Sale, or Possession for Sale of Adulterated or Misbranded Drug; Penalty; Interstate Commerce.**—It shall be unlawful for any person, persons, firm or corporation within this State to manufacture for sale, produce for sale, expose for sale, have in his or their possession for sale, or to sell any article of food or drug which is adulterated or misbranded within the meaning of this act; and any person or persons, firm or corporation, who shall manufacture for sale, expose for sale, have in his or their possession for sale or sell any article of food or drug which is adulterated or misbranded within the meaning of this act shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or be imprisoned not to exceed fifty days, or both such fine and imprisonment: Provided, that no article of food or drug shall be deemed misbranded or adulterated within the provisions of this act when intended for shipment to any other State or country, when such article is not adulterated or misbranded in conflict with the laws of the United States; but if said article shall be in fact sold or offered for sale for domestic use or consumption within this State, then this proviso shall not exempt said article from the operations of any of the other provisions of this act. (Stats. 1922, § 2060.)

2. **"Food" Defined.**—The term food, as used in this act, shall include every article used for or entering into the composition of food or drink for man or domestic animals, including all liquors. (Id. § 2060a-1.)

3. **Food Deemed Misbranded, When.**—For the purpose of this act, an article of food shall be deemed misbranded:

1. If the package or label shall bear any statement purporting to name any ingredient or substance as not being contained in such article, which statement shall not be true in any part; or any statement purporting to name the substances of which such article is made, which statement shall not give fully the name or names of all substances contained in any measurable quantity.

2. If it is labeled or branded in imitation of or sold under the name of another article, or is an imitation either in package or label of another substance of a previously established name; or if it be labeled or branded so as to deceive or mislead the purchaser or consumer with respect to where the article was made or as to its true nature and substance, or as to any identifying term whatsoever whereby the purchaser or consumer might suppose the article to possess any property or degree of purity or quality which the article does not possess.

3. If, in the case of certified milk, it be sold as or labeled "certified milk," and it has been so certified under rules and regulations by any county medical society, or if when so certified it is not up to that degree of purity and quality necessary for infant feeding, as determined by rules and regulations of the State Board of Health.

4. If it be misrepresented as to weight or measure, or if where the length of time the product has been ripened, aged or stored, or if where the length of time it has been kept in tin or other receptacle, tends to render the article unwholesome, the facts of such excessive storage, ripening, ageing or packing are not plainly made known to the purchaser and to the consumer.

5. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular: Provided, that articles of liquor which do not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded within the provisions of this act, in the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is

*CITATIONS: "Stats. 1922" refers to Carroll's Kentucky Statutes, 1922. "Supp. 1926" refers to the supplement thereto of that year.

offered for sale; provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring and flavoring ingredients used for the purpose of coloring and flavoring only. (Id. § 2060a-2.)

4. Food Deemed Adulterated, When.—For the purpose of this act, an article of food shall be deemed to be adulterated:

1. If any substance or substances be mixed or packed with it so as to reduce, lower or injuriously affect its quality or strength.

2. If any substance be substituted wholly or packed with it so as to reduce, lower or injuriously (affect its quality or strength).

3. If any valuable constituent of the article has been wholly or in part abstracted; or if the product is below that standard of quality represented to the purchaser or consumer.

4. If it is mixed, colored, coated, polished, powdered or stained, whereby damage is concealed, or if it is made to appear better or of greater value than it is, or if it is colored or flavored in imitation of the genuine color or flavor of another substance of a previously established name.

5. If it contains any poisonous ingredient which may render such article injurious to health, or if it contains any antiseptic or preservative which may render such article injurious to health, or any other antiseptic or preservative not evident or not plainly stated on the main label of the package.

6. If it consists of or is manufactured from in whole or in part of a diseased, contaminated, filthy or decomposed substance, either animal or vegetable, unfit for food or an animal or vegetable substance produced, stored, transported or kept in a condition that would render the article diseased, contaminated or unwholesome, or if it is any part the product of a diseased animal, or the product of an animal that has died otherwise than by slaughter, or that has been fed upon the offal from a slaughterhouse, or if it is the milk from an animal fed upon a substance unfit for food for dairy animals, or from an animal kept and milked in a filthy or contaminated stable or in surroundings that would render the milk contaminated: Provided, that any article of food which may be adulterated and not misbranded within the meaning of this act, and which does not contain any added poisonous or deleterious ingredient and which is not otherwise adulterated within the meaning of paragraphs four, five and six of subsection four [2060a-3] of this act, or which does not contain any filler or ingredient which debases without adding food value, can be manufactured or sold, if the same be labeled, branded or tagged so as to show the exact character thereof. And all such labels and all labeling of packages provided for in any provisions of this act shall be on the main label of each package and in such position and character of type and terms as will be plainly seen, read and understood by the purchaser or consumer: Provided, further, that nothing in this act shall be construed as requiring or compelling the proprietors, manufacturers or sellers of proprietary foods which contain no unwholesome substances or ingredients to disclose their trade formulas except in so far as the provisions of this act require to secure freedom from adulteration, imitation or misbranding. But in the case of baking powders, every can or other package shall be labeled so as to show clearly the name of the acid salt, which shall be plainly stated on the face of the label to show whether such salt is cream of tartar, phosphate or alum: Provided, further, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine, butterine or kindred compounds in a separate and distinct form, and in such manner as will advise the consumer of the real character, free from coloration or ingredient that causes it to look like butter. (Id. § 2060a-3.)

5. "Drug" Defined.—The term drug, as used in this act, shall include all medicines and preparations recognized in the latest revisions of the United States Pharmacopœia or National Formulary for internal or external use, and any substance intended to be used for the cure, mitigation or prevention of diseases either of man or other animal, and shall include Paris green and all other insecticides and fungicides. (Id. § 2060a-4.)

6. Drug Deemed Adulterated, When.—For the purpose of this act an article of drug shall be deemed to be adulterated:

1. If, when a drug is sold under or by the name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity as determined by the tests laid down in the United States Pharmacopœia or National Formulary: Provided that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that made by the test laid down in the United States Pharmacopœia or National Formulary: Provided, further, that in the case of those drugs recognized in the United

States Pharmacopœia, eighth revision, and National Formulary, third edition, and not adopted as official in the United States Pharmacopœia, ninth revision, and National Formulary, fourth edition, they shall conform to the strength, quality or purity as determined by the tests laid down in the said United States Pharmacopœia, eighth revision, and National Formulary, third edition; and in all cases of those drugs recognized in the United States Pharmacopœia, ninth revision, and National Formulary, fourth edition, they shall conform to the standard of strength, quality or purity as determined by the tests laid down in the said United States Pharmacopœia, ninth revision, and National Formulary, fourth edition; and in any case of conflict or variance in title, strength, quality or purity between the said eighth and ninth revisions of the United States Pharmacopœia, or the third and fourth editions of the National Formulary, the ninth revision of the said United States Pharmacopœia and the fourth edition of the said National Formulary shall in all cases be the controlling standard.

2. If the strength or purity fall below the professed standard or quality under which it is sold.

3. If in putting up any drug, medicine or preparation, proprietary or otherwise, used in medical practice, or if in making up a prescription or filling an order for drugs, medicines or preparations, proprietary or otherwise, one article is substituted or dispensed for a different article for [or] in lieu of the article prescribed, ordered and demanded, or if a greater or less quantity of any ingredient specified in such prescription, order or demand, is used than that prescribed, ordered or demanded, or if it deviates from the terms of the prescription, order or demand by substituting one drug for another: Provided, that except in the case of physicians' prescriptions nothing herein shall be deemed or construed to prevent or impair or in any manner affect the right of the druggist or pharmacist or other person to recommend the purchase of an article other than that ordered, required or demanded, but of a similar nature, or to sell such article in lieu of an article ordered, required or demanded, with the knowledge and consent of the customer. (Id. § 2060a-5.)

7. Drug Deemed Misbranded, When.—For the purpose of this act an article of drug shall be deemed to be misbranded:

1. If the package or label bears any statement, design or device regarding such article or drug or regarding any ingredient or substance contained therein which shall be false or misleading in any particular, or if it is falsely branded as to State, territory or country in which it is manufactured or produced.

2. If it be an imitation of or offered for sale under the name of another article, or if it be labeled, branded, or in any way represented or sold so as to deceive or mislead the purchaser or consumer as to the quality, purity or medicinal value.

3. If the contents of the package as originally put up, or the contents of the package, box, bottle, phial, can or other container, sold or exposed for sale, delivered, given away, shipped or offered for shipment, shall have been removed in whole or in part, and other contents shall have been placed in such package or box, phial, can or other container, or if when a package or container has been once emptied and new contents placed therein, all original labels, marks, brands and identifying marks are not entirely removed or effaced, and new labels, marks and brands truthfully describing the new product or products affixed; provided, that such new contents shall not be like or similar to said original contents.

4. If the package, box, bottle, phial, can or other container shall fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative, or any preparation of any such substances contained therein: Provided, that nothing in this paragraph shall be construed to apply to the dispensing of prescriptions written by a regularly licensed practicing physician, veterinary surgeon or dentist and kept on file by the dispensing pharmacist, or to such drugs as are recognized in the United States Pharmacopœia and the National Formulary, and which are sold under the name by which they are recognized; and provided, further, that this provision shall not be construed as repealing or in conflict with any statute which prohibits the sale of certain drugs except upon a prescription of a physician; and provided, further, that nothing in this act shall be construed as repealing any acts regulating the practices of medicine or pharmacy not in conflict herewith; provided, further, that no prescription shall be knowingly refilled except for the person for whom it was written. (Id. § 2060a-6.)

8. State Board of Health to Examine Specimens of Food and Drugs; Appointment of Food and Drug Inspectors; Taking Samples for Examination.—It shall be the duty of the State Board of Health to make, or cause to be made, examinations of samples of food and drugs manufactured or on sale or dispensed

in Kentucky at such time and place and to such extent as it may determine. It shall also make, or cause to be made, analysis of any sample of food or drug which it or any health official or the State Board of Pharmacy may suspect of being adulterated or misbranded, and of any sample of food or drug furnished by any commonwealth's county or city attorney of this State. And the said board may appoint such agent or agents or inspectors as it may deem necessary, who shall have free access at all reasonable hours for the purpose of examining into places wherein any food or drug product is being produced, manufactured, prepared, kept or offered for sale or dispensed, for the purpose of determining as to whether or not any of the provisions of this act are being violated, and such agent or agents, upon tendering the market price of any article, may take from any person, firm or other corporation, a sample of any article desired for examination. (Id. § 2060a-7.)

9. State Board to Fix Methods for Taking and Analyzing Samples; to Fix Standards of Purity, Quality and Strength; Uniformity of Standards; Standard of Nomenclature of Food or Drug; Committee to Adopt Rules Relating to Drugs.—The State Board of Health is hereby empowered to adopt and fix the methods by which samples taken under the provisions of this act shall be analyzed or examined, and to adopt and fix standards of purity, quality or strength when such standards are necessary or are not specified or fixed herein or by statute; provided, that such standards shall be published for the information and guidance of the trade; Provided, further, that for the purpose of uniformity, when such standards so fixed differ from the legally adopted standards of the United States Department of Agriculture, the State Board of Health shall arrange for a conference between the proper food control representatives of the United States Department of Agriculture and the board and representatives of the trade to be affected, for the purpose of arriving, if possible, at a uniform State and national standard. And provided, further, that when the standard or nomenclature for any food or food product has been determined by the Supreme Court of the United States such standard or nomenclature shall govern in the enforcement of the provisions of this act. And provided, that all rules and regulations for the governing and carrying out of the provisions of this act relating to drugs shall be made and established by a committee of three persons composed of the director of the experiment station, the president of the State Board of Health and the pharmacist member of said board. (Id. § 2060a-8.)

10. Articles Adulterated or Misbranded; Fact Certified to Prosecuting Attorneys; Latter to Institute Prosecutions; First Offenses; Several Samples Examined.—Whenever any article shall have been examined and found to be adulterated or misbranded in violation of this act, the State Board of Health shall certify the facts to the commonwealth's attorney of the district, or to the county attorney of the county, or the city attorney of any city or town in which the said adulterated or misbranded food or drug product was found, together with a statement of the results of the examination of said article of food or drug, duly authenticated by the analyst under oath and taken before some officer of this commonwealth authorized to administer an oath, having a seal. And it shall be the duty of every commonwealth attorney, county attorney and city attorney to whom the State Board of Health, or the State Board of Pharmacy, or to whom the chief health officer of any county, town or city shall report any violation, to cause proceedings to be commenced against the party so violating this act, and the same prosecuted in the manner as required by law; Provided, however, that in the case of the first charge or finding, the manufacturer or dealer shall be notified of the finding and be given a hearing within fifteen days before a report is made to the commonwealth's, county or city attorney as herein provided; Provided, further, that where more than one sample of the same brand of product has been taken and examined, the first finding or charge shall be construed to apply to all samples so taken, and notice and hearing shall apply to all such samples. (Id. § 2060a-9.)

11. Annual Report Covering Adulterated Food and Drugs; Bulletins of Examinations; Previous Notice to Parties Affected; Parties' Statements Published, When.—Said board shall make an annual report to the Governor upon adulterated food or drug products in addition to the reports required by law, and such annual reports shall be submitted to the general assembly at its regular session, and said board may issue from time to time a bulletin giving the results of the inspections and of all analyses of samples taken or submitted for examination under this act, together with the names of the parties from whom the samples were taken, or where the inspections were made, and as far as possible, the name of the manufacturers, the number of samples found to be adulterated, the number found not to be adulterated, and other information which may be of interest to the

manufacturers or dealers in food or drug products or to the consumers; Provided, however, that before such publication is made the manufacturer of the article and the dealer shall be furnished a true copy of the facts to be published regarding the article at least thirty days before the publication and hearing given the dealer and manufacturer, and any true statements or explanations of reasonable length, as determined by said board, made by such manufacturers, shall be included in the same place and along with the publication made regarding the article. (Id. § 2060a-10.)

12. State Board May Examine and Inspect Food Establishments as to Sanitary Conditions; Employment of Assistants, Etc.—The State Board of Health may provide for the analysis or examination of any sample of food or drug taken or submitted in accordance with the provisions of this act, and for procuring samples of foods or drugs and for making inspection into the condition and wholesomeness and purity of the food produced, manufactured or sold in food factories, grocery stores, bakeries, slaughterhouses, dairies, milk depots or creameries, and all other places where foods are produced, prepared, stored, kept or offered for sale; for studying the problems connected with the production, preparation and sale of foods; investigations for standards, expert witnesses attending the grand juries and courts, clerk hire, and all other expenses necessary for carrying out the provisions of this act, including salary of the experts employed in the work. (Id. § 2060a-11.)

13. Experiment Station of University of Kentucky to Conduct Laboratory Examinations for Board; Equipment and Conduct of Local Laboratory in Case of Epidemic; Cost of, How Paid.—The experiment station of the University of Kentucky, in its chemical, bacteriological or research laboratories that are, or may be, established, shall make such analytical, chemical or bacteriological examinations of samples of foods, drugs or their labels, as herein provided; drinking waters, ice, sewage; specimens of fluids, discharges or excretions from the body of humans or other animals suspected of being diseased, to determine the presence of typhoid fever, meningitis, tuberculosis, venereal diseases, pneumonia, diphtheria and such other diseases as may be named by the State Board of Health, the brains of animals for examination for rabies; that may be submitted to said station by the State Board of Health in the discharge of said board's duties, and shall conduct promptly and efficiently this and such other laboratory work for the State Board of Health as the laws of the commonwealth require of said board.

In the presence of an outbreak, or impending outbreak, of cholera, yellow fever, plague, cerebraspinal meningitis, infantile paralysis or other pestilences, said laboratory shall equip and conduct such an emergency laboratory at any place as may be needed or demanded by the State Board of Health for the prompt location, diagnosis and suppression of such pestilence, the cost of which laboratory to be paid out of the "contingent fund" provided herein for the use of said board for such purposes. (Id. § 2060a-12.)

14. Director of the Laboratories; Laboratory Assistants; Compensation; Eighteen Thousand Dollars (\$18,000.00) Per Annum Paid for Work of Board in Addition to Other Appropriations But from Fees Collected.—The University of Kentucky shall employ a director of the laboratories for the work of the board, whose qualifications shall include technical and scientific training and experience in public health work, and if at any time the board finds that such director is incompetent, neglectful or unsuited [unsuited] for the work, upon the written request of said board, the University of Kentucky shall forthwith employ another director to be chosen as herein provided. The university may appoint such assistants as may be necessary for the conduct of the work of the laboratories. The compensation of said director and assistants shall be paid in the same manner as instructors in the University of Kentucky, from the funds provided in this act. The director of said laboratory or laboratories, at the direction of the State Board of Health, shall keep and furnish such a supply of shipping and mailing containers and other laboratory equipments and supplies as may be necessary to execute the work of the board; Provided, the total cost to the said station, as may be set forth in an itemized statement to the board, shall not exceed the sum of money paid to said station by the board as provided herein. The said station shall be paid the sum of eighteen thousand dollars (\$18,000.00) per annum for conducting the work of the State Board of Health as herein provided, out of the fees collected under § 2 of this act (§ 2059 [2059a-2] of Kentucky statutes) and § 3 of this act (§ 2060 [2060a-14], Kentucky statutes), which amount shall be exclusive of the appropriation of seventy-five thousand dollars (\$75,000.00) herein provided. And in the event the said fees do not amount to said sum of eighteen thousand dollars (\$18,000.00), the State Board of Health shall pay the balance out of its appropriation. Said

amount of eighteen thousand dollars (\$18,000.00) shall be paid in equal monthly instalments of one thousand five hundred dollars (\$1,500.00), by the treasurer of the commonwealth to the treasurer of the said University of Kentucky, upon a warrant issued by the auditor, who shall issue such a warrant upon the receipt of a voucher from the State Board of Health certifying to the amount due said experiment station of the University of Kentucky, as other accounts of the said board are paid. (Id. § 2060a-13.)

15. Fees for Examination of Manufacturers' or Dealers' Samples; Disposal of.—The said board may fix reasonable fees for the examination of samples of foods or drugs, or labels for the same, submitted by manufacturers or dealers, for the purpose of determining as to whether any such products or labels comply with the provisions of this law, and reasonable fees for the examination of labels and inquiry into other matters connected with the enforcement of this act, and which may be requested of said board. And whenever a sample has been found to be adulterated or misbranded, the said board shall collect a fee, not to exceed fifteen dollars (\$15.00), to cover the costs of investigation or analysis, to be taxed as costs and paid by the magistrate, police judge or clerk of any court in which prosecution is brought, and is in favor of the commonwealth, to the auditor of public accounts or by the State Board of Health, at civil suit, and all such fees, so collected, shall be paid to the auditor of public accounts and set aside as a fund for the partial maintenance of the appropriation made herein, and for the further enforcement of the act in the event that the fees amount to more than the appropriation made herein. (Id. § 2060a-14.)

16. Analysis of Samples Submitted by Local Health Officers; State Board May Require Assistance of Local Authorities; Educational Instruction of Local Authorities in Matters Involved in Enforcement of This Law.—The said board shall analyze or cause to be analyzed samples submitted by county and city health officers, provided such samples are submitted in accordance with the terms of the said act; and the board shall have the right to require county and city health officers or food and dairy inspectors to make inspections and to collect and send samples for examination, and to call upon all other county and city officials for assistance in carrying this act into effect. As means for further carrying out the provisions of this act, the experts employed under the provisions of this act shall give instruction, free of cost, to any county or city health officer or employee of any county or city health department, who may request the same, in matters pertaining to the inspection and practical remedies for unsanitary conditions in the preparation, storage and sale of foods, examination of samples, and similar matters; and such courses of instruction may be conducted in connection with other sources of instruction at the laboratory of the board or State University or State Normal Schools, or at the annual school for health officers, as provided by law. (Id. § 2060a-15.)

17. Manufacturer of Food or Drug to File Statement and Copy of Label With State Board; Penalty for Failure.—When any manufacturer shall offer any article of food or drug for sale in the State, he shall file with the State Board of Health the name of the brand, the name of the product, the place of its manufacture or preparation, and a true copy of all labeling used thereupon. Failure to so file within thirty days shall be punished as provided herein by the laws of this commonwealth. (Id. § 2060a-16.)

18. Manufacturer's or Wholesaler's Guaranty Competent as Evidence, When; Effect on Prosecution of Holder of Guaranty.—In all prosecutions under this act the courts shall admit as evidence a guaranty which has been made to the holder of the guaranty by any manufacturer or wholesaler residing in this State, to the effect that the product complained of is not adulterated or misbranded within the provisions of this act. And said guaranty, properly signed by the wholesaler, jobber or manufacturer or other party residing within this State from whom the holder of the guaranty may have purchased the article or articles complained of, and containing the full name and address of the party or parties making the sale of such article to the holder of the guaranty, and in the absence of any proof that the article or articles complained of were adulterated or misbranded after they had been received by the holder of the guaranty, shall be a bar to prosecution of the holder of such guaranty under the provisions of this act. (Id. § 2060a-17.)

19. Oleomargarine and Butterine; Manufacture of Not Prohibited, When.—Nothing in this act shall be construed to prohibit the manufacture or sale of colored oleomargarine, butterine, or kindred compounds in a separate and distinct form, and in such manner as will advise the consumer or purchaser of the real character of the article, providing the coloring matter or ingredient used in coloring same is harmless, not poisonous and not deleterious to health. (Id. § 2060a-18.)

20. Drug Inspectors; Qualifications.—Any inspector or inspectors appointed by said board for the purpose of governing and carrying out the provisions of this act, insofar as it relates to drugs, shall be a registered pharmacist and a graduate of a school recognized as in good standing by the Kentucky Board of Pharmacy and the appointment of such inspector or inspectors shall be made by the State Board of Health upon the nomination of the pharmacist member. (Id. § 2060a-19.)

Miscellaneous General Provisions.

21. Selling Unwholesome Provisions.—If a butcher or other person shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or shall sell the flesh as of one animal knowing it to be that of another species; or if a baker, brewer, distiller or other person, knowingly sells unwholesome bread or drink, he shall be fined not less than one nor more than fifty dollars. (Stats. 1922, § 1272.)

22. Adulterating Food, Drink or Medicine.—If any person adulterate for the purpose of sale, anything intended for food or drink, or any drug or medicine, with any substance injurious to the health, he shall be confined in jail not more than one year, or fined not exceeding five hundred dollars (\$500.00), or both; and the adulterated articles, by order of the court, shall be destroyed. (Id. § 1273.)

22a. Annual Appropriation of Seventy-Five Thousand dollars (\$75,000.00); Various Bureaus of the Board; * * *.—The sum of seventy-five thousand dollars (\$75,000.00) per annum, or so much thereof as may be found necessary by the State Board of Health, is hereby appropriated for the use of such board to establish and maintain: * * *

c. A bureau of pure food and drugs, to protect the people from adulterations, substitutions and misbranding, and dangers from these products. * * * (Id. § 2054.)

NOTE: See also Nos. 95, 107 and 180.

PART II.

Special Food Laws.

Apples.

23. Standard Grades of Apples; Fancy; Grade; Standard "A" and "B"; Unclassified; Marking of Packages; Minimum Sizes Determined, How.—The standard grades or classes for apples grown in this State when packed in closed packages shall be as follows:

1. Kentucky standard fancy grade shall consist of apples of one variety, which are well-grown specimens, hand-picked, properly packed, of good color for the variety, normal shape, free from dirt, disease, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing.

2. Kentucky standard "A" grade shall consist of apples of one variety which are well-grown specimens, hand-picked, properly packed, of good color for the variety, normal shape, practically free from dirt, diseases, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing; or apples of one variety which are not more than ten per centum (10%) below the foregoing specifications on a combination of all defects or five per centum (5%) on any single defect.

3. Kentucky standard "B" grade shall consist of apples of one variety which are well matured, hand-picked, properly packed, practically normal shape, practically free from dirt, diseases, insects and fungus injury, and which may be of medium or less than medium color for the variety; or apples of one variety which are not more than ten per centum (10%) below the foregoing specifications on a combination of all defects or five per centum (5%) on any single defect.

4. Unclassified.—Apples not conforming to the foregoing specifications or grade, or, if conforming, are not branded in accordance therewith, shall be classed as unclassified and so branded. The minimum size of the fruit in the package shall also be branded upon it as hereinafter specified and in addition to the other marks hereinafter required.

The marks indicating grade as above prescribed may be accompanied by any other designation of grade or brand if that designation or brand is not inconsistent with or marked more conspicuously than the one of the said fore marks, which is used on the said package. Apples packed and branded in accordance with the United States law approved August third, nineteen hundred and thirteen, shall be exempt from the provisions of this act.

The minimum size of the fruit in all classes or grades, including the unclassified, shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end. Minimum sizes shall be stated in variations of one-quarter of an inch, like two inches, two and one-quarter inches, two and one-half inches, two and three-quarter inches, three inches, three and one-quarter inches, and so on, in accordance with the facts.

Minimum sizes may be designated by figures instead of words. The words "minimum" may be designated by using the abbreviation "min."

A tolerance or variation of five per centum (5%) on size shall be allowed in all classes, but such five per centum (5%) shall not be in addition to the variations or tolerances for defect provided in grades "A" and "B." (Stats. 1922, § 1905a-20.)

24. Marking of Packages.—Every closed package containing apples grown in the State of Kentucky which is packed, sold, distributed, transported or offered or exposed for sale, distribution or transportation in the State by any person, shall bear upon the outside of one end in plain letters and figures the name and address of the packer or the person by whose authority the apples were packed and the package marked, the true name of the variety, the grade or class of the apples therein contained and the minimum size of the fruit in the package, as provided by section 1905a-20. If the true name of the variety shall not be known to the packer or the person by whose authority the package is packed or branded, then such variety shall be designated as "unknown." Every package of apples which is repacked shall bear the name and address of the repacker or the name of the person by whose authority it is repacked and place of that of the original packer. (Id. § 1905a-21.)

25. Improperly or Unmarked Packages Not to be Packed, Sold or Transported.—It shall be unlawful for any person within this State, except under the percentages of tolerance and variation, as allowed by paragraphs second and third of section 1905a-20 relating to Kentucky standard "A" and "B" grades, to pack, sell, distribute, transport, offer or expose for sale in closed packages apples which are not hand-picked or which are wormy or diseased, or which show fungus or scab injury, unless such fact or facts shall be plainly stated by the use of the words "not hand-picked," "wormy," "diseased," "fungused," or "scabby," as the case may be, said words to be branded upon the outside of the same end of the package on which the marks prescribed [in] section 1905a-21 shall appear. (Id. § 1905a-22.)

26. Size of Type on Labels.—The marks or brands prescribed by sections 1905a-20, 1905a-21 and 1905a-22 shall be in block letters and figures of size not less than thirty-six point Gothic. (Id. § 1905a-23.)

27. Packing, Selling or Transporting of Adulterated or Misbranded Apples Forbidden.—It shall be unlawful for any person within the State to pack, sell distribute, transport, offer or expose for sale, distribution or transportation, apples which are adulterated or misbranded within the meaning of this act. (Id. § 1905a-24.)

28. Packages Deemed Misbranded, When.—For the purpose of this act apples packed in a closed package shall be deemed to be misbranded:

1. If the package shall fail to bear all statements required by sections 1905a-20, 1905a-21 and 1905a-22.

2. If the package shall be falsely branded or shall bear any statement, design or device regarding such apples which is false or misleading, or if the package bears any statement, design or device indicating that the apples contained therein are Kentucky "standard grade" and said apples when packed or repacked do not conform to the requirements prescribed by section 1905a-20 of this act. (Id. § 1905a-25.)

29. Packages Deemed Adulterated, When.—For the purposes of this act apples packed in closed packages shall be deemed to be adulterated if their quality or grade when packed or repacked does not conform to the marks upon the package. (Id. § 1905a-26.)

30. Penalty for Violation of Law.—Any person who knowingly misbrands or adulterates apples within the meaning of this act, or who knowingly violates any of the provisions of this act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished for the first offense by a fine not exceeding twenty-

five dollars (\$25.00) and not less than ten dollars (\$10.00); for the second offense by a fine not exceeding fifty dollars (\$50.00) and not less than twenty-five dollars (\$25.00), and for the third and each subsequent offense by a fine not exceeding two hundred dollars (\$200.00) and not less than fifty dollars (\$50.00), together, in all cases, with the costs of prosecution.

Whenever any such violation is with respect to a lot or shipment consisting of fifty or more closed packages, there may be imposed in addition to the above penalties twenty-five cents (25 cents) for the first offense, fifty cents (50 cents) for the second offense and one dollar (\$1.00) for each subsequent offense for each package in excess of fifty with respect to which such violation is committed. (Id. § 1905a-27.)

31. Commissioner of Agriculture to Enforce.—The enforcement of this act shall be vested in the Commissioner of Agriculture under rules and regulations to be adopted by him. (Id. § 1905a-28.)

32. Guaranty Absolves from Liability to Prosecution, When.—No person shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the person from whom he received such articles to the effect that the same is not adulterated or misbranded within the meaning of this act. Said guaranty to be valid shall contain the true name and address of the person or persons making the sale, and in such case the guarantor shall be liable to the penalties of this act. (Id. § 1905a-29.)

33. Definitions.—The word "person" as used herein shall be construed to include both the singular and plural, individuals, corporations, co-partnerships, companies, societies and associations. The act, omission or failure of any officer, agent, servant or employee acting within the scope of his employment or office shall be deemed the act, omission or failure of the principal. The words "closed package" shall mean a box, barrel or other package, the contents of which cannot be seen or inspected when such package is closed. The words "not hand-picked" shall include windfalls, drops and apples shaken or knocked from the tree by any agency. (Id. § 1905a-30.)

34. Agent of Owner.—No person shall on behalf of any other person pack any fruit for sale, transportation, or distribution contrary to the provisions of this act. (Id. § 1905a-31.)

35. Unpacked Apples in Barrels; Size of Standard Barrel.—This act shall not apply to unpacked apples actually transported in barrels to storage within this State until the same are removed from storage for the purpose of marketing, sale, transportation or distribution. The standard barrel for apples shall be of the following dimensions when measured without distention of its parts: Length of stave, twenty-eight and one-half inches; diameter of head, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches outside measurement, representing as nearly as possible seven thousand and fifty-six cubic inches. Provided, that steel barrels containing the interior dimensions provided for in this section shall be construed as a compliance therewith. (Id. 1905a-32.)

Bakeries.

See No. 84 et seq.

Baking Powder.

See No. 4.

Beverages.

35a. Liquors; Adulteration of.—If a person knowingly sells or buys, or prepares for sale, any wine or liquor containing any adulteration, by mixing therewith coculus indicus, tobacco, soap, vitriol, logwood, or any other injurious drug or chemical preparation he shall be fined not more than five hundred dollars (\$500.00) for each offense, or not less than twenty dollars (\$20.00), for every gallon of wine or liquor so adulterated. (Stats. 1922, § 2200.)

35b. Duty of Inspector.—When an inspector finds any wine or liquor so adulterated he shall mark the cask "condemned for impurity"; when he suspects it to be adulterated, he shall cause it to be analyzed by a skillful chemist, at the cost of the owner, and ascertain whether it contains anything impure or other than the extract of the grain or fruit from which it was or ought to have been made. (Id. § 2200-1.)

35c. Evidence.—In all prosecutions against wholesale dealers under this section, the fact of rectifying the wine or liquor shall be deemed prima facie evidence of knowledge of any adulteration on the part of the dealer. (Id. § 2200-2.)

NOTE: See also Nos. 1 et seq., 21, 81a et seq., 128 et seq., 174 et seq., and 197.

Bread.

See No. 21.

Canned and Soaked Goods.

36. Canned Fruits and Vegetables; Fraud in; Penalty.—It shall hereafter be unlawful in this State for any packer or dealer in preserved or canned fruits and vegetables, or other articles of food, to offer such canned articles for sale after July 1, one thousand eight hundred and ninety-six; with the exception of goods brought from foreign countries or packed prior to the passage of this act, unless such articles bear a mark to indicate the grade or quality, together with the name and address of such firm, person or corporation that packs the same or dealer who sells the same. (Stats. 1922, § 1283a-1.)

37. Soaked Goods; Maple Syrup.—All soaked goods, or goods put up from products, dried before canning, shall be plainly marked by an adhesive label having on its face the word "soaked" in letters not less in size than two-line pica of solid and legible type; and all cans, jugs or other packages, containing maple syrup or molasses, shall be plainly marked by an adhesive label, having on its face the name and address of the person, firm or corporation who made or prepared the same together with the name and quality of the goods, in letters of the size provided in this section. (Id. § 1283a-2.)

38. Penalty for Violating This Act.—Any person, firm or corporation who shall falsely stamp or label such cans or jars containing preserved fruit or food of any kind, or knowingly permit such false stamping or labeling, and any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and punished with a fine of not less than fifty dollars, in the case of the vendors, and in the case of manufacturers and those falsely or fraudulently stamping or labeling such cans or jars, a fine of not less than five hundred dollars nor more than one thousand dollars, and it shall be the duty of any board of health in this State, cognizant of any violation of this act, to prosecute any persons, firm or corporation which it has reason to believe has violated any of the provisions of this act. (Id. § 1283a-3.)

NOTE: See also No. 84 et seq.

Confectionery.

39. Adulterated Candies and Sweetmeats; Selling.—Any person who shall manufacture or knowingly vend any candies or sweetmeats containing poisonous or noxious ingredients shall, for each offense, be fined not less than fifty nor more than one hundred dollars. (Stats. 1922, § 1275.)

NOTE: See also No. 84 et seq.

Dairy Products—Substitutes for Dairy Products.

40. Adulterated Milk; Selling.—Whoever shall knowingly sell, or cause to be sold, to any person in this State, milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or sell milk commonly known as "skimmed milk," with intent to defraud, or shall knowingly sell any milk, the product of a diseased animal, or from animals fed upon "still slop," "brewer's slop," or "brewer's grains," or shall knowingly use any poisonous or deleterious material or milk from animals diseased or fed as aforesaid, in the manufacture of butter or cheese, shall be fined in any sum not less than twenty-five nor more than two hundred dollars (\$200.00). (Stats. 1922, § 1274.)

41. Butter and Lard; Sale of Impure Article; Brand.—No person shall sell, supply, or offer for sale or exchange, any oleaginous substance, or any compound of the same, as butter, other than that produced from unadulterated milk, or cream of the same, or any substance as lard, other than that produced from the fat of healthy, sound hogs, unless the same, and the packages, casks or vessels containing the same, shall be marked so as to plainly show to the purchaser and establish the true character thereof, and distinguish it from the genuine butter or lard. And any person violating any of the provisions of this section shall be fined not less than twenty nor more than one thousand dollars. (Id. § 1283.)

42. Weights and Samples of Milk and Cream.—It shall be unlawful for any handler of milk or cream or other person, or creamery, or other milk plant or agent, receiving milk or cream by weight or test, or by weight and test, to fraudulently manipulate the weights of milk or cream of any patron, or to take unfair

samples thereof, or to fraudulently manipulate such samples. The hauler shall weigh the milk or cream of each patron accurately and correctly and shall report such weights accurately and correctly to the factory. He shall thoroughly mix the milk or cream of each patron by pouring and stirring until such milk or cream is uniform and homogeneous in richness, before the sample is taken from such milk or cream. When the weighing or sampling of the milk or cream of each patron is done at the creamery, shipping station or other factory, firm, corporation or individual buying and paying for milk or cream on the basis of the butter fat contained therein, the same rule shall apply. (Id. § 1905a-46.)

43. Glassware for Testing Milk and Cream for Butter Fat.—Every person, firm, company, association, corporation or agent thereof, buying and paying for milk or cream on the basis of amount of butter fat contained therein as determined by the Babcock test, shall use standard Babcock test bottles, pipettes and weights, and accurate scales, as defined in § 13 [§§ 1905a-57--1905a-59, inclusive] of this act, and all Babcock test bottles, pipettes and weights shall have been inspected for accuracy by the Kentucky Agricultural Experiment Station, or its deputy, and shall be legibly and indelibly marked by the said Kentucky Agricultural Experiment Station, or its deputy, with the letters "S. G. K." (Standard glassware, Kentucky). No bottle, pipette or weight shall be used for such test unless so examined and marked by said Kentucky Agricultural Experiment Station. It shall be unlawful for any person, firm, company, association, corporation, or any of their agents, to use any other than standard test bottles, pipettes and weights which have been examined and marked as provided in this section, to determine the amount of fat in the milk or cream bought and paid for on the butter fat basis. (Id. § 1905a-47.)

44. Unlawful Tests.—It shall be unlawful for any person, firm or corporation, by himself or as the officer, servant, agent or employee of any person, firm or corporation, buying and paying for milk or cream on the basis of the amount of fat contained therein, to underread, overread or otherwise fraudulently manipulate the Babcock test used for determining the per cent of fat in milk or cream, or to falsify the record thereof, or to read the test at any temperature except the correct temperature, which is 135 degrees to 140 degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six-tenths (17.6) cubic centimeters for milk and nine (9) grams for cream. This section further provides that in all tests the cream shall be weighed into the test bottles. (Id. § 1905a-48.)

45. License for the Tester.—Every creamery, shipping station or other factory, or person, or agent, receiving, buying and paying for milk or cream on the basis of the amount of butter fat contained therein shall have in its employ a licensed tester who shall supervise and be responsible for the operation of the Babcock test of milk and cream. The license shall be issued to such person by the Kentucky Agricultural Experiment Station upon presentation by the applicant of a certificate of proficiency properly filled out and signed by the chairman of the examining board and upon payment of a license fee as provided in § 7 [1905a-52]. This license shall be valid for the term of one year and shall be revoked by the said Kentucky Agricultural Experiment Station upon recommendation of the examining board if the licensee has failed to comply with the rules and regulations under which the license was granted. (Id. § 1905a-49.)

46. The Examining Board.—The examining board shall consist of three members, two to be appointed by the executive committee of the Kentucky Dairy Cattle Club, and the third member shall be the chief of the dairy department of Agricultural Experiment Station. (Id. § 1905a-50.)

47. License for the Creamery.—Every creamery, shipping station, milk factory, cheese factory, ice cream factory, or milk condensery, or person or agent, firm, company, association, or corporation, receiving, buying and paying for milk or cream on the basis of the butter fat contained therein, shall be required to hold a license. The license shall be issued to such creamery, shipping station, milk factory, condensery, ice cream factory, cheese factory, or person, or agent, firm, company, association or corporation by the Kentucky Agricultural Experiment Station, upon complying with the provisions of §§ 1-4 [1905a-46 to 1905a-49] inclusive, of this act, and upon payment of a license fee as provided in 1905a-52. This license shall be valid for the term of one year, but shall be revoked by the said Kentucky Agricultural Experiment Station if the licensee fails to comply with the rules under which the license was granted. (Id. § 1905a-51.)

48. Fees for Licenses and for Inspection of Testing Glassware.—The tester's license shall be issued upon compliance with the provisions under § 1905a-49 of this act and upon payment by the candidate to the Kentucky Agricultural Experiment Station of the sum of two dollars (\$2.00). The creamery license shall be issued

upon compliance with the provisions under § 1905a-51 of this act, and upon payment by the candidate, or his agent to the said Kentucky Agricultural Experiment Station of the sum of six dollars (\$6.00). For all testing glassware inspected by the said Kentucky Agricultural Experiment Station, or its deputy, a fee of three cents (3 cents) shall be paid by the owner of said testing glassware to the said Kentucky Agricultural Experiment Station for every piece of glassware so examined. (Id. § 1905a-52.)

49. Accounting and Use of Funds.—The money for license fees and for inspection fees as provided for in § 1905a-52 shall be paid to the director of the Kentucky Agricultural Experiment Station, by whom it shall be paid to the treasurer of University of Kentucky, the board of control of which shall expend the same on proper vouchers to be filed with the auditor of the State, in meeting all necessary expenses in carrying out the provisions of this act, including the employment of inspectors, chemists, expenses of issuing publications giving the results of glassware and factory inspection, as provided for in this act, and for any other expenses of said Kentucky Agricultural Experiment Station as authorized by law. The director of the said experiment station shall include in his annual report to the Governor a classified report showing the total receipts and expenditures of all fees received under the provisions of this act. (Id. § 1905a-53.)

50. Prosecuting Attorney; Duties.—It shall be the duty of every prosecuting attorney to whom the Kentucky Agricultural Experiment Station shall report any violation of the provisions of this act to cause proceedings to be commenced against the person or persons to [so] violating the provisions of this act, and to prosecute the same to final termination, according to the laws of the State of Kentucky. (Id. § 1905a-54.)

51. Penalties.—Any employee of a firm, company, association, corporation or person, buying and paying for milk or cream on the basis of the amount of butter fat it contains, violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or be imprisoned in the county jail for not less than 60 days nor more than 12 months, or both. Any firm, company, association, corporation or person, buying or paying for milk or cream on the basis of the amount of butter fat contained therein, violating any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of one hundred dollars (\$100.00) for the first offense and in the sum of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each subsequent offense. (Id. § 1905a-55.)

52. Standard Babcock Testing Glassware Defined.—The term "Standard Babcock testing glassware" shall apply to glassware and weights complying with the following specifications:

(a) Standard milk test bottles.

Graduation.—The total per cent graduation shall be 8. The graduated portion of the neck shall have a length of not less than 63.5 millimeters ($2\frac{1}{2}$ inches). The graduation shall represent whole per cent, five-tenths per cent (5-10%), and tenths per cent. The tenths per cent graduations shall not be less than 3 millimeters in length, the five-tenths per cent (5-10%) graduation shall be 1 millimeter longer than the tenths per cent graduation, projecting 1 millimeter to the left; the whole per cent graduation shall extend [extend] at least one-half way around the neck to the right and projecting 2 millimeters to the left of the tenths per cent graduations. Each per cent graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed one-tenth per cent (1-10%).

Neck.—The neck shall be cylindrical and the cylindrical shape extend for at least 9 millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 millimeters.

Bulb.—The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters; if conical, the outside diameter of the base shall be between 31 and 33 millimeters, and the maximum diameter between 35 and 37 millimeters.

The charge of the bottle shall be 18 grams.

The total height of the bottle shall be between 150 and 165 millimeters (5% and $6\frac{1}{2}$ inches).

(b) Standard cream test bottles.

Two types of bottles shall be accepted as standard cream test bottles, a 50 per cent (50%), 9 gram short-neck bottle, and a 50 per cent (50%), 9 gram long-neck bottle.

Fifty per cent (50%), 9 gram short-neck bottles.

Graduation.—The total per cent graduation shall be 50. The graduated portion of the neck shall have a length of not less than 63.5 millimeters ($2\frac{1}{2}$ inches). The graduation shall represent five per cent (5%), one per cent (1%) and five-tenths per cent (5-10%). The five per cent (5%) graduation shall extend at least half-way around the neck (to the right). The five-tenths per cent (5-10%) graduation shall be at least 3 millimeters in length, and the one per cent (1%) graduation shall have a length intermediate between the five per cent (5%) and the five-tenths per cent (5-10%) graduations. Each five per cent (5%) graduation shall be numbered, the number being placed on the left of the scale. The error at any point of the scale shall not exceed five-tenths per cent (5-10%).

Neck.—The neck shall be cylindrical and the cylindrical shape shall extend at least 9 millimeters below the lowest and 9 millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than 10 millimeters.

Bulb.—The capacity of the bulb up to the junction of the neck shall not be less than 45 cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between 34 and 36 millimeters; if conical, the outside diameter of the base shall be between 31 and 33 millimeters and the maximum diameter between 35 and 37 millimeters.

The charge of the bottle shall be 9 grams. All bottles shall bear on top of the neck above the graduations in plain, legible characters, the mark defining the weight of the charge to be used (9 grams).

The total height of the bottle shall be between 150 and 165 millimeters ($5\frac{7}{8}$ and $6\frac{1}{2}$ inches), same as standard milk test bottles.

Fifty Per Cent (50%), 9 Gram Long-neck Bottles.—The same specifications in every detail as specified for the fifty per cent (50%), 9 gram short-neck bottles shall apply for the long-neck bottles, with the exception, however, that the total height of this bottle shall be between 210 and 235 millimeters ($8\frac{3}{4}$ and $8\frac{7}{8}$ inches) and the total length of the graduation shall not be less than 120 millimeters. (Id. § 1905a-57.)

53. The Standard Babcock Pipette.—Total length of pipette not more than 330 millimeters ($13\frac{1}{4}$ inches). Outside diameter of suction tube, 6 to 8 millimeters. Length of suction tube, 130 millimeters. Outside diameter of delivery tube, 4.5 to 5.5 millimeters. Length of delivery tube, 100 to 120 millimeters. Distance of graduation mark above bulb, 30 to 60 millimeters. Nozzle straight. Delivery, 17.6 cubic centimeters of water to 20 degrees C. in five to eight seconds. (Id. § 1905a-58.)

54. Standard Weights.—The standard weight shall be nine grams. (Id. § 1905a-59.)

55. Definitions; Standards; Labels.—For the purpose of this act ice cream is hereby defined and standardized:

First—Ice cream is a frozen food product, varied as to kind and proportion of ingredients, within the limits established by custom and usage.

Second—Ice cream consists chiefly of a sweetened and flavored mixture of cream, or cream and milk, or milk with or without added milk fat in the form of sound, sweet butter; or as contained in condensed, evaporated or concentrated milk or in milk powder, and with or without added milk solids not fat in the form of skim milk powder or as contained in milk powder or in condensed, evaporated or concentrated skim milk; or of a sweetened and flavored homogenized or emulsified mixture of sound sweet butter, milk powder or skim milk powder and water, with the addition of gelatin, vegetable gum, or other wholesome stabilizer.

Third—Standard ice cream shall contain not less than ten (10) per cent milk fat and the content of milk fat and milk solids not fat combined shall be not less than eighteen (18) per cent, except that when the ingredients of standard ice cream include eggs, fruit or fruit juice, cake, confection, cocoa or chocolate, or nuts, such reduction of the percentage of milk fat and milk solids not fat as may be due to the addition of such ingredients shall be allowed.

Fourth—When ice cream is sold or offered for sale without designation of its kind, quality or grade on a label, brand or tag attached to the package or container, or, in case of removal from the original package or container, by a notice conspicuously posted in or at the place where such ice cream is sold or offered for sale, it shall be deemed that such ice cream is sold or offered for sale as standard ice cream. (Supp. 1926, § 1905a-65.)

* Evidently erroneous. Based on the value of 39.37 inches to the meter, 210 mm. equal 8.268 inches and 235 mm. equal 9.252 inches. [Editorial note quoted.]

56. Adulteration Defined.—For the purposes of this act ice cream shall be deemed to be adulterated:

First—If in quality or grade it is lower than the professed standard of quality or grade under which it is sold or offered for sale.

Second—If it contains any added poisonous or other added deleterious ingredients which may render such ice cream injurious to health.

Third—If it contains any rancid or renovated or process butter, or any fat or oil other than milk fat and the fat or oil or contained eggs and nuts and the fat or oil of substances used for flavoring purposes only.

Fourth—If it consists in whole or in part of any filthy or decomposed substance which may render such ice cream injurious to health, or is otherwise so contaminated that such ice cream is injurious to health. (Id. § 1905a-66.)

57. Misbranding Defined.—For the purpose of this act ice cream shall be deemed to be misbranded:

First—If the label, brand, tag or notice under which it is sold or offered for sale is false or misleading in any particular as to the kind, grade or quality, or composition of such ice cream; or if any notice to the purchaser required by this act to be given is omitted.

Second—If it is sold or offered for sale as the product of one manufacturer when in reality it is the product of another manufacturer; or if on the label, brand, tag or notice under which it is sold or offered for sale there is any false statement concerning the sanitary conditions under which such ice cream is manufactured. (Id. § 1905a-67.)

58. Manufacture or Sale of Adulterated or Misbranded Ice cream Forbidden; Penalty.—It shall be unlawful for any person, persons, firm or corporation within this State to manufacture for sale, produce for sale, expose for sale, have in his or their possession for sale, or to sell any ice cream that is adulterated or misbranded within the meaning of this act, and any person, persons, firm or corporation violating the provisions of this act, or any of them shall be fined not less than ten dollars nor more than one hundred dollars, or be imprisoned not to exceed fifty days, or both so fined and imprisoned, for each offense; provided that no ice cream shall be deemed misbranded or adulterated within the provisions of this act when it is intended for shipment to or sale in any other State or county, when the ice cream is not so adulterated or misbranded as to be in conflict with the laws of the United States, but if ice cream, although it may be manufactured or produced with the intention of shipment to or sale in some other State or country, be, in fact, sold or offered for sale in this State, then this proviso shall not afford any immunity. (Id. § 1905a-68.)

59. State Board of Health to Enforce.—The State Board of Health and its agents, and local board of health are given all the rights and powers to enforce the provisions of this act and to prevent any violation of any of the provisions thereof that are conferred on the State Board of Health and its agents and local boards of health by section 2060 and subsections 1 to 18 thereof, in the 1918 *edition of the Kentucky Statutes in respect to food and drugs. (Id. 1905a-69.)

60. [Amount of License Tax.]—Before engaging in any occupation or selling any articles named in this subdivision of article 12 of this act, the person desiring to do so shall procure license and pay the tax thereon as follows: * * *

Oleomargarine, Oleomargarine Dealer—On each dealer [not selling by retail] in oleomargarine or similar manufactured butter, five dollars (\$5.00).

On each dealer selling by retail oleomargarine or similar manufactured butter, ten dollars (\$10.00). (Stats. 1922, § 4224.)

60a. Office for County Board; Laboratory Analyses by County Health Officer; Supply of Virus, Vaccines, Etc., to be Kept; Administration Thereof.—The county board of health shall also provide an office suitably furnished for its meetings and to conduct its business, and conveniently located as determined by it. It shall be the duty of the health officer in the laboratory of the county department of health in the office of said board to make chemical and bacteriological examinations of milk and water of all dairies. * * * (Id. § 2054a-12.)

NOTE: See also Nos. 3, 4, 12, 19, 84 et seq., and 174 et seq.

Eggs.

61. Eggs, Regulating Sale of; What Constitutes an Egg Unfit for Human Food.—No person, firm or corporation shall sell, offer or expose for sale, or traffic in, any egg unfit for human food, unless the same is broken in shell and

* The sections of the 1918 edition are the same as those of the present edition unless otherwise noted. [Editorial note quoted.]

then denatured so that it can not be used for human food. For the purpose of this act, an egg shall be deemed unfit for human food if it be addled or moldy, a black rot, a white rot, or a blood ring, or if it has an adherent yolk, or a bloody or green white; or if it be incubated beyond the blood ring stage; or if it consists in whole or in part of a filthy, decomposed or putrid substance. (Supp. 1926, § 1905a-60-1.)

62. Candling of Eggs Required; Records to be Kept.—Between May 15th of each year and January 15th of the following year, no person, firm or corporation shall, in buying or selling eggs, take or give a greater or less dockage for eggs unfit for food as defined in section 1905a-60 of this act than the actual dockage which has been determined by the careful candling of the eggs so purchased or sold, and said person, firm or corporation shall keep such candling records as may be required by the rules and regulations. All such records shall be open at all times reasonable for examination by the State Board of Health, or its official representative. (Id. § 1905a-60-2.)

63. "Candling" Construed; Maintenance of Proper Equipment.—The term "candling" as used herein, shall be construed to mean the careful examination, in a partially dark room or place, of the whole egg by means of a strong light, covered by an opaque container or shield having not more than two apertures, each aperture not to exceed one and one-quarter inches in diameter, nor be less than one-half inch in diameter, before which eggs may and shall be rotated in order that the interior quality of each egg may be accurately determined. Every person, firm or corporation engaged in the business of buying eggs in this State for re-sale or consignment, shall provide and maintain an adequate place for the accurate candling of eggs and a suitable place for the proper handling of eggs which are intended to be used for human food. (Id. § 1905a-60-3.)

64. Dealers to Have License; Issue of, Fees.—Thirty days after this act takes effect, and on or before the first day of April annually thereafter, no person, firm or corporation shall engage in the business of buying, selling, dealing in or trading in eggs, except those retailers who buy direct from certified dealers only and who do not sell in lots greater than five cases, without first obtaining from the State Board of Health a certificate to conduct such business. Said board, upon receipt of proper application upon forms such as may be prescribed, accompanied by an annual fee of two dollars (\$2.00), shall thereupon issue to such persons, firms or corporations that shall engage in the business of buying, selling, dealing in or trading in eggs in lots of less than one carload an annual certificate to engage in such business; and said board, upon receipt of a proper application upon forms such as may be prescribed, accompanied by a fee of ten dollars (\$10.00), shall thereupon issue to such persons, firms or corporations that shall engage in the business of buying, selling, dealing in or trading in eggs in lots of one carload or more, an annual certificate to engage in such business. Provided, that any person, firm or corporation operating more than one place of business where eggs are bought, shall procure a certificate for each such place of business. All such certificates shall expire at the close of business on March 31st of each year. All fees collected under this act shall be paid into the State treasury and kept as a separate fund and used for paying the expenses of the administration and enforcement of this act and shall be accounted for as required by law for other funds and expenses of the board. (Id. § 1905a-60-4.)

65. Board of Health to Prescribe Regulations.—The State Board of Health shall enforce the provisions of this act and shall make suitable rules and regulations for carrying out its provisions. These regulations shall also determine the conditions under which eggs previously candled shall be re-candled before sale, in order to safeguard the purchaser against buying such eggs as are unfit for human food, which may be contained in such lots. (Id. § 1905a-60-5.)

66. Penalty for Violations.—Any person, firm or corporation failing to comply with the requirements of, or violating any of the provisions of this act, shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than \$10.00 nor more than \$50.00 for the first offense; and not less than \$25.00 or more than \$50.00 for each subsequent offense and his certificate may also be revoked by order of the court upon conviction of a third or subsequent offense. Should any person, firm or corporation be convicted of buying or trading in eggs after the date on which his certificate was ordered to be revoked, the offender shall be punished by a fine of one hundred dollars for each offense. (Id. § 1905a-60-6.)

66a. Words Plural or Singular.—The words used in this act shall be construed to import the plural or singular, as the case demands. (Id. § 1905a-60-7.)

Feeding Stuffs.**67. Commercial Feeding Stuffs to be Labeled; What Label Shall State.—**

Every bag, barrel or other package of concentrated commercial feeding stuff, manufactured, sold, offered or exposed for sale in, or imported into, this State, shall have securely attached a tag or label, and plainly printed thereon the number of net pounds of concentrated commercial feeding stuff in the package, the name, brand or trade-mark under which the concentrated commercial feeding stuff is sold; the name and address of the manufacturer and the guaranteed analysis, stating the percentage of fat, and the percentage of protein, allowing one per centum (1%) of nitrogen to equal six, twenty hundred per centum (20.100%) of protein, these constituents to be determined by the methods adopted by the Association of Official Chemists of the United States; and the ingredients from which it is compounded, also the stamp showing the payment of the inspection fee provided for in this act. Provided, that all concentrated commercial feeding stuffs shall be in standard weight bags or packages of no other than fifty, one hundred, one hundred and fifty, or two hundred pounds each, or less than fifty pounds, or sold in bulk. All concentrated commercial feeding stuffs shipped in bulk to consumers shall be subject to the penalties provided for in this act upon the attempt to evade the guaranteed analysis and the payment of the inspection fee provided for in this act: Provided, further, that nothing in this act shall be construed to restrict or prohibit sales of concentrated commercial feeding stuff material in bulk to each other by importers, manufacturers, or manipulators who mix concentrated commercial feeding stuffs for sale, or as preventing the free, unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuffs for sale. (Stats. 1922, § 1719a-1.)

68. Concentrated Commercial [Feeding] Stuff; Defined.—The term "concentrated commercial feeding stuff," as used in this act, shall include linseed meals, corn and corn-cob meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts, and other mill products, ground beef or fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, pea-vine meal, cottonseed meal, velvet bean meal, feeds and meals mixed or unmixed, made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds. (Id. § 1719a-2.)

69. Statement to be Filed by Seller With Experiment Station.—Each and every manufacturer, importer, jobber, agent or seller, before selling, offering or exposing for sale in this State any concentrated commercial feeding stuffs as defined in § 2 of this act [1719a-2] shall, for each and every feeding stuff bearing a distinguishing name or trade-mark, file with the director of the Kentucky Agricultural Experiment Station a copy of the statement named in § 1 of this act [1719a-1]: Provided, that whenever a manufacturer, importer or jobber of any concentrated commercial feeding stuff shall have filed the statement named in § 3 of this act [1719a-3] and paid the inspection tax, no agent or seller for said manufacturer, importer or jobber shall be required to file such a statement or pay such a tax for said bran. (Id. § 1719a-3.)

70. Annual Fee to be Paid by Seller.—In each year every manufacturer, importer, agent or seller of any concentrated commercial feeding stuff shall pay to the director of said experiment station an inspection fee of twenty cents (20c.) per ton for each ton of such concentrated commercial feeding stuff sold, offered or exposed for sale in this State. Provided, that when the manufacturer or importer shall have paid the inspection fee for any brand, any person acting as agent or seller for said manufacturer or importer, shall not be required to pay the inspection fee for said brand. It shall be the duty of every person before selling, exposing or offering for sale any concentrated commercial feeding stuff in this State to attach or cause to be attached to each bag, barrel or package thereof, one of the tags and stamps hereinbefore described. (Id. § 1719a-4.)

71. Director of Experiment Station to Furnish Label.—Upon receipt of the inspection fee, it shall be the duty of the director of said experiment station to furnish the manufacturers, dealers or importers of concentrated commercial feeding stuffs with stamps or labels in lots to the value of five dollars (\$5.00) or any multiple thereof to be attached to each package of concentrated commercial feeding

stuff sold or used in this State. Such stamps or labels shall be printed in such form as may be prescribed by the director of said experiment station. (Id. § 1719a-5.)

72. Stamps to be Furnished.—Each manufacturer or dealer of concentrated commercial feeding stuffs shall forward the money for stamps to the director of said experiment station, who shall pay all such fees received by him into the treasury of the Kentucky Agricultural Experiment Station, the board of control of which shall expend the same in meeting all necessary expenses in carrying out the provisions of this act, including the employment of inspectors, chemists, expenses in procuring samples, expert witnesses' expenses attending grand juries and courts, printing bulletins and legitimate expenses of said experiment station. (Id. § 1719a-6.)

73. Samples for Analysis; How Selected.—Any person purchasing any concentrated commercial feeding stuff in this State for his own use may submit fair samples of the said feeding stuff to the director of the experiment station for analysis, but in order to protect the manufacturer or vendor from the submission of spurious samples for analysis, the person selecting the sample shall do so in the presence of two or more disinterested persons (from not less than 10 per cent (10%) of the lot purchased), which sample shall be taken from one or more packages and shall be put into a bottle or can or other package and sealed in the presence of said witnesses, and this sample placed in the hands of a disinterested person, who shall forward the same at the expense of the purchaser to the director of the experiment station, and upon the receipt by him of such sample package, the director shall make or cause to be made an analysis of the same, and he shall return to such purchaser a certificate of analysis, and the said certificate, when verified by the affidavit of the analyst, shall be competent evidence in any court of law or equity in this State. (Id. § 1719a-7.)

74. Samples to be Analyzed Annually.—The director of said experiment station is hereby authorized, in person or by deputy, to take samples for analysis not exceeding two pounds in weight from any lot, parcel or package of any concentrated commercial feeding stuff which may be in the possession of any manufacturer, importer, agent, dealer, or transportation company in this State. The said director shall have one or more samples of such feeding stuff collected as herein provided, analyzed annually and the results published, together with such additional information as he may determine. (Id. § 1719a-8.)

75. Penalty for Violating Act.—Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale in this State any concentrated commercial feeding stuff, as defined in this act, without having complied with the provisions of this act, or who shall sell, offer or expose for sale any concentrated commercial feeding stuff which contains a smaller percentage of protein or fat than the minimum guarantee, or a larger percentage of crude fiber than the maximum guarantee, or who shall adulterate any concentrated commercial feeding stuff with foreign mineral matters or other foreign substance, such as rice hulls, chaff, peanut shells, corn-cob meal, oat hulls, or other similar materials of less or of little or no feeding value, without plainly stating on the label hereinbefore described, the kind and amount of such mixture, or who shall adulterate with any substance injurious to health of domestic animals, shall be guilty of a violation of this act and fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). (Id. § 1719a-9.)

76. Label is Guarantee; Penalty for Fraudulent Use of.—The label attached according to this act to any lot, parcel or package of concentrated commercial feeding stuff offered or exposed for sale in this State, shall be accepted as the guarantee of the manufacturer, importer, jobber, dealer or agent that the said concentrated commercial feeding stuff contains the kinds and amounts of essential ingredients printed on the label or tag, and any person fraudulently attaching or permitting to be attached to any package of concentrated commercial feeding stuff, a fraudulent or counterfeit label or a genuine label used the second time or a label representing it to contain a larger percentage of protein or fat than is actually found by analysis to be contained in said concentrated commercial feeding stuff, shall be guilty of violating this act and may be fined as provided in § 9 [1719a-9] and shall also be liable for reasonable damages sustained by the purchaser of such concentrated commercial feeding stuff: Provided, however, that a small deficiency in protein or fat shall not be considered evidence of fraudulent intent. (Id. § 1719a-10.)

77. Inspector; Penalty for Obstructing.—Any manufacturer, seller, dealer, agent, clerk or other person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any duly authorized inspector or other person in the performance of his duty in collecting samples or otherwise on duty in connection with this act, shall be guilty of violating this act and shall, upon conviction, be fined

not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). (Id. § 1719a-11.)

78. Prosecuting Attorneys to Report Violations.—It shall be the duty of every prosecuting attorney, county attorney and city attorney to whom the director of said experiment station shall report any violation of this act, to cause proceedings to be commenced against the party so violating the act, and the same prosecuted in manner required by law. (Id. § 1719a-12.)

79. Regulations May be Adopted by Director.—The director of said experiment station is empowered to adopt standards for concentrated commercial feeding stuffs and to make and enforce such rules and regulations as he may deem necessary to carry fully into effect the true intent and meaning of this act. (Id. § 1719a-13.)

80. Director May Refuse to Register; When.—The director of said experiment station shall have power to refuse the registration of any feeding stuff under name which would be misleading as to the materials of which it is made, or when the percentage of crude fiber is above or the percentage of fat and protein below the standard adopted for concentrated commercial feeding stuffs by said director. (Id. § 1719a-14.)

81. Action Cannot be Brought on Contract; When.—No civil action shall be maintained in any court in this State on account of any sale or other contract made in violation of this act. (Id. § 1719a-15.)

Flour, Etc.

81a. County Court May Establish Upon Application.—An inspection warehouse outside of a city may be established by the county court of the county wherein it is located, upon the application of any person entitled as owner or lessee, but the same shall not be established unless the warehouse be built of such material and in such manner as to prevent injury to articles stored therein. (Stats. 1922, § 2186.)

81b. Scales and Balances to be Provided.—Scales, steelyards, or patent balance, with suitable weights sufficient to weigh at least one ton, shall be provided as appurtenant to the warehouse. (Id. § 2187.)

81c. Inspectors; Appointment and Bond of.—If the warehouse be within a city, the same may be established as an inspection warehouse, and inspectors appointed by the city council, otherwise by the county court. They shall be three in number, and remain in office until removed by the court for misconduct, negligence, or incompetency. They shall take an oath faithfully to discharge their duty, and enter into covenant with the commonwealth, with good surety, to be approved by the court, conditioned for the faithful discharge of all duty as inspectors, upon which suit may be brought by any person aggrieved. (Id. § 2188.)

81d. Inspectors; Duties; Appointment by County Court.—When required by the owner or lessee of the warehouse, the inspectors, or some two of them, shall attend at the warehouse, and, upon request of the owner of the commodity, and not otherwise, shall inspect any tobacco, flour, salted beef or pork, lard, spirituous liquors, imported salt, or hydro-carbon oils, or oils made from coal, petroleum, or well oil, for illuminating purposes, or such of them as by their appointment they are authorized to inspect; and to this end it shall be lawful for the court to appoint inspectors for the different articles above named, and to designate in the order of appointment those articles of which the person is to be inspector. (Id. § 2189.)

81e. Articles May be Sold Without Inspection; Exception.—Except the article of oil for illuminating purposes, no penalty shall be incurred for the sale or exportation thereof without inspection. (Id. § 2190.)

81f. Quality and Grade to be Noted; Exception.—Upon all articles inspected, except tobacco and salt, there shall be noted by the inspectors the quality and grade, or that it is condemned. (Id. § 2191.)

81g. Fees of Inspectors.—The fees of inspectors shall be as follows: For every hogshead of tobacco, thirty-seven and one-half cents (37½ cents); for each barrel of flour, three cents (3 cents); half barrel, two cents (2 cents); for each barrel of salt, three cents (3 cents); for a sack of salt, two cents (2 cents); for inspecting and packing each barrel of beef or pork, twenty cents (20 cents); for each half barrel, twelve cents (12 cents); and for each keg or firkin of lard, two cents (2 cents); for a single barrel or cask of liquor, twelve and one-half cents (12½ cents); for more than one and less than five, seven cents (7 cents) each; and for five or more, five cents (5 cents) each; for inspecting a single cask or

package of oil the inspector shall be allowed fifteen cents (15 cents); for more than one and less than five, ten cents (10 cents); and for five or more, five cents (5 cents) each. (Id. § 2192.)

81h. Inspector Not to Deal in Article He Inspects.—If any inspector shall deal in or purchase, otherwise than for his own use, any article of which he is appointed inspector, or be directly or indirectly interested in the purchase of any such article when condemned, he shall be fined five dollars (\$5.00) for every barrel, cask, keg, firkin or package so bought or dealt in by him. (Id. § 2193.)

81i. Damages for Neglect or Fraud.—An inspector shall be liable to the party aggrieved for the incapacity, neglect, fraud, or misconduct of himself or deputy as inspector; and furthermore for every willful neglect or breach of duty, and every act of partiality or fraud as inspector, he or his deputy shall be fined fifty dollars (\$50.00), removed from office, and disqualified from again holding such office. (Id. § 2194.)

81j. False Brand; Alteration of Brand.—If any person shall willfully use or imitate the brand or mark of another on the barrel or cask of any such article, or shall pack or put such article in a barrel, cask, box, keg or firkin previously branded with the name or mark of another, or shall alter, erase, or obliterate the brand or mark made by an inspector on an inspected hogshead, barrel, cask, keg or firkin, or shall shift or change the contents of the same after inspection, or shall mark or brand with the mark or brand of an inspector, or with any imitation thereof, any article subject to inspection which has not been inspected, and shall sell or offer to sell the same, he shall, for every such offense or false marking, using, packing, changing or shifting, be fined twenty dollars (\$20.00); and for every such fraudulent erasure, alteration or counterfeiting of the brand or mark of an inspector, shall incur the penalties prescribed against forgery. (Id. § 2195.)

81k. Selling Articles Under Weight.—Whoever shall sell or offer to sell any barrel or other package of such article, knowing the article not to be of the weight or quantity, after allowing for ordinary waste or loss of weight, that is required by law, or that is marked or branded thereon, shall be fined ten dollars (\$10.00) for every barrel or package so sold or offered for sale. (Id. § 2196.)

81l. Illegal Fees; Exacting or Demanding.—Every tobacco or other inspector who shall exact, demand or receive any more than the legal fee or other compensation for inspecting, shall, for every hogshead, barrel or package upon which he exacts, demands or receives such higher fee or other compensation, be fined five dollars (\$5.00), removed from office, and disqualified from being again an inspector. (Id. § 2197.)

81m. Falsely Packed Hogshead, Casks or Barrels.—Whoever shall knowingly sell, or attempt to sell, any hogshead, barrel or other package of tobacco, liquor, salt, beef, pork or lard, which is falsely packed or filled, or the staves or heading of which are falsely made, with a view to cheat a purchaser as to weight or quantity, or shall so pack, fill or prepare a hogshead, barrel or other package, with such intent, shall be fined ten dollars (\$10.00) for every such hogshead, barrel or other package. (Id. § 2198.)

81n. Inspector; Duty of; to Prosecute Offenders.—It shall be the duty of every inspector to have an offender prosecuted for any of the penalties incurred under this chapter and his willful neglect so to prosecute shall be deemed a breach of official duty. (Id. § 2199.)

NOTE: See also Nos. 189 and 193 et seq.

Fruits and Vegetables.

See Nos. 23 et seq., 36 et seq., and 191-192.

Honey.

82. Manufactured Honey; Sale of as Bee Honey.—Any person who shall sell or cause to be sold any manufactured honey, unless such honey is so represented and designated as manufactured honey, shall, for the first offense, be fined in any sum not less than ten nor more than one hundred dollars, and for each repeated offense shall be fined not less than fifty nor more than two hundred and fifty dollars. Any person who shall sell, or cause to be sold, any such manufactured honey which contains any substance injurious to health, shall, for the first offense, be fined in any sum not less than ten nor more than one hundred dollars, and for each repeated offense shall be fined not less than fifty nor more than two hundred and fifty dollars; and such adulterated articles, by order of the court, shall be destroyed. (Stats. 1922, § 1281.)

Maple Syrup.

See Nos. 37-38.

Meat Products.

See Nos. 4, 12, 21, 41, 81a et seq., 84 et seq., and 197.

Salt.

See Nos. 81a et seq. and 197.

Vinegar.

83. Vinegar; Label Showing Component Material; Selling Without Label.—All barrels, kegs or packages in which vinegar is placed and offered for sale in this commonwealth shall be so labeled, branded or marked as to describe the process of manufacture of the contents and shall, on the said label, brand or mark on the outside of said barrel, keg or package, state from what material the vinegar in said barrel, keg or package is made; whether from fruit by natural fermentation, or from malt, grain or acid. Any person selling or offering for sale, in this commonwealth, any vinegar not so marked and described, or if the vinegar sold, or offered for sale, does not correspond, and is not as represented by the label, mark or brand, on the barrel, keg or package, shall be fined not less than twenty-five nor more than one hundred dollars. (Stats. 1922, § 1282.)

Sanitation.

84. Food Establishments; Light, Drainage; Plumbing and Ventilation; Health of Employees.—Every building, room, basement, inclosure or premises, occupied, used or maintained as a bakery, confectionery, cannery, packing house, slaughterhouse, creamery, cheese factory, restaurant, hotel, grocery, meat market, or as a factory, shop, warehouse, any public place or manufacturing establishment used for the preparation, manufacture, packing, storage, sale or distribution of any food as defined by statute, which is intended for sale, shall be properly and adequately lighted, drained, plumbed and ventilated, and shall be conducted with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks, or other persons therein employed, and the purity and wholesomeness of the food therein produced, prepared, manufactured, packed, stored, sold or distributed. (Stats. 1922, § 2060b-1.)

85. Buildings, Furnishings, Implements, Etc., to be Kept Clean; When Deemed Unsanitary.—The floors, sidewalls, ceilings, furniture, receptacles, implements and machinery on [in] every such establishment or place where such food intended for sale is produced, prepared, manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of such food products, shall at no time be kept or permitted to remain in an unclean, unhealthy or insanitary condition; and for the purpose of this act, unclean, unhealthful and insanitary conditions shall be deemed to exist in food in the process of production, preparation, manufacture, packing, storing, sale, distribution or transportation is not securely protected from flies, dust, dirt, and, as far as may be necessary, by all reasonable means, from all other foreign or injurious contamination; or if the refuse, dirt or waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, distributing or transportation of such foods are not removed daily, or if all trucks, trays, boxes, buckets or other receptacles, or the chutes, platforms, racks, tables, shelves, and knives, saws, cleavers or other utensils, or the machinery used in moving, handling, cutting, chopping, mixing, canning or other processes are not thoroughly cleaned daily, or if the clothing of operatives, employees, clerks or other persons therein employed is unclean. (Id. § 2060b-2.)

86. Walls, Ceilings, Floors, Etc., Construction of.—The sidewalls and ceilings of every bakery, confectionery, creamery, cheese factory and hotel or restaurant kitchen shall be so constructed that they can easily be kept clean; and every building, room, basement or inclosure occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food shall have an impermeable floor made of cement or tile laid in cement, brick, wood or other suitable material which can be flushed and washed clean with water. (Id. § 2060b-3.)

87. Fly Screens.—All such factories, buildings and other places containing food shall be so provided with proper doors and screens, adequate to prevent contamination of the product from flies. (Id. § 2060b-4.)

88. Toilets and Lavatories.—Every such building, room, basement, inclosure or premises occupied, used or maintained for the production, preparation, manufacture, canning, packing, storage, sale or distribution of such food, shall have adequate and convenient toilet rooms, lavatory or lavatories. The toilet room shall be separate and apart from the room or rooms where the process of production, preparation, manufacture, packing, storing, canning, selling and distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other non-absorbent material, and shall be washed and scoured daily. Such toilet or toilets shall be furnished with separate ventilating flues and pipes discharging into soil pipes, or shall be on the outside of and well removed from the building. Lavatories and wash rooms shall be adjacent to toilet rooms, or when the toilet is outside of the building, the wash room shall be near the exit to the toilet and shall be supplied with soap, running water and towels, and shall be maintained in a sanitary condition. (Id. § 2060b-5.)

89. Certain Conditions Declared a Nuisance; Misdemeanor to Maintain.—If any such building, room, basement, inclosure or premises occupied, used or maintained for the purposes aforesaid, or if the floors, sidewalls, ceilings, furniture, receptacles, implements, appliances or machinery of any such establishment, shall be constructed, kept, maintained or permitted to remain in a condition contrary to any of the requirements or provisions of the preceding five sections of this act, the same is hereby declared a nuisance and any toilet, toilet room, lavatory, or wash room as aforesaid, which shall be constructed, kept, maintained or permitted to remain in a condition contrary to the requirements or provisions of section 2060b-5 of this act, is hereby declared a nuisance; and any car, truck or vehicle used in the moving or transportation of any food product as aforesaid, which shall be kept or permitted to remain in an unclean, unhealthful or insanitary condition, is hereby declared a nuisance. Whoever unlawfully maintains or allows or permits to exist a nuisance as herein defined shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished as herein provided. (Id. § 2060b-6.)

90. Cuspidors; Misdemeanor Not to Maintain Properly.—Every person, firm or corporation operating or maintaining an establishment or place where food is produced, prepared, manufactured, packed, stored, sold or distributed shall provide the necessary cuspidors for the use of the operatives, employees, clerks and other persons, and each cuspidor shall be thoroughly emptied and washed out daily with water or a disinfectant solution, and five ounces thereof shall be left in each cuspidor while it is in use. Whoever fails to observe the provisions of this section shall be guilty of a misdemeanor and punished as hereinafter provided. (Id. § 2060b-7.)

91. Spitting on or About Food Establishments; Employees to Wash Hands, When; Penalty for Violation.—No operative, employee or other person shall expectorate on the food, or on the utensils, or on the floors or sidewalls of any building, room, basement or cellar where the production, preparation, manufacture, packing, storing or sale of any such food is conducted. Operatives, employees, clerks and all other persons who handle the materials from which such food is prepared or the finished product, before beginning work, or after visiting toilet or toilets, shall wash their hands thoroughly in clean water. Whoever fails to observe or violates the provisions of this section shall be guilty of a misdemeanor and punished by a fine of not more than twenty-five dollars (\$25.00). (Id. § 2060b-8.)

92. Sleeping in Food Establishments.—It shall be unlawful for any person to sleep or to allow or permit any person to sleep, in any work room of a bake shop, kitchen, dining room, confectionery, creamery, cheese factory, or any place where food is prepared for sale, served or sold, unless all foods therein handled are at all times in hermetically sealed packages. (Id. 2060b-9.)

93. Persons Affected With Contagious or Venereal Disease Not to be Employed.—It shall be unlawful for any employer to require, suffer or permit any person who is affected with any contagious or venereal disease to work, or for any person so affected to work in a building, room, basement, inclosure, premises or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution or transportation of food. (Id. § 2060b-10.)

94. Officials to Enforce Law; Power to Enter Buildings; Report of Violation of Law or Unsanitary Conditions; Order by Health Officer to Abate Condition; Hearing on Order; Final Order; Prosecution for Violations.—It shall be the duty of the officials in charge of the enforcement of the pure food laws of the State, and of the State Board of Health, and the county and city health officers,

and the duly appointed agents of all such, to enforce the provisions of this act, and for that purpose such officers shall have full power at all times to enter every such building, room, basement, inclosure or premises occupied or used or suspected of being occupied or used for the production, preparation or manufacture for sale, or the storage, sale, distribution or transportation of such food, to inspect the premises and all utensils, fixtures, furniture and machinery used as aforesaid; and if upon inspection any such food producing or distributing establishment, conveyance, or any employer, employee, clerk, driver or other person is found to be violating any of the provisions of this act, or if the production, preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees and operatives, or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the inspection or examination shall report such conditions and violations to the chief pure food official, or to the State Board of Health, or to the chief county or city health officer, as the case may be, and such officer or officers shall thereupon issue a written order to the person, firm or corporation responsible for the violation or condition aforesaid to abate such condition or violation or to make such changes or improvements as may be necessary to abate them, with such reasonable time as may be required in which to abate them. Notice of such order may be served by delivering a copy thereof to said person, firm or corporation, or by sending a copy thereof by registered mail, and the receipt thereof through the postoffice shall be prima facie evidence that notice of said order has been received. Such person, firm or corporation shall have the right to appear in person or by attorney before the officer issuing the hearing notice, or the person appointed by him for such purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why such order or instructions should not be obeyed. Such hearing shall be under such rules and regulations as may be prescribed by the State Board of Health. If after such hearing it shall [shall] appear that the provisions or requirements of this act have not been violated, said order shall be rescinded. If it shall appear that the provisions or requirements of this act are being violated, and that the person, firm or corporation notified as aforesaid is responsible therefor, said previous order shall be confirmed or amended, as the facts shall warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with said final order. If such person, firm or corporation is not present or represented when such final order is made, notice thereof shall be given as above provided. On failure of the party or parties to comply with the first order within the time prescribed, when no hearing is demanded, or upon failure to comply with the final order within the time specified by the food commissioner, the facts shall be certified to the commonwealth's, county or city attorney of the district in which such violations occurred, and said attorney, shall proceed against the party or parties for the fines and penalties provided by this act, and also for the abatement of the nuisance; provided, that the proceedings herein prescribed for the abatement of nuisances as defined in this act shall not in any manner relieve the violator from prosecution, in the first instance for every such violation, nor from the penalties for such violation prescribed by section 2060b-12 of this act. (Id. 2060b-11.)

95. Food Adulterated or Injurious to Health to be Tagged by Officers; Penalty for Disposing Thereof Thereafter; Notice by the Tag; Petition for Order to Destroy the Food; Destruction at Cost of Owner.—1. Whenever any of the duly authorized officers mentioned in section 2060b-11 shall find any article of milk, meat or other food which is adulterated within the meaning of this ordinance, or any other article or substance which is detrimental to public health, such article shall be tagged or otherwise properly marked, giving notice that the product is suspected of being adulterated or detrimental to public health, and warning all persons not to remove the same until given permission by such officer, or the courts, and it shall be unlawful for any person or persons, firm or corporation to remove or otherwise dispose of same in violation of this section, and any person or persons, firm or corporation doing so shall be fined not less than ten dollars (\$10.00), nor more than one hundred dollars (\$100.00), or be imprisoned not to exceed fifty days, or both such fine and imprisonment.

2. Such tag or notice shall give notice that the article has been quarantined. The officer shall then petition the judge of the police court, county or circuit court in the district in which the food is found for the condemnation and destruction of any such product. The owners or defenders of any such product or property shall be given the right to a hearing, first before the officer, if they so desire, and

before the court. The notice of a hearing to be before the officer shall also state the length of time within which such hearing may be had.

3. In case the finding of the court is with the officer the article shall be destroyed at the expense of the owner of the property, or by the owner of the property under the supervision of the officer, and in such case all other costs shall be taxed against the owners or defenders of the property, if such appear, or shall be collected, if no one appear, against the owner or agent properly ascertained. (Id. § 2060b-12.)

96. **Penalty for Violating This Law; Separate Offenses, What Constitute.**—Whoever violates any of the provisions of this act, or who refuses to comply with any lawful order or requirement duly made in writing as provided in § 2060b-11 of this act shall be guilty of a misdemeanor and on conviction shall be punished by fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or by imprisonment not to exceed thirty days, or by both fine and imprisonment, and for the second and subsequent offenses by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or by imprisonment in the county jail for not more than ninety days, or both, in the discretion of the court; and each day after the expiration of the time limit for abating in sanitary conditions and completing improvements to abate such conditions, as ordered as aforesaid, shall constitute a distinct and separate offense. (Id. § 2060b-13.)

NOTE: See also No. 12 and the dairy law, No. 40 et seq. For hotel and restaurant inspection, see Stats. 1922, § 2059 et seq.

PART III.

Special Drug Laws.

Abortifacients.

96a. **Selling Obscene Literature.**—Any person or corporation who sells, lends, gives away or shows or offers to sell, lend, give away or show, or has in his possession with intent to sell, lend or give away, or to show, or advertises in any manner, or who otherwise offers for loan, gift, sale or distribution, any obscene, lewd, lascivious, filthy, indecent or disgusting book, magazine, pamphlet, newspaper, story-paper, writing, paper, picture, drawing, photograph, figure or image, or any written or printed matter of an indecent character; or any article or instrument of indecent or immoral use, or purporting to be for indecent or immoral use or purpose, or who designs, copies, draws, photographs, prints, utters, publishes or in any manner manufactures or prepares any such book, picture, drawing, magazine, pamphlet, newspaper, story-paper, writing, paper, figure, image, matter, article or thing, or who writes, prints, publishes or utters, or causes to be written, printed, published or uttered, any advertisement or notice of any kind, giving information directly or indirectly, stating, or purporting so to do, where, how, of whom, or by what means, any or what purports to be any, obscene, lewd, lascivious, filthy, disgusting or indecent book, picture, writing, paper, figure, image, matter, article or thing named in this section, can be purchased, obtained or had. (Stats. 1922, § 1352.)

96b. **Penalty for Violation of Law.**—Any person or corporation who is guilty of a violation of §§ 1352 and 1353,* or either of them, or in any manner hires, employs, uses or permits any minor child to do or assist in doing any act or thing mentioned in these sections, is guilty of a misdemeanor, and upon conviction, shall be sentenced to not less than ten days nor more than one year's imprisonment, or be fined not less than fifty dollars, nor more than one thousand dollars, or both fined and imprisoned for each offense. (Id. § 1354.)

NOTE: See also No. 108.

Insecticides and Fungicides.

See No. 5.

*Section 1353 relates to selling police reports or accounts of crime.

Pharmacy, Poisons and Narcotics.

97. Registered Pharmacist Only Authorized to Compound or Vend Drugs; Penalty.—Except as in this act provided it shall hereafter be unlawful in the Commonwealth of Kentucky for any person who is not a registered pharmacist, within the meaning of this act, to vend at retail, compound or dispense any drug, medicine, chemical, poison, or pharmaceutical preparation for medical use, or compound and dispense physicians' prescriptions. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00), for each and every offense. (Stats. 1922, § 2619.)

98. Certificates to Practice May be Exchanged With Other States.—The Kentucky Board of Pharmacy is hereby authorized to exchange certificates of registration with other States allowing registered pharmacists of foreign States to practice pharmacy in this State under such rules and regulations as the Kentucky Board of Pharmacy shall determine. (Id. § 2619a-1.)

98a. Exchange of Registration Certificate With Other States.—The Kentucky Board of Pharmacy is hereby authorized to exchange certificates of registration with other States allowing registered pharmacists of foreign States to practice pharmacy in this State under such rules and regulations as the Kentucky Board of Pharmacy shall determine. (Id. § 2619a-2.)

NOTE: This and the preceding section are identical.

99. Drugs Not to be Sold or Compounded Except by Registered Pharmacist; Penalty.—Any owner of a pharmacy, or retail drug store, who, not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy or drug store a registered pharmacist, or any such proprietor who shall by himself, or any other person, permit the compounding or dispensing of prescriptions, or the vending at retail of drugs, medicines, poisons, or pharmaceutical preparations in his store or place of business, except by or in the presence and under the immediate supervision of a registered pharmacist, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and each week that he shall cause or permit such pharmacy or retail drug store to be so conducted or managed shall constitute a separate and distinct offense, and render him liable to separate prosecution and punishment therefor. (Id. § 2620.)

100. Kentucky Board of Pharmacy; Appointment; Term; Qualifications.—The members of the present State Board of Pharmacy shall serve until the expiration of the time for which they have been appointed, and they, with their successors, shall constitute the "Kentucky Board of Pharmacy." At its regular annual meeting in each and every year after the enactment of this law, the Kentucky Pharmaceutical Association shall select and submit to the Governor the names of five persons, who have had five years' experience in compounding and dispensing physicians' prescriptions in the Commonwealth of Kentucky, and the Governor shall, before the first day of October of each year, appoint from the names so submitted one person, as the term of each of those now holding office expires, who shall hold his office for five years, and until his successor is appointed and qualified, unless removed for cause. Any vacancy that may occur in said board shall be filled for the unexpired term by the Governor from the names last submitted. Each member of said board shall, within ten days after he receives his appointment, take and subscribe to an oath or affirmation, before a competent officer, to faithfully and impartially perform the duties of his office, which oath or affirmation shall be inscribed upon his commission. Not more than two members of said board shall be residents of the same county. No member of said board shall be reappointed within one year of the expiration of his term of office. (Id. § 2621.)

101. Meetings of Board; Officers; Reports to Governor; Meetings to Examine Applicants; By-laws; Quorum.—The Kentucky Board of Pharmacy shall meet in the month of October of each year, and organize by the election of a president, secretary and treasurer, who shall be elected for a term of one year, and shall perform the duties prescribed by the board. The president and treasurer shall be elected from the members of the board, but the secretary need not be a member of the board. It shall be the duty of the said board to examine all applications for registration in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this act; to report annually to the Governor and to the Kentucky Pharmaceutical Association upon the conditions of pharmacy in the commonwealth, which report shall also furnish a record

of the proceedings of said board for the year, and also the names of all persons duly registered under this act, and shall include an account of all money received and expended from the board. The board shall keep a book of registration in which shall be entered the name and place of business of all persons registered under this act. The said board shall hold meetings for the examination of applicants for registration, and the transaction of such other business as shall pertain to its duties, at least once in three months, said meetings to be held on the second Tuesday of January, April, July and October of each year in such cities as the board may select, and shall continue in session from day to day until its business is disposed of. The records of said board, or a copy of any part thereof, certified by the secretary to be a true copy, attested by the seal of the board, shall be accepted as competent evidence in all courts of this commonwealth. The said board shall have power to make by-laws for the proper execution of its duties under this act. Three members of said board shall constitute a quorum. (Id. § 2622.)

102. Secretary and Salary; Treasurer and Bond; Pay of Members.—The secretary of said board shall receive such salary as the board may determine, which shall not exceed five hundred dollars (\$500.00) a year. He shall also receive his traveling and all necessary expenses incurred in the performance of his official duties. The other members of the board shall receive the sum of five dollars (\$5.00) for each day actually engaged in the service thereof, and all legitimate and necessary expenses incurred in attending the meetings of the board, or while performing strictly official duties. Said salaries, per diem and expenses shall be paid, after an itemized statement of the same has been rendered and approved by the board, from the fees and penalties received by the board under the provisions of this act. The secretary shall collect all money due the board from all sources, and shall pay the same to the treasurer within thirty days, taking his receipt therefor. The treasurer shall give bond in such sum as the board may determine, which at no time shall be for a less amount than is in his hands belonging to the board. (Id. § 2623.)

103. Registered Pharmacist; Who May be; Fee; Assistants; Proprietor of Store; Duty of; Application for Registration.—Any person who is more than twenty-one years of age, of good moral character, possessing such standards of education, both academic and pharmaceutical, and such practical experience as the Kentucky Board of Pharmacy shall from time to time determine, filing written application, properly verified, setting forth his age, residence, education and practical experience as may be required, after passing a satisfactory examination to be conducted in the English language before the Kentucky Board of Pharmacy, under such rules and regulations as the board may determine, shall be entitled to a certificate as a registered pharmacist upon the payment of a fee to the secretary of the board of not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00), as said board shall from time to time fix. Any person eighteen years of age, of good moral character, possessing such standards of education, both academic and pharmaceutical, and such practical experience as the Kentucky Board of Pharmacy shall from time to time determine, filing written application, properly verified, setting forth his age, residence, education and practical experience as may be required after passing a satisfactory examination to be conducted in the English language before the Kentucky Board of Pharmacy, under such rules and regulations as the board may determine, shall be entitled to a certificate as a registered assistant pharmacist upon the payment of a fee to the secretary of the board of not less than five dollars (\$5.00) nor more than ten dollars (\$10.00), as said board shall from time to time fix. Registered assistant pharmacist may have charge of a drug store during the temporary absence of the registered pharmacist, but such absence shall not be for a period longer than thirty days in a calendar year. Whenever such absence is for a period of twenty-four consecutive hours or longer the proprietor, owner, manager or person in charge of said drug store or pharmacy shall immediately notify the secretary of the Kentucky Board of Pharmacy the number of days his store will be in charge of a registered assistant pharmacist. This provision shall not be employed as a subterfuge or trick to defeat the law requiring all drug stores or pharmacies to be in charge of a registered pharmacist; all drug stores or pharmacies must be in charge of a registered pharmacist, who shall devote all of his time to said drug store or pharmacy in good faith except for the thirty days in each year allowed herein. Any proprietor, owner, manager or person in charge of a drug store or pharmacy, who shall fail to comply with the above provisions shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00) for each offense. Any person filing a false application of any of the facts required herein shall be guilty of a misdemeanor, and upon conviction

shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00), and shall have his certificate of registration revoked. Any registered pharmacist or registered assistant pharmacist who shall be convicted of a felony, or who is proven to be an addict to habit forming drugs, or who is an habitual drunkard, shall forfeit his certificate to practice pharmacy. All certificates hereafter issued shall have plainly written, printed or stamped upon the face thereof the words "revocable for the causes specified by law" and "awarded upon examination." (Id. § 2625.)

104. Pharmacist Registered Under Former Law.—Persons who, at the time of the enactment of this law, hold certificates of registration as pharmacist, granted by the State Board of Pharmacy of Kentucky, shall not be required to register under this law, but shall apply for, and secure annual renewals thereof, as provided in this act, and in all other respects shall be amenable to the provisions of this act. (Id. § 2626.)

105. Renewal of Certificates; Annual Fee; Penalty for Failure to Observe Law; Effect of Failure to Renew.—Each registered pharmacist shall annually during the month of January, if he desires to continue in such business, pay to the secretary of the Kentucky Board of Pharmacy a renewal fee, to be fixed by the board, which shall not exceed four dollars, for which he shall receive a renewal of said registration. Each registered assistant pharmacist shall annually during the month of January, if he desires to continue in such business, pay to the secretary of the Kentucky Board of Pharmacy, a renewal fee, to be fixed by the board, which shall not exceed three dollars, for which he shall receive a renewal of registration; and each registered pharmacist and registered assistant pharmacist shall keep the same conspicuously exposed in his place of business. The Kentucky Board of Pharmacy shall each year turn over to the Kentucky Pharmaceutical Association for the advancement of the art and science of pharmacy, out of the annual renewal fees collected by it, such sum as it may deem advisable, but not to exceed two dollars, for each registered pharmacist and registered assistant pharmacist who shall have paid his renewal fee during such year. Every registered pharmacist, and registered assistant pharmacist, shall, within ten days after changing his place of business, as designated by his certificate, notify the secretary of the Kentucky Board of Pharmacy of his new place of business, and enclose a fee of fifty cents, upon receipt of which the secretary shall make the necessary change in his register. Any registered pharmacist or registered assistant pharmacist who shall fail or neglect to procure his annual renewal of registration, or to comply with the other provisions of this section, shall forfeit his right to act either as a registered pharmacist, or registered assistant pharmacist, at the expiration of sixty days from the time of notice of such failure to comply with the provisions of this section shall have been mailed to his last address by the secretary of the board. The secretary of the board shall annually publish a list of all persons who are duly registered pharmacists, and assistant pharmacists in this commonwealth, and shall mail a copy of same to each registered pharmacist, or assistant registered pharmacist. It shall be the duty of the secretary to erase from the register the name of any registered pharmacist, or assistant registered pharmacist, who may have died, or has forfeited his right under the law to do business in this commonwealth. Any registered pharmacist, or registered assistant pharmacist who shall fail to secure his annual renewal registration for a period of five consecutive years shall not be entitled to renew his registration except upon passing a satisfactory examination before the Kentucky Board of Pharmacy. (Supp. 1926, § 2627.)

106. Penalty for Attempting to Procure Registration Wrongfully; Intoxication.—Any person who shall procure, or attempt to procure registration either as a registered pharmacist, or assistant registered pharmacist, for himself or another, by making or causing to be made, any false representations, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00); and the name of the person so fraudulently registered shall be stricken from the register. Any person not a registered pharmacist or registered assistant pharmacist as provided in this act, who shall take, use or exhibit the title of a registered pharmacist, or registered assistant pharmacist shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a penalty of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00). Any registered pharmacist, or registered assistant pharmacist who shall be in the habit of being intoxicated shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be liable to a penalty of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for the first offense; and upon conviction for the second offense, in addition to such fine, his name shall be stricken

from the register, and his certificate of registration revoked by the Kentucky Board of Pharmacy. (Stats. 1922, § 2628.)

107. Adulteration of Drugs Forbidden; Analysis of Drugs; Penalty.—No person shall add to, or remove from, or cause to be added to or removed from, any drug, chemical or medicinal preparation, any ingredient or material, for the purpose of adulteration or substitution, which shall deteriorate the quality, commercial value, or medical effect, or which shall alter the nature or composition of such article, so that all will not correspond to the recognized tests of identity or purity. Any person who shall thus willingly adulterate, or alter, or cause to be adulterated or altered, or shall sell, or offer for sale, any such drug, chemical, or medicinal preparation, or any person who shall substitute or cause to be substituted, one material for another, with the intention to defraud or deceive the purchaser, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and if a registered pharmacist, his name shall be stricken from the register, and his certificate of registration revoked. On complaint being made, the Board of Pharmacy is hereby empowered to employ an expert chemist or analyst, to examine into the so-called adulteration, and report upon the result of his investigation, and if said report shall be deemed to justify such action the board shall cause the prosecution of the offender, and if found guilty, he shall be adjudged to pay in addition to the fine before provided for, all costs of inspecting and analyzing such adulterated article. (Id. § 2629.)

108. Poisons; How to be Sold; Register to be Kept; Penalty.—No person shall sell at retail any poisons, except as herein provided, without affixing to the bottle, box, vessel or package containing same, a label printed or plainly written, containing the name of the article, the word "poison," and the name and place of the business of the seller, with the common name of two or more readily accessible antidotes, nor shall he deliver poison to any person without satisfying himself that such poison is to be used for legitimate purposes. A poison, in the meaning of this act, shall be any drug, chemical, or preparation which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less. It shall be the further duty of any one selling or dispensing poisons, which are known to be destructive to adult human life in quantities of five grains or less, before delivering them, to enter in a book kept for that purpose the name of the seller, the name and residence of the buyer, the name of the article, the quantity sold or disposed of, and the purpose for which it is said to be intended, which book of registry shall be preserved for at least two years after the date of the last entry made therein and shall at all times be open to the inspection of the coroner of the county in which the same may be kept, and to the inspection of the members of the Kentucky Board of Pharmacy, or its authorized inspectors.

The following emmenagogues or abortives: Tansy, pennyroyal, rue, savin, ergot, cotton root and their preparations, patent or otherwise, shall be sold only at retail or dispensed only upon the original written prescription of a legally qualified physician and said prescription shall be filled but once, and of which no copy shall be taken by any person. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities, or doses, on physician's prescriptions, nor to the sale to agriculturists or horticulturists of such articles as are commonly used by them as insecticides. Every person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). (Id. § 2630.)

109. Person Not Pharmacist Who Sells Drugs Must Have Qualified Pharmacist in Charge.—Any person, or persons, not a registered pharmacist, may open, own or conduct a drug store or pharmacy, if he or they keep constantly in charge of the same a registered pharmacist; but shall not himself or themselves sell or dispense drugs or medicines, except proprietary or patent medicines in original packages. (Id. § 2631.)

110. Persons and Articles Exempt from Operation of This Act.—Nothing in this act shall be construed so as to apply to, or in any manner interfere with, the sale of the usual non-poisonous domestic remedies and medicines, and patent or proprietary medicine, by county stores in small places or rural districts. Nothing in this act shall apply to, or in any manner interfere with, the business of any licensed practicing physician, or prevent him from supplying to his patients such articles as may seem to him proper, or with his compounding his own prescriptions. (Id. § 2632.)

111. Pharmacist Exempt from Jury Service; Circuit Judges to Charge Grand Jury.—All pharmacists registered under this act, while engaged in any store for retailing drugs, medicines, or poisons, shall be exempt from serving on a jury. All circuit judges are required to give this act in charge to each grand jury impaneled in their courts. (Id. § 2633.)

112. Prosecutions for Violation of This Law; Disposition of Fines.—All prosecutions under this act shall be in the name of the Commonwealth of Kentucky, in any court having jurisdiction. It shall be the duty of the Kentucky Board of Pharmacy to investigate all complaints of disregard, non-compliance with or violations of the provisions of this act, and to bring all such cases to the notice of the county attorney of the county where such person is doing business, and it shall be the duty of such county attorney to diligently prosecute to effect any such violations. All penalties collected under the provisions of this act, after payment of all costs, including the commission allowed by law to the various officers, shall inure one-half to the Kentucky Board of Pharmacy and one-half to the school fund of the school district in which the offense was committed. (Id. § 2634.)

113. Cocaine or its Salts; Regulating Sale of.—Alkaloid cocaine, or its salts, or alpha or beta eucaine or their salts, or any admixture containing cocaine or eucaine, shall be sold at retail or dispensed only upon the original written prescription of a legally qualified physician or dentist, or veterinary surgeon, and only one sale shall be made on said prescription. Each prescription containing alkaloid cocaine or its salts, or alpha or beta eucaine or their salts, or any admixture containing cocaine or eucaine, filled by a registered pharmacist, shall have written upon its face the quantity thereof, the name of the patient, the date it is filled, and the prescription file of each registered pharmacist shall be open to the inspection of the members of the Kentucky Board of Pharmacy, or its authorized inspector, or the coroner of the county; and alkaloid cocaine, or its salts, or alpha or beta eucaine or their salts, or any admixture containing cocaine or eucaine shall be sold at wholesale only to pharmacists, registered under this act and to legally qualified physicians and dentists, and veterinary surgeons. Any registered pharmacist, licensed physician, dentist or veterinary surgeon, or any person not a registered pharmacist, licensed physician, dentist or veterinary surgeon who shall prescribe for, procure for, or sell, or dispense to any person alkaloid cocaine, or its salts, or alpha or beta eucaine, or their salts, or any admixture containing cocaine or eucaine, or otherwise deal in the same for any purpose other than for legitimate use, or any person who shall forge or utter a forged prescription for alkaloid cocaine, or its salts, or alpha or beta eucaine, or their salts, or any admixture containing alkaloid cocaine or eucaine, shall on first conviction be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or shall be confined in jail for not less than thirty (30) days nor more than one (1) year or both so fined and imprisoned; and upon second conviction shall be confined in the penitentiary not less than one (1) year nor more than five (5) years. Any registered pharmacist, licensed physician, dentist or veterinary surgeon, in addition to the penalty herein provided, on second conviction shall forfeit his certificate to practice pharmacy, medicine, dentistry or veterinary surgery. (Supp. 1926, § 2635a.)

114. [Opium]—Regulation of Sale.—Opium or its alkaloidal salts or their derivatives or any admixture containing opium or its alkaloidal salts or their derivatives shall be sold or dispensed only by a registered pharmacist upon the original written, dated and signed prescription of a legally licensed physician, or dentist, or veterinary surgeon, and only one sale shall be made on said prescription, and each such prescription shall state upon its face the quantity of said opium, its alkaloidal salts or their derivatives, also the name of the patient and the date said prescription is filled. And opium or its alkaloidal salts or their derivatives, or any admixtures containing opium or its alkaloidal salts or their derivatives, shall be sold at wholesale only to registered pharmacists, legally qualified physicians, dentists and veterinary surgeons. Provided, however, that any preparation, patent, proprietary or otherwise, containing not more than two grains of opium or one-fourth of a grain of its alkaloidal salts or their derivatives to the ounce, or admixture of ipecac and opium, commonly known as Dover's Powder or the antispasmodic mixtures of the National Formulary official at the time of sale, or lotions, liniments, suppositories, ointments and plasters plainly labeled "for external use only," may be sold or dispensed by registered pharmacists, without any prescription. Any registered pharmacist, legally licensed physician, dentist, or veterinary surgeon or any person not a registered pharmacist, licensed physician, dentist or veterinary surgeon, who shall prescribe for, procure for, or sell, or dispense to any person opium or its alkaloidal salts or their derivatives or any admixture containing opium or its alkaloidal salts or their derivatives, or otherwise deal in the same for any purpose other than for

the legitimate use, or any person who shall forge or utter a forged prescription for opium or its alkaloidal salts, or any admixture containing opium or its alkaloidal salts, or their derivatives, shall thereby render himself amenable to the penalties as in this section provided. And provided, further, that the provisions of this section shall not apply to the sales made by wholesale druggists to each other or to registered pharmacists or to legally licensed physicians, dentists, or veterinary surgeons, or to hospitals, sanatoriums, colleges, public and scientific institutions, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparations, nor to the sale at wholesale to general merchants or at retail by general merchants of patent or proprietary medicines containing not more than two grains of opium or one-fourth grain of morphine or one-fourth grain of heroin or three-fourths grain of codeine in one ounce. Any person failing to comply with the requirements of this act shall on first conviction be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or shall be confined in jail for not less than thirty (30) days, nor more than one (1) year, or both so fined and imprisoned; and upon second conviction shall be confined in the penitentiary not less than one (1) year nor more than five (5) years. Any registered pharmacist, licensed physician, dentist or veterinary surgeon, in addition to the penalty herein provided, on second conviction shall forfeit his certificate to practice pharmacy, medicine, dentistry or veterinary surgery. (Id. § 3766c-1.)

115. Selling Poisonous Drug to Infant.—If any person shall sell or deliver to any person under the age of fifteen years, without the consent of his parent or guardian, or upon the written prescription of a physician, any poisonous drug or medicine, he shall be fined one hundred dollars. (Stats. 1922, § 1276.)

115a. Interfering With Work of Convicts Outside Penitentiary Walls; Furnishing Convicts With Narcotics, Intoxicating Liquors, Weapons or Explosives; Punishment; Disqualified From Holding Office; Arrest Without Warrant.—Any person who shall interfere with or in any way interrupt the work of any convict who has been sent to any of the State penal institutions, who is employed outside the walls of such institution, or any person who gives or attempts to give to any such convict any opium, cocaine or other narcotic, or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives except explosives used in line of duty of any kind, shall be deemed guilty of a felony, and upon conviction therefor shall be punished by imprisonment in the State Prison for a term of not less than one nor more than five years, and shall be disqualified from holding any State office under the State government. Any officer or guard of any State Prison, or any superintendent of any work being carried on by such convicts, may arrest, without a warrant, any person violating the provisions of this act. The provisions of this act, however, shall not prevent any physician in the practice of his profession from prescribing and delivering to any such convict opium, cocaine or other narcotic or intoxicating liquors, when same may be deemed necessary by such physician, provided same is furnished with the consent of the person having charge of such convicts. (Id. § 1239a.)

115b. Knowingly Renting Motor Vehicle to Drunken Person or Drug Addict; Penalty.—Whoever lets a motor vehicle to any person to operate upon any public highway or street, knowing that such person is in an intoxicated condition, or under the influence of drugs, shall, upon conviction, be guilty of a misdemeanor and shall be subject to imprisonment in the county jail for a period of not less than thirty (30) days, nor more than twelve (12) months, or shall be fined not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or shall be both fined and imprisoned. (Supp. 1926, § 1376r-2.)

NOTE: See also Nos. 121 and 174 et seq.

Serums, Etc.

116. Station Established for Manufacture of Serum.—There be, and is hereby established at the Kentucky Agricultural Experiment Station a plant for the manufacture of serum and virus for the prevention of hog cholera. (Stats. 1922, § 2089a-1.)

117. Preparation and Distribution.—The preparation of such serum shall be under the rules and regulations of the director of the experiment station and shall be distributed by the Commissioner of Agriculture and the State Board of Agriculture, forestry and immigration. (Id. § 2089a-2.)

118. Cost.—Said experiment station shall charge for the hog-cholera serum manufactured under the provision of this act, cost price of manufacture not to exceed two cents (2c.) per cubic centimeter, and one cent (1c.) per cubic centimeter for the virus. (Id. § 2089a-3.)

119. Two Thousand Dollars (\$2,000.00) Appropriated.—For the purpose of installing the necessary plant and equipment, including animals and labor, for preparing a hog-cholera serum and virus the sum of two thousand dollars (\$2,000.00) is hereby appropriated. (Id. § 2088a-4.)

120. Expenses to be Reported; Payment of.—The board of control of said experiment station shall furnish to the Auditor of Public Accounts an itemized statement of the expenditures of money under this act. The expenditures reported to the auditor shall be paid by the commonwealth to the director of the experiment station upon the written request of the board of control of said experiment station, and the auditor for the payment of same is directed to draw his warrants upon the Treasurer, as in all other claims against the commonwealth. (Id. § 2089a-5.)

121. License for Manufacturers of Hog Serum; Bond; Use of Unlicensed Serum; Penalty; Exception.—Any person manufacturing anti-hog cholera serum hog-cholera virus, or any other product used in the prevention or treatment of swine diseases, shall before any of said products are sold or offered for sale in this State, pay or cause to be paid to the chairman of the board* an annual license fee of fifty dollars and shall execute bond in the sum of five thousand dollars for their faithful compliance with the laws, rules and regulations of the board, said bond to be acceptable to the chairman of the board. All licenses or forfeitures under this act shall be paid to the chairman and shall be used in the same manner as the funds appropriated for the use of the board. Any person violating the provisions of this section shall upon conviction be fined not less than five hundred dollars nor more than five thousand dollars. Any veterinarian, or other person, who knowingly purchases or uses anti-hog cholera serum, hog cholera virus, or any other product used in the prevention or treatment of swine diseases, manufactured and sold by any person, who has not complied with the provisions of this section, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars nor more than fifty dollars for each offense. Provided, however, that nothing in this act shall be construed to prohibit any pharmacist, regularly licensed under the laws of the State of Kentucky from selling in this State antihog-cholera serum, hog-cholera virus, or any other product used in the prevention or treatment of swine diseases, which have been government inspected and approved, provided said serum, virus or product is sold by a manufacturing concern licensed under the provisions of this section to sell in Kentucky. (Supp. 1926, § 63c-11.)

121a. Duties of Board; Enforce Law; Adopt Regulations; Investigations; Literature; Quarantines; Sanitary Measures; Employ Necessary Assistants and Fix Their Salaries; Entry on Private Premises.—The board* is hereby charged with the enforcement of the provisions of this act, and it shall be the duty of said board * * * to regulate the importation, sale, use and distribution of biological, chemical or other products, substances or materials used in the diagnosis, treatment or prevention of live stock diseases, to receive and receipt for all moneys receivable from licenses provided for in this act; * * * to regulate the importation, sale, use and distribution of biological, chemical or other products, substances or materials used in the diagnosis, treatment or prevention of live stock diseases when the provisions of section 63c-10† of this act have been complied with; to employ the necessary scientific, field, stenographic and clerical assistants and to fix their salaries. * * * (Stats. 1922, § 63c-13.)

121b. Office for County Board; Laboratory Analyses by County Health Officer; Supply of Virus, Vaccines, Etc., to be Kept; Administration Thereof.—* * * The health officer shall also keep properly safeguarded a supply of fresh smallpox virus, typhoid vaccine for the prevention of typhoid fever, for free distribution and use for the citizens of the county, and a supply of fresh diphtheria anti-toxin, which shall be sold at wholesale cost for use upon any citizen of the county; and where any person unable to purchase them within the county is found suffering from diphtheria or has been exposed to smallpox or typhoid fever, it shall be the duty of the county board of health to furnish free such diphtheria anti-toxin, smallpox virus, or typhoid vaccine as may be needed to protect the health and lives of the people of the county, and it shall be the duty of the health officer or assistant to administer promptly these curative and preventive agents. (Id. § 2054a-12.)

121c. Agricultural Experiment Station; Appropriation for.—There is hereby appropriated to the Agricultural Experiment Station of the State University, Lexington, Ky., for the current fiscal year, and for each succeeding year thereafter, fifty thousand dollars (\$50,000.00), * * * towards the maintenance of said station, and

*Reference is to State Live Stock Sanitary Board.

†This section relates to the loading of carcasses in cars, etc., omitted herein.

for the purpose of enlarging the hog cholera serum plant now at said station, and for the production of hog cholera serum and virus in large quantities for the benefit of the farmers of the State. Said serum and virus to be furnished the farmers of the State at partial cost of production, and not to exceed one cent (1c.) per cubic centimeter, and to be distributed through such channels as the director of the said experiment station may deem advisable for the protection of the swine interests of the State. (Id. § 4636f-1.)

Venereal Disease Drugs.

122. Advertisement Relating to Certain Diseases Prohibited.—Whoever publishes, delivers, distributes or causes to be published, delivered or distributed in a newspaper or otherwise an advertisement containing a statement, description or discussion of or concerning a venereal disease or a disease, infirmity or condition of the sexual organs caused by sexual vice, or referring to a person or persons as having suffered from such a disease, infirmity or condition; which advertisement shall call attention to a medicine, article or preparation that may be used therefor, or to a person or persons who may or will treat or give advice concerning the same, or to an office or place where such disease, infirmity or condition may or will be treated, or where advice may or will be given concerning the same, shall be punished by imprisonment for not more than six months or by a fine of not less than fifty dollars nor more than five hundred dollars, or by both such fine and imprisonment; provided, however, that this section shall not be construed to apply to didactic or scientific treatises on sex conditions, diseases or infirmities which do not advertise or call attention to any person or persons who will treat or advise concerning the same, nor to any office or place where the same may be treated or where advice will be given concerning the same, other than a person or an office or a place affiliated with a licensed hospital or dispensary or the state or county board of health of the State of Kentucky. (Stats. 1922, § 1376h.)

Wood Alcohol.

123. Sale, Possession or Disposition of Methyl (or Wood) Alcohol for Human Use in External or Internal Application Prohibited.—No person shall sell, offer for sale, give away, deal in or supply or have in his possession with intent to sell, offer for sale, give away, deal in or supply any article of food or drink or any medicinal or toilet preparation intended for human use internally or externally which contains any methyl alcohol, otherwise known as wood alcohol or wood naphtha, either crude or refined, under or by whatever name or trade-mark the same may be called or known, or which contains denatured alcohol containing methyl or wood alcohol. (Stats. 1922, § 2635b-1.)

124. Sale, Possession or Disposition of Such Article Without Proper Label Prohibited.—No person shall sell, offer for sale, give away, deal in or supply, or have in his possession with intent to sell, offer for sale, give away, deal in or supply any methyl alcohol, otherwise known as wood alcohol or wood naphtha, either crude or refined, under or by whatever name or trade-mark the same may be called or known, unless the container in which the same is kept, sold, offered for sale, given away, dealt in or supplied shall bear a notice containing the following device and words conspicuously printed or stenciled or typewritten thereon, viz.:

“Skull and crossbones—poison—wood alcohol or wood naphtha—warning. Wood alcohol is poisonous, and when inhaled or swallowed may cause blindness or death. It is unlawful to use this fluid in any way either internally or externally for the human body.” (Id. § 2635b-2.)

125. Sale, Possession or Disposition of Denatured Alcohol Containing Such Substance, Without Proper Label, Prohibited.—No person shall sell, offer for sale, give away, deal in or supply, or have in his possession with intent to sell, offer for sale, give away, deal in or supply any denatured alcohol that contains methyl or wood alcohol, unless the container in which the same is kept, sold, offered for sale, given away, dealt in or supplied shall bear a notice containing the following device and words conspicuously printed or stenciled or typewritten thereon, viz.:

“Skull and crossbones—poison—denatured alcohol—warning. This fluid contains wood alcohol, and if inhaled or swallowed may cause blindness or death. It is unlawful to use this fluid in any way, either internally or externally, for the human body.” (Id. § 2635b-3.)

126. Provisions Concerning Labels Are Supplementary.—Nothing in this act shall be construed as interfering with any other requirement of the law as to labels. (Id. § 2635b-4.)

127. Penalty for Violation.—Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars (\$10.00) [\$10.00] nor more than one hundred dollars (\$100.00), or by imprisonment for not less than [ten] days nor more than fifty days, or by both such fine and imprisonment. (Id. § 2635b-5.)

Intoxicating Liquors.

128. Unlawful to Manufacture, Sell or Transport; Exceptions.—It shall be unlawful to manufacture, sell, barter, give away, or keep for sale, or unlawfully have in possession or transport spirituous, vinous, malt or intoxicating liquors **except for sacramental, medicinal, scientific or mechanical purposes in the Commonwealth of Kentucky.** (Supp. 1926, § 2554a-1.)

129. Penalties for Violations.—On a first conviction for a violation of any provision of this act, except for a violation of a provision for which a particular penalty is herein provided, the defendant or defendants shall be fined not less than one hundred dollars nor more than three hundred dollars, and if persons, shall in addition, be imprisoned in the county jail for not less than thirty days nor more than sixty days.

Upon a second conviction for a violation of any provision of this act,* except sections 3, 4, 14, 22, 23, 24, 26, 27, 28, 29, 30, 31 and 33, the defendant or defendants, if persons, shall be confined in the penitentiary for not less than one year nor more than three years, and for a third conviction and each subsequent conviction, the person or persons shall be imprisoned in the penitentiary not less than five years nor more than ten years. If the defendant be a corporation, for the second offense, a fine shall be imposed of not less than one thousand dollars, nor more than five thousand dollars, and for the third and each succeeding offense, a fine shall be imposed in the discretion of the jury, but not less than five thousand dollars. (Id. § 2554a-2.)

130. Penalty for Manufacturing.—Any person or corporation manufacturing spirituous, vinous, malt or intoxicating liquors, except for sacramental, medicinal, scientific or mechanical purposes in the Commonwealth of Kentucky, shall, upon conviction for the first offense, be fined not less than one hundred dollars nor more than five hundred dollars, and if persons, shall in addition, be confined in the county jail for a period of not less than sixty days nor more than six months. Upon a second conviction of such unlawful manufacture the defendant or defendants, of [if] persons, shall be confined in the State Penitentiary for not less than one year nor more than five years, and for the third and each subsequent conviction, shall be confined in the State Penitentiary for not less than two years, nor more than ten years, in the discretion of the jury. Upon a second or any subsequent conviction of any corporation, under this section, a fine shall be imposed of not less than one thousand dollars, nor more than five thousand dollars, in the discretion of the jury. (Id. § 2554a-3.)

131. Articles Not Subject to Provisions of Act; Bond; Record; Sale of, for Beverage Purposes; Wine for Sacramental Purposes.—The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this act, including the provisions relating to the keeping of records, the giving of notice, and the filing of statements in the county court clerk's office, if they correspond to the following descriptions and limitations, namely:

(a) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force.

(b) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopœia, National Formulary or the American Institute of Homeopathy that are unfit for use for beverage purposes.

(c) Patented, patent and proprietary medicines that are unfit for use for beverage purposes.

(d) Toilet, medicinal and antiseptic preparations and solutions that are unfit for use for beverage purposes.

(e) Flavoring extracts and syrups that are unfit for use as a beverage, or for intoxicating beverage purposes.

* Act of 1922, chapter 33. Corresponding sections of Statutes 1922 are 2554a-3, etc.

- (f) Vinegar and preserved sweet cider.
- (g) Wine for sacramental purposes.
- (h) Alcohol medicated according to such formulas as will render it unfit for beverage purposes and which is to be sold for legitimate external use.

(i) Alcohol for mechanical and scientific purposes if unfit for a beverage.

(j) Any person who manufactures, purchases or possesses any of the articles mentioned in this section, or preparations fit for beverage purposes which are authorized to be manufactured, which may be used in the manufacture of other preparations compounded in accordance with formulas prescribed by the United States Pharmacopœia, National Formulary or the American Institute of Homeopathy, which preparations when so manufactured are unfit for use for beverage purposes, or in the manufacture of patented, patent and proprietary or other medicines, or for physicians' prescriptions, which are unfit for use for beverage purposes, may purchase and possess liquors for that purpose, but he shall give the bond as provided in section 2554a-28 to the Commonwealth of Kentucky that such liquors shall be used for the purpose mentioned herein, and he shall keep a record of the amount of the liquor so manufactured each day. Said records to be open to the inspection of the county attorney of the county and to the commonwealth's attorney of the district wherein such person resides.

No such manufacturer shall sell, use or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any syrup, extract or the articles named in paragraphs b, c and d of this section which may be used for beverage purposes than the quantity necessary for the extraction or solution of the elements mentioned therein and for the preservation of the article.

Any person who shall knowingly sell any of the articles mentioned in paragraphs a, b, c and d of this section for beverage purposes or any extract or syrup for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purpose, or shall sell any beverage containing one-half of one per centum or more alcohol by volume in which any extract, syrup or other article is used as an ingredient, shall be subject to the penalties provided in this act.

Nothing in this act shall prevent the manufacture or sale of wine for sacramental purposes in accordance with the provisions of the national prohibition act.

Alcohol for mechanical and scientific purposes may be secured from persons authorized to manufacture and sell such alcohol under the provisions of the national prohibition act. (Id. § 2554a-26.)

132. Sworn Statement of Intention to Manufacture Liquors Required.—It shall be the duty of every person who proposes to manufacture or sell any liquors coming within the provisions of this act, except as provided in section 2554a-26, before he shall manufacture or sell any such liquors, to file with the county court clerk of the county wherein he proposes to manufacture or sell such liquors, his sworn statement of intention so to do, which shall contain the following information:

His intention to manufacture or sell such liquors and the kind thereof.

The particular place where such liquors are to be manufactured and sold.

If any person shall manufacture or sell any such liquors before the filing of his declaration of his intention so to do, or before executing a bond as hereinafter provided, with the county court clerk, he shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than six months nor more than one year, or both so fined and imprisoned, in the discretion of the jury, and every day on which he shall manufacture, sell or dispose of any such liquor shall be deemed a separate offense. No such liquor shall be manufactured or sold by any person at any place other than that set out in his declaration of intention. (Id. § 2554a-27.)

133. Bond for Manufacturer of Liquors Coming Within Provisions of Act.—Before any person shall manufacture any spirituous, vinous, malt or intoxicating liquor coming within the provisions of this act, he shall execute bond in the sum of one thousand dollars with good security, payable to the Commonwealth of Kentucky, to be approved by the county court clerk; which said bond shall be executed and filed in the office of the county court clerk of the county in which said liquors are to be manufactured or sold. Said bond shall be conditioned that said person shall not manufacture, sell or dispose of such liquors in violation of any of the provisions of this act. Upon conviction of any person of any offense provided in this act, the said bond shall be forfeited to the Commonwealth of Kentucky; provided, however, that the provisions of this section shall not apply

to those druggists who are not required to execute such bond to the Federal government. (Id. § 2554a-28.)

134. Bond for Sale of Liquors Coming Within Provisions of Act.—Before any person other than a manufacturer shall sell or dispose of any spirituous, vinous, malt or intoxicating liquors coming within the provisions of this act, he shall execute bond in the sum of one thousand dollars with good surety, payable to the Commonwealth of Kentucky, to be approved by the county clerk, which said bond shall be executed and filed in the office of the county court clerk of the county in which said liquors are to be sold. Said bond shall be conditioned that such liquors shall not be sold or disposed of in violation of the provisions of this act. Upon conviction of any such person of any offense as provided in this act the said bond shall be forfeited to the Commonwealth of Kentucky. (Id. § 2554a-29.)

135. Sworn Statement of Liquors Manufactured.—All persons manufacturing any spirituous, vinous, malt or intoxicating liquors coming within the provisions of this act, except as provided in section 2554a-26, shall file in the office of the county court clerk of the county in which such liquors are made, a sworn statement showing the amount, kind and quality of the liquors so manufactured and its location, and if any has been sold, the amount sold, the date of each sale and the name and address of each person to whom it has been sold. If none has been sold, the report shall so state. This report shall be made and filed on the first day of July and the thirty-first day of December of each year. Such person so manufacturing such liquors, except as provided in section 2554a-26, shall keep a record showing the amount, kind and quality of such liquors, the amount sold, the name and address of the persons to whom sold and the dates of all sales, which record shall be open to the inspection of the county attorney of the county and the commonwealth's attorney of the district in which such liquors are manufactured, at all business hours of the day. (Id. § 2554a-30.)

136. Record of Sales of Liquor Coming Within Provisions of Act.—All persons other than manufacturers, who sell or dispose of any spirituous, vinous, malt or intoxicating liquors coming within the provisions of this act, except as provided in section 2554a-26, shall keep a record showing the amount, kind and quantity of such liquors, and the amount sold and the name and address of the persons to whom any such liquors shall have been sold or disposed of, and the dates of all such sales or dispositions, which record shall be open to the inspection of the county attorney of the county and the commonwealth's attorney of the district in which such liquors are sold, at all business hours of the day.

All such persons other than manufacturers who shall sell or dispose of liquors within the provisions of this act, except as provided in section 2554a-26, shall file in the office of the county court clerk of the county in which such liquors are sold or disposed of, a sworn statement showing the amount, kind and quality of the liquors sold, the date of such sales, the amount sold and the name and address of persons to whom sold. If none has been sold the report shall so state. Such report shall be made and filed on March 31, June 30, September 30 and December 31, of each year. (Id. § 2554a-31.)

137. Prescriptions.—Physicians may issue and pharmacists may fill prescriptions for intoxicating liquors, under the restrictions of the national federal law. (Id. § 2554a-32.)

138. Physician to Keep Duplicates of Prescriptions.—Every physician who issues prescriptions under this act shall keep duplicates of same on file in alphabetical order at his office for two years after the date thereof; said prescription shall be open to inspection of the county attorney of the county and the commonwealth's attorney of the district in which such physician resides. (Id. § 2554a-33.)

139. Filling of Prescriptions; Regulations.—No sale or disposition of such liquors as defined herein shall be made by any person upon or because of any physician's prescription, unless such prescription shall state the name and address of the patient, the druggist or pharmacist to whom addressed, the amount required, that the physician is in personal attendance on said patient, and the name and address of the physician who prescribes such liquor, and that the alcoholic preparation prescribed is necessary in the proper treatment of said ailment of said patient and the date thereof. All such prescriptions shall be marked canceled and filed and kept by the person making the sale for two years after the date of the sale and shall at no time be refilled. Such prescriptions shall be subject to inspection at any business hour of any day by the county attorney, of the county and the commonwealth's attorney of the district in which liquors are sold. No person other than a regular licensed and practicing physician shall issue any such prescription. (Id. § 2554a-34.)

140. Limit of Prescription.—No prescription shall provide for more than one pint of such liquors, nor shall any physician prescribe for more than one pint of such liquors to any person at any time nor at intervals of less than ten (10) days. If any person shall secure any liquors upon such prescription at intervals of less than ten (10) days he shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or imprisonment in the county jail for not less than ten (10) days nor more than sixty days, or both so fined and imprisoned in the discretion of the jury. (Id. § 2554a-35.)

141. Suspension of License of Druggist, Pharmacist or Physician as a Penalty.—Upon the first or second conviction of any druggist, pharmacist or physician, for violating any of the provisions of this act, the judgment of conviction, in addition to all other penalties imposed in this act, may, in the discretion of the trial court, provide for the suspension of the license of such physician, druggist or pharmacist, for the period of one year; and for the third conviction shall provide for the suspension of the license of such physician, druggist or pharmacist, for the period of one year. (Id. § 2554a-36.)

142. Forging Physician's Prescription.—Any person who shall forge a physician's prescription or attempt to use such prescription in obtaining liquors from any person authorized to sell such liquors, or other person, shall be punished by confinement in the county jail not less than sixty days nor more than one year for such offense. (Id. § 2554a-37.)

143. Penalty as Provided in Section 2554a-2.—A failure to comply with any of the provisions of this act shall be a misdemeanor, and upon conviction, where no other penalty is specifically provided, the punishment fixed in section 2 [2554a-2], of this act shall be inflicted. (Id. § 2554a-42.)

144. Not in Conflict With National Prohibition Act.—Nothing in this act shall prevent the manufacture, sale, transportation or delivery of intoxicating liquors by manufacturers, wholesale druggists or retail druggists, having permits issued under the regulations provided for the enforcement of the act of Congress known as the national prohibition act, or the sale, transportation and delivery by manufacturers or wholesale druggists to other manufacturers, wholesale druggists or to retail druggists; Provided, however, that such manufacturers, wholesale druggists and retail druggists have permits to sell or to purchase under the provisions of said national prohibition act, and have complied with all the provisions of this act. (Id. § 2554a-44.)

PART IV.

Miscellaneous Laws.

Convict Made Goods.

145. Brands or Labels Required; Exception.—All goods, wares and merchandise made by convict labor in any penitentiary, prison, reformatory or other establishment in which convict labor is employed in any State, except the State of Kentucky, and imported, brought or introduced into the State of Kentucky, shall before being exposed for sale, be branded, labeled or marked as hereinafter provided, and shall not be exposed for sale in any place within this State without such brand, label or mark. (Stats. 1922, § 524.)

146. Brand or Label; What to Contain and Where Placed.—The brand, label or mark hereby required shall contain, at the head or top thereof, the words "convict made," followed by the year and name of the penitentiary, prison, reformatory or other establishment in which it was made, in plain English lettering, of the style and size known as great primer Roman condensed capitals. The brand or mark shall in all cases, where the nature of the article will permit, be placed upon the same, and only where such branding or marking is impossible shall it be placed upon the box or other covering of the same, or be attached to the article as a label. Said brand or mark shall be placed upon the most conspicuous part of the article or its covering, and said label, when used instead of a brand or mark, shall be attached in the most conspicuous place. (Id. § 525.)

147. Dealing in Unbranded Goods; Removing or Defacing Brand; Penalties.—It shall not be lawful for any person dealing in this State in any such convict-made goods, wares or merchandise manufactured in any State, except the State

of Kentucky, knowingly to have the same in his possession for the purpose of sale, or to offer the same for sale, without the brand, mark, or label required by this act, or to remove or to deface such brand, mark or label. Any person offending against the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars, or to be imprisoned for a term not exceeding twelve months, or both, in the discretion of the jury or court trying the case. (Id. § 526.)

False Advertising.

148. Untrue, Deceptive or Misleading Statements in Public Advertisements; Penalty for Making.—Any person, firm, corporation or association, who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in this State, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and upon conviction, shall be fined in any sum not exceeding one hundred dollars, or imprisonment in the county jail not exceeding ninety days, or both so fined and imprisoned in the discretion of the jury. (Stats. 1922, § 1376f.)

149. Display, Exhibit, Insertion in Newspaper, or Mailing Any False or Misleading Advertisement or Statement for Purposes of Deception.—It shall be unlawful for any person, firm, association, corporation or advertising agency, either directly or indirectly, to display or exhibit to the public in any manner whatever, whether by handbill, placard, poster, picture, film, or otherwise; or to insert or cause to be inserted in any newspaper, magazine or other publication; or to issue, exhibit or in any way distribute or disseminate to the public; or to deliver, exhibit, mail or send to any person, firm, association or corporation any false, untrue or misleading statement, representation or advertisement with intent to sell, barter or exchange any goods, wares or merchandise or anything of value; or to deceive, mislead or induce any person, firm, association or corporation to purchase, discount or in any way invest in or accept as collateral security any bonds, bill, share of stock, note, warehouse receipt or any security; or, with the purpose to deceive, mislead, or induce any person, firm, association or corporation to purchase, make any loan upon or invest in any property of any kind; or use any of the aforesaid methods with the intent or purpose to deceive, mislead or induce any other person, firm or corporation for a valuable consideration to employ the services of any person, firm, association or corporation so advertising such services. (Id. § 1376g-1.)

150. Penalty for Violations; Liability of Corporate Officers.—Any person, firm, or association violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than \$500, or by imprisonment of not more than sixty days, or by both fine and imprisonment, in the discretion of the court. A corporation convicted of an offense under the provisions of this act shall be fined not more than \$500, and its president or such other officials as may be responsible for the conduct and management thereof shall be imprisoned not more than sixty days, in the discretion of the court. (Id. § 1376g-2.)

Tobacco—Tobacco Products.

151. Cigarettes; Furnishing to Person Under Eighteen Years of Age.—It shall be unlawful for any person to sell or furnish to any person under the age of eighteen years any cigarette or cigarette material, or to give, sell or barter the same to any person whomsoever, with the knowledge that the same is to be given or sold or bartered to any such child, or to persuade, advise, counsel or compel any child under said age to smoke the same. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon conviction therefor, shall be fined not less than five nor more than twenty-five dollars, or imprisonment in the county jail not exceeding thirty days or both so fined and imprisoned. (Stats. 1922, § 1277.)

152. Cigarettes; Unlawful to Furnish to Person Under Eighteen.—It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale, or give away, or furnish, or cause to be given away or furnished, to any person under the age of eighteen years, any cigarette, or cigarette papers, or any other paper prepared to be filled with smoking tobacco for cigarette use. (Id. § 1277a-1.)

153. Penalty on User.—It shall be unlawful for any person, under the age of eighteen years, to smoke, or to have about his person, or premises, any cigarette or cigarette papers, or any other form prepared to be filled with smoking tobacco for cigarette use. Any person violating the provisions of this section shall be punished by a fine of not exceeding five dollars: Provided, that the court of justice trying the case may remit the penalty for violation of this section, upon the disclosure by the person charged with the offense of the name of the person, firm or corporation from whom he obtained any such cigarette or cigarette paper. (Id. § 1277a-2.)

154. Duty of Peace Officers.—It shall be the duty of every constable, policeman, town marshal, sheriff or his deputy when he finds any person under the age of eighteen years smoking a cigarette, or with a cigarette or cigarette paper in his possession, to immediately inquire of such person where and of whom he obtained such cigarette or cigarette paper, and upon failure of any person to give such information when requested by such officer, the officer shall arrest such person and take him before a justice or other officer having jurisdiction, to be dealt with as provided in § 2 of this act. Upon information of such person to said officer of the violation of any of the provisions of sections one and two of this chapter, he shall immediately report such information to the prosecuting attorney of the county who shall have the person giving such information, along with any other witnesses having any knowledge of the transaction, summoned before the grand jury at its next session, for investigation. Any officer failing to perform the duties required of him by this section shall be fined not exceeding five dollars for each offense, justices of the peace and police judges are hereby given concurrent jurisdiction with the circuit and criminal courts of this State of the offenses under this chapter. (Id. § 1277a-3.)

155. Prohibited in School Buildings and Grounds.—Every person, who shall smoke or use a cigarette or cigarettes, in any school building or any building or such parts thereof as may be used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by a fine of not less than one nor more than five dollars. (Id. § 1277a-4.)

156. Penalty.—Any person, firm or corporation, violating any of the provisions of this act, where punishment is not otherwise provided, shall be liable to a fine of not less than ten dollars, nor more than twenty-five dollars for the first offense, and for each subsequent offense shall be liable for a fine not less than twenty-five dollars nor more than three hundred dollars, and on failure to pay the fine and costs of prosecution, shall be required to work the same out on the public roads. (Id. § 1277a-5.)

157. Combination to Control or Interfere With Bidding Unlawful.—It shall be unlawful for any tobacco warehousemen, corporation or individuals to combine together, by any rule, by-law or otherwise, for the purpose of controlling, or in any way interfering with, the free and unrestricted right to bid on or to purchase leaf tobacco offered for sale at public auction at any warehouse or place of sale where tobacco is sold by such warehousemen for others in this commonwealth. (Id. § 4810.)

158. Preventing Persons From Bidding, Unlawful.—It shall be unlawful for any organization or corporation under the laws of this State to prohibit any of its members or others from bidding on or purchasing leaf tobacco at any warehouse that now exists or may hereafter be organized or established in this commonwealth. (Id. § 4811.)

159. Sales to be Free and Open.—All sales of leaf tobacco at public auction in this State shall be free and open to all responsible bidders. (Id. § 4812.)

160. Discrimination Between Purchasers Forbidden.—All tobacco warehousemen selling leaf tobacco in this State shall make no distinction or difference between purchasers as to charges, samples, warranty or otherwise, whether said purchasers be members of the tobacco exchange or not. (Id. § 4813.)

161. Penalties for Violation of Four Preceding Sections.—Any warehouseman, agent, manager, corporation or organization who shall violate any of the provisions of the four preceding sections shall be guilty of a misdemeanor and shall, upon trial and conviction in any court of competent jurisdiction, be fined for each offense in any sum not less than twenty-five dollars (\$25.00) nor more

than one hundred dollars (\$100.00), in the discretion of the court or jury trying the case, and in addition shall forfeit all their corporate rights and privileges under the laws of this State. (Id. § 4814.)

162. Tobacco Warehousemen to Grade and Weigh, and Issue Receipts.—Any corporation, company, partnership or individual engaged in the business of warehousemen for the purpose of receiving, grading, handling, prizing and storing tobacco, shall, upon the receipt of such tobacco, grade it into distinct and proper grades, and weigh same, and shall give warehouse receipt therefor to the owner or consignor thereof, setting forth each grade and the number of pounds thereof; and after so doing said corporation, company, partnership or individual shall have the right to commingle all tobacco so received into like grades and types. (Id. § 4814a-1.)

163. Receipts; What to State.—All warehouse receipts so issued shall be consecutively numbered, shall have the name of the owner or consignor written therein, shall bear date upon the same date such tobacco is so received by such warehousemen, shall have written therein the character and amount of lien, or mortgage, if any, upon tobacco so received, and the name of the person holding said lien or mortgage; and such receipt shall be signed by the proper officer of the corporation, company, partnership or individual. If such receipt be lost or destroyed, it shall be the duty of the warehousemen to issue the owner another receipt, and mark across or upon the face thereof the word "duplicate." (Id. § 4814a-2.)

164. Receipts; What to State.—All warehouse receipts so issued by any corporation, company, partnership or individual, engaged in the business as above set forth, shall be negotiable and transferable by endorsement in blank or by special endorsement, and with like liability as bills of exchange now are, and with like remedy thereon. And it is provided that any of such warehousemen may in such receipts agree and bind themselves to pay the person rightfully holding the same and entitled thereto the value of the property described therein, in the event of loss or damage from any cause while in the possession of such warehousemen. (Id. § 4814a-3.)

165. Competent Men to Grade and Weigh.—It shall be the duty of such warehousemen to have some person or persons competent to grade such tobacco into proper grades and to weigh same in proper manner. (Id. 4814a-4.)

166. Other Warehouse Acts Not Affected by This.—Nothing herein shall be deemed to be in conflict with the laws of this commonwealth, governing grain and tobacco warehousemen, where tobacco is received and stored for sale. (Id. § 4814a-5.)

167. Amounts and Prices of Sales Posted Daily; Names of Owners and Producers.—It shall be the duty of any tobacco warehouseman, corporation, firm or individual, who shall receive, or who shall undertake to receive or take care of leaf tobacco, for sale at public auction, whether with or without compensation or reward, to post or cause to be posted, a notice in a conspicuous place upon the premises of said warehouseman, corporation, firm or individual, stating the number of pounds in the aggregate, actually sold, and the average price per pound received on account of each day's sale. It shall further be the duty of said warehouseman, prior to any such sale, to post at a point in the office of said warehouse, convenient and accessible for public inspection, a typewritten or printed list showing the true name and postoffice address of the owner and producer and the number of pounds of tobacco of each person, firm or corporation, whose tobacco will that day be offered for sale in said warehouse. No tobacco shall be delivered to or received by any warehousemen for sale at public auction unless the true names and postoffice addresses of the producer and owner of such tobacco are furnished said warehouseman by the person delivering same. (Supp. 1926, § 4814b-1.)

168. Time for Posting Notice.—It shall be the duty of said warehouseman to post said notice of sale not later than nine o'clock A. M. on the day following such sale or sales; to post said list of tobacco to be that day sold, not less than thirty minutes prior to sale of tobacco of any owner or producer. (Id. § 4814b-2.)

169. Failure to Post Notice, Penalty for.—Any warehouseman, corporation, firm or individual who shall fail or refuse to post the said notices in accordance with the provisions of this act shall be subject to a fine in a sum not less than \$50.00, nor more than \$100.00, for each day for so failing or refusing. (Id. § 4814b-3.)

170. False Notice, Penalty for.—Any warehouseman, corporation, firm or individual who shall in said notice falsify the actual number of pounds sold or the average price thereof, or shall falsely list the name, postoffice address or num-

ber of pounds of tobacco of any producer or owner whose tobacco will that day be offered for sale, or shall furnish a false name or address of the owner or producer to any warehouseman, shall be subject to indictment and upon conviction shall be fined \$500.00 for each offense. (Id. § 4814b-4.)

171. Reports of Sales to be Made by Warehousemen to Commissioner of Agriculture.—On and after the first day of August, 1914, every individual, firm, company or corporation conducting a warehouse business in Kentucky where tobacco is sold at public auction, either prized in hogsheads or sold in the hands loose, shall keep a correct account of the number of pounds of leaf tobacco sold upon the floor of his house daily. On or before the fifth day of each succeeding month the proprietor of the said warehouse shall make a statement under oath of all of the tobacco so sold upon the floor of his warehouse during the past month, and in such report shall designate how the total number of pounds of such tobacco was divided as between the following types or varieties of tobacco: Burley, Green River, One-sucker, dark fired tobacco, and dark tobacco not fired, but not included either in the Green River or One-sucker variety or type, and the price paid for same in dollars and cents, and shall transmit the said statement at once to the Commissioner of Agriculture at Frankfort, Ky. The report so made to the Commissioner of Agriculture, on blanks which shall be furnished by him, shall be so arranged and classified as to show the number of pounds of tobacco sold for the producers of tobacco from first hand; the number of pounds sold for dealers or rehandlers, which shall not include tobacco offered for sale, but rejected; and the number of pounds resold by proprietor of the warehouse for his own account or for the account of some other warehouse where same has been resold in said other warehouse or has been sold previously on some other market. (Stats. 1922, § 4814c-1.)

172. Duties of Commissioner of Agriculture.—The Commissioner of Agriculture shall cause said statements to be accurately copied into a book to be kept for this purpose and shall keep separate and apart the statements returned to him from each leaf tobacco market in the State, so as to show the number of pounds of tobacco sold by each market for the sale of leaf tobacco, the number of pounds sold by producers, and the number of pounds resold on each market; shall keep said book open to the inspection of the public, and shall cause said reports to be published on or before the tenth of said month in any bulletins issued by the agricultural department and in one or more journals published in the interest of the tobacco industry or the farmers, and having a large circulation in this State. (Id. § 4814c-2.)

173. Penalty.—Any person violating the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each month of delinquency shall be deemed a separate offense. (Id. § 4814c-3.)

NOTE: See also No. 81a et seq. and No. 197.

Trade-Marks, Etc.

174. Bottles Used in Trade; Branding; Record of.—Any and all persons and corporations engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, beer, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer or other beverages or medicines, medical preparations, perfumery, oils, compounds, or mixtures in bottles, siphons, tins or kegs, with his, her, its or their name or names, or other marks or devices branded, stamped, engraved, or etched, blown, impressed, or otherwise produced on such bottles, siphons, tins or kegs, or the boxes used by him, her, it or them, may file in the office of the clerk of the county in which his, her, its or their principal place of business is situated, or if such person, or persons, corporation or corporations shall manufacture a bottle out of this State then in any county in this State, and also in the office of the Secretary of State, a description of the name or names, marks or devices so used by him, her, it or them, respectively, and cause such description to be printed once in each week, for three weeks successively, in a newspaper published in the county in which said notice may have been filed as aforesaid. (Stats. 1922, § 1279-1.)

175. Penalty for Filling or Using Branded Bottle or Erasing Brand.—It is hereby declared to be unlawful for any person or persons, corporation or corporations, to fill with soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or with medicines, or medical preparations, perfumery, oils, compounds

or mixtures, any bottle, box, siphon, tin, or keg so marked or distinguished as aforesaid, with or by any name, mark, or device, of which a description shall have been filed and published, as provided above, or to deface, erase, obliterate, cover up or otherwise remove or conceal, any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of or traffic in the same without the written consent of, or unless the same shall have been purchased, by such person or corporation, exclusive of the contents thereof, from the person or persons, corporation or corporations, whose mark or device shall be or shall have been in or upon the bottle, box, siphon, tin or keg so filled, trafficked in, used or handled as aforesaid. Any person or persons, or corporation or corporations offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished for the first offense by imprisonment, not less than ten days nor more than one year, or by a fine of fifty cents for each and every such bottle, box, siphon, tin or keg so filled, sold, used, disposed of, given, taken, bought or trafficked in, or by both such fine and imprisonment, and for each subsequent offense by imprisonment, not less than twenty days nor more than one year, or by fine of not less than one dollar, nor more than five dollars, for each and every bottle, box, siphon, tin or keg so filled, sold, used, disposed of, given, taken, bought or trafficked in, or by both such fine and imprisonment, in the discretion of the magistrate before whom the offense shall be tried. (Id. § 1279a-2.)

176. Unlawful Possession Presumptive Evidence of Guilt.—The use by any person other than the person or persons, corporation or corporations, whose device, name or mark shall be, or shall have been, upon the same without such written consent or purchase as aforesaid, of any such marked or distinguished bottle, box, siphon, tin or keg, a description of the name, mark, or device, whereon shall have been filed and published, as herein provided, for the sale therein of soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, beer, small beer, lager beer, weiss beer, white beer, or other beverages, or any article of merchandise, medicines, medical preparations, perfumery, oils, compounds, mixtures or preparations, or for the furnishing of such or similar beverages to customers, or the buying, selling, using, for any purpose, disposing of or trafficking in any such bottles, boxes, siphons, tins or kegs, by any person other than said persons or corporations having a name, mark or device thereon of such owner without such written consent, or the having by any junk dealer or dealers in second-hand articles, vendor of bottles, rags, or collectors of or dealers in articles found in ashes, garbage or other refuse, whether at the public dumps or elsewhere, possession of any such bottles, boxes, siphons, tins, or kegs, whether whole or broken, a description of the marks, names or devices, whereon shall have been so filed and published as aforesaid, without such written consent, shall, and is hereby declared, to be presumptive evidence of the said unlawful use, purchase and traffic in of such bottles, boxes, siphons, tins or kegs. (Id. § 1279a-3.)

177. Search Warrant May be Issued.—Whenever any person, persons or corporation, who shall have so filed and published as aforesaid, or his, her, its or their agent shall make oath before any magistrate that he, she or it has reason to believe and does believe, that any of his, her, its or their bottles, boxes, siphons, tins or kegs, a description of the names, marks or devices whereon has been filed and published as aforesaid, are being unlawfully used or filled, or had, by any person or corporation manufacturing or selling soda, mineral or aerated waters, porter, ale, cider, ginger ale, milk, cream, small beer, lager beer, weiss beer, white beer, or other beverages or medicine, medical preparations, perfumery, oils, compounds, or mixtures, or that any junk dealer or dealers in second-hand articles, vendors of bottles, rags, or collectors of or dealers in articles found in ashes, garbage or other refuse, whether at the public dumps or elsewhere, or any other person or corporation has any such bottles, boxes, siphons, tins or kegs, in his, her or its possession, or secreted in any place, the said magistrate must thereupon issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession the bottles, boxes, siphons, tins or kegs may be found, and shall then inquire into the circumstances of such possession, and if such magistrate finds that such person has been guilty of a violation of § 1 of this act, he must impose the punishment herein prescribed, and he shall also award possession of the property taken upon such warrant to the owner thereof. (Id. § 1279a-4.)

178. Sale; What Not Deemed.—The requiring, taking or accepting of any deposit for any purpose upon any bottle, box, siphon, tin or keg shall not be deemed or constitute a sale of such property, either optional or otherwise, in any proceeding under this act. (Id. § 1279a-5.)

179. Filing and Publication of Brands.—Any person or persons, corporation or corporations, that has or have heretofore filed in the offices mentioned, as aforesaid in this act, a description of the name or names, mark or devices upon his, her, their or its property therein mentioned, and has caused the same to be published according to law existing at the time of such filing and publication, shall not be required to again file and publish such description to be entitled to the benefits of this act. All acts or parts of acts inconsistent herewith are, for the purpose of this act, hereby repealed. This act shall take effect and be in force in ninety days from the expiration of this session. (Id. § 1279a-6.)

180. False Brand; Use With Intent to Deceive.—If any person use a false brand on anything sold, or to be sold, or offered for sale, with intent to deceive purchasers, he shall be fined not less than two hundred dollars for each offense. (Id. § 1280.)

181. False Branding.—No dealer or merchant shall make or apply or cause to be made or applied to any parcel or package any printed, written, stamped, engraved or other kind or character of label bearing the brand or name or both such brand and name of any manufacturer without the written authority of said manufacturer. (Id. § 1280a-1.)

182. Penalty.—Any person, firm or corporation violating the provisions of this act shall be fined in any sum not less than ten nor more than fifty dollars for each offense. (Id. § 1280a-2.)

NOTE: See also No. 81j.

Trading Stamps.

183. [Amount of License Tax].—Before engaging in any occupation or selling any article named in this subdivision of article 12 of this act, the person desiring to do so shall procure license and pay the tax thereon as follows:

Trading Stamp Companies.—For all resident or foreign trading stamp companies or corporations doing business in this State, three hundred and fifty dollars (\$350.00). A trading stamp company, as used in this act, shall be construed to mean any company or organization that gives premiums of valuable personal property in exchange for stamps or checks furnished to purchasers of merchandise. (Stats. 1922, § 4224.)

Weights and Measures.

184. Standard Established by United States Government.—The weights, measures and balances received from the Government of the United States, now in the custody of the Secretary of State, shall continue in the custody of that officer, and shall be the standard of weights and measures in this State. (Stats. 1922, § 4815.)

185. Duplicates May be Furnished Counties; Payment for.—The Governor shall cause duplicates of those weights, measures and balances to be made for such counties as may not have the same; and, upon his written certificate of the cost, the Auditor shall give a warrant on the treasury therefor. (Id. § 4816.)

186. County Court May Procure at Expense of County.—The county court of every county not furnished with such duplicates within one year from the time this chapter takes effect, or from the time it becomes a county, may, at the expense of the county, procure the same from the Governor, after paying the costs thereof into the State treasury and cause the same to be kept by some person in the county appointed, from time to time, for that purpose. (Id. § 4817.)

187. Testing Weights and Measures; Fee for.—Any person desirous of having his weights and measures tested may have the same done by the person appointed to keep such duplicates, who, if he finds them correct, shall seal them with a seal to be provided by the county court for that purpose. For testing any steelyard, balance or beam, he shall receive from the applicant a fee of twenty-five cents (25c.), and for testing every weight or measure, five cents (5c.). But the county court of Jefferson County shall prescribe the duties and fix the fees of the sealer of weights and measures in that county. (Id. § 4818.)

188. Penalty for Using Incorrect Weights or Measures.—Any person who shall buy or sell by any weight, balance or measure, that does not correspond to and agree with such duplicates, or shall keep the same for the purpose of buying or selling therewith, shall be fined four dollars (\$4.00) for every offense, or a like sum for every month he may continue to keep the same. (Id. § 4819.)

189. Wheat; How Measured and Weighed.—It shall be unlawful for any person, commission merchant, miller, dealer, grain inspector, corporation, company,

firm or association, either by himself, itself, officer, agent or employee, when purchasing wheat or receiving it in barter or exchange for flour or otherwise, from the owner, his agent or employee, to use for the purpose of testing or determining the weight, grade, milling or market value of wheat, any measure other than the standard half-bushel measure furnished this State by the United States; and the use of any fractional part of said standard half-bushel measure for such purpose will be a violation of this section. It shall likewise be unlawful to use anything other than a straight stick with the edges square for leveling the wheat in said half-bushel measure for the purpose of testing the weight, grade, milling or market value of wheat. Provided, that the provisions of this section shall not apply to wheat or grain that is inspected or graded by the carload under the regulations of any board of trade. Any person violating any of the provisions of this section shall, on conviction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), to which may be added imprisonment in the county jail not exceeding six months. (Id. § 4819a.)

190. Hundredweight; Ton; What is.—The hundredweight shall consist of one hundred pounds avoirdupois, and two thousand such pounds shall constitute a ton; and all contracts hereafter made shall be construed accordingly unless the contrary be stipulated. (Id. § 4820.)

191. Bushel; Weights of Different Articles.—The following weights shall constitute a bushel of each article named, respectively:

Wheat, sixty pounds.

Shelled corn, fifty-six pounds.

Corn in the ear, seventy pounds from the first day of November to the first day of January, following, and from first of January to first of November, following, sixty-eight pounds.

Rye, fifty-six pounds.

Oats, shelled, thirty-two pounds.

Barley, forty-seven pounds.

Irish potatoes, sixty pounds.

Sweet potatoes, fifty-five pounds.

White beans, sixty pounds.

Castor beans, forty-five pounds.

Clover seed, sixty pounds.

Timothy seed, forty-five pounds.

Flax seed, fifty-six pounds.

Millet seed, fifty pounds.

Peas, sixty pounds.

Bluegrass seed, fourteen pounds.

Buckwheat, fifty-six pounds.

Dried apples, twenty-four pounds.

Dried peaches, thirty-nine pounds.

Onions, fifty-seven pounds.

Bottom onion sets, thirty-six pounds.

Salt, fifty pounds.

Stone coal, seventy-six pounds.

The term coal includes anthracite, cannel, bituminous and other mined coal.

Bran, twenty pounds.

Plastering hair, eight pounds.

Turnips, sixty pounds.

Unslaked lime, thirty-five pounds.

Corn meal, fifty pounds.

Fine salt, fifty-five pounds.

Hungarian grass seed, fifty pounds.

Ground peas, twenty-four pounds.

Orchard grass seed, fourteen pounds.

English blue grass seed, fourteen pounds.

Hemp seed, forty-four pounds.

Ear corn in the shuck, seventy-five pounds.

(Supp. 1926, § 4821.)

192. Irish Potatoes; Pounds to Barrel.—One hundred and sixty pounds net of Irish potatoes shall constitute a merchantable barrel. (Stats. 1922, § 4822.)

193. Standard Weights of Corn Meal, Grits, Hominy and Corn Flour; Standard Measure.—The standard weight for corn meal, grits, hominy and corn flour shall be one hundred pounds avoirdupois, and the standard measure for such commodities shall be packages containing net avoirdupois weight one pound, two

pounds, three pounds, four pounds, five pounds, ten pounds, twenty-five pounds, fifty pounds and one hundred pounds, or multiples of one hundred pounds. (Id. § 4823b-1.)

194. Standard Packages; Marking of.—It shall be unlawful for any persons to pack for sale, sell or offer for sale in this State, any corn meal, grits, hominy or corn flour, except in bags or packages containing by standard, net avoirdupois weight one pound, two pounds, three pounds, four pounds, five pounds, ten pounds, twenty-five pounds, fifty pounds and one hundred pounds, or multiples of one hundred pounds, respectively. Each bag or package shall have plainly and legibly printed or marked thereon the net weight of contents thereof, in pounds avoirdupois, and such weights shall be, a true and correct statement thereof; provided, however, that the provisions of this section shall not apply to the retailing of meal direct to consumers from bulk stock when purchased and delivered by actual weight or measure, or to exchange of corn for meal by mills grinding for toll, and that nothing herein contained shall be held to apply to any cereal product packed and distributed as a specialty, in identified original packages, the net contents of which weigh less than five pounds avoirdupois. (Id. § 4823b-2.)

195. Penalty for Violation.—Any violation of this act shall be a misdemeanor and, upon conviction, the offender shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), for each offense. (Id. § 4823b-3.)

196. Selling Articles Under Weight.—Whoever shall sell or offer to sell any barrel or other package of such article, knowing the article not to be of the weight or quantity, after allowing for ordinary waste or loss of weight, that is required by law, or that is marked or branded thereon, shall be fined ten dollars (\$10.00) for every barrel or package so sold or offered for sale. (Id. § 2196.)

NOTE: See No. 81a et seq.

197. Falsely Packed Hogshead, Casks or Barrels.—Whoever shall knowingly sell, or attempt to sell, any hogshead, barrel or other package of tobacco, liquor, salt, beef, pork or lard, which is falsely packed or filled, or the staves or heading of which are falsely made, with a view to cheat a purchaser as to weight or quantity, or shall so pack, fill or prepare a hogshead, barrel or other package, with such intent, shall be fined ten dollars (\$10.00), for every such hogshead, barrel or other package. (Id. § 2198.)

198. Toll That May be Exacted; Penalty.—Every owner or occupier of a mill, grinding meal, flour, bread stuff, feed or otherwise, shall keep therein and use sealed measures or half-bushel and peck, and toll dish sealed, and shall measure all grain by strike measure or weight, under a penalty of five dollars (\$5.00) for every such failure, recoverable, with costs, before a justice of the peace, for the use and benefit of the common school fund in the district where the mill is located. * * * (Id. § 2721.)

NOTE: See also No. 3; the apple law, No. 23 et seq.; the dairy law, No. 40 et seq.; the feeding stuffs law, No. 67 et seq.; the inspection law, No. 81a et seq.; the tobacco law, No. 162 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Analysis—Experiment Station: *Bosworth v. State University et al., 166 Ky. 436, 179 S. W. 403, L. R. A. 1917 B, 808 (1915).

Stock Food—Adulteration—Misbranding: Small & Co. v. Commonwealth, 134 Ky. 272, 120 S. W. 361 (1909). *Savage v. Scovell, 171 Fed. 566 (1908).

Indictment and Information—Statute of Limitation—Adulterated Food: Hughes & Co. Corporation v. Commonwealth, 31 Ky. Law Rep. 179, 101 S. W. 1194 (1907).

Municipal Ordinance—Appeal: Keiper v. City of Louisville, 151 Ky. 691, 152 S. W. 761 (1913). See also the case next cited.

Municipal Ordinance—Searches and Seizures: *Keiper v. City of Louisville, 152 Ky. 691, 154 S. W. 18 (1913).

Pure Food Law of 1906—Valid Inspection Law: *Savage v. Scovell, 171 Fed. 566 (1908).
State Board of Health: *South et al v. Fish et al., 181 Ky. 349, 205 S. W. 329 (1918).

2. Special Food Laws.

Beverages—Flavoring Extracts: Thompson v. Commonwealth, 202 Ky. 674, 261 S. W. 5 (1924).

Beverages—Jamaica Ginger: Mitchell v. Commonwealth, 106 Ky. 602, 51 S. W. 17, 21 Ky. Law Rep. 222 (1899); Elliott v. Commonwealth, 194 Ky. 576, 240 S. W. 61 (1922); Howard v. Commonwealth, 197 Ky. 297, 247 S. W. 10 (1923); Forgy v. Commonwealth, 206 Ky. 591, 268 S. W. 298 (1925); Sams v. Commonwealth, 207 Ky. 135, 268 S. W. 805 (1925); Green v. Commonwealth, 207 Ky. 188, 268 S. W. 1081 (1925); Mullins v. Commonwealth, 208 Ky. 54, 270 S. W. 489 (1925); Sams v. Commonwealth et al., 208 Ky. 324, 270 S. W. 827 (1925); Combs v. Commonwealth, 210 Ky. 404, 276 S. W. 111 (1925); Sams v. Commonwealth, 211 Ky. 765, 278 S. W. 103 (1925); Same, 212 Ky. 47, 278 S. W. 160 (1925); Same, 212 Ky. 441, 279 S. W. 661 (1926); Partin v. Commonwealth, 216 Ky. 823, 284 S. W. 1051 (1926); Same 288 S. W. 754 (1926).

Beverages—Soft Drinks—License: *Bradford v. Jones, 142 Ky. 820, 135 S. W. 290 (1911); *City of Newport v. Wagner et al., 168 Ky. 641, 182 S. W. 834 (1916); *Wagner et al. v. City of Covington, 177 Ky. 385, 197 S. W. 806 (1917), affirmed in *Same, 251 U. S. 95, 45 S. Ct. 93, 64 L. Ed. 157 (1919).

Beverages—Soft Drinks—Prohibition of Sale: *Tolliver v. Blizzard, 143 Ky. 773, 137 S. W. 509, 34 L. R. A. (N. S.) 890 (1911).

Beverages—Water: Purnell et al. v. Maysville Water Co., 193 Ky. 85, 234 S. W. 967 (1921.)

Grocery Stores—License: *City of Danville et al. v. Quaker Maid, Inc., 211 Ky. 677, 278 S. W. 98 (1925). See also: *City of Covington v. Dalheim, 31 Ky. Law Rep. 466 (1907).

Meat—Imported Meat—Inspection: *Boyd v. City of Louisville et al., 178 Ky. 354, 198 S. W. 927 (1917).

Meat—Sale of Fresh Meat From Vehicle in Street Prohibited: *Hahn v. City of Newport et al., 175 Ky. 185, 194 S. W. 114 (1917).

Milk—Dairymen—License: *Mayher v. City of Lexington, 8 Ky. Law Rep. 138 (1880); *Read v. Graham, 31 Ky. Law Rep. 569, 102 S. W. 860 (1907); *City of Louisville v. Weikel et al., 137 Ky. 784, 127 S. W. 147 (1910). motion to modify opinion denied on rehearing, 137 Ky. 794, 128 S. W. 587 (1910); *Weyman v. City of Newport et al., 153 Ky. 487, 156 S. W. 109 (1913); *City of Newport v. French Bros. Bauer Co., 169 Ky. 174, 183 S. W. 532 (1916); *City of Owensboro v. Evans, 172 Ky. 831, 189 S. W. 1153 (1916).

Milk—Sale in Bottles Required: *Board of Health of Covington et al. v. Kollman, 156 Ky. 351, 160 S. W. 1052, 49 L. R. A. (N. S.) 354 (1913).

Milk—Sale of Milk from Cows Fed on "Still Slop" Prohibited: *Sanders v. Commonwealth, 117 Ky. 1, 25 Ky. Law Rep. 1165, 77 S. W. 358 (1903).

Milk—Sanitation—Standard—Tuberculin Test—Bacteria Count: *City of Owensboro v. Evans, 172 Ky. 831, 189 S. W. 1153 (1916).

3. Special Drug Laws.

Narcotics: *Katzman v. Commonwealth, 140 Ky. 124, 130 S. W. 990, 30 L. R. A. (N. S.) 519, 140 Am. St. Rep. 359 (1910); *Commonwealth v. Gabhart, 160 Ky. 32, 169 S. W. 514 (1914). See also: Bowling v. Webster, 209 Ky. 661, 273 S. W. 501 (1925).

Patent Medicines—License: *Commonwealth v. Payne Medicine Co., 138 Ky. 164, 127 S. W. 760 (1910); Commonwealth v. Cassidy, 176 Ky. 752, 197 S. W. 428 (1917).

Patent Medicines—Pharmacy Law: *Kentucky Board of Pharmacy et al. v. Cassidy et al., 115 Ky. 690, 74 S. W. 730, 25 Ky. Law Rep. 102 (1903).

Pharmacy: Commonwealth v. Matthews, 3 Ky. Law Rep. (abstract) 473 (1881); State Board of Pharmacy of Kentucky v. White, 84 Ky. 626, 2 S. W. 225, 8 Ky. Law Rep. 678 (1886); Kentucky Board of Pharmacy v. Lordier, 109 Ky. 119, 58 S. W. 531, 22 Ky. Law Rep. 621 (1900); Commonwealth v. Hovious, 112 Ky. 491, 66 S. W. 3, 23 Ky. Law Rep. 1724 (1902); King v. Kentucky Board

of Pharmacy et al., 157 Ky. 52, 162 S. W. 561 (1914); *King v. Kentucky Board of Pharmacy, 160 Ky. 74, 169 S. W. 600 (1914). See also: Hainline v. Commonwealth, 76 Ky. 350 (1877).

Sezum—Experiment Station: *Bosworth v. State University et al., 154 Ky. 370, 157 S. W. 913 (1913).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Bottle—Explosion: Stone v. Van Noy Railroad News Co. et al., 153 Ky. 240, 154 S. W. 1092 (1913); Coca-Cola Bottling Works v. Shelton et al., 214 Ky. 118, 282 S. W. 778 (1926).

Drugs: Fleet & Semple v. Hollenkemp, 52 Ky. 219, 56 Am. Dec. 563 (1852); Hansford's Adm'r v. Payne & Co., 74 Ky. 380 (1875); Smith's Adm'r v. Middleton, 112 Ky. 588, 66 S. W. 388, 23 Ky. Law Rep. 2010, 56 L. R. A. 484, 99 Am. St. Rep. 308 (1902); Sutton's Adm'r v. Wood et al., 120 Ky. 23, 85 S. W. 201, 27 Ky. Law Rep. 412, 8 Ann. Cas. 894 (1905); Mann's Adm'r v. Reynolds, 150 Ky. 313, 150 S. W. 329 (1912); Ohio County Drug Co. v. Howard, 201 Ky. 346, 256 S. W. 705, 31 A. L. R. 1355 (1923); Model Drug Co. v. Patton, 208 Ky. 112, 270 S. W. 998 (1925). See also: Marshall v. Peck, 31 Ky. 609, 613 (1833).

Feeding Stuff: Walden v. Wheeler, 153 Ky. 181, 154 S. W. 1088, 44 L. R. A. (N. S.) 597 (1913).

Food: Scruggins v. Jones et al., 207 Ky. 636, 269 S. W. 743 (1925). See also: Jones v. Murray et al., 19 Ky. 83 (1825); Marshall v. Peck, 31 Ky. 609, 613 (1833); Baird, Miller & Baldwin v. Matthews, 36 Ky. 130 (1838).

Paint Dryer—Explosion: Peaslee-Gaulbert Co. v. McMath's Adm'r., 148 Ky. 265, 146 S. W. 770, 39 L. R. A. (N. S.) 465, Ann. Cas. 1913 E, 392 (1912).

5. Miscellaneous.

Advertising Matter—Distribution—License: *Eales v. City of Barbourville, 177 Ky. 216, 897 S. W. 634 (1917).

Cigarettes—Smoking: *Hershberg v. City of Barbourville, 142 Ky. 60, 133 S. W. 985, 34 L. R. A. (N. S.) 141 (1911).

Tobacco—Sale at Auction: *Jewell Tobacco Warehouse Co. et al. v. Kemper et al., 206 Ky. 667, 268 S. W. 324 (1925).

Tobacco Warehouse—License: R. J. Reynolds Tobacco Co. v. City of Lexington, 181 Ky. 503, 205 S. W. 592 (1918).

Trade-Marks: Laird v. J. B. Wilder & Co., 72 Ky. 131, 15 Am. Rep. 707 (1872); Avery & Sons v. Meikle & Co., 81 Ky. 73, 4 Ky. Law Rep. 749 (1883); Armstrong v. Kleinhans & Simonson, 82 Ky. 303, 56 Am. Rep. 894, 6 Ky. Law Rep. 561 (1884); Miller & Co. v. Cummins, 6 Ky. Law Rep. (abstract) 96 (1884); Avery & Sons v. Meikle & Co., 85 Ky. 435, 3 S. W. 609, 9 Ky. Law Rep. 69, 7 Am. St. Rep. 604 (1887); Metcalfe v. Brand, 86 Ky. 331, 5 S. W. 773, 9 Ky. Law Rep. 801, 9 Am. St. Rep. 282 (1887); Dant v. Head, 10 Ky. Law Rep. (abstract) 638 (1888); Same, 90 Ky. 255, 13 S. W. 1073, 12 Ky. Law Rep. 153, 29 Am. St. Rep. 369 (1890); Mattingly v. Stone, 12 Ky. Law Rep. 72, 12 S. W. 467 (1889); Rock Springs Distillery Co. v. Monarch, 15 Ky. Law Rep. 866, 22 S. W. 1028 (1893); Parkland Hills Blue Lick Water Co. v. Hawkins & Co., 95 Ky. 502, 26 S. W. 389, 16 Ky. Law Rep. 210, 44 Am. St. Rep. 254 (1894); George T. Staggs Co. et al. v. Taylor & Sons, 95 Ky. 651, 27 S. W. 247, 16 Ky. Law Rep. 213 (1894); J. G. Mattingly Co. v. Mattingly et al., 17 Ky. Law Rep. 1, 31 S. W. 279 (1894); Dewitt v. Mathey & Co., 18 Ky. Law Rep. 257, 35 S. W. 1113 (1896); Northcutt v. Turney et al., 101 Ky. 314, 41 S. W. 21, 19 Ky. Law Rep. 483 (1897); Hetterman Bros. & Co. v. Powers et al., 102 Ky. 133, 43 S. W. 180, 19 Ky. Law Rep. 1087, 39 L. R. A. 211, 80 Am. St. Rep. 348 (1897); Frazier et al. v. Dowling et al., 18 Ky. Law Rep. 1109, 39 S. W. 45 (1897); Monarch v. Rosenfeld et al., 19 Ky. Law Rep. 14, 39 S. W. 236 (1897); Old Times Distillery Co. v. Casey & Swasey, 104 Ky. 616, 47 S. W. 610, 20 Ky. Law Rep. 994, 42 L. R. A. 466, 84 Am. St. Rep. 480 (1898); E. H. Taylor, Jr., & Sons Co. v. Taylor, 124 Ky. 173, 85 S. W. 1085, 27 Ky. Law Rep. 625 (1906); Commonwealth v. Kentucky Distilleries & Warehouse Co., 132 Ky. 521, 116 S. W. 766, 21 L. R. A. (N. S.) 30, 18 Ann. Cas. 1156, 136 Am. St. Rep. 86 (1909); Bonnie & Co. v. Bonnie Bros., 160 Ky. 487,

169 S. W. 871 (1914); *Commonwealth v. Goldburg, 167 Ky. 96, 180 S. W. 68 (1915); House of Directories v. Lane Directory Co., 182 Ky. 384, 206 S. W. 475 (1918); Mayfield Milling Co. v. Covington Bros. & Co., 212 Ky. 262, 278 S. W. 562 (1925). See also: Armstrong v. Kleinhans & Simonson, 1 Ky. Law Rep. 112 (1880); Rains & Sons v. White, Haucke & Co., 107 Ky. 114, 52 S. W. 970, 21 Ky. Law Rep. 742 (1899); Traveler's Insurance Machine Co. v. Travelers Insurance Co. of Hartford, Connecticut, 142 Ky. 523, 134 S. W. 877 (1911), judgment modified in Same, 143 Ky. 216, 136 S. W. 154 (1911); Newport Sand Bank Co. v. Monarch Sand Mining Co., 144 Ky. 7, 137 S. W. 784, 34 L. R. A. (N. S.) 1040 (1911); Crutcher & Starks et al. v. Starks et al, Starks Co. et al. v. Crutcher & Starks et al., 161 Ky. 690, 171 S. W. 433 (1914).

Trading Stamps: Commonwealth v. Gibson Co., 125 Ky. 440, 101 S. W. 385, 31 Ky. Law Rep. 51 (1907); *Sperry & Hutchinson Co. v. City of Owensboro et al., 151 Ky. 389, 151 S. W. 932, Ann. Cas. 1915 A, 373 (1912); Sharpe v. City of Lexington, 188 Ky. 92, 221 S. W. 214 (1920); *Lawton et al. v. Stewart Dry Goods Co., *Same v. United Cigar Stores Co. of America, *Commonwealth v. Same, *Ware et al. v. Sperry & Hutchinson Co., 197 Ky. 394, 247 S. W. 14, 26 A. L. R. 686 (1923).

Weights and Measures: Caldwell, Hunter & Co. v. Dawson, 61 Ky. 121 (1862); Newman v. Bridgeford & Co., 7 Ky. Law Rep. (abstract) 367 (1885); O'Bannon v. Commonwealth, 15 Ky. Law Rep. (abstract) 654 (1894); Commonwealth v. Reese, 16 Ky. Law Rep. 493, 29 S. W. 352 (1895); Commonwealth v. Ramsey & Starling, 24 Ky. Law Rep. 492, 68 S. W. 1098 (1902); Carter County et al. v. Mobley, 150 Ky. 482, 150 S. W. 497 (1912); Louisville & Nashville Railroad Co. v. Commonwealth, 155 Ky. 189, 159 S. W. 667 (1913); *Board of Health of Covington et al. v. Kollman, 156 Ky. 351, 160 S. W. 1052, 49 L. R. A. (N. S.) 354 (1913). See also: Collins v. City of Louisville, 41 Ky. 134 (1841); Helm v. Bryant, 50 Ky. 64 (1850); Burley Tobacco Co. v. Young, 180 Ky. 464, 202 S. W. 870 (1918). Brent v. Chas. H. Lilly Co., 202 Fed. 335 (1913).

LOUISIANA.*

PART I.

General Food and Drug Law.

1. Must Not be Manufactured.—It shall be unlawful for any person to manufacture within this State any article of food or drug which is adulterated or misbranded, within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and for each offense shall, upon conviction thereof, be fined not to exceed five hundred dollars, or shall be sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court, and for each subsequent offense and conviction thereof shall be fined not less than one thousand dollars or sentenced to one year's imprisonment, or both such fine and imprisonment, in the discretion of the court. (R. S. 1915, § 2141.)

2. Must Not be Shipped.—The introduction into this State from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drug which is adulterated or misbranded, within the meaning of this act, is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to this State, or who shall receive in this State from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in this State any such adulterated or misbranded foods or drugs, or exports or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon conviction for each subsequent offense not exceeding three hundred dollars or be imprisoned not exceeding one year, or both, in the discretion of the court: Provided, that no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions or of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped, but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this act. (Id. § 2142.)

3. Board of Health to Make Uniform Rules.—The State Board of Health shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of foods and drugs manufactured or offered for sale in this State or which shall be received from any foreign country, or intended for shipment to any foreign country. (Id. § 2143.)†

4. Board of Health to Examine Specimens.—The examinations of specimens of foods and drugs shall be made by the State Board of Health or under the direction of the State Board of Health for determining from such examinations whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens is adulterated or misbranded within the meaning of this act, the secretary of the Board shall cause the notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the secretary of the board shall at once certify the facts to the proper district

*CITATIONS: "R. S. 1915" refers to Marr's Annotated Revised Statutes of Louisiana, 1915. "Supp. 1924" refers to the 1924 supplement thereto. "Acts 1926" refers to the public acts of that year.

†See the footnote to § 2144.

attorney of the board with a copy of the results of the analysis or the examination of such authorized by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 2144.)*

5. Secretary Board of Health to Report Violations.—It shall be the duty of each district attorney or attorney of the board to whom the secretary of the State Board of Health shall report any violation of this act, or to whom any health or food or drug officer or agent shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such case herein provided. (Id. § 2145.)

6. "Drug" and "Food" Defined.—The term "drug" as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. The term "food" as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound. (Id. § 2146.)

7. "Adulteration" Defined.—For the purposes of this act an article shall be deemed to be adulterated:

In case of drugs: First. If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of investigation: Provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the bottle, box, or other container thereof although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

Second. If its strength or purity fall below the professed standard or quality under which it is sold.

In case of confectionery:

If it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug.

In the case of food:

First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: Provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservation is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering or the package, the provisions of this act shall be construed as applying only when said products are ready for consumption.

Sixth. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. (Id. § 2147.)

8. "Misbranded" Defined.—The term "misbranded" as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

*R. S. 1915, §§ 691-692, are identical with §§ 2143-2144 and are therefore omitted.

For the purposes of this act an article shall also be deemed to be misbranded: In case of drugs:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substance contained therein.

Third. If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false and fraudulent.

In case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any of such substances contained therein.

Third. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; provided, however, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this act [2143].

Fourth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label, or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounded, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be is plainly stated on the package in which it is offered for sale; provided, that the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided further, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 2148.)

9. Defenses.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in this State from which he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it, said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course, to the dealer under the provisions of this act. (Id. § 2149.)

10. Construing Act.—The term "territory" as used in this act, shall include the insular possessions of the United States. The word "person," as used in this act, shall be construed to import both the plural and the singular as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or

office, shall in every case be also deemed to be the act, omission or failure, of such corporation, company, society or association as well as that of the person. (Id. § 2150.)

11. Interpretation and Construction of Act.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those States which enact it. (Id. § 2151.)

Miscellaneous General Provisions.

12. Manufacturing, Selling, Etc., Misbranded Article of Food.—Any person who by himself or his servant or agent, or as the servant or agent of another, shall manufacture, sell, offer for sale, or have in his possession for sale, any article of food which is misbranded within the meaning of section 2 of this act [2162], shall be guilty of a misdemeanor, and upon conviction by any court of competent jurisdiction shall be fined not less than ten (10), nor more than two hundred (200) dollars for the first offense; not less than twenty-five (25) nor more than four hundred (400) dollars for the second offense; not less than fifty (50) nor more than five hundred (500) dollars or imprisonment for not less than ten days nor more than six months, or both, for each subsequent offense. (R. S. 1915, § 2161.)

13. "Misbranded" Defined.—The term "misbranded" as used herein, shall apply to articles of food in package form which do not bear plainly and conspicuously marked on the outside thereof the quantity of the contents in terms of weight, measure or numerical count; provided, that reasonable variations shall be permitted, and tolerances, and also exemptions as to small packages shall be established by the State Board of Health by rules and regulations uniform with rules and regulations established by the United States Department of Agriculture. (Id. § 2162.)*

14. Meaning of "An Article of Food," "In Package Form," and "Weight or Measure."—The term "an article of food," as defined herein, shall include all articles used as food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound. "In package form" shall mean any container, whether glass, tin, wood or paper in which the article of food is packed and, with its contents, sold, offered for sale, or in possession for sale. The term "weight or measure" shall mean the net weight, or net measure, in terms in accordance with trade customs. (Id. § 2163.)

15. Duty of Board of Health.—The State Board of Health shall be charged with the enforcement of this act as in the enforcement of any provisions of the Sanitary Code; not, however, to the exclusion of other authorities charged with the enforcement of the laws. (Id. § 2164.)*

16. Adulterated Food Must Not be Sold.—It shall be unlawful for any person or persons to adulterate, to sell or offer for sale in the State of Louisiana, any article of food and sustenance knowing the same to be adulterated. (Id. § 2152.)†

17. Tainted Food Must Not be Sold.—It shall be unlawful for any person or persons to sell or offer for sale any tainted provisions or stale vegetables, or other articles of food, the same being in condition of decomposition, or unfit for food. (Id. § 2153.)‡

18. Penalty.—Any person or persons violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and for the first offense shall be punished by a fine of twenty-five dollars (\$25) or three months imprisonment, and for a second or subsequent offense, shall be punished with a fine of fifty (\$50) dollars or not less than six (6) months' imprisonment, or both, at the discretion of the court. (Id. § 2156.)‡

19. Adulterations.—No person, shall, within this State, manufacture, have, offer for sale or sell any article of food or drugs which is adulterated, and any person violating this provision shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding fifty dollars for the first offense, and not exceeding one hundred dollars for each subsequent offense. (Id. § 2157.)‡

*R. S. 1915, §§ 689-690, are identical with §§ 2162 and 2164 and are therefore omitted.

†Act No. 20 of 1880, which is apparently superseded by the general food and drug law of 1914, No. 1 et seq.

‡Act No. 82 of 1882, which is apparently superseded by the general food and drug law of 1914, No. 1 et seq.

20. "Adulteration" Defined.—An article shall be deemed adulterated within the meaning of this act, in the case of drugs if when sold under a name recognized in the United States Pharmacopœia its strength or purity fall below the professed standard under which it is sold.

And in the case of food or drink, if any substance has been mixed with it, so as to lower or injuriously affect its quality or strength or if any inferior or cheaper substance or substances have been substituted wholly or in part for the pure article, or to mix any substance in food or drink so sold, or to sell the same so mixed, which by its use will affect in any extent the public health or injure the health of the consumer of said food or drink. (Id. § 2158.)‡

21. Labeling.—No person shall manufacture, sell or offer for sale within this State, any drugs, groceries, such as sugar, coffee, tea, butter, cheese, or any other article to be consumed as food or drink, unless the package when sold at wholesale or the packages from which it is taken, when sold at retail, be stamped in plain large letters, showing the true quality and kind of the articles sold within the meaning of this act, and every person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall upon conviction pay a fine of not less than twenty-five dollars nor more than fifty dollars, or be sentenced to imprisonment for not more than ten days or both at the discretion of the court. (Id. § 2159.)‡

22. Penalty.—Any person who knowingly sells any article of food or drink with a stamp as provided aforesaid, and the article so sold is not the article it purports to be, or inferior quality, shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine not exceeding one hundred dollars. (Id. § 2160.)‡

23. Louisiana Products Must be Sold as Such.—Whoever shall pack or can fish, oysters, oranges or farm products produced or grown in this State, and who shall mark or label the same with any false marks, label or device, to induce others to believe that said commodities or products are produced in some other State or Territory of this Union or any foreign country other than the State of Louisiana, and who shall offer the same for sale in this State or shall so ship the same out of the State, shall be guilty of a misdemeanor, and on conviction thereof before a court of competent jurisdiction, shall be fined the sum of not more than one hundred dollars, (\$100.00), or not less than the sum of ten dollars (\$10.00), or be imprisoned in the parish prison not more than one hundred days nor less than ten days. (Id. § 2180.)

24. Powers of Board [of Health].— . . . It [Board of Health] shall prepare or cause to be prepared a Sanitary Code for the State of Louisiana, which shall contain and provide rules and regulations and ordinances of a general nature for the improvement and amelioration of the hygiene and sanitary condition of the State. . . . When so printed said code shall cover and provide for . . . the carrying out of the laws of the State in regard to the adulteration of articles intended for human food or consumption; it shall provide for the inspection of meats, milk, coal oil and other articles affecting the public health and safety, where and when the same may be brought into one parish from another, or from outside the State, leaving to the local boards hereinafter provided, the regulation of the sale or offering for sale of said articles within the parish or municipality to which the same may be brought; and said code shall contain general rules in regard to such health, sanitary and hygienic subjects, as can not in the opinion of the State Board of Health be efficiently and effectively regulated by the local boards. The board shall have the power to appoint inspectors and other necessary officers and employees, and fix the salaries thereof. All inspectors, officers and employees of the said board shall have power to arrest without warrant all persons violating the provisions of any rule or regulation of the said board, when such violation has occurred within the sight, view or personal knowledge of said inspector, officer or employee, and in all cases where said violation may not have occurred within the sight, view or personal knowledge of said inspector, officer or employee said functionary shall have only the right to arrest in execution of a warrant duly issued by the president of the board. It is hereby made the duty of all sheriffs, their deputies, constables, and their deputies, police officers of towns and cities, and all other peace officers, to aid and assist in the arrest and apprehension of all persons violating the articles of any rule or regulation of the State Board of Health; to themselves arrest and apprehend all offenders committing the offense in their view or sight or within their personal knowledge. The members of the State Board of Health and every

‡Act No. 82 of 1882, which is apparently superseded by the general food and drug law of 1914, No. 1 et seq.

person duly authorized by them may without fear or hindrance, enter, examine and inspect all grounds, erections, structures, public buildings and places. . . . (Id. § 679.)

25. May Revise Sanitary Code.—The State Board of Health for the State of Louisiana is hereby authorized and empowered in order to further carry into effect Article 296 and Article 297 of the Constitution of 1898, to revise the sanitary code provided for by section 3 of act 192 of 1898 [679], and to incorporate therein rules and regulations governing the manufacture, sale and inspection of foods, liquors, waters and drugs within the State in so far as the same may affect the public health; to fix standards of purity; to provide for the collection of samples and the entering of premises for this purpose, to provide for the establishment of a laboratory for the analysis of foods, liquors, drugs and water, to employ an analyst and assistants; and fix and pay their compensation; and to do all other acts as may be requisite and proper to carry this act into effect.

Provided, that as a standard of purity and strength for drugs, chemicals and medicines, the said board shall adopt the United States Pharmacopœia and the National Formulary as to all drugs, chemicals and medicines therein contained and treated of; and the board shall renew said adoption as often as new or revised editions of the said Pharmacopœia and National Formulary are issued. (Id. § 699.)

26. Revisions and Amendments of Code.—The power to further revise and amend said sanitary code, is hereby conferred on said State Board of Health for the State of Louisiana, provided that any revisions or amendments adopted by said board shall before going into effect, be promulgated in the same manner as is required by existing law for the sanitary code. (Id. § 700.)

27. Penalty.—Any person violating any of the provisions of said sanitary code, shall on conviction by any court of competent jurisdiction, be fined not less than ten nor more than two hundred dollars for the first offense; not less than twenty-five nor more than four hundred dollars for the second offense; not less than fifty nor more than five hundred dollars, or imprisonment for not less than ten days nor more than six months, or both in the discretion of the court, for each subsequent offense. (Id. § 701.)*

28. Powers of Board [of Health].—The State Board of Health shall have the powers, authority and jurisdiction now possessed by the existing Louisiana State Board of Health under laws now in force, excepting in so far as modified and changed by the provisions of this act. . . . Said Board shall prepare, or cause to be prepared, a sanitary code for the State of Louisiana, which code shall contain and provide rules, regulations and ordinances of a general as well as a specific nature for the improvement and amelioration of the hygienic and sanitary conditions of the State. . . . Said code shall cover and provide specially for . . . the supervision of water supplies, slaughterhouses and cold storage plants and of the disposal of waste; . . . it shall provide for the carrying out of the laws of the State in regard to the adulteration or misbranding of articles intended for human food or consumption; it shall provide for the inspection of meats, milk, coal oil and other articles affecting public safety, and said code shall contain general rules in regard to such public health, and sanitary and hygienic subjects, as cannot in the opinion of the Louisiana State Board of Health, be sufficiently regulated by the local boards. (Supp. 1924, p. 852, Act 79 of 1921, § 6.)

29. Penalties for Violation of Sanitary Code.—Any violation of any provision, article or regulation of said code shall constitute a misdemeanor and upon conviction in a court of competent jurisdiction the offender shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) or be imprisoned for not more than twenty days, or both in the discretion of the court for the first offense; and for the second offense he shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) or be imprisoned for not less than twenty days nor for more than sixty days, or suffer both fine and imprisonment in the discretion of the court; and for the third offense he shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or be imprisoned for not less than sixty days nor for more than six months, or suffer both fine or imprisonment in the discretion of the court. (Id. § 7.)

30. Adulterations.—The State Board of Health shall take cognizance of the interest of the public health as it relates to the sale of food and drugs, and the adulteration of the same, and make all necessary investigations and inquiries relative thereto; and at any time when in their judgment necessary, they shall chemically analyze any drug or drugs, article of food and drink, and shall publish the results

*R. S. 1915, § 2120, is identical with § 701 and is therefore omitted.

of their analysis, together with the name of the article or articles analyzed, in case the same be deleterious to the public health, and to warn the public against its consumption.

On application of any citizen, they shall also analyze the article or articles presented for analysis by him; but in this case he shall pay such fees, for said analysis, as the Board of Health may fix. (R. S. 1915, § 722.)

31. Board of Health May Demand Samples.—On application of the Board of Health, through the officer to be selected by them, every person manufacturing or selling any article of food or drugs, shall be bound to furnish a sample of the said articles so manufactured or sold, to the said board, sufficient in quantity to serve the purpose of analysis, under a penalty of not more than twenty dollars, to be recovered before any court of competent jurisdiction. (Id. § 723.)

PART II.

Special Food Laws.

Beverages.

32. Application to and Permit From Board of Health.—No person, firm, or corporation located within the State shall manufacture for sale, or sell in bottles, jugs, or other containers, any soft drink, malt beverage, or other non-alcoholic beverage within this State without having first applied for and obtained a permit from the Louisiana State Board of Health. Said application shall contain the name of the applicant, his address, and the location of the manufacturing plant, or plants, the name of the drink or beverage, and such other pertinent information as shall be prescribed by the Louisiana State Board of Health in pursuance of the provisions of this act. Said application shall be accompanied by a fee of thirty-five (\$35) dollars, upon the receipt of which application and fee, the Louisiana State Board of Health shall make an inspection of the premises of the applicant, wherein the drink or beverage is to be manufactured for sale, or sold, and when the provisions of the sanitary code, of the State of Louisiana, governing the operation of bottling plants have been fully complied with, then the Louisiana State Board of Health shall issue to said applicant a permit for the manufacture and sale of the drinks and beverages mentioned in this section. Said permit shall extend for one year from the date of its issue, unless sooner revoked as herein provided, and shall be renewed annually thereafter. A permit may be denied at the time of the application, if the establishment of the applicant is known to be in an unsanitary condition, if the water supply is known to be dangerously contaminated, or if the applicant does not submit sufficient proof of competency to bottle soft drinks, malt beverages, or other non-alcoholic beverages, or if the sanitary code of Louisiana then in existence has not been complied with by the applicant in every respect. (Supp. 1924, p. 1668, Act 201 of 1924, § 1.)

33. Sample to Board of Health.—No soft drink, malt beverage, or other non-alcoholic beverage not manufactured in this State, shall be sold or offered for sale in the State of Louisiana, unless a correct sample is first inspected by, and registered with, the Louisiana State Board of Health, and an inspection fee of five (\$5) dollars for each such sample of soft drinks, malt beverage, or other non-alcoholic beverage bearing a distinguishing flavor or name shall be paid by the manufacturer thereof, his agent, or dealer, to the Louisiana State Board of Health, this fee to be paid annually; provided that the State Health Officer of the State in which the plant manufacturing said drink, malt beverage or other non-alcoholic beverage is located, has inspected and approved said plant, and forwarded a certificate of his inspection to the office of the Louisiana State Board of Health. (Id. § 2.)

34. Revenues Go to Pay for Inspection.—All moneys collected by the Louisiana State Board of Health under the provisions of this act, shall be devoted to the inspection of bottling plants throughout the State of Louisiana, and to the enforcement of this act. (Id. § 3.)

35. Permit May be Revoked.—The Louisiana State Board of Health shall have power to revoke any permit issued under the terms of this act for non-

compliance with the provisions of the sanitary code, and the food and drug regulations of the State of Louisiana. Any person, firm or corporation whose permit has been so revoked shall discontinue the manufacture and the sale within this State, of soft drinks, malt beverages, and other non-alcoholic beverages, until he or they shall have complied with this act, and shall have obtained a new permit to operate from the Louisiana State Board of Health. The Louisiana State Board of Health may revoke any permits granted under the terms of this act, either temporarily until there is a compliance with the provisions of this act, and with the sanitary code of Louisiana, and other laws and regulations on the same subject matter, or permanently for the unexpired period of said permit. (Id. § 4.)

36. Board of Health May Inspect.—The Louisiana State Board of Health may examine and inspect any and all bottling plants and places where soft drinks, malt beverages, or other non-alcoholic beverages are manufactured and sold in bottles, jugs, and other containers, at any time, and as often as said board may deem proper for the enforcement of this act, or in the interest of the public health, provided that at least one inspection of each such plant or place shall be made every year, and only one inspection fee shall be charged therefor, and collected by said board. (Id. § 5.)

37. What Beverage Shall Contain.—For the purpose of this act, all soft drinks, or other non-alcoholic beverages, except non-alcoholic fruit juices, shall consist of a beverage made from pure cane or beet sugar syrup, or such other sweetening liquids or substances as shall be permitted by the regulations of the Louisiana State Board of Health, containing pure flavoring material, with or without added fruit acid, with or without added color, provided that nothing in this act shall prohibit the use of any other harmless ingredients, in the manufacture of soft drinks, malt beverages, and other non-alcoholic beverages, and provided further, that when artificial coal tar colors are used, nothing but the certified colors approved by the government of the United States of America are permissible. (Id. § 6.)

38. Each Plant a Separate Establishment.—For the purpose of this act, each plant, or place where soft drinks, malt beverages, or other non-alcoholic beverages are manufactured for sale shall be considered a separate and distinct business, subject to the inspection fee herein provided for, even though such plants or places may be owned or operated by one person, firm, or corporation. (Id. § 7.)

39. Penalties.—Any person, firm, or corporation who shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things required, by this act, or shall in any way, violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction by any court of competent jurisdiction, shall be punishable, for the first offense, by a fine of not less than twenty-five (\$25) dollars, nor more than one hundred (\$100) dollars, or by imprisonment of not less than ten days, nor more than ninety days, or by both fine and imprisonment, in the discretion of the court, and for each subsequent offense, may be punished by a fine of not less than one hundred (\$100) dollars, nor more than five hundred (\$500) dollars, or by imprisonment of not less than ninety days, nor more than six months or by both such fine and imprisonment, in the discretion of the court. (Id. § 8.)

40. Exemptions From Act.—Nothing in this act shall apply to persons, firms, or corporations operating soda fountains and selling soft drinks, malt beverages, and other non-alcoholic beverages in glasses or jugs, on the premises where manufactured. (Id. § 9.)

40a. Liquors for Beverage Purposes Containing Poisonous Substances Prohibited.—Any person who shall manufacture, concoct, or prepare for sale any intoxicating liquor for beverage purposes, containing lye, nicotine, wood alcohol, india berries, or any other poisonous substance shall be guilty of a felony, and upon conviction, shall be fined not more than one thousand (\$1,000) dollars, and be imprisoned for not more than five years, with or without hard labor. (Supp. 1924, p. 390, Act 102 of 1924, § 1.)

40b. Penalty.—Any person who shall sell or offer for sale any intoxicating liquor for beverage purposes, containing lye, nicotine, wood alcohol, india berries, or any other poisonous substance shall be guilty of a felony, and upon conviction, shall be punished by a fine of not exceeding three hundred (\$300) dollars, and imprisonment, with or without hard labor, for not more than one year, or by both such fine and imprisonment, at the discretion of the court. (Id. § 2.)

40c. Sample of Liquor to be Analyzed.—It shall be the duty of the sheriff or any other officer who has made an arrest and found intoxicating liquors in the pos-

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session or control of the party arrested, to have a sample of the liquor so found analyzed by the State Board of Health, which shall make a report of its findings to the officer who furnished the sample. (Id. § 3.)

NOTE: See also Nos. 245 et seq. and 301 et seq.

Cereals, Etc.

41. Board of Agriculture and Immigration to Enforce Act.—The State Board of Agriculture and Immigration shall be charged with the duties of enforcing this act for the regulation of the sale of certain mill products and cereals not otherwise provided for, to prevent fraud therein. (R. S. 1915, § 126.)

42. Privilege on Mill Products and Cereals Sold in Contravention of Act.—The commissioner shall have a privilege on any mill products and cereals sold in this State, in violation and contravention of the provisions of this act, and may proceed by writ of provisional seizure against the mill products and cereals so sold in the hands of whomsoever they may be, and wheresoever he may find them, regardless of the domicile of the owner thereof, by presenting a petition to a competent judge or magistrate, within whose jurisdiction said mill products and cereals are found, stating on oath at the foot of the petition the amount and nature of the demand, the mill products or cereals on which the privilege exists, and praying that the mill products or cereals be seized to satisfy the claim and pay the costs of suits. (Id. § 127.)

43. Fines Go to Enforcement of Act.—All fines collected under this act (of which the commissioner shall keep a correct and detailed account) shall be used by him to defray the expenses of the inspection of said goods, and the enforcement of the act. (Id. § 128.)

NOTE: See also Nos. 306-307.

Coffee.

See No. 21.

Cold Storage.

See No. 28.

Confectionery.

See No. 7.

Corn Meal.

See No. 306.

Dairy Products—Substitutes for Dairy Products.

44. Oleomargarine Must be Sold as Such.—The sale of all substances, such as oleomargarine, butterine, bogus butter or other material, either separately or in combination with any substance other than the product of the cow, as butter, is hereby prohibited. (R. S. 1915, § 2166.)

45. Penalty.—Any merchant, grocer, or other person doing business in this State, who shall barter, sell, handle or give away any of the substances mentioned in the first section of this act [2166], except when so labeled as unmistakably to indicate their true composition, shall be guilty of a violation of the first section of this act [2166]; and on conviction of the same before any court of competent jurisdiction, shall be punished by fine or imprisonment, or both, at the discretion of the court. (Id. § 2167.)

46. Constitution of Board.—The president of the State Board of Health, the Commissioner of Agriculture, the Director of the State Experiment Station, the secretary of the Louisiana Dairymen's Co-operative Association, and one other person, who is a dealer engaged in the buying and selling of milk, to be appointed by the Governor, for a term of four (4) years, shall compose the Louisiana Milk Regulation Board. The domicile of said board is fixed at the State Capital and three (3) members of said board shall constitute a quorum for the transaction of business. The said board shall keep a record of its proceedings and shall select its officers and prescribe their duties. That within ten (10) days after this act shall have become a law the Commissioner of Agriculture shall convene said board in

session, for the purpose of its organization, and the election of a chairman and a secretary. (Supp. 1924, p. 1131, Act 66 of 1920, § 1, as amended Act 27 of 1921.)

47. How Milk Regulations May be Made and Amended.—Said board after public hearing, notice of which shall be given by publication in the official journal of the State at least two weeks before such hearings, may make, amend, repeal or suspend rules and regulations concerning the inspection of milk or dairies, the production, care, handling, marketing or sale of milk, cream or skim milk within the State, to protect the public from the use of milk, cream or skim milk which is unsanitary or detrimental to the public health. Such rules and regulations shall take effect twenty days after such publications. (Supp. 1924, p. 1131, Act 66 of 1920, § 2, as amended Act 157 of 1924.)

48. Act Does Not Apply to Fixing Prices.—Nothing in this act shall apply to the setting, making or fixing of prices on milk, cream or skim milk to be sold within the State. (Supp. 1924, p. 1132, Act 66 of 1920, § 3.)

49. Penalties.—Any person or persons who shall fail to comply with or violate any of the provisions of this act or the rules and regulations made by this board shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or imprisoned for a period of not less than thirty (30) days nor more than ninety (90) days. (Id. § 4.)

50. Regulations for the Sale of Milk.—No person, himself, or by his servant, agent or employee, or as the servant, agent or employee of another, shall sell or deliver for consumption as milk, or have in his possession or custody with intent to sell or deliver for consumption as milk:

(1) Milk to which water or any foreign substance has been added, which then shall be known as adulterated milk.

(2) Milk which has been wholly or partially skimmed or otherwise artificially, in whole or in part, deprived of its natural butter fats, which then shall be known as skimmed milk. But nothing herein shall be construed to prevent the standardization of milk by the addition of fresh milk, provided that milk be sold only as milk of standard quality.

(3) Milk not of standard quality.

(4) Milk concerning which any misrepresentation has been made, orally, by writing, by printing, by signs, marks, labels or otherwise.

(5) Milk produced by diseased cows, or by cows which have been fed unwholesome food or been furnished contaminated water; or

(6) Milk which has been produced, stored, handled or transported in an improper, unlawful, unclean or unsanitary manner. (R. S. 1915, § 4652.)

51. Defining Terms.—For the purposes of this act the word "person" shall be construed to mean individual, a partnership or a corporation; that the word "milk" shall be so construed as to mean also cream and condensed milk; that the expression herein used, viz: "Milk not of standard quality" is defined as and shall be construed to mean milk having less than three and one-half per centum of butter fats, and milk having less than eight and one-half per centum of milk solids other than butter fats, and milk containing any pathogenic or disease germs.

Skimmed milk having less than eight per centum of milk solids shall be deemed to be adulterated milk; that for the purposes of this act, cows showing clinical evidence of tuberculosis, splenic fever, anthrax or any local or general disease which is liable to render the milk unwholesome shall be deemed to be "diseased cows"; also for the purpose of this act, cows fourteen days just preceding calving and five days thereafter shall be deemed "diseased cows."

Nothing in this act contained, however, shall be so construed as to prohibit the sale of skimmed milk, if the receptacle containing same, and in which or from which it is sold, is plainly marked with the words "skimmed milk" distinct and conspicuous permanently attached to the container and above the center of the same, and be of uncondensed Roman letters and in length said letters be at least one-tenth of the height of the container on which they are placed; or if such skimmed milk shall be contained in glass bottles, then the required words shall be plainly and legibly blown into the side of the bottle, and also be distinctly printed on the top or cover of same. (Id. § 4653.)

52. Agents of Board of Health to Have Access to Dairies.—The State Board of Health, its members, officers, agents and appointees, shall at all times have access to any dairy or other place where milk is produced for sale, and to all establishments, plants, depots, or stores wherein milk is kept or stored for sale; and it shall be unlawful for any person to prevent or attempt to prevent such access, and such prevention or attempted prevention shall be deemed a violation of this act. (Id. § 4654.)

53. Duty of Boards of Health to Enforce This Act.—It shall be the duty of the State Board of Health, and the various municipal and parochial health boards and health officers throughout the State to enforce the provisions of this act, and to see that violations thereof shall be prosecuted before the proper courts. (Id. § 4655.)

54. Penalty for Violating Act.—Whoever shall violate any of the provisions of this act, shall, on conviction, be punished by a fine of not less than ten dollars nor more than two hundred dollars, or in default of payment by imprisonment in the parish jail for not less than ten days nor more than six months; no fees shall be allowed district attorneys for convictions under this act, and where police juries and municipal councils shall pass ordinances in consonance with this act, prosecution under such ordinances shall operate as a perpetual bar to prosecution under this act for the same offense or offenses. (Id. § 4656.)

55. Penalty for Refusing Sample.—Any producer, handler or seller of milk, whether principal or agent, servant or employee, who refuses to deliver to a health officer, on demand, a sample of the milk in his possession (not to exceed one pint) shall be guilty of a violation of this act, and on conviction shall be punished as provided in section 5 [4656]. (Id. § 4657.)

56. Supervision in State Board of Health.—The supervision and control of the production of milk and milk products and the sale of same, in this State, shall be vested in the State Board of Health, and said board shall have the power to make, publish and enforce any and all regulations therefor, which it shall deem necessary or proper to conserve, safeguard and maintain the public health, and to promote and encourage the production in this State of milk and milk products; provided same be not in conflict with this act; and any parochial or municipal ordinance contrary to, or inconsistent with the provisions of this act, or the regulations of the State Board of Health, shall be null and void and of no effect. (Id. § 4658.)

57. License to Test by Babcock Method.—Any person testing milk or cream by the Babcock method where the result of such test is used as a basis for payment, or for public record, or for record in any of the National Breed Associations, shall first obtain from the director of the State Experimental Station a license to do such testing. Such license shall be granted upon satisfactory evidence of good moral character and the ability to make such tests based upon satisfactory passing of an examination set by the director of the State Experiment Station and upon the payment of a license fee of two dollars and forty cents (\$2.40). Licenses granted under this section shall be revocable by the director of the State Experimental Station upon evidence of dishonesty, incompetency or inaccuracy. Any license so issued shall be valid until the next succeeding January 1st, and no license shall be issued for less than a year, except in the case of a person requesting a license after January 1st, of any year, in which case a fee of twenty cents (20c.) for each month or fractional part thereof until the next succeeding January 1st, and such license shall be paid for in advance. Licenses shall be renewed at the discretion of the director of the State Experimental Station without further examination, upon the payment by the applicant of a license fee of two dollars and forty cents (\$2.40). (Supp. 1924, p. 1132, Act 200 of 1920, § 1.)

58. Testing Bottles, Pipettes and Measuring Glasses.—All bottles, pipettes or measuring glasses used by a person in determining by the Babcock method the value of milk or cream, where the result of such test is used as a basis for payment or for public record, or for record in any of the National Breed Associations shall, before such use, be tested for accuracy of measurement and for accuracy of the per cent scale marked thereon, at the Louisiana Agricultural Experiment Station. Such bottles, pipettes or measuring glasses as are correct shall be marked in permanent marks or characters, which shall be proof that they are so tested; but incorrect bottles, pipettes or measuring glasses shall be destroyed. The person owning such bottles, pipettes or glasses shall pay the actual expense of testing the accuracy of same. Such mark or character as the Louisiana State Experiment Station shall select as its official mark for tested bottles, pipettes or glassware shall be used only by the Louisiana Agricultural Experiment Station and its use by any other person or persons is strictly prohibited. (Id. § 2.)

59. Definitions.—For the purpose of this act a cream station, cooling station, receiving station, creamery, milk plant, cheese factory, condensory or ice cream factory shall be any person or persons, partnership, firm, association, or corporation buying milk or cream to be resold either to dealers engaged in the sale of such products, or to consumers or who purchase milk or cream for manufacturing same into ice cream, butter, cheese or any by-product of milk or cream in the State of Louisiana. (Id. § 3.)

60. Containers May Not be Used or Trafficked in Without Owner's Consent.

—No persons shall hereafter, without the written consent of the owner or shipper, use, sell, dispose of, buy or traffic in any milk can, jar, bottle or cream container belonging to any dealer or shipper of milk, cream or ice cream residing in the State of Louisiana or elsewhere, who may ship milk, cream or ice cream to any city, town or place within the State, having the name or initials of the owner, dealer or shipper stamped, marked or fastened on such can, jar, bottle, or ice cream container, or willfully mar, erase or change by remarking or otherwise said name or initials of any such owner, dealer, or shipper, marked or fastened upon said can, jar, bottle or ice cream container. Nor shall any persons without the consent of the owner use such can, jar, bottle or ice cream container for any other purpose than for milk, cream, or ice cream; nor shall any person without the consent of the owner place in any such can, jar, bottle or ice cream container any substance or product other than milk, cream or ice cream. And that any person owning milk cans, jars, bottles, or ice cream containers upon which he had placed or desires to place any designating mark, may register the said designating mark with the Commissioner of Agriculture, who shall keep a record thereof, and he may also register with the Commissioner of Agriculture, from time to time, the number of such cans, jars, bottles or ice cream containers which he has or is to have, which do or may bear such designating mark. Such cans, jars, bottles or ice cream containers after registration may be numbered consecutively and such consecutive numbers may be registered in the Department of Agriculture, as above provided, with the designating mark. If any such can, bottle, jar or ice cream container, bearing such designating mark, shall be found in the possession of, and being used by any person other than the one so registering the same it shall be presumptive evidence of a violation of the provisions of this act, unless such person has the written consent of the owner thereof to so have and use the same. And that when the Commissioner of Agriculture, or any person duly authorized by him, shall find any such cans, jars, bottles or ice cream containers, bearing such registered designating mark, in the possession of or being used by another person than the owner thereof, he may seize the same, and if evidence is not produced in three days showing that such person had been given permission to have or use such cans, jars, bottles, or ice cream containers, then they shall be delivered by the Commissioner of Agriculture, or his agent, to the person from whom taken, otherwise the Commissioner of Agriculture shall notify the owner of such cans, jars, bottles or ice cream containers that he has the same and upon application deliver the same to the owner. (Id. § 4.)

61. Penalties.—Any cream station, cooling station, receiving station, creamery, milk plant, cheese factory, condensary, ice cream factory, or person or persons who shall fail to comply or violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), or imprisoned for a period of not less than thirty (30) days nor more than ninety (90) days. (Id. § 5.)

62. Disposition of Fines.—All fees and fines collected under the provisions of this act shall be turned into the State treasury, and shall be expended for the purpose of carrying into effect the provisions of this act upon receipt of proper vouchers issued by the Commissioner of Agriculture or the director of the State Experiment Station. (Id. § 6.)

63. Dairymen Not Engaged in Retail May Sell Direct to Creamery, Etc., License Tax or Inspection Fees Not Required—Inspection.—Any dairyman in this State, who does not operate a retail delivery route and sell his produce at retail, shall have the right to sell any produce from his dairy in any quantities direct to a creamery, ice cream maker or other distributor in this State, and shall not be required to pay any license tax or inspection fees of any kind whatsoever, directly or indirectly. Provided, that any State, parochial or municipal authority having such power or charged with such duty may at its own expense inspect such produce above mentioned, said inspection to be made at such time and in such manner as not to unduly delay the dairymen in the distribution of his produce. (Supp. 1924, p. 424, Act 275 of 1916.)

64. Application to Operate Ice Cream Factory.—Any person, firm or corporation desiring to establish, maintain or operate an ice cream factory in this State, shall make written application to the State Board of Health for a permit to do so, such application should give the name and address of the person, firm or corporation, and description of the premises for which the permit is desired. Such application shall be accompanied by a fee of thirty-five dollars. Upon the receipt of which application and fee, the Louisiana State Board of Health shall make an

inspection of the premises of the applicant wherein ice cream is to be manufactured for sale, or sold, and when the provision of the sanitary code of the State of Louisiana governing the operation of an ice cream plant have been fully complied with, then the Louisiana State Board of Health shall issue to said applicant a permit for the manufacture and sale of ice cream, as mentioned in this section. Said permit shall extend for one year from date of its issue, unless sooner revoked, as herein provided, and shall be renewed annually thereafter. A permit may be denied at the time of the application, if the establishment of the applicant is known to be in an unsanitary condition. (Supp. 1924, p. 929, Act 148 of 1924, § 1, as amended Acts 1926, No. 43.)

65. "Ice Cream" Defined.—For the purpose of this act the word ice cream, whether used alone or in connection with other words herein, shall apply to all products manufactured for sale or sold under the name of ice cream, and is hereby defined and standardized:

(a) Ice cream is a frozen product made from the constituent parts of milk and with or without the addition of sugars, eggs, harmless binders or flavorings, and shall contain not less than 10% of butter fat nor less than 20% total milk solids, nor more than 1% of harmless filler or binder.

(b) Fruit ice cream is a frozen product made from the constituent parts of milk and with or without the addition of sugars, harmless binders, or flavorings, and sound, clean, mature fruits, and contain not less than 8% milk fat, nor less than 18% total milk solids, nor more than 1% of harmless filler or binder.

(c) Nut ice cream is a frozen product made from the constituent parts of milk and with or without the addition of sugars, harmless binders, or flavorings, and sound, clean, nonrancid nuts, and contains not less than 8% of milk fat, nor less than 18% total milk solids, nor more than 1% of harmless filler or binder. (Supp. 1924, p. 930, Act 148 of 1924, § 2.)

66. What Must Not be Used.—No decayed, unwholesome or impure material of any kind whatsoever, and no flavoring or coloring matter in any manner detrimental or injurious to health, or any injurious or poisonous coal tar dyes shall be used in the manufacture of ice cream as defined in this act. (Id. § 3.)

67. Pasteurizing Required.—It shall be unlawful for any person, firm, association of persons, or corporation to manufacture for sale, to have in their possession with intent to sell, offer or expose for sale, ice cream, fruit ice cream or nut ice cream that all of the constituent parts entering into the manufacture of ice cream, fruit ice cream, or nut ice cream have not been pasteurized after mixing, except the nuts, fruits, or flavoring contained therein.

(a) The word pasteurized as used herein shall be deemed to apply to products that have been heated to not less than 145 degrees Fahrenheit, and held at 145 degrees Fahrenheit continuously for not less than 25 minutes.

(b) Each pasteurizing machine must be equipped with a recording thermometer and the record must be available to the State Board of Health's inspectors at all times. (Id. § 4.)

68. Specifications for Floor.—The floors of all rooms used for the manufacture of products defined in this act shall be constructed of cement, asphalt, or impervious material approved by the Board of Health, and shall be drained with ventilated or trapped drains, and such floors shall not be lower than the level of the street upon which said building fronts or abuts. (Id. § 5.)

69. Penalty.—Any person, firm, or corporation who shall violate any provision or requirement of this act shall, upon conviction thereof, be fined not less than (\$25.00) twenty-five dollars nor more than one hundred (\$100.00) dollars or suffer imprisonment for not more than thirty days (30) or both at the discretion of the court. (Id. § 6.)

NOTE: See also Nos. 21, 24 and 28.

Feeding Stuffs.

70. Powers of Board of Agriculture and Immigration.—The Louisiana State Board of Agriculture and Immigration shall have power to make and establish rules to carry out the designs and purposes of this act, and in conformity thereto, for the purpose of maintaining effective control of the manufacture, delivery and sale in this State of commercial feeding stuffs and for the purpose of suppression of adulteration and fraud therein. (Supp. 1924, p. 682, Act 38 of 1916, § 1.)

71. Duties of Commissioner and Director of Experimental Station.—The Commissioner of Agriculture and Immigration of the State of Louisiana, hereinafter designated as commissioner, shall have charge of the execution and provisions of

this law; and the Director of Experiment Station of the Louisiana State University and Agricultural and Mechanical College, shall be designated as State Chemist as hereinafter referred to, and he shall have charge of all chemical analysis as hereinafter provided for. (Id. § 2.)

72. "Commercial Feeding Stuffs" Defined.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains; the unmixed meals unless sold for stock or poultry feed, made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir and milo; whole hays, straws, cottonseed hulls and corn stover when unmixed with other materials, together with all other materials containing sixty per cent or more of water. (Id. § 3.)

73. Feed Stuffs to be Tagged.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof containing a legible and plainly printed statement in the English language clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum per centum of crude protein;
- (e) The minimum per centum of crude fat;
- (f) The minimum per centum of carbohydrates;
- (g) The maximum per centum of crude fibre;
- (h) The specific name of each ingredient used in its manufacture.

The crude protein, crude fat, carbohydrates and crude fibre shall be determined by the method in force at the time by the Association of Official Agricultural Chemists of the United States. (Id. § 4.)

74. Classification.—All cottonseed meal sold or offered for sale as commercial feeding stuffs shall be classed or graded as follows: "Choice cottonseed meal" must be finely ground, free from excess of lint, and by analysis must contain not less than forty-one and fifteen one-hundredths per cent of protein; "prime cottonseed meal" must be finely ground, free from excess of lint, and must contain at least thirty-eight and fifty-five one-hundredths per cent of protein; "good cottonseed meal" must be finely ground and by analysis must contain at least thirty-six per cent of protein; "ordinary cottonseed meal" must be finely ground and by analysis must contain at least thirty-three and forty-one one-hundredths per cent of protein. No material shall be sold or branded as cottonseed meal that contains less than thirty-three and forty-one one-hundredths per cent of protein. In interpreting section 13 of this act, as applying to cottonseed meal, protein alone shall be considered. (Id. § 5.)

75. Statement and Sample Go to Commissioner for Registration.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs, he or they shall file with the commissioner a certified copy of the statement specified in section 4 for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the commissioner shall so request, by a sealed package containing at least one pound of the commercial feeding stuffs, to be sold, offered or exposed for sale or distributed in this State, and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative of the commercial feeding stuffs offered for registration. (Id. § 6.)

76. Inspection Fee.—Every manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling any commercial feeding stuffs as defined in section 3 of this act shall pay to the commissioner an inspection tax or fee of twenty-five cents per ton (of 2,000 lbs.) on all commercial feeding stuffs sold, offering, or exposed for sale or distribution in this State, and shall affix to or accompany each lot shipped in bulk a sufficient number of tags to cover the tonnage and to each parcel of such commercial feeding stuffs a tag, stamp or label to be furnished by the commissioner as evidence that the tax or fee has been paid. Whenever any commercial feeding stuff as defined in section 3 is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale, shall keep on hand cards upon which shall be printed the statement required by the provisions of section 4, and when such feeding stuff is sold at retail, in bulk or in packages, the manufacturer, importer, jobber, firm, association, corporation or person shall attach thereto sufficient tax tags to cover the sale and comply with the provisions of this act, together with one of the tags as prescribed in section 4. (Id. § 7.)

77. Right of Commissioner to Refuse to Register.—The Commissioner shall refuse to register any commercial feeding stuffs under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each and all ingredients used in its manufacture are not stated. He shall also have the power to refuse to register more than one commercial feeding stuff under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuff be registered in this State and it is afterward discovered that such registration is in violation of any of the provisions of this act, the commissioner shall cancel such registration. The commissioner shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeding stuffs during the term for which registered, unless satisfactory reasons are presented to the commissioner for making such change or changes. (Id. § 8.)

78. Commissioner May Obtain Samples.—The commissioner is authorized by person or by deputy to have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuff and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and to take therefrom in the manner prescribed in section 10, samples for analysis and said commissioner shall annually cause to be analyzed at least one sample so taken of every commercial feeding stuff that is found sold, offered or exposed for sale or distributed in this State. (Id. § 9.)

79. Sample to be Analyzed by State Chemist.—A representative sample of each brand of commercial feeding stuffs found, sold, offered or exposed for sale shall be taken at destination of shipment as far as practicable by the said commissioner or his duly authorized representative. No action shall be maintained for a violation of the provisions of this act, based upon an analysis of a sample from less than five separate original packages, unless there be less than five separate original packages in the lot, in which case portions for the official sample shall be taken from each original package; if the commercial feeding stuffs is in bulk portions shall be taken from not less than five different places in the lot; provided that this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. Said sample shall be placed in a package, sealed and transmitted to the commissioner, who shall cause it to be analyzed by the State Chemist, and the result of such analysis together with such additional information as the said State Chemist may deem advisable, shall be promptly transmitted to the manufacturer or person responsible for the placing of said commodity on the market, and to the purchaser, and shall be published in reports or bulletins from time to time. (Id. § 10.)

80. Violators to be Prosecuted.—If it appears that any of the provisions of this act have been violated, the commissioner shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the results of the analysis or other examination of such feeding stuffs, duly authenticated by the State Chemist or his assistants making the determination, provided that if it shall appear from any such examination that any of the provisions of this act have been violated, the commissioner shall cause notice to be given to the manufacturer or dealer from whom said sample was taken. Any party so notified, shall be given an opportunity to be heard in his defense, under such rules and regulations as may be prescribed by the commissioner and the State Chemist before the facts shall be certified to the proper prosecuting attorney. In all prosecutions, arising under the provisions of this act, certificates of the State Chemist making the examination or analysis, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified. Provided, however, that at the request of the manufacturer of said commercial feeding stuffs, the official sampler, shall send a portion of the official sample to a recognized chemist in commercial feeding stuff products, designated by the manufacturer, who shall make an analysis of same and retain a portion of the sample for further possible reference, and this analysis shall be given due consideration in any litigation which may develop. The expenses of the container, the transmitting of sample and the analysis by the chemist designated by the manufacturer shall be borne by the manufacturer. (Id. § 11.)

81. Penalty.—Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this

State, any commercial feeding stuffs, without having attached thereto or furnished therewith such tax stamps, labels or tags as required by the provisions of this act, or shall use the required tax stamps, labels or tags a second time, or use a counterfeit of such tax stamps, labels or tags, or remove, exchange or modify said tax stamps, labels, or tags, for the apparent purpose of deceiving the purchaser or consumer as to the true contents of said bags or packages, or who shall impede, obstruct, hinder or otherwise prevent the commissioner or his authorized agent in the performance of his duty in connection with the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State, any commercial feeding stuffs as defined in section 3, without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State, any commercial feeding stuff which contains a smaller per centum of crude fibre than is certified to be contained therein, except as hereinafter provided, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture, shall be deemed guilty of violation of the provisions of this act, and upon conviction thereof, shall be fined not less than twenty-five dollars, nor more than two hundred dollars for the first violation, and not less than two hundred dollars nor more than five hundred dollars for each subsequent violation; provided a deficit of not more than ten per cent of one ingredient may be compensated for by an excess of another ingredient of equal commercial value, in accordance with such rules and regulations and standards as the commissioner and the State Chemist may adopt each year to be operative the year following, after allowing a full hearing in open session to manufacturers, dealers and purchasers, to present arguments regarding the relative values of crude protein, crude fat and carbohydrates. (Id. § 12.)

82. Commissioner May Seize and Sell.—Whenever the commissioner shall be satisfied that any lot or shipment of commercial feed stuffs is more than four and less than ten per cent below the guaranteed value in total protein, fat and carbohydrates, it shall be his duty to assess such deficiency against the manufacturer or guarantor of the commercial feeding stuffs, and require that the value of the deficiency be made good to all persons who have purchased said commercial feeding stuffs; if said deficiency in total protein, fat, and carbohydrates exceeds ten per cent but is less than fifteen per cent deficient, then twice the value thereof shall be similarly assessed against the manufacturer and similarly made good to the purchaser or purchasers; and the commissioner may seize and sell or otherwise dispose of any commercial feeding stuffs belonging to such manufacturer or guarantor if the deficiency shall not be paid within thirty days after notice to such manufacturer. Any person, firm, or corporation who shall intentionally or knowingly sell or offer for sale any commercial feeding stuffs for use within this State which is more than fifteen per cent below the guaranteed value in total protein, fat and carbohydrates shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than fifty dollars nor more than two hundred dollars for the first offense, and not less than two hundred dollars nor more than five hundred dollars for each subsequent offense, and shall refund to all purchasers of said commercial feeding stuffs twice the value of the deficiency in total protein, fat and carbohydrates. (Id. § 13.)

83. Disposition of Proceeds of Tags, Fines, Etc.—Disposition of Revenues—Requests for Tags.—All moneys derived from the sale of commercial feeding stuff tags, fines or other income from the operation of this law, shall be deposited with the fiscal agent of the Louisiana State Board of Agriculture and Immigration and checked out by the commissioner in defraying expenses for inspection and analysis of commercial feeding stuffs, for bulletins or other publications giving information on commercial feeding stuffs, for such clerical assistance and supervision of inspectors as may become essential in the execution of the law, or for such other purposes as may be deemed necessary by the commissioner.

Provided, that not more than two-thirds of the total revenue received from the operation of this law shall be spent by the commissioner in employment of inspectors, supervisors and clerical assistants, and expenses incurred in this work, and not less than one-third shall be transmitted quarterly to the State Chemist, which amount shall be deposited by him with the fiscal agent of the Louisiana State Board of Agriculture and Immigration, and used by him in providing necessary clerical and scientific assistance, laboratory equipment, etc., for conducting analysis of feed stuffs, forage, grains and other materials, and for such other purposes as may contribute to the knowledge of the properties, values and proper use of commercial feeding stuffs in Louisiana.

Firms, corporations, persons or agents representing them, who have registered their brands in compliance with section 6 of this act, shall forward to the com-

missioner a request for tax tags, stating that the said tags are to be used upon brands of commercial feeding stuffs registered and sold in accordance with this act, and said request shall be accompanied with the inspection tax, whereupon, it shall be the duty of the commissioner to issue tags to parties applying, who shall attach said tags to each bag, barrel or package thereof. All firms, corporations or persons are hereby forbidden to attach tags prescribed by this section to any bag, barrel or package of any commercial feeding stuffs which have not been previously registered as required in section 6 of this act, and which is not in accordance with all other provisions of this act. No tags shall be used after the end of the fiscal year for which they are issued, but unused tags shall be redeemed by the commissioner if application is made within sixty days from September first. The fiscal year shall be comprised between the dates of September 1st and August 31st inclusive. The commissioner is hereby empowered to adopt the form of said tags, which shall be numbered serially. The commissioner shall require the manufacturer of said tags to furnish an affidavit as to the total number and description of said tags printed. (Id. § 14.)

84. State Chemist.—The director of the Experiment Stations of the Louisiana State University and Agricultural and Mechanical College shall be the State Chemist as herein designated. (Id. § 15.)

85. Commissioner to Prescribe Rules.—The commissioner shall prescribe any rules and regulations not herein provided for, for the proper execution of the intent and purposes of this act. (Id. § 16.)

NOTE: See also No. 306.

Fish (Oysters and Shrimp).

86. Standard Measure for Oysters.—There shall be in this State for the purchase and sale of oysters arriving at ports or cities within the State of more than fifty thousand inhabitants from any other port, city or place, whether said oysters arrive in barrels, sacks, bulk or otherwise a standard measure in the form of a basket. It shall contain one bushel and one-half a bushel, said baskets to be inspected and stamped by the inspector of weights and measures or other officer exercising his functions for the respective districts or parishes where said oysters arrive, if there be any such inspector or officer at the place of arrival, and in the parish of Orleans by the inspector of weights and measures of the municipality or district where the oysters thus arriving are unloaded. (R. S. 1915, § 5355.)

87. Inspection at Destination.—Each and every sack of oysters arriving at the ports or cities mentioned in section 1 of this act [5355] shall contain one standard basket as established by this act, and each and every barrel of oysters arriving at the different ports or cities mentioned in said section 1 of this act [5355], shall contain two standard baskets as established by section 1 of this act [5355], said sacks and barrels to be inspected by the inspector or officer exercising his functions as provided in section 1 [5355], and must contain the measurements stated in this act at the time of delivery to the consignee, buyer or importer, and at the time of delivery to any subsequent buyer of said oysters after arrival, whether in sacks, barrels or baskets. (Id. § 5356.)

88. Cities of More than 50,000 Inhabitants to Make Inspections.—Any and all buyers, sellers, importers and exporters of oysters arriving at the different ports and cities in the State of Louisiana, of more than fifty thousand inhabitants, are charged with the duty of having such oysters inspected and measured, and such baskets inspected and stamped, in accordance with the provisions of this act and any and all buyers, sellers, importers and exporters of oysters arriving at the ports and cities mentioned in section 1 [5355], and any and all owners, masters, and captains of boats arriving with oysters at said ports or cities, and any other person or persons, firm or firms and corporation or corporations (through their proper officer) violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punishable for each offense by fine not exceeding twenty-five dollars, or imprisonment not exceeding thirty days or both at the discretion of the court having jurisdiction. (Id. § 5359.)

89. Inspectors to be From Parishes Shipping Oysters.—There shall be an oyster inspector selected and appointed by the Governor from each parish shipping oysters under the provisions of this act, whose duties and functions shall be to inspect and measure every sack and barrel of oysters arriving at the different ports or cities mentioned in section 1 of this act [5355], at the same time and place as the inspection might be made by the inspector of weights and measures, or other officer exercising similar functions, mentioned in section 2 of this act

[5356]; provided, there shall be only one inspection and measurement of oysters made by each oyster inspector provided for in this section. (Id. § 5360.)

90. Powers of Department of Conservation—Employment of Labor.—The right to catch and take, can, pack, shuck or deal in or transport oysters from the waters of this State, and the right to lease bedding grounds for the cultivation and propagation of oysters for any of said purposes within any waters within the territorial jurisdiction of the State is hereby granted to any bona fide resident of this State, to any firm or association composed of citizens or residents of this State, or to any corporation domiciled in, or organized under the laws of this State, having their factory or shucking plant or places of business located within this State, upon the terms and conditions and subject to the restrictions and regulations herein set forth, or under the authority of which may be imposed by the Department of Conservation of this State. No person, firm, association or corporation, not a resident of or domiciled in this State is, or shall be, permitted to catch, take, can, pack, shuck, deal in or transport any oysters taken from the waters of this State, or lease any bedding grounds for the cultivation and propagation of oysters for any of the above purposes. Any person, firm, association or corporation, violating any of the provisions of this section shall be liable to the penalties hereinafter provided. Any person, firm, or corporation, properly licensed to operate in the oyster industry in this State shall be permitted to employ such labor, resident or non-resident, as may be required and to employ such vessels and their crew, resident or non-resident, as may be required upon said vessels being properly licensed as herein otherwise provided. This right to employ such non-resident labor or non-resident vessel shall be confined to the operation of any licensees as carried on within the State of Louisiana. (Acts 1926, No. 258, § 2.)

91. Records to be Kept by Packers, Etc.—Severance Tax—Right of Inspectors—Permits for Itinerant Vendors—Penalty to Pay Tax Promptly.—Each packer, canner, commission man, dealer, firm or corporation, otherwise authorized under the provisions hereof to engage in the oyster industry, shall keep a record of all oysters purchased by himself or themselves, with the names of the parties from whom purchased, the quantity and the date. They shall also keep an itemized account of all oysters fished by themselves and by all boats controlled by them, and shall exhibit said accounts at all times to the Department of Conservation, or any of its authorized employees. On the first day of each month, each packer, canner, commission man, dealer, firm or corporation, shall make a return under oath to the Department of Conservation as to the number of barrels of oysters purchased and caught during the preceding month, and a severance tax of two and one-half ($2\frac{1}{2}$) cents per barrel, on each and every barrel of oysters canned, packed, purchased, caught or gathered from leased water bottoms, and a tax of three (3) cents per barrel, on each and every barrel of oysters canned, packed, purchased, caught or gathered from the natural reefs either for sale or consumption, is hereby levied and shall be paid to, and collected by the said Department of Conservation.

Inspectors of the Department of Conservation are authorized to enter upon any boat, or to enter any building, other than a domicile, where oysters are carried or stored and to inspect such oysters at all times.

In all of the operations of the Department of Conservation, the standard measurement of the barrel referred to herein shall be three and seventy-three hundredths (3.73) cubic feet, which approximately represents the cubic contents of three (3) bushels, or one barrel.

The Department of Conservation shall have the right to examine, inspect and audit the books, papers and memoranda of all persons, firms and corporations engaged in the oyster industry under licenses issued by said Department of Conservation.

All itinerant vendors of oysters at retail, traversing the waters of this State, shall be required, before beginning operations, to secure from the Department of Conservation a written permit so to do, which permit shall provide the place and manner wherein the severance tax on the oysters so fished or purchased for sale or resale, shall be paid to the Department of Conservation. All vessels operated for the purpose of the itinerant sale at retail of oysters as aforesaid, shall have on board the original permit aforesaid, which shall be subject to inspection at any time by any inspector of the Department of Conservation. A failure to obtain and possess such permit, shall authorize, at the option of the Department of Conservation, the condemnation and sale of said vessel and cargo, upon the institution of appropriate legal proceedings, as herein elsewhere provided.

The severance tax herein levied shall be payable to the Department of Conservation, within a period of thirty (30) days from the end of the month, without any penalty. Upon a failure of any person, firm or corporation to pay said severance taxes within said thirty (30) day period, a penalty of ten (10%) per cent per

month, calculated upon the severance tax due, shall be levied and collected by the Department of Conservation, in addition to the severance tax, upon all in default in the matter of the payment thereof.

The levy or payment of a severance tax as herein provided shall not be construed as a grant to the person, firm or corporation against whom the same is levied or by whom the same is paid of any right of property or ownership in the shells of said oysters so severed, or the right to transport such oysters in the shell outside of the State of Louisiana. (Id. § 11.)

92. Close Season.—It shall be unlawful for any person, firm or corporation to fish from the natural reefs of the waters of the State, for the purpose of sale, any oysters, between the first day of May and the 31st day of August, both dates included, of any year. It shall be further unlawful for any person, firm or corporation, between the dates aforesaid, of any year, to fish seed oysters from any natural reefs without previously making application for permission so to do to the Department of Conservation and after having received from said department a written permit to that effect, which permit shall be issued at the discretion of the Department of Conservation and subject to the requirements of the bedding by such applicants of such quantity of dry oyster shells as cultch as shall be determined by the Department of Conservation. It shall be unlawful for any person, firm or corporation, or any canner, packer or shucker to can, pack or shuck any oysters between the first day of May and the 31st day of August, of any year, both dates included. The foregoing provision shall not prevent any lessee of oyster bedding grounds, between the dates aforesaid, to cull his own oysters or to use the same for personal home consumption or to sell the same. (Id. § 12.)

93. General Penalty—Upon Second Conviction.—Any person, firm or corporation, or common carrier, their agents and officers violating any of the provisions of this act, where a punishment has not been otherwise provided, shall be guilty of a misdemeanor and shall upon conviction thereof pay all costs of the prosecution, and be fined not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00), or be imprisoned in the parish jail for not less than ninety (90) days, nor more than two (2) years, or both fined and imprisoned at the discretion of the court, for each offense.

Upon a second conviction of any person, firm or corporation, or common carrier, their agents and officers, for violating any of the provisions of this act, where a punishment has not been otherwise provided, all licenses issued to such person, firm or corporation, hereunder, shall be forfeited and it shall be the duty of the judge of the District Court before whom such trial shall be had to declare and order such forfeiture as a part of his sentence. (Id. § 24.)

94. Control Vested in Department of Conservation.—The control, on the part of the State of Louisiana of the shrimp industry shall be vested in the Department of Conservation of the State of Louisiana, which shall be required to enforce the provisions of the laws regulating said industry. (Acts 1926, No. 103, § 2.)

95. Unlawful for Non-Residents to Catch Salt Water Shrimp.—The right to take salt water shrimp from the waters of this State and the right to can, pack or dry the said shrimp when caught are hereby granted to any resident of this State, to any firm or association composed of residents of this State, or to any corporation domiciled in or organized under the laws of this State, operating a canning or packing factory or drying platform in this State. These rights shall be confined to such persons and corporations and are granted subject to the further conditions hereinafter stipulated. It shall be unlawful for any person not a resident of this State, or for any firm or association not composed of residents of this State, or for any corporation not domiciled in or incorporated under the laws of this State, to catch salt water shrimp in the waters of this State, or to can, pack or dry in any factory or on any platform in this State, any salt water shrimp caught from the waters of this State; and any person, firm or corporation so violating the provisions of this section shall be liable to the penalties hereinafter provided. (Id. § 4.)

96. Regulating Size of Shrimp.—It shall be unlawful to take from the waters of the State for the purpose of sale in their fresh state, or for drying or canning, any salt water shrimp that measure less than four (4) inches in length from the tip of spear or rostrum to the end of tail fin, and it shall be unlawful to have any salt water shrimp in possession in this State, measuring less than four (4) inches in length irrespective as to where they may have been caught. This restriction as to size for salt water shrimp shall not apply to those taken for bait, nor shall

it apply to "sea bobs" nor "six barbes" taken during the open seasons from the outside waters for drying purposes. (Id. § 6.)

97. Severance Tax for Drying and Canning.—There be and are hereby levied severance taxes on all salt water shrimp taken from the waters of this State for drying or canning purposes, or for sale in their fresh state, within the State of Louisiana, as follows: A severance tax of ten cents (10c.) per barrel, said barrel to contain two hundred ten pounds (210) of shrimp is hereby levied on all salt water shrimp taken for canning purposes or for use or sale in their fresh state, and a severance tax of thirty-five cents (35c.) per hundred pounds (100) is hereby levied on all salt water shrimp taken for drying purposes, said severance tax on dried shrimp to be computed and collected on said shrimp after having been dried. The taxes shall be paid on delivery of shrimp sold for use in their fresh state by the catcher, or dealer. The tax on shrimp canned or dried shall be paid by the canner, dryer, or dealer at the end of each month, on or before the tenth of the following month. A statement must be made under oath on blanks furnished by the Department of Conservation, and must accompany each payment. These taxes, when collected by the Department of Conservation, shall be deposited to the credit of the Department of Conservation with the State Treasurer, and shall be used by the Department of Conservation for the purpose of carrying the provisions of this law into effect, in protecting and developing the shrimp industry, and in the general work of the Department of Conservation. A barrel or any part thereof, which has paid this tax shall no [not] again pay the tax, and the monthly official receipts of the Department of Conservation shall be evidence of the payment of the severance tax on all shrimp sold for use in their fresh state, and on all shrimp canned during said month. The official receipts of the Department of Conservation, when in the hand of the dryer or dealer, shall be evidence of the payment of the tax on all shrimp dried or handled by him for said month. The person, firm or corporation paying the original tax on dried shrimp must furnish a certificate of sale with each and every portion of dried shrimp disposed of from any lot on which the tax has been paid, or will be paid by him or them, on blanks furnished by the Department of Conservation. Said certificate shall be made in duplicate, and a copy of each immediately mailed to the office of the Department of Conservation in New Orleans. The Department of Conservation is authorized to seize any shrimp in the hands of canners or dealers, or their assignees, vendees, or consignees, upon which the tax has not been paid after demand for payment by the Department of Conservation, and to sell such shrimp for the purpose of realizing the payment of the tax, and the surplus from the proceeds of sale, after deducting the tax and all costs and charges, shall be paid to the owner of the shrimp seized. Whenever any willful attempt is made to defraud the Department of Conservation out of the payment of any tax herein imposed any shrimp involved in such willful, fraudulent tax evasion shall be forfeited to the State as represented by the Department of Conservation. These severance taxes shall be payable to the Department of Conservation within a period of thirty (30) days from the end of the month without any penalty. Upon a failure of any person, firm or corporation to pay said severance taxes within said thirty (30) day period, a penalty of ten per cent (10%) per month calculated upon the severance tax due, shall be levied and collected by the Department of Conservation in addition to the severance tax upon all in default in the matter of the payment thereof. The levy in payment of a severance tax as herein provided shall not be construed as a grant to the person, firm or corporation against whom the same is levied or by whom the same is paid or any right of property or ownership in the shrimp or parts thereof so severed or the right to transport the hull or shell and head of such shrimp outside of the State of Louisiana. (Id. § 12.)

98. Unlawful to Ship Heads and Hulls Out of the State—Shipment of Unshelled Shrimp—Licensees to Conserve Shells and Heads for Fertilizer Purposes.—All salt water shrimp and the shells or hulls and heads of all salt water shrimp are hereby declared to be the property of the State, and the shells or hulls and heads to be valuable for use as a natural resource of the State as a fertilizer in the State; and it shall therefore and hereafter be unlawful to export from the State of Louisiana any salt water shrimp from which the shell or hull and head shall not have been removed.

In order that all of the inhabitants of the State of Louisiana may enjoy the State's natural food product, it shall be lawful to ship unshelled shrimp from any point in the State of Louisiana to any other point in the State of Louisiana for edible consumption, subject to such regulations and restrictions as may be imposed

by the Department of Conservation. Any person, firm or corporation of this State who shall lawfully take any shrimp from any of the waters of the State, or lawfully acquire the same, shall have a qualified interest or property in the shrimp so taken or acquired in the shells, which qualified interest may be sold or transferred to any other person, firm or corporation within the limits of the State; and after the edible portions of the abdomen popularly called tail meat of said shrimp shall have been removed from the shell, within the State of Louisiana, such lawful taker or possessor, his heirs or assigns, as the case may be, shall be vested with all of the rights and property of the State in and to said shrimp tail meat and shall have the right to sell such shrimp tail meat or ship the same beyond the limit of the State, without restriction or reservation.

It shall be the duty of all licensees operating under the Department of Conservation in the shrimp industry in this State to conserve for fertilizer purposes all shells or hulls and heads of salt water shrimp and to report monthly, on blanks to be furnished by the Department of Conservation, the quantity thereof on hand, to the Department of Conservation. It shall be unlawful to export from the State of Louisiana any raw shells or hulls and heads of salt water shrimp as they are required to be manufactured into fertilizer or used for an element in chicken feed. When the shrimp hulls or shells and heads shall have been conserved for the purposes herein stated, the right of property therein theretofore existing in the State shall pass to the lawful taker or the possessor thereof. Any person, firm or corporation violating the provisions of this section shall be liable to the penalties hereinafter imposed. (Id. § 13.)

99. Application for License; How Made.—Every license issued by the Department of Conservation to any resident person, firm or corporation, under the laws of the State, authorizing the taking of salt water shrimp from the waters of the State for sale in their fresh state, or for canning, packing or drying purposes, shall be issued only upon a written application in which it shall be stipulated as a matter of contract, that the applicant will faithfully and fully comply with the laws of this State and the rules and regulations of the Department of Conservation, and will promptly pay the severance taxes levied on salt water shrimp taken from the waters of the State for canning, packing or drying, in this State or for sale in their fresh state in this State. The Department of Conservation shall have the right to refuse to grant a license to any canning, packing or drying plant engaged in the shrimp industry that does not fulfill the requirements of the specifications of the Board of Health of the State of Louisiana adopted for sanitary regulations, the right of appeal being reserved to such applicant to the court having jurisdiction thereof to review the findings of the Department of Conservation on the subject. (Id. § 14.)

100. Penalty for Violation.—Any person, firm or corporation or common carrier, their agents and officers violating any provisions of this act, where a punishment has not been otherwise provided, shall be guilty of a misdemeanor and shall on conviction thereof be fined not less than twenty-five dollars (\$25.00) or not more than one hundred dollars (\$100.00) for the first offense, nor less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) for the second offense and for the third offense the fine shall not be less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) and in addition the license under which operations are being conducted shall be revoked. For each offense the courts may impose a sentence in the parish jail for not less than five days nor more than thirty days or may impose both fine and imprisonment at the discretion of the court for each offense; and in addition thereto the boats, seines or other devices used in such violations may be confiscated by order of the court. . . . (Id. § 19.)

101. Repealing Clause—Exceptions.—All laws or parts of laws contrary to or in conflict with the provisions of this act be and the same are hereby repealed, provided that, in order to permit canning factories located beyond the limits of the State which have heretofore been permitted to take salt water shrimp out of the State for canning purposes to adjust their business to the conditions imposed by this act, the provisions of this act which require all salt water shrimp to be peeled or removed from their hull or shell in Louisiana and the shrimp head and hull or shell to be left in Louisiana shall not go into effect until June 15, 1927, as to those shrimp canners who shall have obtained from the Department of Conservation permits permitting such canneries until June 15th, 1927, to remove from the State salt water shrimp unpeeled for canning in factories located beyond the limits of the State, conditioned upon the right being reserved to the Department of Conservation of Louisiana to revoke any such permit upon the failure to be determined as a matter of fact, after hearing, by the Department of Conservation

of Louisiana, that such permittee or licensee has failed to comply with the conditions imposed in such permit, and the Commissioner of Conservation shall be authorized to issue permits in accordance herewith, which permits shall expire June 15th, 1927.

It is the intention and sense of this exception that the canning factories located out of the State which have heretofore gotten their salt water shrimp from Louisiana shall be permitted to continue to do so under former conditions, until June 15, 1927, except that the closed seasons herein established shall become effective upon the due promulgation of this act. (Id. § 21.)

102. Minimum Length of Dried Salt Water Fish.—It shall be and is hereby declared unlawful for any person, firm or corporation, to dry any salt water fish measuring less than eight (8) inches in length. (Supp. 1924, p. 729, Act 69 of 1924, § 3.)

103. Season for Drying Salt Water Fish.—No person, firm or corporation, may dry any salt water fish for use or for sale during the months of May, June and July of any year. (Id. § 4.)

104. Penalty.—It shall be unlawful to ship, carry, transport, or offer for shipment, within or without the State, any package or barrel containing dead salt water fish, or any part thereof, unless said package or barrel be plainly marked with the name of the consignor and consignee, with an itemized statement of the number of pounds of fish, and the names of the species contained therein. All bills of lading issued by common carriers for such shipment, to state the number of packages which contain either salt water fish, fresh water fish, or both salt and fresh water fish. Any package or barrel otherwise shipped, carried or offered for shipment when containing illegal fish shall constitute a separate offense and violation of this section, and such packages or barrels, together with the contents thereof, may be confiscated by any conservation agent or duly authorized officer. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall on conviction thereof be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), and in default of payment of said fine be imprisoned in the parish jail not less than sixty (60) days nor more than six (6) months, or shall be both fined and imprisoned in the discretion of the court. (Id. § 9, as amended Acts 1926, No. 235, § 2.)

105. General Penalty.—Any person, firm, or corporation, their agents or officers violating any of the provisions of this act, shall be guilty of a misdemeanor and shall on conviction thereof be fined not less than twenty-five dollars (\$25.00), nor more than one hundred (\$100.00) dollars for the first offense, and for the second offense shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), and for the third offense shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or be subjected to imprisonment for not less than ten (10) days, or be liable for both fine and imprisonment in the discretion of the court. In addition to any other penalty provided for in said third conviction, all licenses issued to any person, firm or corporation, found guilty of violating the provisions of this act, shall be forfeited, and the judge shall so declare as part of his sentence; provided that in addition to the penalties here fixed, further penalties shall be collected by the Commissioner of Conservation when licenses are issued as follows: Ten (10%) per cent to the cost of any license which has not been procured as provided by law when the same is issued within thirty (30) days thereafter; twenty-five (25%) per cent when the same is issued within sixty (60) days thereafter; fifty (50%) per cent when the same is issued over sixty (60) days thereafter, but within one hundred and twenty (120) days; provided further that no license shall be issued in any case where the same has not been procured within one hundred and twenty (120) days of the time required by law. (Supp. 1924, p. 729, Act 69 of 1924, § 11, as added Acts 1926, No. 235, § 4.)

NOTE: See also Nos. 23 and 308.

Flour—Meal.

See Nos. 41 et seq., 306, 307 and 309.

Fruits, Vegetables, Etc.

106. Providing Inspection and Grading of Fruits and Vegetables.—In order to provide the means whereby producers of fruits and vegetables, and all interested parties, may secure prompt and efficient inspection, and classification of

grades of all fruits and vegetables, at reasonable cost, this act is passed. It is here recognized that the standardization of the fruit and vegetable industry by the proper classification and grading of fruits and vegetables, by prompt and efficient inspection under competent authority is beneficial alike to producer, shipper, carrier, receiver and consumer, in that it furnishes the producer and the shipper with prima facie evidence of quality and condition of products, it guarantees the carrier and the receiver as to the quality and condition of products carried and received by them, and assures the ultimate consumer of the quality and condition of products which he is purchasing. (Acts 1926, No. 317, § 1.)

107. Inspection Under Supervision of Commissioner of Agriculture.—The inspection contemplated under this act in the State of Louisiana of fruits and vegetables, and the classification of grades thereof, shall be under the direction and control of the Commissioner of Agriculture and Immigration, hereinafter designated as the "commissioner." Such inspection, and classification of grades and grades established and promulgated shall not be compulsory in any case, but shall be optional in all cases. (Id. § 2.)

108. Fees to be Collected by Commissioner.—The "commissioner" is hereby authorized and empowered to fix and assess, and collect and cause to be collected fees for the inspection in Louisiana, and the classification of grades of fruits and vegetables, and the issuance of certificates of such classifications of grades. Such fees shall be fixed on a car lot or package basis. The amount of such fees on each different commodity inspected and for each different service rendered on each such commodity under the provisions of this act, and shall be fixed as nearly as possible with reference to the cost of the establishment and maintenance of such service for such particular commodity and may be different in the course of each different commodity and in the case of each different service rendered on each such commodity. Such fees shall be uniform throughout the State of Louisiana for the particular service rendered. The amount of such fees shall be fixed annually on the first day of January of each year and shall remain as so fixed until the first day of January of the following year. The amount of such fees on the different commodities and for the different services rendered under the provisions of this act shall be determined as near as may be to the end that the inspection service provided by this act shall pay for itself out of the annual aggregate amount of such fees collected under the provisions of this act. Such fees shall be paid by the person requesting the service of inspection at the time such service is rendered. No person employed by the "commissioner" shall charge or collect any fees other than the fees in such amounts as shall be authorized and established by the "commissioner." (Id. § 3.)

109. Inspections to be Confidential.—All information obtained as to the result of an inspection made under the provisions of this act shall be confidential and shall not be disclosed by the "commissioner" or by any of his agents, assistants or employees, provided, however, that the "commissioner" shall prepare and certify to any interested party a copy of the original inspection certificate of any inspection upon the payment to him of his fees therefor. The "commissioner" is hereby authorized and empowered to prescribe such rules and regulations governing the issuance of such certificates and to fix a reasonable fee to cover the cost of the issuance of such certificates. (Id. § 4.)

110. Penalty.—Any person or persons, firm or corporations availing himself or themselves of the provisions of this act offering for shipment, fruits or vegetables known to be unfit for human consumption, or unfit for shipment to the point to which they are destined, or which are not full weight or measure as represented on the crate or package, and refusing to comply with the order of the inspectors relative to diverting or destroying said fruits or vegetables, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than ten dollars, nor more than fifty dollars, or imprisonment not exceeding thirty days, or both, in the discretion of the court; this penalty may be doubled upon conviction of a second offense. (Id. § 5.)

111. Standards and Grades of Fresh Farm Products.—The Commissioner of Agriculture and Immigration may at the request of any grower or shipper, or associations of growers or shippers, as far as practicable, establish and promulgate standards of grades and other classifications of fresh farm products by which their quantity, quality or value may be determined, and further prescribe and promulgate rules and regulations covering the mark, brand or labels which may be used upon receptacles of fresh farm products for the purpose of showing the name and address of the producer or packer, the quantity, quality and nature of the product.

Provided, further, that at the request and expense of any grower or shipper, or associations of growers or shippers of farm produce, that the Commissioner of Agriculture and Immigration may provide an inspector or inspectors to supervise the packing and loading of fresh farm products according to the standards and classifications established, and mark the receptacle in a manner to show that such supervision has been provided. (Supp. 1924, p. 6, Act 255 of 1916, § 1.)

112. Powers of Board of Agriculture.—Said Board of Agriculture and Immigration shall have full and plenary power to deal with all crop and fruit pests and such contagious and infectious crop and fruit diseases as in the opinion of the entomologist, may be prevented, controlled or eradicated; with full power to make, promulgate and enforce such rules, ordinances and regulations, and to do and perform such acts as, in the judgment of the entomologist may be necessary to control, eradicate or prevent the introduction, spread or dissemination of all injurious crop and fruit pests and diseases, and all the rules, ordinances and regulations of said Board shall have the force and effect of law so far as they conform to the general laws of the State and of the United States five days after their promulgation in the official journal of the State. Said board shall have authority to prohibit or regulate the shipment or bringing into this State of any plants, farm products or other articles of any nature or character whatsoever from any State, Territory or foreign country, when in the opinion of the entomologist such prohibition or regulation is necessary. (R. S. 1915, § 3081.)

113. Penalty.—Any person, firm or corporation violating any of the rules, ordinances, or regulations of said Board of Agriculture and Immigration shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than five hundred (\$500.00) dollars or imprisoned for not less than ten (10) days, nor more than six months, or both such fine and imprisonment at the discretion of the court having jurisdiction; that said Board of Agriculture and Immigration shall have power and authority to enforce its rules, ordinances and regulations in any court of competent jurisdiction by civil, as well as criminal proceedings, and if the remedy elected to be pursued be by writ of injunction, no court of this State shall have the right previous to a trial upon the merits to set aside such a writ on bond; that it shall be the duty of the Attorney-General and district attorneys to represent said board whenever called upon so to do; that said board, in the discharge of its duties, and in the enforcement of the powers herein delegated, may send for books and papers, administer oaths, hear witnesses, etc., and to that end it is made the duty of the various sheriffs throughout the State to serve all summons and other papers upon the request of said board. (Id. § 3082.)

114. Rules and Regulations to be Submitted by Entomologist.—Said entomologist shall prepare rules and regulations in accordance with this act, which, on the approval of the Commissioner of Agriculture and Immigration, shall become effective, and said rules and regulations may be amended by him upon the approval of the said Commissioner of Agriculture and Immigration. (Id. § 3084.)

115. Name and Address of Shipper or Seller to be Marked on Packages.—The name and address of the shipper or seller shall be plainly marked or stamped on every package, crate, box, barrel or sack of fruits or vegetables shipped or sold in the State of Louisiana. (Supp. 1924, p. 7, Act 229 of 1920, § 1.)

116. When Act Does Not Apply.—This act shall not apply to any fruits or vegetables that are sold for local use or home consumption. (Id. § 2.)

117. Penalty.—Any person or persons violating any of the provisions of this act shall be subject to a fine of not less than ten dollars nor more than one hundred dollars. (Id. § 3.)

118. Shipments of Sweet Potatoes, Vines, Etc., to be Certified by State Entomologist.—All sweet potatoes, vines, plants and slips, shipped or moved into the State of Louisiana or out of the State or within the State, shall be accompanied by a certificate of inspection signed by the State Entomologist. (Acts 1926, No. 314, § 1.)

119. Inspections.—The commissioner, his agents and employees shall have authority to enter any depot, express office, storeroom, warehouse or premises for the purpose of inspecting any sweet potatoes, vines, plants and slips, therein or thought to be therein for the purpose of ascertaining whether said potatoes, vines, plants and slips, are infected with any contagious or infectious diseases or insect pests which they may have reason to believe have been or are being transported in violation of the provisions of this act. (Id. § 3.)

120. Inspection Fee.—For the purpose of carrying out and putting into effect the provisions of this act, the Commissioner of Agriculture and Immigration is hereby authorized and empowered to levy and collect a fee of not more than three

cents per bushel on every bushel of potatoes moved or shipped within the State and a fee of five cents per thousand on all vines, plants and slips. (Id. § 4.)

121. Legal Advice.—It shall be the duty of the Attorney-General and the various district attorneys in their respective districts to represent the Department of Agriculture and Immigration in all legal proceedings in carrying out this act. (Id. § 5.)

122. Penalty.—Any person, or any member or agent of a firm or any officer or agent of a corporation violating any of the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars or more than one hundred dollars, or by imprisonment of not less than ten days or more than thirty days in the parish jail, or both in the discretion of the court. (Id. § 6.)

123. Unfit Strawberries Not to be Sold or Shipped.—It shall be unlawful for any person, firm or corporation to ship, sell, or offer for shipment or sale, any strawberries which are unfit for human consumption. (Supp. 1924, p. 1673, Act 87 of 1922, § 1.)

124. Inspection of Strawberries.—The Commissioner of Agriculture shall make and provide reasonable rules and regulations for the proper packing and inspection of all strawberries offered for shipment for sale within the State of Louisiana and shall enforce said regulations by placing competent inspectors at all shipping points within the State during the time strawberries are moving from said points in carload lots. (Id. § 2.)

125. Inspection Fees.—All persons, firms or corporations, acting as brokers, shipping agents or in any other capacity making carload shipments of strawberries, or selling strawberries in carloads, shall apply to the Commissioner of Agriculture at the beginning of the shipping season each year for inspectors, to inspect the strawberries as delivered for shipment by the growers, which said inspectors shall be paid by the person shipping or selling the carloads of strawberries in the manner and under the provisions to be provided by the rules and regulations promulgated by the Commissioner of Agriculture, provided that said inspectors shall be paid not more than one-half of one cent (\$.00½) for the inspection of strawberries. (Id. § 3.)

126. Commissioner of Agriculture to Provide Forms.—The Commissioner of Agriculture shall provide forms and issue certificates of inspection on all shipments inspected, said certificate to show the condition of the fruit when loaded. (Id. § 4.)

127. Rules and Regulations.—The rules and regulations promulgated by the Commissioner of Agriculture shall permit the shipment to closer points for strawberries found unfit to ship as far as originally intended and for the use of strawberries which are unfit for shipment, but fit for cold packing or preserving purposes, to be shipped and used. (Id. § 5.)

128. Act Applies Only to Carload Lots.—This act shall not apply to persons, firms or corporations shipping in less than carload lots, unless the inspection is specifically requested and paid for by the parties requesting same. (Id. § 6.)

129. Penalties.—Any person offering for shipment strawberries known by them to be unfit for human consumption or unfit for shipment to the point to which they are destined, or which are not full measure of strawberries as represented on the crate and refusing to comply with the order of the inspectors relative to diverting or destroying said strawberries, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than ten dollars, nor more than fifty dollars, or imprisonment not exceeding thirty days, or both at the discretion of the court; this penalty may be doubled upon conviction of a second offense. (Id. § 7.)

NOTE: See also Nos. 17 and 23.

Grain.

See Nos. 306, 307 and 310.

Ice.

130. Ice Wagons to be Equipped With Weighing Devices.—Dealers in ice who employ wagons, trucks, cars, etc., in delivering ice to consumers shall equip such wagons, trucks, cars, etc., with scales or a mechanism for accurately weighing the ice when actually delivered to the consumer, and that such weighing device shall be so located as to be open to public view. (R. S. 1915, § 2188.)

131. Only Amount Delivered to be Charged for.—It shall be unlawful for any dealer in ice to charge and collect for a greater amount of ice than the amount actually delivered to the consumer. (Id. § 2189.)

132. Penalty.—Any person, firm, association or corporation, found guilty of violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine of not exceeding fifty dollars or be imprisoned not over thirty days, or both in the discretion of the court. (Id. § 2190.)

Meat—Meat Products.

133. Unlawful to Slaughter Animals for Food Products Except by Licensed Butcher.—It shall be unlawful for any person, party, partnership or corporation engaged in the business of butcher or purveyor of food products intended for human consumption to directly or indirectly, purchase, trade, handle or sell in any manner whatsoever, the carcass or any part thereof of any animal, except such animal as has been slaughtered for human consumption by a licensed butcher or in a licensed slaughterhouse, packing house or abattoir. (Acts 1926, No. 341, § 1.)

134. Penalty.—Any person, party, partnership or corporation engaged in the business of butcher or purveyor of food products intended for human consumption, who shall violate directly or indirectly, any provision of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars and not more than one hundred dollars or shall be punished by imprisonment in the parish prison, for not less than thirty days and not more than ninety days or both at the discretion of the court: Provided, that this act shall not apply to any person, party, partnership or corporation who shall slaughter for human consumption his, their or its own animal or animals on his, their or its farm, plantation or agricultural premises, and the carcass, or any part thereof of said animal or animals may be lawfully handled, traded, sold or purchased: Provided, also that this act shall not apply to any individual slaughtering his own animals for the occasional sale of meat as an incident to some other business where said individual is not otherwise required by law to have a license for such slaughtering or butcher business. (Id. § 2.)

135. Diseased Animals Must Not be Slaughtered for Food.—It shall be unlawful for any person or persons to slaughter for food and offer for sale any cattle, hogs, or sheep, the same being in an unhealthy condition. (R. S. 1915, § 2154.)*

136. Inspectors.—The Governor is required to appoint, by and with the advice and consent of the Senate, three repackers and inspectors of beef and pork for the city of New Orleans. (Id. § 3548.)

137. Stores and Yards.—The inspectors and repackers shall provide themselves with good and sufficient stores or yards, capable of receiving and storing such beef and pork as may be brought to them for inspection in such places as shall be most convenient to employers, and best calculated to facilitate their business; but nothing shall be allowed for storage for any beef or pork inspected by them, if taken away within three days after notice given to the owner, or his agent, of its being inspected and repacked; provided, that no beef or pork shall be inspected and repacked in any part of the city and suburbs between Garrison and Girod streets. (Id. § 3549.)

138. Standard Barrel.—All barrels shall be made of good seasoned oak, or ash, free from every defect; and every barrel shall contain two hundred pounds of beef or pork, the barrel not to measure more than eighteen inches across the head and twenty-eight long, to be hooped with at least twelve good, substantial hoops; the barrel to be branded on the bilge with at least the initials of the cooper's name and weight which is contained in each barrel, and also to be plainly branded with the first letters of the Christian name and the surname at full length of the inspector. (Id. § 3550.)

139. Grades of Pork.—The inspectors and repackers shall carefully inspect all beef and pork, and shall brand only such as shall be well fattened; the best quality shall be denominated "mess pork," and shall consist of none but the sides of good fat hogs, and the barrels containing it shall be branded at one of the heads, "mess pork." The second quality shall be denominated "prime," of which there shall not be in a barrel more than three shoulders, the legs being cut off at the knee-joint; the barrel shall not contain more than twenty-four pounds of head, which shall have the ears and snout cut off at the opening of the jaws, and the

*For penalty see No. 18.

brains and the bloody grizzle taken out and the rest of the pork, to constitute a barrel of prime pork, shall be made up of sides, necks, and tail pieces; and on the head of every barrel of such pork shall be branded, "prime pork." The third quality of pork shall be denominated "cargo pork," of which there shall not be in a barrel more than thirty pounds, of head and four shoulders, and shall otherwise be merchantable pork, and shall be branded on one head of each barrel, "cargo pork." (Id. § 3551.)

140. Grades of Beef.—All beef to be repacked for exportation shall be of fat cattle, and shall be cut into pieces, as square as may be, and shall not exceed twelve nor be less than four pounds weight; and all beef which shall be fat and merchantable shall be sorted and divided into three different classes, to be denominated as mess, prime and cargo.

Mess shall consist of the choicest pieces of large, well fattened beef, without hocks, shanks, clods, or necks; each barrel to contain two hundred pounds of beef, and to be branded on the head, "mess beef." Prime beef shall consist of the choicest pieces of fat cattle, with not more than one-half neck, nor more than two flanks, with the hocks cut off the hind legs, in the smallest place above the joint, in a barrel, and branded "prime beef," on one head.

Cargo beef shall be of fat cattle, with a proportion of good pieces, and not more than one-half of necks, three flanks, with the hocks cut off in the same manner as in prime, in a barrel, and to be otherwise merchantable, and to be branded, "cargo beef." The repacker shall not put less than two pecks of coarse salt and six ounces of saltpetre in each barrel, and shall fill it with pickle as strong as salt can make it. (Id. § 3552.)

141. Penalties.—If any inspector shall be guilty of neglect or fraud, or shall in any way violate the duties imposed on him by law, he shall be liable to a fine of fifty dollars, to be recovered before any court of competent authority, one-half to the benefit of the informer; and, moreover, shall be liable for damages to any person aggrieved. (Id. § 3553.)

142. Intermixing of Beef or Pork Prohibited—Defacing Brand or Mark of Inspector Prohibited—Penalty.—If any person shall intermix, take out, or shift any beef or pork, packed and branded, as herein provided, or put in any other beef or pork, for sale or exportation, or alter, change or deface any brand or mark of any inspector, said person shall, for every offense, pay a fine of forty dollars, one-half for the use of the informer; and, moreover, shall be liable for damages to any person aggrieved. (Id. § 3554.)

143. Inspector Not to Deal in Beef or Pork.—No inspector and repacker of beef and pork shall buy or sell more than shall be necessary for his own consumption. (Id. § 3555.)

144. Enforcement of Fees.—No beef or pork that shall have been inspected and repacked shall be taken from the stores and yards of the inspectors, unless all the expenses be previously paid; and no owner or seller of beef and pork shall suffer the same after inspection, to remain more than twelve hours exposed to the sun or to bad weather. (Id. § 3556.)

145. Fees.—The inspectors and repackers shall be entitled to demand and receive for every barrel of pork or beef they shall inspect, repack and salt, thirty-three cents and one-third, besides the price of the salt, saltpetre and other extra services. (Id. § 3557.)

146. Disposition of Penalties.—All the proceeds of property forfeited, and penalties incurred on the subject of the inspection of beef and pork, shall be one-half for the benefit of the Asylum for Orphan Boys in the city of New Orleans, and the other half for the person prosecuting in the name of the State. (Id. § 3558.)

147. Inspection.—It shall be the duty of the Governor to appoint a suitable person to be beef and pork inspector in and for the parish of Jefferson. (Id. § 3559.)

148. Fees.—Said inspector shall be entitled to the same fees as are now allowed to the inspectors of beef and pork in and for the city of New Orleans. (Id. § 3560.)

149. Powers.—He shall have and exercise the same rights, privileges and powers as are conferred by the several laws of this State upon the inspectors of beef and pork for the city of New Orleans. (Id. § 3561.)

150. Inspection Generally.—It shall be lawful for any owner, agent, consignee, or receiver of produce, to sell or ship the same, with or without inspection; provided, however, that the said owner, agent, consignee, or receiver, shall be bound to have any produce offered for sale inspected, when inspection shall be demanded by the purchaser. Said inspection, when required, shall be made by the inspector commissioned under the authority of the State. (Id. § 3562.)

151. Offering for Sale Dressed Hog Without Head or Ears.—Whoever shall offer for sale a dressed hog ready for market with its head or ears removed from its body shall be deemed guilty of a misdemeanor and on conviction by a court of competent jurisdiction be imprisoned for not less than 10 days nor more than 30 days or fined not less than \$25.00 nor more than \$50.00 or both at the discretion of the court. (Id. § 2172.)

152. Exemption.—The provisions of this act shall not be construed as applying to public slaughterhouses and packing houses, or cold-storage. (Id. § 2173.)

NOTE: See also Nos. 24, 28, 309 and 311.

Molasses.

See No. 155 et seq.

Rice.

153. Cleaning Rice.—It shall be unlawful for any person to use oil, paraffine or any other similar substance in the process of cleaning rice or in preparing it for market, for the purpose of increasing its weight, transparency or brilliancy or for in any manner bettering its appearance. (R. S. 1915, § 2133.)

154. Penalty.—Any person violating the provisions of this act shall be guilty of a misdemeanor and on conviction thereof before any court of competent jurisdiction shall be fined not exceeding one hundred dollars or imprisonment not exceeding thirty days, at the discretion of the court for each offense. (Id. § 2134.)

Sugar, Molasses, Etc.

155. Sugar Cane and Its Products.—In all cases where sugar cane is sold by the ton or otherwise, to another, or is delivered to another person to be manufactured for a portion of the product thereof, and in all cases where cane syrup is sold or delivered to another, to be manufactured for account of the person delivering the same, for a portion of the product thereof or otherwise, all suits brought for the recovery of such cane or syrup or the products, price or value thereof as well as all suits for the recovery of damages arising from or growing out of the manufacture of said cane or syrup, or from any contract or agreement relating to the same, or for the inexecution of such contract or agreement, shall be brought, at the option of plaintiff, either at the domicile of defendant, whether such defendant be a corporation, stock company, partnership or individual, or in the parish where is situated the factory at which such cane or syrup is manufactured or delivered for that purpose, whether such parish be the domicile of such defendant or not. (R. S. 1915, § 1029.)

156. Sugar and Molasses.—Whoever shall knowingly sell or offer for sale, ship or place upon the market for sale, either by sample, hogshead, barrel, package or otherwise, any sugar or molasses adulterated with glucose or any foreign substance, without branding or stamping it as such in clear, legible letters, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by imprisonment not exceeding six months, and by a fine of not less than two hundred dollars nor more than one thousand dollars for each offense, recoverable before any court of competent jurisdiction; one-half of the fine for the benefit of the informer and the other half for the benefit of the Charity Hospital of New Orleans. (Id. § 2168.)

157. Misusing Plantation Brands.—Whoever shall employ plantation brands to sell adulterated sugar or molasses, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished as provided for in section 1 of this act [2168]. (Id. § 2169.)

158. Sugar Refining is a Public Utility.—The business of refining sugar in the State of Louisiana is hereby recognized and declared to be impressed with a public interest by reason of the nature and by reason of the monopolization thereof; and the sugar refineries now and hereafter operating in the State, in the business of buying raw sugar and manufacturing refined sugar and in the business of manufacturing refined sugar whether the raw sugar is bought or otherwise handled are hereby declared to be public utilities. (Id. § 6893.)

159. State Inspector Created.—The office of State Inspector of Sugar Refining is hereby created, and the Supervisor of Public Accounts for the State of Louisiana is hereby made ex-officio State Inspector of Sugar Refining. (Id. § 6894.)

160. Refinery Reports.—Every person engaged in the business of refining sugar within the State shall make monthly reports to the State Inspector, which shall show the amount of sugar bought and the price; the amount of sugar sold, and the price; the amount of sugar contracted to be sold, and the price; the amount of sugar held on storage, and the cost of holding it; the number of days and hours in operation; the amount of raw sugar taken into process; the amount of refined sugar produced; the repairs made; the amount expended in repairs and in upkeep; the amount expended in general and in overhead charges; the condition of the plant, and the reason for any and all stoppages and for any non-operation of the plant. The data collected under this section shall be consolidated and tabulated every six months, without making any reference therein to any particular refinery, and said tabulation shall be open to the inspection of the public. (Id. § 6895.)

161. Inspector's Duties.—It shall be the duty of said inspector to inspect the books and accounts, and records, of all concerns engaged in the business of refining sugar at least twice a year; and he may at the direction of the Governor make public such compiled and tabulated data as he may deem beneficial to the sugar trade, but he shall not make public any data relating to any particular refinery. He may also call for special reports from said refineries covering any branch of their business at any time, provided that no special report shall call for the disclosure of any trade secrets. (Id. § 6896.)

162. Sugar Inspection Fund.—Every person engaged in the business of refining sugar shall pay, monthly, to the State Inspector of Sugar Refining, for the credit of the fund for the inspection of sugar, one-half cent on each and every three hundred and fifty pounds of granulated sugar made, which sum shall be paid into the State treasury for the account of the fund for the inspection of sugar. Out of the fund hereby created shall be paid a salary of six hundred dollars per annum to the State Inspector of Sugar Refining, and the salaries of such assistants as he may designate, and all expenses of his office. (Id. § 6897.)

163. Standards for Buying Sugar.—It is declared to be unlawful for any person engaged in the business of refining sugar to buy sugar on an ex parte test of its quality, or upon any other weights than those of the actual net contents of any bag or package; and, in furtherance of this prohibition, the State Inspector of Sugar Refining is empowered and he is hereby directed to formulate, and to promulgate, by publication in three consecutive editions of a newspaper published in the city of New Orleans, such reasonable regulations as he may deem proper, and he may, also, formulate and promulgate, from time to time, in the same way, such other reasonable regulations, affecting any branch of the business of sugar refining, as may be conducive to the public interest, and to the prevention of monopoly in the business of refining sugar, or the protection of public from the consequences thereof. (Id. § 6898.)

164. Paying Less in Louisiana Than Elsewhere.—Any person engaged in the business of refining sugar within this State who shall systematically pay in Louisiana a less price for sugars than he pays in any other State shall be prima facie presumed to be a party to a monopoly or combination or conspiracy in restraint of trade and commerce, and upon conviction thereof shall be subject to a fine of five hundred dollars a day for the period during which he is adjudged to have done so. Any person convicted of violating the provisions of this section shall have his license to do business in Louisiana revoked and canceled; and any domestic corporation shall be liquidated, and any foreign corporation shall be ousted from the State, and its property sold. If the refining business of any person, firm or corporation, is conducted in violation of this provision of this act, or in violation of the obligation to operate any refinery as a public utility, the court may if irreparable injury to the public interest is shown appoint a receiver over such business at any stage of the proceedings, and the receiver may after he has been sworn and has given bond in such amount as the court shall have fixed be authorized to carry on the business, if the public interest requires it, until the termination of the suit. (Id. § 6899.)

165. Idle Refineries.—Whenever it shall be made to appear to the satisfaction of any court of competent civil jurisdiction, by affidavit or otherwise, either in limine or after trial, that any refinery has been closed or kept idle for more than one year, it shall be presumed that such refinery was closed and is being kept idle for the purpose of violating or in aid of a violation of this act, or of the laws of the State forbidding monopolies, combinations and conspiracies in restraint of trade and commerce, but it shall be the duty of the court to receive and consider any and all evidence whether by affidavit or otherwise which may rebut this presumption; and if the court shall find that the facts do not fairly rebut the presumption herein established, then it shall issue an order to the owner of such

refinery, requiring that same be sold to bona fide third parties within a delay to be fixed by the court not to exceed six months from the date of such order, and if, at the expiration of that time, said plant be not sold, the court shall appoint a receiver to take possession of same, under such bond as it may fix, and said receiver shall be authorized to make sale, or lease or other disposition of same, under the direction of the court, all within twelve months of the order appointing him. In computing said period of one year, any plant shall be treated as idle which has not been operating bona fide. No sale or lease under this section or under this act shall be made to any individual who has been connected with the management of said refinery nor to any corporation nor firm composed in whole or in part of said individuals and no corporation or partnership shall buy or lease said plant if more than 30 per cent of its stock be held by former stockholders of the offending corporation: Provided all sales by receivers under this or other sections of this act shall be made according to the law governing sheriff's sales. (Id. § 6900.)

166. Procedure Where Act Violated.—Any person, firm or corporation, owning or operating a refinery who is charged with violating this law, and shall be made defendant in a suit by the State for forfeiture of charter, or for cancellation of license to do business in the State, and for ouster therefrom, may, upon showing by the State that the conspiracy, monopoly, or acts charged are detrimental to the general public welfare, be ruled into court, at any stage of the proceedings, to show cause why an injunction should not issue, or a receiver be ordered to take charge of the defendant's business, with power to operate after having been sworn and given bond as fixed by the court. From the order of the judge, upon any such rule, a suspensive appeal without bond shall lie on the original papers, returnable within five days; and in the Appellate Court said cause shall be heard and determined within forty days after the appeal is lodged, provided should said appeal be lodged during the vacation of said court, said period of forty days shall begin immediately after the termination of said vacation. (Id. § 6901.)

167. Penalties.—The violation of any of the provisions of this act not otherwise provided for, or of any of the regulations promulgated by the State Inspector of Sugar Refining shall be punished by a fine of not less than fifty dollars and not more than twenty-five hundred dollars. Each day's violation of this act shall constitute a separate offense. This fine, and any other fines, imposed in this act shall be recovered, and the enforcement of any provisions of this act may be had in any court of competent civil jurisdiction, at the suit of the State through the Attorney-General on his own motion, or through the district attorney of the district in which the defendant is domiciled, or in which the offense has been committed, when so directed by the Governor, or by the Attorney General. (Id. § 6902.)

168. Evidence.—In any suit instituted under this act the judge shall give to books, letters and other documents (or apparent copies thereof), of the defendant full effect as being what they purport to be and as establishing the facts carried on their face unless there is sufficient rebuttal or countervailing proof against same; and such books, letters, or other documents (or apparent copies thereof.) shall be received in evidence without other formality than proof of their having been in the archives or in the possession or under the control of the defendant; and the judge shall receive in evidence, any report by any legislative committee of the State of Louisiana, or of the Senate or House of Representatives of the United States or of any bureau or department, or of any commission, organized or acting under the authority, either of the State of Louisiana or of the Senate or the House of Representatives of the United States pertinent to the issue, and likewise he shall receive in evidence any record or parts of the same of any court of any State, or of the United States, in any suit or legal proceeding to which the defendant is or was a party, provided that the whole of any such record shall be produced, unless it is shown by the certificate of the custodian thereof that the whole record is not obtainable and provided further the testimony of a witness, shall not be received unless the party against whom same is offered has had the opportunity to cross-examine; but the defendant may put such record in evidence whether the State or other plaintiff has had the right to cross-examine or not, and any such report or record or testimony shall be prima facie evidence of the facts set forth therein, subject, however, to rebuttal by any competent evidence. (Id. § 6903.)

169. Exception.—In all cases under this law, the defendant shall file all exceptions in limine lites, if need be in the alternative, after the usual delays and such additional delays as the court may allow; provided, however, that a plea to the jurisdiction shall not be considered waived by other pleas or exceptions filed under the reservation thereof. The judge shall take up such exceptions in preference over all other business and shall decide all questions raised therein within

ten days after submission, and his ruling shall have the effect of *res judicata*, unless the party cast shall appeal, within five days. The appeal shall be returnable to the Appellate Court within ten days, where the case shall be heard and determined within forty days. Should said exceptions be overruled by final judgment of the Appellate Court, the defendant must file his answer covering all questions of controverted fact within fifteen days thereafter, and the case may be set down for trial on the application of either party, in which case the judge shall take up the consideration of the matter, in preference over all other business. (Id. § 6904.)

170. Appeals From Interlocutory Judgments.—Any and all interlocutory judgments in cases affected by this act not otherwise provided for herein shall be appealable within five days, and shall be heard and determined in the Appellate Court within twenty days after appeal is lodged and any interlocutory judgment not appealed except those rendered during the progress of the trial shall be final; and shall not be reopened on final appeal. (Id. § 6905.)

171. District Attorney's Fees.—The district attorney, prosecuting any case to judgment for the State under this act, shall be paid such reasonable fee out of the property of the defendant as the court may fix, same to be taxed as costs. (Id. § 6906.)

172. Business of Sugar Refining Defined.—The business of refining sugar within the meaning of this act is hereby defined to be that of any concern that buys and refines raw or other sugar exclusively, or that refines raw or other sugar from sugar taken on toll, or that buys and refines more raw or other sugar than the aggregate of the sugar produced by it from cane grown and purchased by it. (Id. § 6907.)

173. "Persons" Defined.—The word "person," or "persons," whenever used in this act shall be deemed to include all firms, and all corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country. (Id. § 6908.)

NOTE: See also No. 21.

Tea.

See No. 21.

Sanitation.

See No. 24 et seq.; the beverage law, No. 32 et seq.; the dairy law, No. 44 et seq.; the meat law, No. 133 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

174. Sale or Advertisement of Drug, Etc., for Procuring Abortion Prohibited—Penalty.—Whoever shall for the purpose or with the criminal intent of procuring a premature delivery or abortion, sell or lend or offer to sell or lend, or advise the use, or in any way or form, advertise, or expose for sale, either orally or in writing, or who shall, in any form or manner, distribute any drug, potion or instrument or any article or thing to any person shall be guilty of a felony and on conviction shall be punished by imprisonment in the penitentiary for the term not exceeding two years. (Supp. 1924, p. 385, Act 88 of 1920.)

175. Printing or Publishing an Advertisement of Any Secret Drug to Procure Abortion Prohibited; Penalty.—Whoever prints or publishes an advertisement of any secret drug or nostrum purporting to be for the exclusive use of females or which cautions females against their use when in a condition of pregnancy, or in any way publishes an account or description, of any secret drug or nostrum purporting to be exclusively for the use of females, or for preventing

conception or procuring abortion or miscarriage, shall be fined five hundred (\$500) dollars and imprisoned for not less than ten days nor more than six months. (Supp. 1924, p. 385, Act 95 of 1920.)

176. Obscene Literature and Articles.—If any person shall bring or cause to be brought into this State, for sale or exhibition, or shall sell or offer to sell or shall give away or offer to give away, or having possession thereof, shall knowingly exhibit to another, any indecent pictorial newspaper, tending to debauch the morals, or any indecent or obscene book, pamphlet, paper, drawing, lithograph, engraving, daguerrotype, photograph, picture or any model cast, instrument or article of indecent and obscene use, or shall advertise any of said articles or things for sale, by any form of notice, printed, written or verbal, or shall manufacture, draw or print any of said articles, with intent to sell or expose, or to circulate the same, such person so offending, shall be guilty of a misdemeanor, and, on conviction, shall be punished by fine and imprisonment or both at the discretion of the court. (R. S. 1915, § 2088.)

Caustic Alkali.

177. Language of Labels.—Every can, or other container, containing a caustic alkali, must bear a label on which is printed or stamped in red ink, the words "POISON" and the skull and cross-bones. The label shall also have printed thereon in red ink, the antidote for such caustic alkali contained in the can, or other container, in order that "First Aid" may be given in case of poisoning by same. (Supp. 1924, p. 218, Act 95 of 1924, § 1.)

178. "Caustic Alkali" Defined.—The term caustic alkali shall be defined for the purpose of this act, as synonymous with what is commonly known as concentrated lye. (Id. § 2.)

179. Penalty.—Any person, firm, corporation, or manufacturer, who violates any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) for each offense, or shall be imprisoned for not less than ten (10) days nor more than thirty (30) days, or both such fine and imprisonment at the discretion of the court. (Id. § 3.)

Insecticides and Fungicides.

180. Commissioner May Make Rules.—The Commissioner of Agriculture and Immigration, hereinafter designated in this act as the commissioner, shall have power to make and establish rules, regulations and standards to carry out the designs and purposes of this act and for the purpose of maintaining effective control over the manufacture and sale in this State of Paris green, calcium arsenate, lead arsenate and all other insecticides and fungicides, etc. (Supp. 1924, p. 1327, Act 233 of 1924, § 1.)

181. Registration of Dealers.—Before any manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc.; who shall sell, offer or expose for sale or distribution in this State, any Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide, shall first register by filing with the commissioner the name of each brand of said preparation; the name and address of the manufacture, importer, jobber, firm, association, corporation, dealer or person, etc.; the minimum per cent of arsenic or other toxic chemical or compound present; the specific name of each ingredient used in its manufacture and the weight of the packages in which the material is packed. The words "Paris green, calcium arsenate, lead arsenate and all other insecticides and fungicides," mentioned and used in this act, shall apply only to insecticides and fungicides used on cotton, field crops, gardens, orchards, fruits, etc., for the control or destruction of insect life and fungus diseases. (Id. § 2.)

182. Certificate From Commissioner.—Every manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc.; proposing to deal in Paris green, calcium arsenate, lead arsenate or any other insecticides or fungicide, after filing the statement provided for with the commissioner shall receive from the said commissioner a certificate, stating that he has complied with the foregoing section; which certificate shall be furnished by the commissioner without any charge therefor. (Id. § 3.)

183. Tags for Packages.—Every lot, package or parcel of Paris green, calcium arsenate, lead arsenate, or any other insecticide or fungicide, offered or ex-

posed for sale or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof containing a legible and plainly printed statement in the English language clearly and truly certifying:

- (a) The net weight of the lot, package or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and address of the manufacturer, importer, jobber, firm, association, corporation, dealer, or person, etc.; responsible for placing the commodity on the market;
- (d) The minimum per cent of arsenic or other toxic chemical or compound present;
- (e) The specific name of each ingredient used in its manufacture. (Id. § 4.)

184. Refusing and Revoking Registration.—The commissioner shall have the power to refuse to register any Paris green, calcium arsenate, lead arsenate, or any other insecticide or fungicide under a name, brand or trade-mark, which would be misleading or deceptive, or which would tend to mislead as to the materials of which it is composed. Should any Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide be registered in the State and it is afterward discovered that such registration is in violation of any of the provisions of this act, the commissioner may cancel such registration, or may revoke and recall the certificate referred to in section 3 of this act. The commissioner shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc.; to lower the guaranteed analysis of any brand of Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide unless satisfactory reasons are presented to the Commissioner for making such change or changes. (Id. § 5.)

185. Inspection Charges.—All manufacturers, importers, jobbers, firms, associations, corporations, dealers or persons, etc.; for the purpose of defraying the expenses connected with the enforcement of this act and the inspection analysis of Paris green, calcium arsenate, lead arsenate and all other insecticides and fungicides, shall pay to the commissioner the sum of fifty cents per one hundred pounds for Paris green and ten cents per one hundred pounds for calcium arsenate, lead arsenate and all other insecticides and fungicides. All moneys derived from this act shall be deposited with the fiscal agent of the commissioner and checked out by the commissioner in defraying the expenses of inspection, analysis, clerical assistance and supervision as may become essential in the execution of the law, or for such other purpose as may be deemed necessary by the commissioner, provided that not more than two-thirds of the total revenue received from the operation of this law shall be spent by the commissioner in the employment of inspectors, clerical assistance, etc.; and not less than one-third shall be transmitted quarterly to the State Chemist, which amount shall be deposited by him with the fiscal agent of the State Experiment Stations of the Louisiana State University and Agricultural and Mechanical College, and used by the State Chemist in providing necessary scientific and clerical assistance, laboratory equipment, etc.; for the analysis of the various materials covered by this act. (Id. § 6.)

186. Tax Stamps.—Manufacturers, importers, jobbers, firms, associations, corporations, dealers or persons, etc.; who have registered their brands in compliance with section two of this act, shall forward to the commissioner a request for tax stamps, stating that the said stamps are to be used on brands of Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide registered and sold in accordance with this act and said request shall be accompanied with the inspection tax, whereupon it shall be the duty of the commissioner to issue stamps to parties applying who shall attach said stamps to each lot, package or parcel at shipping or selling point. All manufacturers, importers, jobbers, firms, associations, corporations, dealers or persons, etc.; are hereby forbidden to attach stamps described by this section to any lot, package or parcel of Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide which has not been previously registered as required in section two of this act and which is not in accordance with all provisions of this act. The commissioner is hereby empowered to adopt a form for said stamps. (Id. § 7.)

187. Statement by Dealers to Commissioner.—Every manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc.; who has registered Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide for sale within the State of Louisiana shall mail to the commissioner on forms, provided by the commissioner, within forty-eight hours of each sale, shipment or delivery, a statement, showing the official name of the insecticide or fungicide, the guaranteed analysis, the quantity and the name and address of the purchaser to whom sold, and the initials and numbers of the car, if sold in car lots. (Id. § 8.)

188. Commissioner's Right of Entry.—The commissioner in person, or by deputy, shall have the power to enter into any car, warehouse, store, building, boat, vessel or place supposed to contain insecticides or fungicides, for the purpose of inspecting or sampling, and shall have the power to take samples for analysis from any lot, package or parcel of insecticides or fungicides. It shall be unlawful for any person to oppose the entrance of said commissioner or deputy, or in any way interfere with the discharge of his duty. All analysis shall be made by the official methods of the Association of Official Agricultural Chemists of the United States. (Id. § 9.)

189. Dealers Must Comply With Act.—It shall be unlawful for any manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc., to sell or offer for sale any Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide, without having attached thereto such tax stamps as are required by law, or to use the required tax stamp a second time to avoid payment of the tax, or to sell adulterated or misbranded Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide, Paris green, calcium arsenate, lead arsenate and all other insecticides and fungicides shall be deemed to be misbranded if it carries any false or misleading statement upon or attached to the lot, package or parcel, or if any false or misleading statements concerning its value are made on the lot, package or parcel, or in any printed advertising matter issued by the manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc., that registered said Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide, or if the number of net pounds set forth upon the package, lot, or parcel is not correct. It shall be the duty of the Attorney-General and the several district attorneys, when requested by the commissioner, to institute suit to enjoin any manufacturer, importer, jobber, firm, association, corporation, dealer or person, etc., resident or non-resident, from manufacturing or selling or soliciting orders for the sale of Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide, for use in this State without complying with all the provisions in this act, which injunction may be issued without bond or advance cost. (Id. § 10.)

190. Commissioner's Right to Seize.—Any Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide sold, offered or exposed for sale within this State in violation of any provisions of this act shall be liable to seizure at the instance of the commissioner. Upon complaint being filed by the commissioner in person or by duly authorized deputy, with any district judge or a justice of the peace, describing the Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide and the place where it is believed said Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide is sold, offered or exposed for sale in violation of the law, such district judge or justice of the peace shall issue his warrant directing and commanding the sheriff or any constable of his parish to search such place, and if the law is being violated to seize the Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide, and it shall be the duty of the officer to whom such warrant is delivered to search the place described in the warrant and to seize all Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide found therein which is in violation of the law, and if admission into such place is refused, the officer executing said warrant is hereby authorized to force open the same. If it shall appear at the hearing before the district judge or a justice of the peace who issued said writ, that the Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide was sold, exposed or offered for sale in violation of any provisions of this act, said Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide shall be condemned and delivered to an officer or agent of the commissioner to be sold by or under the direction of the commissioner and the net proceeds paid to the insecticide and fungicide account of the commissioner for the purpose of enforcing the provision of this act. The sale shall be made at the court house door in the parish in which the seizure is made. Said Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide shall be sampled and subjected to analysis if necessary or tagged or branded and otherwise brought into compliance with the requirements of this act, before being sold. The commissioner, however, may, in his discretion, release the Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide seized or condemned upon the payment of the required tax or charge and all costs and expenses incurred in any proceedings connected with such seizure and condemnation, and upon compliance with all other requirements of this act. (Id. § 11.)

191. State Chemist.—The Director of the Experiment Stations of the Louisiana State University and Agriculture and Mechanical College shall be the State

Chemist as herein designated. A copy of the analysis of the State Chemist or that of his assistant making the analysis of any Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide certified to by him shall be admissible as evidence in any court of the State on trial of any issue involving the merits of the insecticides and fungicides covered by this act. (Id. § 12.)

192. What Not Covered by Act.—Nothing contained in this act shall interfere with Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide passing through the State in transit, nor shall apply to the delivery of materials to manufacturers of Paris green, calcium arsenate, lead arsenate or any other insecticide or fungicide for manufacturing purposes. (Id. § 13.)

193. Penalty.—Any manufacturer, importer, jobber, firm, association, corporation, dealer or persons, etc., violating any provision or section in this act, or any rule, regulation or standard of the commissioner, promulgated under this act, shall be deemed guilty of a misdemeanor and upon conviction, shall be fined not less than fifty dollars nor more than two hundred and fifty dollars for each offense. (Id. § 14.)

Pharmacy, Poisons and Narcotics.

194. "Pharmacy" Defined.—It shall hereafter be unlawful for any other than registered pharmacists to compound medicines, drugs or chemicals, or to institute or conduct any apothecary or drug store, or pharmacy for compounding drugs, medicines or chemicals or for any person to be employed therein or placed in charge thereof, for the purpose of compounding drugs or chemicals under prescription or otherwise. Every store or shop where drugs, medicines or chemicals are sold at retail, displayed for sale at retail, where physicians' prescriptions are compounded or which has upon it, or in it as a sign the words "Pharmacist," "Pharmacy," "Apothecary," "Drug Store," "Druggist," "Drugs," shall be considered a pharmacy within the meaning of this act. (R. S. 1915, § 5411, as amended Supp. 1924, p. 1368, Act 223 of 1924.)

195. Qualifications for Registered Pharmacist.—Any person not less than twenty-one years of age, presenting an affidavit setting forth a practical experience of four years in the manipulating and compounding of physicians' prescriptions, in drug stores, under the supervision of a licensed pharmacist, shall be entitled to registration after passing a satisfactory examination before the State Board of Pharmacy; and any person, not less than eighteen years of age, shall be entitled to registration as a qualified assistant pharmacist after having two years' apprenticeship service under a registered pharmacist and after having passed a satisfactory examination before the State Board of Pharmacy.

After December 31, 1927, any person not less than twenty-one years of age, presenting an affidavit setting forth a practical experience of two years in the manipulating and compounding of physicians' prescriptions, in drug stores, under the supervision of a licensed registered pharmacist, and possessing a diploma from a reputable college, school, or department of pharmacy, the status of the institution to be adjudged and approved by the State Board of Pharmacy, and provided that the educational qualification of the applicant shall be not less than one year in high school, or its equivalent, or more, as the Board of Pharmacy may require, shall be entitled to registration as a registered pharmacist, after having passed a satisfactory examination before the State Board of Pharmacy.

Qualifications for Qualified Assistants.—Any person not less than eighteen years of age, presenting an affidavit setting forth a practical experience of not less than two years in the manipulating and compounding of physicians' prescriptions, in drug stores, under the supervision of a licensed registered pharmacist, or possessing a diploma from a reputable college, school, or department of pharmacy, the status of the institution to be adjudged and approved by the State Board of Pharmacy, and provided that the educational qualifications of the applicant meet the requirements of the said Board of Pharmacy, shall be entitled to registration as a qualified assistant, after having passed a satisfactory examination before the State Board of Pharmacy.

A qualified assistant pharmacist shall have the right to act as clerk or salesman in a drug store and assume charge thereof for not more than twenty-four consecutive hours, during the absence of the registered pharmacist thereof.

Apprentices.—It shall be the duty of all registered pharmacists, who take into their employ an apprentice, for the purpose of becoming a pharmacist, to report to the Board of Pharmacy such facts regarding his schooling and preliminary qualifications as the State Board of Pharmacy may require for the purpose of regis-

tration. The State Board of Pharmacy shall furnish the proper blanks for this purpose and issue a certificate as registered apprentice at a cost of not more than one dollar.

Renewal of Certificate; Fees.—Every registered pharmacist and every qualified assistant shall apply for a renewal of said respective certificate annually, on or before the first day of January of each year after his or her registration, and pay therefor to the secretary-treasurer of the State Board of Pharmacy a renewal fee to be fixed by the said board not exceeding the sum of one dollar. Upon payment of said fee, a renewal certificate of registration shall be issued such registered pharmacist or such qualified assistant. Such renewal certificate shall be attached to the original certificate of registration issued such registered pharmacist or such qualified assistant and conspicuously displayed. Any registered pharmacist or any qualified assistant failing to apply for said renewal certificate, or who shall neglect or refuse to pay the annual renewal fee hereinabove provided, on or before the thirty-first day of March following the date when the said annual fee becomes due, shall be considered delinquent, and all privileges heretofore conferred upon him or her by the said State Board of Pharmacy, shall be ipso facto suspended, and his or her certificate ipso facto revoked by the said State Board of Pharmacy and he or she shall cease to have authority to carry on the practice of pharmacy until he or she shall be reinstated.

Refusal to Renew Certificate.—In order to be reinstated to the enjoyment of such privileges after a suspension or revocation in the above manner, it shall be necessary for such registered pharmacist or such qualified assistant to pay to the secretary-treasurer of the State Board of Pharmacy the regular renewal fee, together with the amount to be fixed by the State Board of Pharmacy not to exceed fifty per cent thereof as a delinquency penalty. If any registered pharmacist or qualified assistant shall neglect or refuse to pay said annual renewal fee, together with the amount not to exceed fifty per cent as a penalty for a period of five consecutive years, due notice calling such registered pharmacist's or such qualified assistant's attention to said delinquency shall be mailed to such registered pharmacist or such qualified assistant at his or her last known post office address on record in the office of the Secretary of the State Board of Pharmacy, and such registered pharmacist or such qualified assistant who shall then neglect, fail or refuse to pay all delinquent annual fees then due, together with the delinquency penalties within thirty days following the issuance and mailing of such notification, in that event his or her certificate of registration and all other privileges held by and conferred upon such registered pharmacist or qualified assistant by the State Board of Pharmacy, shall be ipso facto revoked, and the secretary of the said board shall make proper record thereof.

Reinstatement.—No registered pharmacist nor qualified assistant whose registration and privileges have been so revoked may regain said certificate and be reinstated to such privileges of the State Board of Pharmacy except by making application to or on supplying to said board proof sufficient of reason which the board may deem, justifying said delay or neglect, and upon paying to the secretary-treasurer of the board the regular sum or amount equal to the five years' annual renewal fee, together with the additional amount not to exceed fifty per cent as the penalty, as hereinabove provided.

The Board of Pharmacy shall have the right to prepare, or cause to be prepared, rules and regulations of the provisions of the law, general, as well as of a specific nature, for the guidance and information of pharmacists. (R. S. 1915, § 5412, as amended Acts 1926, No. 304, § 1.)

196. Act Does Not Apply to Whom.—The foregoing provisions of this act shall not apply to or affect any person who shall be engaged in the actual preparation, compounding and dispensing of medicines or drugs in the drug and apothecary business as proprietor of the same, or as qualified assistant therein at the time of the passage of this act, except in so far as relates to registration and fees provided in section five [5415]. A qualified assistant engaged in the business at the time of the passage of this act, is one who has had not less than two years' practical experience in the preparation, compounding, and dispensing of medicines, or drugs in the drug and apothecary business. All other actual assistants actually engaged in the business at the time of the passage of this act, shall, upon the completion of a like term of two years' experience, be entitled to registration as qualified assistants without examination; provided, that nothing contained in this act shall in any manner whatever interfere with the business of any registered practitioner of medicine, nor in any way prevent him from administering or supplying his patients with such drugs and medicines as he may deem fit and proper, nor shall it interfere with the making and dealing in proprietary remedies, popularly called

patent medicines, nor prevent storekeepers from dealing in and selling the commonly-used standard medicines and poisons, if all such standard medicines and poisons included in this section, conform in all respects to the requirements of section 7 [5417]. Nor shall this act apply to any planter furnishing medicines to hands in his employment or leasing lands from him. (R. S. 1915, § 5413.)

197. Right of Board to Hear Evidence.—In case the Board of Pharmacy shall have reason to doubt the truth of the allegations of any affidavit made under the provisions of the foregoing section, it shall have the right to examine into and hear evidence thereon, and if convinced of the falsity thereof, it shall have the right to refuse registration, subject to the right of the applicant to appeal to the courts by mandamus; provided, that false swearing in an affidavit hereinabove mentioned, shall be deemed perjury, and liable to punishment as in other cases under existing law. (Id. § 5114.)

198. Licentiates From Other States—Fee.—Where the applicant neither furnishes the diploma nor affidavit required by the foregoing sections, he shall have the right to registration after having passed a satisfactory examination by the Board of Pharmacy as to his qualifications and capacity, which board shall thereupon register the applicant, and shall grant to him a certificate of registration as pharmacist, the same as in the case of the production of a diploma or affidavit as hereinabove provided. The Board of Pharmacy may grant certificates of registration to licentiates of such other State boards, or the duly constituted authorities or other countries, without further examination.

The Board of Pharmacy shall have the right to exact and collect from applicants, before issuance of a certificate, twenty-five dollars (\$25.00) for an examination of the applicant. (Id. § 5415, as amended Acts 1926, No. 304, § 2.)

199. Board of Pharmacy.—Upon the promulgation of this act, the Governor shall appoint a Board of Pharmacy, to consist of nine (9) reputable pharmacists, who shall be licentiates of the Louisiana State Board of Pharmacy and who have been registered not less than five years in Louisiana the terms of three of whom shall expire on the thirty-first day of December, 1925, three on the thirty-first of December, 1927, and three on the thirty-first of December, 1929. Upon the expiration of the respective terms of office the said members so appointed, their successors shall be appointed for a term of six years each. Any vacancy occurring in the membership of the board, by death, resignation, or otherwise, shall be filled for the unexpired term by appointment by the Governor. Immediately after the appointment of its members under the provisions of this act, said Board of Pharmacy shall elect a president, and a secretary-treasurer, who shall serve in such capacity during their membership on the board.

In addition to its duties in holding examinations and granting certificates of registration and renewals thereof, and performing other duties required of said board, it shall report to the prosecuting officer of the State of Louisiana all persons violating the provisions of this act. It shall also report biennially to the Governor of the State upon the condition of pharmacy in Louisiana and make recommendations for the improvement of its practice, as well as a record of the proceedings of the board during the preceding year.

The Louisiana State Pharmaceutical Association may biennially report to the Governor the names of such registered pharmacists as the said association shall deem best qualified to fill any vacancy which may occur on said Board of Pharmacy and the Governor may select from such names so submitted those he may deem best qualified for appointment as members of the Board of Pharmacy. (R. S. 1915, § 5416, as amended Supp. 1924, p. 1370, Act 223 of 1924.)

200. Labeling; Prescriptions.—All pharmacists, druggists or apothecaries, shall label all bottles, vials, jars, boxes, parcels, packages or other receptacles, or coverings, or wrappings of drugs, medicines or chemicals sold or dispensed by them with a label in legible writing or printed letters, giving the name of the proprietor of the store, the name of the physician prescribing, or shop and the place of sale of said drug, medicine or chemical; and in case the medicine, drug or chemical be of a nature poisonous to the human system or to animals, said label shall have printed thereon a skull and cross-bones, with the word "Poison" in large, heavy lettering. All prescriptions shall have in addition thereto a number, the name of the person actually and personally compounding the same, the directions for its use internally or externally, and the date of its compounding. (R. S. 1915, § 5417.)

201. Unregistered Doctors, Pharmacists and Dentists Not to Receive State License.—It shall be the duty of the State Tax Collectors and sheriffs, or other officers exercising the duties of State Tax Collectors, throughout the State, to demand and require satisfactory proof of registration in accordance with the laws

of this State, from all practitioners of medicine, pharmacy and of dentistry when applying for State license. (Id. § 6494.)

202. When Licenses May Issue.—State tax collectors and sheriffs, or other officers exercising the duties of State tax collectors, are hereby forbidden to issue State tax licenses without first complying with the provisions of section 1 [6494] of this act. (Id. § 6495.)

203. Name of Patient to be Written on Prescription.—All physicians, surgeons and dentists upon writing a prescription shall first write the name of the patient on the prescription issued, and it shall be unlawful for any druggist or pharmacist to fill any prescription unless the name of the patient shall appear thereon. (Acts 1926, No. 327, § 1.)

204. Name of Patient to be Written on Label of Package.—All druggists and pharmacists upon filling any prescription, shall first write or print the name of the patient on the label which shall be securely attached to the bottle, box, or package containing the medicine or drugs prescribed. (Id. § 2.)

205. Penalty.—It shall be a misdemeanor for any physician, surgeon or dentist to issue a prescription without complying with the provisions of this act; and that it shall be a misdemeanor for any druggist or pharmacist to fill any prescription without complying with the provisions of this act; and upon conviction shall be sentenced to serve not less than ten days nor more than thirty days, or fined not less than \$5.00 nor more than \$25.00 or both, in the discretion of the court. (Id. § 3.)

206. Itinerant Vendors.—Any itinerant vendor of any drug, nostrum, ointment or application of any kind, intended for the treatment of disease or injury, or who may by writing, print or other methods, profess to cure or treat disease or deformity by any drug, nostrum, manipulation, or other expedient in this State, shall if found guilty, be fined in any sum not less than twenty (\$20) dollars and not exceeding one hundred (\$100) dollars for each offense, to be recovered in an action of debt, before any court of competent jurisdiction, or shall be imprisoned for a term of not less than (10) days or more than thirty (30) days, or be both fined and imprisoned. (R. S. 1915, § 4491.)

207. Definitions.—The following words are defined as herein set forth:

(a) Association. The term "association" includes any combination of two or more persons, not incorporated nor constituting a copartnership.

(b) Person. The term "person" includes any corporation, association, copartnership or one or more individuals.

(c) Physician. The term "physician" means licensed practitioner of medicine, or osteopathy.

(d) Apothecary. The term "apothecary" means a licensed pharmacist or druggist.

(e) Dentist. The term "dentist" means a licensed practitioner of dentistry.

(f) Veterinarian. The term "veterinarian" means a licensed practitioner of veterinary medicine.

(g) Medicine. The term "medicine" means a drug or preparation of drugs in suitable form for use as a remedial or curative substance.

(h) Sale. The term "sale" includes offer for sale and each sale made by any person, whether principal, proprietor, agent, servant or employee.

(i) Dispense. The term "dispense" includes distribute, leave with, give away, dispose of, and deliver to or to any agent to be delivered to.

(j) Administer. The term "administer" is limited to personal administration.

(k) Cocaine. The term "cocaine" shall include coco leaves or any compound, manufacture, sale, derivative or preparation thereof, including alpha or beta eucaine or any of their salts or any synthetic compound of any of them, but shall not include decocainized coco leaves or preparation made therefrom or any other preparations of coco leaves which do not contain cocaine.

(l) Opium or its derivatives. The term "opium or its derivatives" shall include opium, morphine, codeine, heroin and any compound, manufacture, salt, derivative or preparation of any of them.

(m) Habit-forming drugs. The term "habit-forming drugs" shall mean cocaine and opium or its derivatives as herein defined.

(n) Manufacturer. The term "manufacturer" means one who produces or prepares habit-forming drugs from the crude materials or their products or by-products for the use of the drug trade.

(o) Wholesaler. The term "wholesaler" includes jobber and means one who sells habit-forming drugs in substantial quantities to the trade or for commercial or manufacturing purposes, but not in quantities for personal use or individual consumption and who does not sell at retail.

(p) Lawful quantity. The term "lawful quantity" used in connection with opium or its derivatives means: Shall be left to the discretion of a reputable, qualified, registered physician. (Supp. 1924, p. 1244, Act 252 of 1918, § 1.)

208. Power of Board of Health.—The State Board of Health is hereby empowered to make all needful or helpful rules, regulations, rulings and decisions which in its judgment may be necessary or proper to supplement or effectuate the purposes and intent of this bill or to interpret or clarify its provisions or to provide the procedure or detail requisite in its judgment to effectually secure the proper enforcement of its provisions, which rules, regulations, rulings and decisions, when made and promulgated by the State Board of Health, shall become rules, regulations, rulings and decisions of said board and until modified or rescinded shall have all of the force and effect of this bill. The State Board of Health may for cause deemed by it to be sufficient, after having given reasonable notice and opportunity to be heard, revoke any certificate of authority issued by the board and revoke, cancel or withhold official blanks issued or applied for. The said board shall have the power to inspect and examine any hospital, sanatorium, institution or place in which persons are treated for drug addiction. The State Board of Health shall have the power to administer oaths, compel the attendance of witnesses, the production of books and papers and to take proof and testimony concerning all matters within the jurisdiction of said Board of Health. (Id. § 2.)

209. Acts Prohibited; Registry.—No person shall possess, sell, distribute, administer or dispense cocaine or opium or its derivatives except as expressly and specifically authorized by the provisions of this bill, and any unauthorized possession, sale, distribution, administration or dispensation of such drugs is hereby declared to be dangerous to the public health and a menace to the public welfare. No manufacturer, wholesaler, apothecary, physician, dentist, veterinarian or private hospital, sanatorium or institution maintained or conducted in whole or in part for the treatment of disability or disease or inebriety or drug addiction shall purchase, receive, possess, sell, distribute, prescribe, administer or dispense cocaine or opium or its derivatives unless prior thereto he shall have registered with the State Board of Health his name or style, place of residence and place or places where such business is to be carried on, and received from said board a certificate authorizing him to carry on such business. During the month of January after this bill takes effect he shall so register with the State Board of Health. During each month of June, thereafter, he shall, in like manner, register with the said Board of Health. (Id. § 3.)

210. Manufacturer to Have Certificate.—Each manufacturer, shall before selling or distributing any cocaine or opium or its derivatives within or for use or distribution within the State make application to and receive from the State Board of Health a manufacturer's narcotic drug certificate authorizing the sale and distribution within the State. He may sell and distribute such drugs within or for use or distribution within the State only so long as such certificates shall remain unrevoked. (Id. § 4.)

211. Wholesaler to Have Certificate.—Each wholesaler shall, before selling or distributing any cocaine or opium or its derivatives within or for use or distribution within the State, make application to and receive from the State Board of Health a wholesaler's narcotic drug certificate authorizing the sale and distribution by him of such drug with or for use or distribution within the State. He may sell and distribute such drugs within or for use or distribution within the State only so long as such certificate shall remain unrevoked. (Id. § 5.)

212. Orders Upon Official Blanks.—A hospital, sanatorium or other institution maintained by the United States or the State or any of its political subdivisions, or a public or private hospital or other institution in which persons are treated for disability or disease, or a public hospital, sanatorium or institution in which persons are treated for inebriety or drug addiction, or a private hospital, sanatorium, institution or place in which persons are treated for inebriety or drug addiction which shall have an unrevoked certificate of authority issued by the State Board of Health, or a wholesaler, apothecary, physician, dentist or veterinarian may possess cocaine or opium or its derivatives only after he shall have obtained the same from the State Board of Health or in pursuance of a written order to the manufacturer, wholesaler or apothecary offering to sell the same which shall contain the date of the order, the name and amount of the drug ordered and the name and address of the person ordering the same, which said order shall be made in triplicate upon serially numbered blanks to be procured from the State Board of Health. The person giving the order shall retain one of such triplicate orders on file for a period of two years and send the other two to the person to whom the order is given who shall retain one of said duplicates on file for a

period of two years and upon filling the order shall forthwith mail the other to the State Board of Health. No order shall be given to a manufacturer or wholesaler unless such manufacturer or wholesaler at the time of the giving of such order is authorized by certificate of the State Board of Health to sell or distribute the drug ordered within or for use or distribution within the State. (Id. § 6.)

213. Manufacture, Etc., of Preparations Containing Opium Regulated.—(a)

A person may manufacture, sell, dispense or possess preparations and remedies, not otherwise prohibited by law, which do not contain more than lawful quantity of opium or its derivatives; all liniments, ointments and other preparations containing any of such drugs which are prepared and suitable for external use only; provided, that such remedies and preparations are manufactured, sold, dispensed or possessed as medicines and not for the purpose of evading the intention and purposes of this article.

Veterinarians.—(b) A veterinarian may possess cocaine or opium or its derivatives in such quantities as he may require for the purpose of administering or dispensing and may administer or dispense the same in the course of his professional practice. He may prescribe any of such drugs but not for use by human being. Each prescription issued by him shall be signed by him and contain in legible English the name and address of the owner of the animal for which and the date when the prescription is issued.

Dentists.—(c) A dentist may possess cocaine or opium or its derivatives in such quantities as he may require for the purpose of administering the same in the course of his professional practice. He may administer the same to persons under his immediate treatment and in the course of legitimate practice of his profession, prescribe or dispense cocaine or opium to relieve pain or suffering on the part of a patient or to effect a cure.

Apothecaries.—(d) An apothecary may, upon a prescription written upon an unofficial prescription blank, signed by and containing the office address of a physician or a dentist and the name, age and address of the person for whom and the date when issued, dispense cocaine or opium or its derivatives provided such prescription does not contain more than five grains of cocaine or more than thirty grains of opium or more than six grains of codeine or more than four grains of morphine or more than two grains of heroin; also upon a like prescription if it contain any such drugs in excess of said respective quantities if it be stated upon the prescription that it is to be used in the treatment of surgical cases or a disease other than drug addiction. Each such original prescription, serially numbered, shall be kept by him in a separate file for a period of two years and such prescription shall not be refilled; provided, however, that if any such prescription does not contain more than lawful quantity of such drug it need not be separately filed; and provided, further, that if any such prescription call for an exempt preparation or remedy prepared in accordance with "U. S. P.", "N. F." or other recognized or established formula usually carried in stock by a dealer and sold without a prescription, it need not be separately filed and may, upon request, be refilled. He may also, upon the prescription in writing, signed by a physician or a dentist, and containing his office address and the name, age and address of the person for whom and the date when issued, within four days of such date, otherwise dispense cocaine, or opium or its derivatives, within or in excess of the quantities hereinbefore mentioned, if such prescription be written upon a serially numbered official prescription blank, delivered to him in duplicate; provided he keep one of said duplicates in a separate file for a period of two years, and within twenty-four hours mail the other duplicate to the State Board of Health. Such prescription shall not be refilled.

He may also, upon the prescription in writing, dated and signed by a veterinarian, and containing his office address and the name and address of the owner of the animal for which the drug is prescribed, dispense cocaine or opium or its derivatives provided he keep such prescription on file for a period of two years. Such prescription shall not be refilled except by physicians, when prescribing in emergencies for drug addicts. Said prescription not to be repeated for the same addict.

Physicians or Dentists.—(e) A physician or a dentist may in the course of the legitimate practice in good faith of his profession, and for the purpose of relieving or preventing pain or suffering on the part of a patient, or to effect a cure, administer, prescribe, or dispense cocaine or opium or its derivatives as follows: At his discretion, with no intent on the part of the physician or dentist to evade the intent and purpose of his act.

If he otherwise administer or dispense of any of such drugs, he shall record in writing, upon a serially numbered official physician's or dentist's dispensing blank in

duplicate, to be procured from the State Board of Health, in legible English or Latin, the name and quantity of the drug and the form in which administered or dispensed, the name, age and address of the person from whom, and the date when administered or dispensed, and shall sign his name. He shall keep the original of such dispensing blank on file for at least two years, and shall, within twenty-four hours, mail the copy to the State Board of Health.

The provisions of this section relating to the conditions under which unofficial and official prescriptions and dispensing blanks may be used are, to the department, directory only, and may by rule or regulations of the State Board of Health, from time to time, be changed or modified to meet existing conditions. (Id. § 7, as amended Act 165 of 1920.)

214. Possession of Drugs Further Restricted.—No manufacturer, wholesaler, apothecary, physician, dentist or veterinarian shall obtain, possess, control, distribute or dispense any cocaine or opium or its derivatives for any purpose other than the use, sale or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate conduct or practice in good faith of his business or profession. (Supp. 1924, p. 1248, Act 252 of 1918, § 8.)

215. Labels.—Whenever an apothecary, pursuant to a prescription written upon an official prescription blank, shall dispense cocaine or opium or its derivatives, or whenever a physician shall dispense any of such drugs, a record of which is required to be kept upon an official physician's dispensing blank, he shall securely affix to the container of such drug a label stating in legible English the name and address of the physician prescribing or dispensing and the apothecary, if any, dispensing and the date when and the name and address of the person for whom and the name and quantity of the drug dispensed and contained in the container. Provided, however, that it be not required to state upon the label the name and amounts of the drug in said container if the amount is not in excess of five grains of cocaine or thirty grains of opium or sixteen grains of codeine or four grains of morphine or two grains of heroin. (Id. § 9.)

216. Authorized Possession of Drugs by Consumer.—A person for whom cocaine or opium or its derivatives shall have been dispensed by an apothecary or physician, for the dispensing of which no label is required to be affixed to the container, and the owner of an animal for which any such drugs shall have been dispensed by a veterinarian or an apothecary upon the prescription of a veterinarian, may lawfully possess the same. A person for whom any such drugs shall have been dispensed by an apothecary or physician, for the dispensing of which a label is required to be affixed to the container, may lawfully possess in the container delivered to him by the apothecary or physician, and upon which the label signed by the apothecary or physician is affixed an amount of such drug not exceeding that stated upon the label. (Id. § 10.)

217. Administering of Drugs by Hospitals and Institutions.—A hospital, sanatorium or other institution maintained by the United States or the State or any of its political subdivisions, or a public hospital or other institution in which persons are treated for disability or disease other than drug addiction, or a public hospital, sanatorium or institution in which persons are treated for inebriety or drug addiction or a private hospital or institution registered with the State Board of Health in which persons are treated for disability or disease other than drug addiction, or a private hospital, sanatorium, institution or place in which persons are treated for inebriety or drug addiction, and which shall have an unrevoked certificate of authority issued by the State Board of Health may, under the supervision of a physician, administer cocaine or opium or its derivatives to inmates who are under the treatment as patients. (Id. § 11.)

218. Private Hospitals and Institutions to be Authorized.—Cocaine or opium or its derivatives shall not be administered in nor shall any person be treated for inebriety or drug addiction in a private hospital, sanatorium, institution or place maintained or conducted in whole or in part for the treatment of inebriety or drug addiction unless a certificate of authority shall first have been procured from the State Board of Health authorizing the same, and then only so long as such certificate shall remain unrevoked. Certificate or permit shall not be withheld from any reputable physician or institution. (Id. § 12.)

219. Hypodermic Syringe.—No person except a dealer in surgical instruments, apothecary, dentist, veterinarian or nurse, attendant or interne of a hospital, sanatorium or institution in which persons are treated for disability or disease, shall at any time have or possess a hypodermic syringe or needle unless such possession be authorized by the certificate of a physician issued within the period of one year, prior thereto. (Id. § 13.)

220. Records and Reports—Manufacturer.—(a) Each manufacturer, who shall sell or distribute any cocaine or opium or its derivatives within or for use or distribution within the State shall keep a record in detail of all such drugs manufactured by him and a record of all such drugs sold or distributed by him within or for use or distribution within the State, which record shall contain the date of each sale or distribution, the name and amount and form of each such drug so sold or distributed, and the name and address of each person to whom so sold or distributed. He shall annually make and mail to said board a detailed report, on oath, setting forth all of the information contained in such records.

Wholesalers.—(b) Each wholesaler who shall purchase or receive or sell or distribute any cocaine or opium or its derivatives within the State or for use or distribution within the State, shall keep a record in detail of all such drugs so purchased or received by him, which shall contain the date of each purchase or receipt, the name and address of the person from whom and the name and quantity of each such drug so purchased or received. He shall also keep a like record in detail of all such drugs sold or distributed by him within or for use or distribution within the State, which shall contain the date of each such sale or distribution, the name, amount and form of each such drug so sold or distributed and the name and address of each person to whom so sold or distributed. He shall quarterly, or oftener, if required by the State Board of Health, mail to the board a detailed report on oath, setting forth all of the information contained in such records.

Apothecary.—(c) Each apothecary shall keep a record of all cocaine or opium or its derivatives purchased or received by him which shall contain the date of each purchase or receipt, the name and address of each person for whom and the name and quantity of each such drug purchased or received. He shall also keep a record of the amount of each such drug sold by him at wholesale or, sold or dispensed by him upon official order blanks, which shall contain the date when, the name and address of each person to whom and the name and quantity of such drug so dispensed. He shall also keep a record of the amount of each of such drugs used by him in the preparation or preparations and remedies, together with the amount used for each such purpose and how such preparations or remedies have been disposed of. He shall also keep a record of the gross amount of each of such drugs dispensed by him upon prescription. He shall, as required by the State Board of Health, make and mail to the said board a report setting forth such of the information contained in such records as the board may require, together with the amount of each such drug on hand upon the date of such report.

Physicians.—(d) Each physician shall keep a record of all cocaine or opium or its derivatives purchased or received by him, which shall contain the date of each purchase, or receipt, the name and address of each person from whom and the name and quantity of each such drug purchased or received. He shall also keep a record of the gross amount of each of such drugs administered by him to patients, dispensed by him to patients while absent from his office in personal attendance upon them, and dispensed by him to patients in quantity not exceeding lawful quantity. He shall also keep a record of each of such drugs otherwise dispensed by him, which shall contain the date when, the name and address of each person to whom and the name and amount of each such drug so dispensed. He shall as required by the State Board of Health, make and mail to the said board a report setting forth such of the information contained in such records as the commissioner may require, together with the amount of each such drug on hand upon the date of such report.

Hospitals.—(e) Each hospital, sanatorium or other institution authorized by the provisions of this bill to administer cocaine or opium or its derivatives, shall keep a record which shall contain the date of each purchase or receipt, the name and address of each person from whom and the name and quantity of each such drug purchased or received. It shall also keep a record of the gross amount of each drug administered. It shall, as required by the State Board of Health, make and mail to the said board a report setting forth the information contained in such records, together with the amount of each such drugs on hand upon the date of such report.

Dentists and Veterinarians.—(f) Each dentist and veterinarian shall keep a record which shall contain the date of each purchase or receipt by him of cocaine or opium or its derivatives, the name of each person from whom and the name and amount of each drug purchased or received. Each dentist shall also keep a record of the gross amount of each such drug administered. Each veterinarian shall also keep a record of the gross amount of each drug administered, or dispensed. He shall, as required by the State Board of Health, make and mail to the said board a report setting forth the information contained in such records, together with the amount of each drug on hand upon the date of such report.

The State Board of Health may require each person authorized to manufacture, distribute, dispense, sell, prescribe or administer any of such drugs, to keep such additional records and make such other further or different reports as it may determine. Each prescription written upon an official blank and each other record, except prescriptions required to be kept by an apothecary, shall be contained in books the leaves of which shall be permanently bound together. Each record required by the provisions of the bill to be kept shall be kept in a place easily accessible and shall be accessible to the State Board of Health for a period of at least two years. (Id. § 14.)

221. Drugs Delivered to State Board of Health.—All drugs which have been seized and judicially determined to have been unlawfully possessed or the title to which shall have ceased and the same shall have come into the hands of a peace officer shall, upon the direction of a court or magistrate, be delivered to the State Board of Health. Drugs may be surrendered to the State Board of Health. All drugs in the final possession of the State Board of Health may be disposed of by the said board. (Id. § 15.)

222. Exemptions From Restrictions.—The provisions of this article restricting the possession of cocaine, opium or its derivatives shall not apply to common carriers or warehousemen or their employees engaged in lawful transportation of storage of such drugs, nor to public officers or employees while engaged in the performance of their official duties, nor to temporary incidental possession on the part of employees or agents of persons lawfully entitled to possession. (Id. § 16.)

223. Records Confidential.—All papers, records, information, statements and data filed with the State Board of Health or kept by any person pursuant to the provisions of this bill, and all records of proceedings or actions taken by the said board pursuant to the provisions of this bill, shall be regarded as confidential, and shall not be open to inspection by the public or any person other than the official custodian of such records, such persons as may be authorized by law or the State Board of Health to inspect such records, and the persons duly authorized to prosecute or enforce the Federal statutes or the laws of the State of Louisiana, but then only for the purpose of such prosecution or enforcement. No employee or other person shall disclose or aid in the disclosure of such, or any part of such papers, records, information, statements, or data to any person not authorized by law or the State Board of Health to inspect the same. (Id. § 17.)

224. Habitual Use of Cocaine, Etc.—Commitment of Sufferer.—The habitual use of cocaine, opium or its derivatives, except as administered, prescribed or dispensed by a physician, is hereby declared to be dangerous to the public health and safety. Whenever a complaint is made to any district judge that any person is addicted, or upon the voluntary application to him of an addict, he may, if satisfied of the truth thereof and that the person is suffering from such drug addiction, commit such person to a State, parish or city hospital, or institution, or any correctional or charitable institution maintained by the State or any political subdivision thereof, having facilities for treatment, or private hospital, sanatorium or institution having a license from the State Board of Health, for the treatment of disease or inebriety; which said certificate the board is hereby authorized to grant. Any court having jurisdiction of a defendant who is a prisoner in a criminal action or proceeding, if it appears that such defendant is an habitual user of any such drugs and is suffering as a result of such addiction, may likewise commit such defendant, at any stage of such action or proceeding and may direct a stay of proceedings, or suspend sentence or withhold conviction pending the period of such commitment. Whenever the chief medical officer of such an institution shall certify to the committing magistrate or court that any person so committed has been sufficiently treated, or give any other reason which is deemed by the magistrate or court to be adequate and sufficient, he may in accordance with the terms of commitment discharge the person so committed, or return such person to await the further action of the court; provided, however, that when such a commitment is to an institution under the jurisdiction of a department of correction, or other similar department in a city of the first class, where there is a parole commission established pursuant to law, such commission shall act in the place and stead of a chief medical officer for the purpose of making such a certificate. (Id. § 18.)

225. Voluntary Hospital Commitment.—Any public hospital, sanatorium or institution may accept as a charity patient any person voluntarily applying for treatment for drug addiction and any such institution may, if a voluntary applicant signs a statement that he is suffering from drug addiction and desires treatment, in the same manner and subject to the same rules and restrictions as if committed by a magistrate, receive such person without formal commitment, with like effect as if formally committed subject to discharge when sufficiently treated, or for any other reason deemed adequate. The State Board of Health or any local health board or

officer may likewise on such application and signed statement place the applicant in any hospital receiving such patients at public expense. The said board shall adopt blank forms of applications and orders for such treatment, and on request shall furnish copies thereof to any such institution or officer. The provisions of this section shall not restrict the right of any hospital, sanatorium or institution to accept and treat patients for drug addiction at other than public expense. (Id. § 19.)

226. Fraud, Deceit, Etc.—Any fraud, deceit, misrepresentation, subterfuge, concealment of a material fact or the use of a false name or the giving of a false address in obtaining treatment in the course of which cocaine or opium or its derivatives in excess of lawful quantity, shall be prescribed or dispensed or in obtaining any supply of such drugs shall constitute a violation of the provisions of this bill. For the enforcement of the provisions of this bill, statements, representations or acts herein referred to, shall not be privileged as confidential communications. (Id. § 20.)

227. False Representation, Etc.—No official blanks shall be issued to any person who shall have been convicted of a violation of any of the provisions of this bill unless the State Board of Health be satisfied from proof presented to it, that such violation was not willful. No person shall for the purpose of obtaining any quantity of cocaine or opium or its derivatives falsely assume the title of or represent himself to be a wholesaler, pharmacist, druggist, physician, dentist or veterinarian or to be engaged in the conduct of lawful business in or use or distribution of any such drug, nor utter any false or forged order or prescription for or label affixed to the container of any of such drugs or alter, deface or remove any such label or keep any false record or make any false report under the provisions of this bill. (Id. § 21.)

228. Revocation of Licenses.—Any license heretofore issued to any physician, dentist, veterinarian, pharmacist, druggist or registered nurse may be revoked or suspended by the proper officers or boards having power to issue licenses to any of the foregoing upon proof that the licensee is addicted to the use of any habit-forming drug or drugs after giving such licensee reasonable notice and opportunity to be heard. Whenever it shall appear that such licensee has fully recovered and is no longer an addict to any of such drugs, such board may grant a rehearing and in its discretion reissue or reinstate the license of such licensee. Whenever any pharmacist, druggist, physician, dentist, veterinarian or registered nurse shall have been convicted of the violation of any of the provisions of this article, any officer or board having power to issue licenses to any such physician, dentist, veterinarian, pharmacist, druggist or registered nurse may, after giving such licensee reasonable notice and opportunity to be heard, suspend or revoke the same. (Id. § 22.)

229. Penalties.—A violation of any of the provisions of this bill shall constitute a misdemeanor. (Id. § 23.)

230. Exception and Exemption Not Required to be Negated.—In any complaint, information, indictment or other writ or in any action or proceeding laid or brought under or for the enforcement of any of the provisions of this bill, it shall not be necessary to negative an exception or exemption and the burden of proof shall be upon the defendant or person proceeded against to establish affirmatively any exception or exemption claimed. (Id. § 24.)

231. Cocaine.—It shall be unlawful in this State to sell, give, barter or exchange at retail, any cocaine, "crown" or concoction in which cocaine is the principal ingredient, except upon the written prescription, each time, of an authorized practicing physician, other than a physician owning, controlling or in any manner connected with the store or individual offering cocaine, "crown" or concoction in which cocaine is the principal ingredient for sale, gift, barter or exchange and at wholesale, except to duly licensed and registered druggist. (R. S. 1915, § 2174.)*

232. Penalty.—Every violation hereof be a misdemeanor and punishable upon conviction by a fine not exceeding twenty-five dollars not less than five dollars, or imprisonment not exceeding thirty days, or both at the discretion of the court. (Id. § 2175).*

233. Sale Prohibited.—No person shall possess, sell, dispose of, transport, deliver, in any form whatever in the State of Louisiana, the plant known as Marajuana, or any of its derivatives, either dried, or in the form of cigarettes, tobacco or any other way whatsoever. (Supp. 1924, p. 389, Act 41 of 1924, § 1.)

234. Use of Marajuana in Cigarettes, Etc., Prohibited.—No person shall possess, sell, deliver, dispose of or manufacture any cigarette, tobacco, or other smoking or chewing or snuffing article which either in whole or in part contains any plant either in the dried form or otherwise of the Mexican plant known as Marajuana. (Id. § 2.)

*But see the subsequent law in No. 207 et seq.

235. Penalty.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) and imprisoned in the Parish jail for not less than thirty (30) days nor more than six (6) months. (Id. § 3.)

236. How May be Sold.—The provisions of this act shall not be construed to apply to the sale, distribution, giving away, dispensing or possession of preparations and remedies which do not contain more than one-half grain of the solid extract of Cannabis Indica, Cannabis America or Marajuana or its equivalent to one fluid ounce, or to liniments, ointments or other preparations which are prepared for external use only; provided such remedies and preparations are prescribed, sold, distributed, given away, dispensed or possessed as medicines and not to evade the purpose of this act. (Id. § 4.)

237. Sentence Not to be Suspended.—No court shall have the power or authority to suspend the sentence of any person or persons convicted under the provisions of this act. (Id. § 5.)

Serum, Vaccine, Etc.

238. Selling Hog Cholera Serum Obtained From State.—If any person, persons, firm or corporation who shall have received hog cholera serum from the State Live Stock Sanitary Board, for the use of such person, persons, firm or corporation, shall thereafter sell the same, he shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not less than fifty (\$50.00) dollars, nor more than two hundred and fifty (\$250.00), dollars or be imprisoned for not more than sixty (60) days, or both such fine and imprisonment at the discretion of the court. (R. S. 1915, § 1740.)

239. Vaccination.—Said Board [of Health] shall have power and authority to make all needful rules, regulations and ordinances upon the subject of vaccination within the parish of Orleans; provided, that nothing in this act shall be construed to render vaccination in any case compulsory; the said board shall encourage vaccination, and shall furnish pure and fresh vaccine matter to the district sanitary inspector and city physicians for the purpose of gratuitous vaccination, and the furnishing of such vaccine matter shall be paid by the said Board of Health. (Id. § 705.)

240. Introduction of Contagious Substances Forbidden.—It shall be unlawful for any person or persons to introduce or attempt to introduce or use into the State of Louisiana any substance, matter or thing which, in the opinion of the Board of Health of the State of Louisiana, may produce a liability to contagion or infection of any disease among the population of the State of Louisiana, whether the same shall be in the form of bacteria germs, microbes, virus (vaccine virus excepted), or other substances, matters or things containing or supposed or claimed to contain the elements of any contagious or infectious disease, disorder, or malady, or whether the same be claimed to be, or really is for the purpose of inoculation or any other purpose, unless the person or persons so introducing the said substance, matter or thing, shall have obtained, prior to said introduction, the permission, in writing, from the said Board of Health of the State of Louisiana, which permission shall specify the manner, condition, form and method in which said substances, matters or things shall be introduced and used within the limits of the State, the terms of which permit shall be strictly complied with by the person or persons so introducing the said substance, matter or thing, under the pains and penalties for the violation of the same, as hereinafter provided by this act. (Id. § 707.)

241. Penalty.—Any person or persons who shall introduce or attempt to introduce, or use any such substance, matter or thing into the State of Louisiana, or shall violate the permit granted by the Board of Health, shall be arrested, removed to and detained at the lower quarantine station, and shall be subjected, together with his apparel, baggage, goods and effects, to the same treatment, fumigation and disinfection as an infected person, and to detention for such a length of time as the Board of Health of the State of Louisiana may deem necessary, and to the seizure and destruction of said contagious or infectious substance, matter or thing. (Id. § 708.)

Venereal Disease Drugs.

242. Drugs May be Sold Only on Prescription.—It shall be unlawful for a druggist or any person to sell any drug, medicine or preparation or preparations,

advertised, called for or labeled as a cure or treatment of a venereal disease, except on written prescription of a licensed physician. (Supp. 1924, p. 1711, Act 61 of 1918, § 5.)

243. Board of Health to Make Regulations.—The State Board of Health may make all necessary rules and regulations for carrying out the purposes of this act. Such rules and regulations shall be printed in pamphlet or folded form in sufficient numbers for free distribution among the physicians, sanitariums, and the general public. (Id. § 6.)

244. Penalty.—Every person who violates any of the provisions of this act, or any rules or regulations made hereunder, shall be guilty of a misdemeanor and upon the first conviction shall be fined not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00); for the second conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than four hundred dollars (\$400.00); and for each subsequent conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or may be imprisoned for not less than ten days nor more than six months, or may be both fined and imprisoned in the discretion of the court. (Id. § 7.)

Intoxicating Liquors.

245. Manufacture, Sale, Etc., of Intoxicating Liquors for Beverage Purposes Prohibited—Permit for Non-Beverage Purposes Required.—No person shall manufacture, sell, or in any manner dispose of, transport, deliver or possess intoxicating liquors within this State, export the same from or import the same into this State for beverage purposes.

No person shall manufacture, sell or in any manner dispose of, transport, deliver or possess intoxicating liquors within this State, export the same from, or import the same into this State for non-beverage purposes, unless he shall be the holder of a legal permit therefor from proper Federal authorities. (Supp. 1924, p. 1072, Act 39 of 1921, § 1.)

246. Penalties.—Any person who shall violate the provisions of this act by manufacturing, or having in possession, for sale, or by selling intoxicating liquors shall be guilty of a misdemeanor, and upon conviction for the first offense shall be fined not more than five hundred dollars (\$500.00), and be imprisoned not less than ten days nor more than sixty days, and for the second or subsequent offense, shall be fined not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00), and be imprisoned not less than thirty days nor more than twelve months; and any person who shall otherwise violate the provisions of this act shall, upon conviction, be fined as herein above provided, or may be imprisoned not exceeding the maximum limits herein above provided, or may be both fined and imprisoned, at the discretion of the court. (Id. § 3.)

247. "Liquor" and "Intoxicating Liquors" Defined—"Person" Defined—"Vehicle" Defined.—The word "liquor" or the phrase "intoxicating liquors" wherever used in this act shall be construed to include alcohol, whiskey, brandy, rum, gin, beer, ale, porter, wine, and any spirituous, vinous, malt, or fermented liquor, liquids and compounds by whatever named called, and all alcoholic liquids either medicated, proprietary or patented, containing one-half of one per centum or more of alcohol by volume, which are fit for use as a beverage or for intoxicating beverage purposes.

The word "person" shall mean natural persons, associations, co-partnerships, corporations, and their clerks, officers, agents and servants.

The word "vehicle" shall include all such means of transportation as a buggy, wagon, automobile, truck, water or air craft, etc. (Id. § 8.)

248. Sale of Malt Liquors Prohibited—Penalty.—Whoever shall sell or keep for sale any malt liquors, whether intoxicating or not, and whether containing alcohol or not, in any parish, ward, city, town or village, of this State where the sale of intoxicating liquors is prohibited by law or ordinance, shall, on conviction, be punished by a fine not less than one hundred (\$100.00) dollars, nor more than five hundred (\$500.00) dollars, or imprisoned not less than thirty (30) days nor more than six (6) months, and on failure to pay such fine shall be imprisoned for not more than six (6) months additional and for a second or subsequent offense the punishment may be doubled. (Supp. 1924, p. 1078, Act 14 of 1916, § 1.)

249. Duty of Peace Officers, Etc.—It shall be the duty of all peace officers, including the sheriff and his deputies and all policemen and town and city marshals, to aid in enforcing this law. (Id. § 2.)

250. Possession Prima Facie Evidence.—The possession in any place of business of any such malt liquors shall be prima facie evidence that same is kept for sale. (Id. § 3.)

PART IV.

Miscellaneous Laws.

False Advertising.

251. Dishonest Advertisements.—Any person, firm, corporation, or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this State, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation, or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor. (R. S. 1915, § 1750.)

252. Penalty.—Any person, firm, corporation or association who shall violate any of the provisions of this act shall, upon conviction, be fined not less than twenty-five dollars nor more than five hundred dollars, or be imprisoned in the parish jail for not less than ten days nor more than six months, or by both said fine and imprisonment at the discretion of the court for each offense. (Id. § 1751.)

Flag Desecration.

253. Definitions.—The words flag, standard, color, ensign or shield, as used in this act, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this State, or a copy, picture or representation thereof. (Supp. 1924, p. 403, Act 220 of 1918, § 1.)

254. Prohibitions as to Use of Flag.—No person shall, in any manner, for exhibition or display:

(a) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this State, or authorized by any law of the United States or of this State; or

(b) Expose to public view any such flag, standard, color, ensign or shield upon which have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or

(c) Expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance. (Id. § 2.)

255. Mutilation, Etc., Prohibited.—No person shall publicly mutilate, deface, defile, defy, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield. (Id. § 3.)

256. Exceptions.—This statute shall not apply to any act permitted by the Statutes of the United States (or of this State), or by the United States Army and Navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted

said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement. (Id. § 4.)

257. Penalty.—Any violation of section 2 of this act shall be a misdemeanor and punishable by a fine of not more than ten dollars. Any violation of section three of this act shall be a misdemeanor punishable by a fine of not more than twenty-five dollars, or by imprisonment for not more than thirty days, or by both fine and imprisonment, in the discretion of the court. (Id. § 5.)

258. How Act Cited.—This act may be cited as the uniform flag law. (Id. § 8.)

Matches.

258a. Manufacture and Sale of Parlor Matches Prohibited.—No person, association or corporation shall manufacture, store, offer for sale, sell or otherwise dispose of, or distribute, white phosphorus single-dipped strike-anywhere matches of the type popularly known as "Parlor Matches"; nor shall manufacture, store, sell, offer for sale, or otherwise dispose of, or distribute, white phosphorus double-dipped strike-anywhere matches or any other type of double-dipped matches unless bulb or first dip of such match is composed of a so-called safety or inert composition, non-ignitable on an abrasive surface; nor shall manufacture, store, offer for sale, sell, or otherwise dispose of, or distribute Blazar or so-called Wind Matches, whether of the so-called safety or strike-anywhere type. (R. S. 1915, § 4476.)

258b. Marking Boxes; Retail Regulations.—No person, association, or corporation, shall offer for sale, sell or otherwise dispose of, or distribute for use any matches, unless the package or container in which such matches are packed, bears plainly marked on the outside thereof, the name of the manufacturer and the brand or trade-mark under which such matches are sold, disposed of or distributed; nor shall more than one case of each brand of matches of any type or manufacture be opened at any one time in any retail store where matches are sold; nor shall loose boxes or paper wrapped packages of matches be kept on shelves or stored in such retail stores where matches are sold, at a height exceeding five feet from the floor; all matches when stored in warehouse must be kept only in properly secured cases or boxes, and not piled to a height exceeding ten feet from the floor; nor be stored within a horizontal distance of ten feet from any boiler, furnace, stove, or other like heating apparatus, nor within a horizontal distance of twenty-five feet from any explosive material kept or stored on the same floor; all matches shall be packed in boxes or suitable packages, containing not more than seven hundred matches in any one box or package; provided, however, that when more than three hundred matches are packed in any one box or package the said matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions; and all boxes containing three hundred and fifty or more matches, shall have placed over the matches a center holding or protecting strip, made of chipboard, not less than one and one-quarter inches wide; said slip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it. (Id. § 4477.)

258c. Packing and Shipping Regulations.—All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case shall not exceed the following number:

Number of Boxes.	Nominal No. of Matches.
½ gross	700
1 gross	500
2 gross	400
3 gross	300
5 gross	200
12 gross	100
20 gross, over 50 and under	100
25 gross, under	50

No shipping container or case constructed of fibreboard, corrugated fibreboard, or wood nailed or wire bound, shall exceed a weight including its contents, of seventy-five (75) pounds, and no lock-cornered wood case containing matches shall exceed a weight, including its contents, of eighty-five (85) pounds; nor shall any other article or commodities be packed in any such container or case; and all such containers and cases in which are packed strike-anywhere matches, shall be plainly

marked on the outside of the container or case the words "Strike-Anywhere Matches." (Id. § 4478.)

258d. Penalty.—Any person, association or corporation, violating any of the provisions of this act, shall be fined for the first offense not less than fifty dollars (\$50.00), nor more than one hundred dollars, (\$100.00); and for all subsequent violations, not less than one hundred dollars (\$100.00) for each offense, or imprisonment for six months or both. (Id. § 4479.)

Tobacco—Tobacco Products.

259. Tobacco or Cigarette Paper to Minors.—Any person who shall give, purchase for sale, barter or exchange tobacco and cigarettes or cigarette papers to minors, in the State of Louisiana, shall be guilty of a misdemeanor and on conviction thereof shall be fined not exceeding one hundred dollars nor less than twenty-five dollars, or imprisonment not exceeding sixty days, or both at the discretion of the court. Provided, that the provisions of this act shall not apply to the sale of tobacco, cigarettes and cigarette papers to minors engaged in business as merchants for the purpose of resale of same. (R. S. 1915, § 2178.)

260. Inspectors.—There shall be appointed by the Governor of the State, by and with the advice and consent of the Senate, ten inspectors of tobacco for the city of New Orleans, to be denominated the "New Orleans Board of Tobacco Inspectors." (Id. § 3523.)

261. Term of Office; Bond.—They shall be appointed for the term of four years, shall take an oath faithfully to discharge the duties of the office, as prescribed by law, and shall give bond to the State for the sum of ten thousand dollars (with two sureties for five thousand dollars, each good for the amount, to be approved by the Treasurer of the State), for the faithful performance of their duties while in office; and each person offering himself as security shall take an oath before some competent magistrate that he is worth what he is surety for, and said surety shall be liable on said bond, not only to the State, but to all persons who shall have suffered damage by the wrongful act, neglect or inattention of the inspectors. (Id. § 3524.)

262. Inspectors a Board.—It shall be their duty to organize themselves as a board, appointing one of their own number as president of the board and another secretary. Seven members shall constitute a quorum.

The board of inspectors shall have a common seal. In the absence of the president or secretary, the board shall name a president or secretary pro tempore. The president and secretary shall be chosen yearly, be allowed each two hundred dollars per annum for their services. (Id. § 3525.)

263. Duties of President and Secretary.—It shall be the duty of the president to call meetings of the board, and preside over their deliberations. It shall be the duty of the secretary to record their proceedings, and in such manner as to show the vote of each member upon questions submitted to the board. (Id. § 3526.)

264. Contracts.—All contracts of the board shall be submitted to them, and shall be approved of by a majority of the whole number of inspectors. (Id. § 3527.)

265. Rules and By-laws.—They shall have authority to make rules and by-laws for the regulation of the members in the discharge of their duties, which by-laws shall not be inconsistent with the laws and Constitution of this State and of the United States. (Id. § 3528.)

266. Warehouses.—It shall be the duty of the board to provide suitable warehouses in the city for storage of tobacco at the lowest rates at which they can be obtained, two of which shall be located in the fourth district, which warehouses shall be fire-proof, and floored with plank two inches thick, and provided with a sufficient number of presses, and shall be located at such points as will be most convenient for the reception of tobacco, and for the convenience and interest of those engaged in the tobacco trade. (Id. § 3529.)

267. Inspection.—When the tobacco is brought to the warehouse, it shall be received by the inspector or inspectors allotted to said warehouse or their clerk, who shall immediately mark with ink the warehouse numbers, commencing with one and running to the end of the year, on each end of the cask; when called on by the owner or agent to inspect a lot of tobacco, they shall cause the hogshhead or cask to be placed at a convenient distance from the press and under the eye of the inspector or their clerk to cause one head of the cask to be taken out; the cask must then be headed upon the open end, and the whole cask be taken from the tobacco and weighed. The weight of the cask being the tare, shall be marked on it with a marking iron. The inspector shall then have the tobacco broken in four

different places, from each of which he shall draw four hands or bundles of tobacco, which shall be tied up neatly and compactly, the bundle from the top breaks forming the first layer of the sample. The inspector shall be careful that the sample shall be a fair representation of the quality of the whole hogshead of tobacco, as near as he can make it. The tape or twine used in tying up the sample shall pass through the hands of tobacco, and a seal of wax shall be put on each sample. One end of the sample card which expresses the quality of the tobacco, the warehouse number, inspection number, and initial of the inspectors' names who have inspected it shall be put under the seal of wax. When a hogshead or cask of tobacco is damaged, if practicable, the damaged portion shall be cut off and held at the disposal of the owner or agent. The quantity so trimmed shall also be expressed on the sample card with ink. If the damage be to such an extent that it cannot be trimmed off, the inspectors shall refuse to classify the hogshead. They shall give a sample of it, expressing the probable extent of the damage, but without inspection seal. If upon the inspection of a hogshead of tobacco it be apparent that it is falsely or fraudulently packed, said hogshead shall be marked "condemned," and the inspectors shall refuse to give a sample of it. It shall then be at the disposal of the owner or agents subject to the same charges as if it had been inspected. If the cask or hogshead shall prove to be of green or unsound timber, the inspectors shall provide a suitable cask at the expense of the owner or agent. (Id. § 3530.)

268. Classification.—There shall be two classes of tobacco, to-wit: Admitted and Refused. The inspectors shall class as Admitted all tobacco they may find to be sound, well cured and in good keeping condition; and they shall class as Refused all such tobacco as they may find to be soft, high in case, or otherwise unsound. (Id. § 3531.)

269. Reinspection.—When the inspectors are called upon to reinspect a lot of tobacco, they shall make a copy of the original sample card, and shall write on it with ink in plain letters "reinspected," and shall give the date of the same. (Id. § 3532.)

270. Repacking and Marking.—When the inspection of one or more hogsheads of tobacco is finished, the laborers of the warehouse, under the eye of an inspector or his clerk, shall have the cask returned to the tobacco, and the loose tobacco shall also be returned, and should it be impossible to put it all in, it shall be held subject to the order of the owner; after it is placed under the press, it shall be coopered up, in good condition for shipping, each cask having six hoops.

The cask shall then be weighed by an inspector or his clerk, and the gross weight marked in ink over the tare weight. The gross weight, the tare, and the warehouse number, shall also be marked with marking irons, by cutting with the same on the bilge of the hogshead or cask, and the cask then stored away. (Id. § 3533.)

271. Inspection Book.—The particulars of each day's inspection shall be recorded in a book to be kept in each warehouse for that purpose, in which shall be noted all the marks and numbers on the cask, when received, the gross weight, tare, warehouse number, inspection number, by whom inspected, and for whose account. (Id. § 3534.)

272. Certificate of Inspection.—The samples and a certificate, corresponding with the record of inspection, shall then be issued to the owner or agent, and shall be a receipt for the tobacco. This certificate shall be transferable by indorsement or otherwise, which shall be evidence of its delivery.

When the legal holder of the certificate shall call for the delivery of the tobacco, it shall be the duty of the inspectors to have the hogsheads promptly delivered at some opening of the warehouse which is accessible by a paved street. (Id. § 3535.)

273. Temporary Receipt.—On receiving tobacco in the warehouse, the clerk of the inspectors shall give temporary receipts to the owner or agents, acknowledging the receipts thereof, which they may require to be surrendered upon the issuance of their certificate of inspection.

The inspectors shall be liable for all tobacco stored with them, and shall be responsible to all persons interested in the same, for the correctness of the sample and weights. The inspectors shall have recourse upon the particular inspector or inspectors whose neglect or wrongful act has caused the damage. (Id. § 3536.)

274. Inspectors Cannot Deal in Tobacco.—The inspectors themselves and the persons employed by them, are prohibited from dealing or trading in tobacco, either in their own names or in the names of others, in any manner whatever, or from being connected with or having any interest in the business of other persons dealing in tobacco, or putting up loose tobacco in bales or hogsheads, or from being interested in any manner in the warehouse rented by them for the storage of tobacco.

co, or from having any interest in the drayage of tobacco to and from the warehouses.

Upon conviction of the violation of any of the above prohibitions, the inspector, or other person so offending, shall be deprived of his office, and shall be subjected to a fine of not less than five hundred nor more than two thousand dollars; and any inspector, upon conviction of making willfully a false or fraudulent inspection, or accepting a bribe in relation to the discharge of the duties of his office, shall be deprived of his office and shall suffer imprisonment in the penitentiary not less than three months nor more than two years. (Id. § 3537.)

275. Inspection.—All tobacco shall be inspected by two inspectors in the presence of each other; and in case of disagreement between them a third inspector shall be called in, who shall decide upon its quality. (Id. § 3538.)

276. Same.—The inspectors shall not inspect tobacco at any other warehouses than those provided as contemplated by the preceding section. (Id. § 3539.)

277. Fees.—The fees for receiving, weighing, inspecting, storing for two months, coopering, and all other duties imposed by law upon the inspectors, shall not exceed two dollars and fifty cents per hogshead, one-half of which shall be paid by the purchaser to the seller. For reinspecting, reweighing and coopering, the charge shall be seventy-five cents for each hogshead.

On tobacco remaining in store more than two months from date of receipt, they shall charge extra storage at the rate of twenty-five cents per month. On tobacco stored on which there is no inspection, fifty cents per month. The owner or agent storing the tobacco shall be bound for the fees, and there shall be a privilege upon the tobacco for them. (Id. § 3540.)

278. Tax on Tobacco and Tobacco Products for Benefit of Public Schools.—There is hereby levied a tax in the sum as hereinafter set forth upon tobacco and tobacco products as defined in section 2 of this act for the benefit of the public schools of the State of Louisiana, which tax shall be paid and collected as set forth herein, from every person, firm, corporation, association of persons engaged in selling any or all such forms and kinds of tobacco, tobacco products and tobacco substitutes at retail. (Acts 1926, No. 197, § 1.)

279. Amount of Tax.—The tax herein levied and to be collected on all kinds of tobacco and tobacco substitutes provided for in this act shall be 1 (one) cent for each 10 (ten) cents or fractional part thereof of the retail selling price of all cigarettes, smoking and chewing tobacco, cigars, cheroots and snuff made of tobacco or any substitute thereof. (Id. § 2.)

280. Stamps Must be Affixed.—The payment of the tax as imposed in this act on articles based on retail selling price, shall be evidenced by affixing stamps in the manner and at the time as herein set out.

In the case of cigars and plug chewing tobacco, the stamps must be affixed to the box or container in which or from which normally sold as soon as received into retail place of business.

In case of cigarettes, snuff, smoking and chewing tobacco wrapped in packages the stamps must be affixed to each individual package as soon as received into retail place of business.

Stamps required to be affixed by the provisions of this act shall be fixed in such manner that their removal will require continued application of steam or water. The stamps affixed to boxes containing cigars or chewing tobacco shall be canceled by placing thereon the date of such affixing. (Id. § 3.)

281. Retail Sales.—Where the retail or selling price is referred to in this act as the basis for computing the amount of stamps required on any article, it is intended to mean the retail selling price of the article before adding the amount of the tax. (Id. § 4.)

282. Exceptions.—The provisions of this act shall apply only to articles mentioned herein made the subject of intrastate retail sales.

The provisions of this act shall not apply to insecticides or liquid sprays in which tobacco is used. (Id. § 5.)

283. Supervisor of Public Accounts to Enforce Payment of Tax.—The Supervisor of Public Accounts of the State of Louisiana shall administer the provisions of this act and enforce the payment of taxes imposed herein. It shall be his duty to purchase at the lowest price possible, quality and convenience of delivery being considered, and keep on hand in his office or some other safe depository at all times a sufficient and adequate supply of stamps in requisite denominations, to be by him determined and to supply all persons, firms, corporations or associations of persons who are retail dealers in tobacco and tobacco products. He shall have authority to establish agencies throughout the State for the convenient distribution of stamps. (Id. § 6.)

284. Money Collected to be Paid Into Treasury Monthly.—All moneys collected from the sale of stamps provided for in this act, less such commission and discounts which may be allowed as authorized herein, shall be paid into the State Treasury on or before the tenth day of each month and credited to the State Current School Fund, and shall be distributed and used in the same manner and for the same purpose as is now provided by law for the distribution and use of the State Current School Fund derived from other sources. (Id. § 7.)

285. Records to be Kept.—All persons, firms, corporations or associations of persons engaged in the retail of tobacco and tobacco products shall keep all invoices of tobacco and tobacco products bought by them, and shall permit the Supervisor of Public Accounts or his authorized agents or representatives to inspect and examine all taxable merchandise, invoices, books, papers and memoranda as may be deemed necessary by the Supervisor of Public Accounts or his authorized agent or representatives in ascertaining whether or not the tax levied herein has been paid or determined the amount of such tax as may be due. Failure of any person, firm, corporation or association of persons required to pay taxes levied herein, to preserve said invoices, or to permit the inspection and examination of taxable merchandise, invoices, books, papers and memoranda at the request of the Supervisor of Public Accounts or his authorized agent or representative, shall be a violation of this act, punishable by fine or imprisonment as set out in section 12 of this act. (Id. § 8.)

286. Penalty for Failure to Affix Stamps—Right of Supervisor of Public Accounts to Compromise.—Any person, firm, corporation or association of persons required to pay taxes under the provisions of this act, who shall fail to affix stamps properly, or to cancel such stamps after affixed as are required to be canceled, or who shall fail or refuse to permit the Supervisor of Public Accounts or his authorized agent or representative to examine and inspect taxable stocks of merchandise, invoices, books, papers and memoranda deemed necessary to secure information directly concerned in the enforcement of this act, shall suffer a penalty of twenty (\$20.00) dollars for the first offense; fifty (\$50.00) dollars for the second offense; one hundred (\$100.00) dollars for each offense thereafter, the said penalties to be collected by civil process as hereinafter provided.

The Supervisor of Public Accounts may compromise in a civil case arising under the provisions of this act instead of commencing suit thereon, and any penalties agreed to in such compromise shall be added to the tax due and collected the same as such tax. When any case is compromised the Supervisor of Public Accounts shall keep on file in his office reasons for settlement of any case by compromise, together with a statement of the amount of tax assessed, the amount of penalty imposed and the amount actually paid in accordance with the terms of the compromise. (Id. § 9.)

287. Powers and Duties of Supervisor of Public Accounts.—The Supervisor of Public Accounts shall have the power and it shall be his duty to require any person, firm, corporation or association of persons engaged in the retail sale of tobacco and tobacco products as described herein, to furnish any information by him deemed necessary for the purpose of enforcing the payment of said tax. He or his duly authorized agent or representative shall have power to enter upon the premises of any taxpayer required to pay taxes under the provisions of this act and it shall be his duty to examine or cause to be examined any taxable stocks of merchandise, invoices, all stamps purchased and unused, books, papers, or memoranda bearing upon the amount of taxes payable, and to secure other information directly concerned in the enforcement of this act. He shall have power to examine witnesses and administer oath thereto, and should such witnesses fail or refuse to appear and answer questions at the request of the Supervisor of Public Accounts, and should any person, members of any firm, officers of corporations, or members of associations of persons required to pay taxes hereunder refuse to allow the Supervisor of Public Accounts or his duly authorized agents to examine taxable stocks of merchandise, or invoices, books, papers or memoranda above referred to, the said Supervisor of Public Accounts shall certify the facts and the names of the witnesses so failing and refusing to appear and the names of the persons, firms or member or members thereof, corporations or officers or managers or employees thereof, and associations of persons or members thereof, who refuse access to the taxable stocks of merchandise or invoices, books, paper and memoranda above referred to, to the District Court having jurisdiction of the said party or parties; and said court shall thereupon issue a summons to the said witness, person, member or members of said firms, officer or manager or employee of such corporation, or associations of persons or member thereof, to appear before the Supervisor of Public Accounts or his duly authorized agent, at a place designated within the jurisdiction of the said court, on a day to be fixed, to be continued as

occasion may require, and give such evidence and open for inspection such stocks of taxable merchandise, invoices, books, papers and memoranda as may be required for the purpose of ascertaining whether or not the required tax has been paid, or the amount of such tax which may be due under the provisions of this act; and whenever it shall appear to the Supervisor of Public Accounts that any such person, firm, corporation or association of persons engaged in the retail sale of tobacco and tobacco products, as described in this act, has failed to affix stamps or cancel stamps as provided herein, the Supervisor of Public Accounts shall compute the correct amount of the tax due and so certify same as being the amount actually due and owing and shall state in what way this act is violated and he shall concurrently notify such person, firm, corporation or association of persons of such facts; and in the event of such person, firm, corporation or association of persons shall not, within five days after such notification pay the amount of tax found to be due and **owing and affix stamps** to taxable merchandise and cancel the same as provided in this act, the Supervisor of Public Accounts shall, in the name of the State, without deposit or advance cost, enter suit against such person, firm, corporation, or association of persons for the amount due and owing, together with such penalties as are provided in this act, or for the amount of such penalties alone. Such suit shall be by rule to show cause within five days why payments should not be made, and shall be tried by preference, and may be tried out of term time and in chambers. If the court upon determining the issue upon said rule shall adjudge the defendant in said rule as being due and owing the tax as alleged in said rule or any part thereof, or that the defendant has violated this act as alleged, in the same judgment the court shall assess the penalty fixed in section 9 of this act, and the court, at its discretion, may allow reasonable attorney's fees in said judgment. All such penalties as may be assessed in such judgments, together with such tax, shall be collected and deposited as a part of said tax. (Id. § 10.)

288. Reports of Violations to be Filed.—It shall be the duty of the Supervisor of Public Accounts to report in detail all violations hereunder to the district attorney having jurisdiction over such offenses as soon as practicable and without unnecessary delay. At the same time he shall send a copy of said report to the president of the parish school board of the parish in which the violations occur. He shall state in such report whether or not he has entered into any compromise agreement in regard to such violation, and, if so, the terms and conditions of such compromise and the amount paid in accordance with such compromise. (Id. § 11.)

289. General Penalty.—Any person, the members of any firm, the officers and managers of any corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be fined for the first offense in a sum of not less than ten (\$10.00) dollars, nor more than fifty (\$50.00) dollars; and for each subsequent offense thereafter shall be fined in a sum not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars, or shall be imprisoned in the parish jail for a term of not less than ten days nor more than sixty days, or both fine and imprisonment may be imposed for said second and subsequent offenses in the discretion of the court. The conviction and sentence for the violation of the provisions of this act as herein provided shall in no way interfere with the imposition and collection of the civil penalties provided in section 9 of this act. (Id. § 12.)

290. Penalty for Using Canceled or Counterfeit Stamps.—Whoever willfully removes or alters the cancellation of defacing marks of, or otherwise makes or prepares any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such counterfeit, washed, or restored stamps, to any person for use, or knowingly uses the same, or has in his possession any counterfeit, washed, restored or altered stamp, which has never been used or which has been removed from the article to which it had been previously affixed, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand (\$1,000.00) dollars, or by imprisonment for not more than two years, or both fine and imprisonment at the discretion of the court. (Id. § 13.)

291. Appropriation \$50,000 Annually.—The cost of preparing and distributing the stamps required to be furnished and the inspection and auditing duties required herein shall be borne by the State Current School Fund; and for said purposes there is hereby appropriated from the Current School Fund the sum of \$50,000.00 (fifty thousand and 00/100 dollars) for the years 1926-27 and the sum of \$50,000.00 (fifty thousand and 00/100 dollars) for the years 1927-28. (Id. § 14.)

292. Constitutional Provision.—If any clause, sentence, paragraph, or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph,

or any part thereof, directly involved in the controversy in which said judgment has been rendered. (Id. § 15.)

293. Act Effective October 1, 1926—Act terminates in Four Years.—This act shall go into effect on October 1st, 1926.

This act shall terminate at the end of four years from the date of enforcement, it being the purpose of this provision that the school system shall have the benefits of the taxes enforced by its provisions for the term of four years only. (Id. § 16.)

NOTE: See also No. 233 et seq.

Trade-Marks, Etc.

294. Unlawful to Counterfeit Trade-Mark.—Whenever any person, or any association or union of workmen, has heretofore, adopted or used or shall hereafter adopt or use any label, trade-mark, term, design, device or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise, or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workmen or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or to use, sell, offer for sale or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement. (R. S. 1915, § 6963.)

295. Penalty.—Whoever counterfeits or imitates any such label, trade-mark, term, design, device or form of advertisement; or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement; or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other products of labor contained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months. (Id. § 6964.)

296. Recordation With Secretary of State.—Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, design, device or form of advertisement as provided in section 1 of this act (6963), may file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed has the right to the use of the same; that no other person, firm, association, union or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement. Said Secretary of State shall not record for any person, union or association any label, trade-mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device or form of advertisement heretofore filed by or on behalf of any other person, union or association. (Id. § 6965.)

297. Fraudulent Recordation.—Any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade-mark, term, design, device or form of advertisement in the office of the Secretary of State under the provisions of this act, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding three months. (Id. § 6966.)

298. Enjoining Infringement.—Every such person, association or union adopting or using a label, trade-mark, term, design, device or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and may award the complainant in any such [suit] damages resulting from such manufacture, use, sale or display as may be by the said court deemed just and reasonable, and shall require the defendants to pay to such person, association or union all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant, to be destroyed. (Id. § 6967.)

299. Unauthorized Use of Trade-Mark.—Every person who shall use or display the genuine label, trade-mark, term, design, device or form of advertisement of any such person, association or union in any manner not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not more than three months or by a fine of not more than one hundred dollars. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union. (Id. § 6968.)

300. Unauthorized Use of Name or Seal.—Any person or persons who shall in any way use the name or seal of any such person, association or union or officer thereof in and about the sale of goods or otherwise, not being authorized to use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars. (Id. § 6969.)

301. Owner May File Description of Name and Device.—Any person, firm or corporation engaged in manufacturing, bottling, selling or dealing in any beverage or food in bottles, syphons, fountains, tanks, cases or boxes, with any name, mark or device on such bottles, syphons, fountains, tank, cases or boxes, may file in the office of the clerk of the District Court having jurisdiction over civil suits in the parish where the principal place of business of such person, firm or corporation is situated a description of such name, mark or device, and cause said description to be printed once in each week for five weeks successively, in a newspaper published in the English language in the parish in which said description may have been filed as aforesaid; provided, that none of the provisions of this act shall lessen or interfere with any rights heretofore acquired by any owner of bottles, syphons, fountains, tanks, cases or boxes, under the provisions of Act No. 120 of 1896, as amended by Act No. 74 of 1904, or under the provisions of Act No. 156 of 1916. (Supp. 1924, p. 154, Act 165 of 1924, § 1.)

302. Person Not Owner Must Not Fill Container.—It is hereby declared to be unlawful for any person, firm, or corporation other than the one so filing any such name, mark or device to fill with any liquid or substance of any kind, any bottle, syphon, fountain or tank so marked and distinguished as aforesaid, or to deface, erase, or in any wise cancel such name, mark or device on any bottle, syphon, fountain, tank, case or box so marked and distinguished as aforesaid, or to buy, take, sell, give or otherwise dispose of or traffic in, or use in any manner, shape or form, or damage or destroy any such bottle, syphon, fountain, tank, case or bottle, or any part thereof, without the written consent of the person, firm, or corporation, whose name, mark or device shall be or shall have been thereon. (Id. § 2.)

303. Penalty.—Any person, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment at the discretion of the court, for the first offense, and by a fine of not less than two hundred nor more than one thousand dollars, or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment at

the discretion of the court, for each subsequent offense; provided that possession of any bottle, syphon, fountain, tank, case or box with name, mark or device as aforesaid, or parts thereof, by any person, firm or corporation designated in section 1 hereof other than the one filing such name, mark or device as aforesaid, without the latter's written consent, shall be prima facie evidence of the violation of this act; provided, further, that where a firm is guilty of a violation of this act each member thereof shall be subject to the penalties herein prescribed, and where a corporation is guilty of a violation of this act each of its officers shall be subject to the penalties herein prescribed. (Id. § 3.)

NOTE: See also the dairy law, No. 60.

Trading Stamps.

304. Trading Stamp Companies.—Trading stamp companies and all other dealers of every kind whatsoever issuing stamps to merchants or dealers, shall pay licenses based on their gross annual receipts, which licenses shall be fixed and graded, as follows, to wit:

First Class—When the gross receipts are two hundred thousand dollars or more, the license shall be ten thousand dollars (\$10,000).

Second Class—When the gross receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be eight thousand dollars (\$8,000).

Third Class—When the gross receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be six thousand five hundred dollars (\$6,500).

Fourth Class—When the gross receipts are less than one hundred thousand dollars, the license shall be five thousand dollars (\$5,000). (Supp. 1924, p. 1584, Act 205 of 1924. § 27.)

Weights and Measures.

305. False Weights and Measures.—Whoever shall falsify and knowingly sell or buy any produce or merchandise by short weights or measure, shall, on conviction thereof, be imprisoned at hard labor for a period not exceeding two years, and fined not exceeding two thousand dollars, at the discretion of the court. (R. S. 1915, § 2183.)

306. Weight of Fertilizer and of Feed to be Stamped on Package.—It shall be unlawful for any corporation, firm, manufacturer, merchant or other dealer, their agents or employees, to sell or offer for sale any Fertilizer, Cotton Seed Hulls, and Cotton Seed Meal, Corn Meal, Flour, Rice Polish, Grain, Chops, Bran, Shorts, and other feeds made from cereals of any kind, whether pure, mixed or adulterated, in sacks, barrels or other original packages unless the true weight of such Fertilizer, Cotton Seed Hulls, Cotton Seed Meal, Corn Meal, Flour, Rice Polish, Grain Chops, Bran, Shorts, and other feeds made from cereals of any kind, whether pure, mixed or adulterated, be stamped or marked upon the sacks, barrels or other packages, and which mill products, hereinafter mentioned, shall have the following standard weights:

Standard Weights.—Corn meal, bolted or unbolted, 17½, 24, 35, 48, 98 and 196 pounds per sack or package; rice polish, 200 pounds per sack; rice bran, 143 pounds per sack; other bran, chops and shorts, 100 pounds per sack; other feeds made from cereals of any kind, whether pure, mixed or adulterated, 100, 150, and 175 pounds per sack, or package.

Fractional sacks and packages shall weigh in the same proportion except as to meal, which weights shall only be as above. (Id. § 2191.)

307. Penalty.—Any corporation, shipper, manufacturer or other dealer, their agents or employees who shall violate any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction in the District Court shall be fined not less than ten nor more than twenty-five dollars. (Id. § 2192.)

308. Standard Shrimp Measure.—Shrimp shall be measured by the basket, and each basket shall contain seventy pounds avoirdupois of shrimp. (Id. § 6778.)

NOTE: See also No. 94 et seq.

309. Barrel Measure.—There shall be in this State a dry measure to be known under the name of barrel, which shall contain three and a quarter bushels, according to the American standard, and shall be divided into half and quarter barrels, and a barrel of meal or flour shall contain not less than one hundred and

ninety-six pounds net, and a barrel of mess pork shall contain not less than 200 pounds net, and a sack of bran or chops shall contain not less than 100 pounds net. (Id. § 7106.)

310. Bushel Weight.—Coal shall be sold by the barrel or bushel measure; grain shall be sold by the barrel, bushel or weight; the legal weight of a bushel of wheat shall be sixty pounds; of a bushel of corn, fifty-six pounds; of a bushel of oats, thirty-two pounds; of a bushel of barley, thirty-two pounds, and of a bushel of rye, thirty-two pounds. (Id. § 7107.)

311. Stockyard and Slaughterhouse Weighers Are Public Weighers.—The weighers employed by the slaughterhouses and stockyards of this State be and they are hereby declared to be public weighers, with all the duties and obligations customarily incident thereto, and that their certificates of the weights of all stock, both singly and in car load lots, shall be accepted by all common carriers and corporations, persons, companies and individuals doing business at the yards of the said company. (Id. § 7108.)

312. Penalty for Falsely Weighing or Measuring.—Whoever shall falsely or knowingly sell or buy any produce or merchandise by short weights or measure, shall on conviction thereof be imprisoned at hard labor for a period not exceeding two years, and fined not exceeding two thousand dollars, at the discretion of the court. (Id. § 7109.)

313. Misrepresentation of Contents or Weight of Package to be Transported.—Any person or any officer or agent of any corporation or company who shall deliver for transportation within this State to any common carrier or for whom as consignor or consignee any such carrier shall transport such property between points within this State who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of packages, or false report of weights or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property between points in this State at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment not less than thirty days or more than one year or by both such punishments in the discretion of the court. (Id. § 1754.)

314. Inspectors Abolished.—The office of inspector of weights and measures in all the parishes of this State, except the parish of Orleans, is hereby abolished. (Id. § 7110.)

315. Police Jury May Inspect.—The police jury of the several parishes throughout the State, the parish of Orleans excepted, shall have power to provide for said inspection when they deem it necessary, and regulate the duties and fees for same. (Id. § 7111.)

316. Each Parish to Get Set of Weights and Measures.—Each parish, as soon as practicable, shall be provided, at the expense of such parish, with a set of weights and measures, and a stamp conformably to those hereinbefore set forth, the same to be kept by the parish recorder. (Id. § 7112.)

317. Penalty for False Scales.—Whoever shall make, or cause to be made use of, or shall utter false stamps or seals, shall, on conviction thereof, be subjected to the pains and penalties of forgery under the laws of this State. (Id. § 7113.)

318. Penalty for Selling Unstamped Weights or Measures.—It is forbidden to sell, or cause to be sold, measures and weights, unless they have been tried and stamped by persons appointed for that purpose, under the penalties imposed by the second preceding section. (Id. § 7114.)

319. Governor to Procure Standard Sets of Weights and Measures.—The Governor, at the expense of the State, shall procure, or cause to be procured, for the use and guidance, in the city of New Orleans, of the Inspector of Weights and Measures hereinafter provided for, two complete sets of copper weights to correspond with weights of their denominations used by the revenue officers of the United States in their offices, together with scales for such weights, and stamps and seals, with such device as the Governor may deem proper; and also two complete sets of measures, calculated for dry, liquid and long measures, of the same capacity and length as those of their like denomination used by such revenue officers; one of which sets of weights and measures, together with the scales and stamps, shall be deposited in the office of the Secretary of State to serve as a general standard of weights and measures in this State; provided that in the event the equipments hereinafter prescribed now in the possession of the State is in good condition it may be used and the Governor relieved of the necessity of providing the new equipment herein authorized. (Id. § 7115.)

320. Sealing Weights and Measures.—It shall be unlawful for any person, firm or corporation to use in the conduct of any business, trade or avocation for the purpose of weighing or measuring any article for purchase or sale within the city of New Orleans any weight, measure, scale beam, patent balance, steelyard, or other instrument, or who shall maintain or operate any weight, measure, scale or other patent balance, steelyard or other instrument, whether automatic or otherwise, used for the purpose of weighing or measuring any person or animal for hire or reward, or any commodity for sale which has not been sealed and for which the certificate hereinafter provided has not been obtained from the Inspector of Weights and Measures, as required by the provisions of this act, and it shall be the duty of all persons, firms, and corporations to have any weights, measures, scale beams, patent balances, steelyards or other instruments, whether automatic or otherwise used for the purpose of weighing or measuring any person or animal for hire or reward, or any commodity for sale, inspected and sealed annually. (Id. § 7116.)

321. Inspection.—Every person, firm or corporation, using weights, measures, scale beams, patent balances, steelyards or any instrument, in weighing or measuring any article intended to be purchased or sold in the city of New Orleans, or in weighing or measuring any person or animal, for hire or reward, shall cause the same to be inspected and sealed annually by the Inspector of Weights and Measures, in accordance with the provisions of this act. (Id. § 7117.)

322. Hawkers and Peddlers.—All itinerant peddlers and hawkers using scales, balances, weights or measures or other instruments in weighing or measuring any article for purchase or sale, or intended to be purchased or sold, in the city of New Orleans, shall take same to the office of the Inspector of Weights and Measures before any use is made thereof, and have the same sealed and adjusted; and also to have the same sealed and adjusted annually; and every day such person shall use such scales, balances, weights and measures, without having the same adjusted and sealed as herein provided, shall constitute a separate and distinct violation of this act. (Id. § 7118.)

323. Inspectors.—There shall be appointed by the Governor, by and with the consent of the Senate two inspectors of weights and measures one who shall exercise the functions of his office in the First, Fourth, Sixth and Seventh Municipal Districts and one who shall exercise the functions of his office in the Second, Third and Fifth Districts, who shall have their offices in the city of New Orleans, provided, however, that the Governor shall have the power to remove from office any inspector or assistant inspector of weights and measures, or employees under said inspector, upon satisfactory proof made to him, of any negligence or failure to perform their duties or for any official misconduct. (Id. § 7119.)

324. Bond of Inspectors.—Such appointments shall be for four years; and said Inspectors shall give bond, payable to the Governor, or his successors in office, with good and sufficient sureties, in the penal sum of five thousand dollars each, conditioned for the faithful performance of the duties required of them by law. (Id. § 7120.)

325. Duties of Inspectors.—It shall be the duty of each inspector to see that no other weights and measures than those established by law are made use of in weighing or measuring in any business, trade or avocation, within the limits of the city of New Orleans. (Id. § 7121.)

326. Same.—It shall be the duty of said inspectors to inspect, not less than once each year, all weights, measures, scale beams, patent balances, steelyards, and other instruments used for weighing and measuring in the city of New Orleans and to stamp with a suitable seal, all weights and measures and scales so used and which he may find accurate, and deliver to the owner thereof a certificate of their accuracy. It shall be unlawful for any person or persons to willfully remove or destroy in any manner erase or conceal any stamp or seal of inspection from any scale, weight or measure. (Id. § 7122.)

327. Same.—The inspectors of weights and measures appointed under this act are hereby given the power;

To inspect and test the accuracy of all measures, of every kind of tools and appliance connected therewith, used or employed, to determine the weight, size, quantity or other dimensions of any liquids, solids, or other articles offered for sale, hire, or award.

To reweigh or remeasure any package put up ready for sale or delivery, or any amount of any commodity whatever, commonly so sold, at any time before the actual delivery of such package or amount of commodity to the buyer.

To enter, without formal warrant, for the purpose herein specified, and in the general performance of their official duties, any stand, place, building or premises, or to stop any wagon or other conveyance in or upon which any measure or measures, or weighed or measured packages, or amounts of commodity are

kept, maintained or carried, for the purpose of testing, inspecting, correcting and sealing, or condemning such measures, or reweighing or remeasuring such packages or amounts of commodity, either upon his own initiative or at the request of any State, municipal or parish official, or upon the written request of any person. (Id. § 7123.)

328. "Condemned" Weights and Measures.—In the event it is found that any such weights, measures, scale beams, balances, or other instruments used for weighing or measuring at the stores and places where the same may be used are not conformable to the standard of this State they shall be marked "condemned" and the owner thereof shall, within ten days thereafter have the same properly adjusted and sealed, in default of which and after conviction, he shall be fined or imprisoned in accordance with the provisions of this act. (Id. § 7124.)

329. Refusal to Exhibit to Inspector.—It shall be unlawful for any person engaged in the business of buying or selling to refuse to exhibit any weight, measure, scale beam, patent balance, steelyard, or other instrument to said inspectors, for the purpose of being so inspected and examined. (Id. § 7125.)

330. Obstructing Inspector.—It shall be unlawful for any person in any way or manner to obstruct, hinder or molest the inspector of weights and measures in the performance of his duties, as herein imposed upon him, or refuse to weigh or measure any article of merchandise or any other commodity whatever, or refuse to permit said inspector to ascertain the weight or measure of any article of merchandise or other commodity which may be sold or offered for sale. (Id. § 7126.)

331. Restrictions Upon Inspectors.—It shall be unlawful for said inspectors to vend or sell any weights, measures, scale beams, patent balances, steelyards; or other instruments to be used for weighing or to offer or expose the same for sale or purchase, or be engaged in any business, calling or occupation, where weights or measures are used or required. (Id. § 7127.)

332. Salary of Inspectors.—The salaries of said inspectors are hereby fixed at the sum of fifteen hundred dollars per annum, to be paid monthly by the city of New Orleans out of the fees collected for inspection under the provisions of this act; provided, however, that should the inspection fund be insufficient at any time to pay said salaries the city treasurer shall at the expiration of the following month or months pay the arrears out of the said fund should a surplus arise. Provided that at the expiration of each year the city treasurer shall turn over any balance of said inspection funds to the general fund of the city of New Orleans for the use of said city. (Id. § 7128.)

333. Refusal of Certificate.—Whenever it is necessary for said inspectors to employ anyone to repair defective scales or any kind of weights and measures whatever, the cost of or expense thereof shall be collected from the owner of such scales, measures or other instruments, and upon refusal of such payment, it shall be the duty of said inspector to refuse to issue the certificate provided for in section 8 of this act [7122]. (Id. § 7129.)

334. Yearly Inspection.—The fees of the inspection shall be as follows, and no more, to-wit:

For each yearly visit and inspection of a full set of steelyards, or of scale with their weights, or of balances with their weights, or of a bushel measure with its parts, or of a gallon measure and its parts, or a set of yard sticks, they shall receive twenty cents; for sealing each weight and measure four cents; for the examination of each platform scale, cotton and tobacco scale and its apparatus, thirty cents; and for sealing the same twenty-five cents; the fees in all cases to be paid by the owner of the weights and measures inspected and sealed. The stamp shall be impressed and payment required for doing the same only on such as have been stamped, or such as, having once been stamped, are found so defective as to require to be regulated with the standard, and payment thereof shall be evidenced by a certificate from such inspector. Failure to produce and exhibit such a certificate shall be deemed and treated as prima facie evidence of the violation of the provisions of this act. (Id. § 7130.)

335. Fees and Fines to be Paid to City Treasurer Daily.—All fees and fines collected or imposed under the provisions of this act or any other act shall be paid to the city of New Orleans daily and the city treasurer shall keep said collections in a separate fund from which shall be paid the salaries of the inspectors in accordance with the provisions of this act. (Id. § 7131.)

336. Penalties.—Any person, firm, corporation or itinerant peddler or hawker, convicted of violating any of the provisions of this act shall be punished as follows, viz: For the first offense, by fine of not less than twenty-five dollars or more than fifty dollars, or imprisonment for not less than ten days nor more than thirty days in the parish jail, or both in the discretion of the court; for the second

and subsequent offense, by a fine of not less than fifty dollars, nor more than one hundred dollars and imprisonment of not less than ten days or more than thirty days in the parish jail; provided that upon the second conviction of the violation of any of the provisions of this act the inspector shall seize and destroy any and all condemned weights, measures, scale beams, patent balances, steelyards, and other instruments used for weighing, found in use. (Id. § 7132.)

337. Same.—Any inspector of weights and measures convicted of violating any of the provisions of this act shall be punished by fine of not less than twenty-five dollars, or more than fifty dollars, or imprisonment of not less than ten days or more than thirty days, or both, in the discretion of the court, and such conviction shall carry with it immediate removal from office. (Id. § 7133.)

338. City Attorney Legal Advisor.—In all legal matters, suits or other proceedings the city attorney of the city of New Orleans shall act for and on behalf of the aforesaid inspector of weights and measures. (Id. § 7134.)

NOTE: See also No. 8; No. 12 et seq.; the dairy law, No. 44 et seq.; the fish law, No. 86 et seq.; the ice law, No. 130 et seq.; the meat law, No. 136 et seq.; the rice law, No. 153 et seq.; the sugar law, No. 155 et seq.; the match law, No. 258a et seq.; the tobacco law, No. 260 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Sanitary Code—Use of Saccharin in Food Prohibited—Power of State Board of Health: *State v. Snyder, *In re Snyder, 131 La. 145, 59 So. 44 (1912).

Sugar—Second Sugar—Excess Molasses—Wholesomeness Under Federal Food and Drugs Act: See McNeill & Higgins Co. v. Martin, 160 La. 443, 107 So. 299 (1926).

2. Special Food Laws.

Baker—Manufacturer—License: *State v. Eckendorf, 46 La. Ann. 131, 14 So. 518 (1894); *State v. Lanasa, 151 La. 706, 92 So. 306 (1922); *State v. E. I. Young Co., Inc., 157 La. 845, 103 So. 186 (1925).

Beverages—Cake Flavoring: *State v. Brooks, 162 La., 111 So. 335 (1927).

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Beverages—Soft Drinks—Manufacturer—License: *First Municipality v. Manuel, 4 La. Ann. 328 (1849); *Ballard v. Hammond Coca-Cola Bottling Co., 147 La. 580, 85 So. 597 (1920); *Ballard v. Kentwood Ice Manufacturing & Bottling Works, Ltd., 147 La. 583, 85 So. 598 (1920).

Bread—Bakery—Sanitation: *State v. Schlemmer, 42 La. Ann. 1166, 8 So. 307, 10 L. R. A. 135 (1890); *State Board of Health of Louisiana v. Susslin, 132 La. 569, 61 So. 661 (1913).

Bread—Inspection—Weight: *Guillotte v. City of New Orleans, 12 La. Ann. 432 (1857).

Confectioner—License: State v. Rombotis, 110 La. 433, 34 So. 593 (1903).

Cotton-Seed Products—Manufacturer—License: *Union Oil Co. v. Marrero et al., 52 La. Ann. 357, 26 So. 766 (1899).

Flour—Inspection: *Glover et al. v. Board of Flour Inspectors, 48 Fed. 348 (1891), appeal dismissed in *New Orleans Flour Inspectors v. Glover, 160 U. S. 170, 16 S. Ct. 321, 40 L. Ed. 382 (1895), reversed in *Same, 161 U. S. 101, 16 S. Ct. 492, 40 L. Ed. 632 (1896).

Flour Products—Manufacturer—License: *State v. American Biscuit Manufacturing Co., 47 La. Ann. 160, 16 So. 750 (1895).

Fruits and Vegetables—Sale From Railroad Car: *S. Zemurray & Co. v. Town of Franklin et al.*, 134 La. 803, 64 So. 719 (1914). **Spielman et al. v. City of New Orleans, Illinois Cent. R. Co. v. Same*, 45 Fed. 3 (1891).

Fruit Stands—Prohibition of Obstruction of Sidewalks by: **City of New Orleans v. Taranto*, 149 La. 864, 90 So. 224 (1921).

Hay—Inspection: **State v. Fosdick*, 21 La. Ann. 256 (1869); **Board of Hay Inspectors v. Pleasants*, 23 La. Ann. 349 (1871).

Ice Cream—Definition—Minimum Butter Fat Standard: **City of New Orleans v. Toca*, 141 La. 551, 75 So. 238, L. R. A. 1917 E, 761, Ann. Cas. 1918 B, 1032 (1917).

Ice Cream—Manufacturer—License: *City of New Orleans v. Mannessier*, 32 La. Ann. 1075 (1880); **State v. Brown*, 13 Orleans App. 472 (1916); **State Tax Collector v. Brown*, **In re Brown*, 140 La. 928, 74 So. 253 (1917); **Ballard v. Kentwood Ice Manufacturing & Bottling Works, Ltd.*, 147 La. 583, 85 So. 598 (1920).

Lard—Prohibition of Business of Rendering Lard, Grease, Etc., From Animal Matter: **City of New Orleans v. New Orleans Butchers Co-operative Abattoir*, 153 La. 536, 96 So. 113 (1923).

Markets: *Morano v. Mayor et al.*, 2 La. 217 (1831); **Devron v. First Municipality*, 4 La. Ann. 11 (1849); **First Municipality v. Devron*, 4 La. Ann. 278 (1849); **First Municipality v. Cutting*, 4 La. Ann. 335 (1849); **City of New Orleans v. Dubarry*, 33 La. Ann. 481, 39 Am. Rep. 273 (1881); **State v. Blaser*, 36 La. Ann. 363 (1884); **State v. Natal et al.*, 1 So. 923 (1887), affirmed in **Natal v. Louisiana*, 139 U. S. 621, 11 S. Ct. 636, 35 L. Ed. 288 (1891); **State v. Garibaldi*, 44 La. Ann. 809, 11 So. 36 (1892); **State v. Dubarry*, 44 La. Ann. 1117, 11 So. 718 (1892); **Same*, 46 La. Ann. 33, 14 So. 298 (1894); **State v. Sarradat, Kuntz et al.*, 46 La. Ann. 700, 15 So. 87, 24 L. R. A. 584 (1894); **State v. Fried et al.*, 46 La. Ann. 1418, 15 So. 88 (1894); **State v. Davidson*, 50 La. Ann. 1297, 24 So. 324, 69 Am. St. Rep. 478 (1898). See *Meat-Markets*, post.

Meat—Inspection Before Slaughter: **State v. People's Slaughterhouse & Refrigerating Co.*, 46 La. Ann. 1031, 15 So. 408 (1894); **City of New Orleans v. Lozes*, 51 La. Ann. 1172, 25 So. 979 (1899); **Carter v. Green*, 127 La. 490, 53 So. 729, 31, L. R. A. (N. S.) 1055 (1910).

Meat—License: **Delcambre v. Clere*, 34 La. Ann. 1050 (1882); **State v. Buisseau*, 38 La. Ann. 829 (1886).

Meat—Markets: **Town of St. Martinville v. Dugas, In re Town of St. Martinville*, 158 La. 262, 103 So. 761 (1925); **City of Baton Rouge v. Sanchez*, 108 So. 552 (1926). See *Markets*, ante.

Meat—Pork—Inspector's Liability: *Tardos v. Bozant*, 1 La. Ann. 199 (1846); *George Foster & Co. v. Baer et al.*, 6 La. Ann. 442 (1851).

Meat—Slaughterhouse: **State ex rel. Belden v. Fagan et al.*, 22 La. Ann. 545 (1870), affirmed in **Slaughter-House Cases*, 16 Wall. (83 U. S.) 36, 21 L. Ed. 394 (1872); **Berthin et al. v. Crescent City Live-Stock Landing & Slaughterhouse Co., Said Company v. F. Frelot & Co. et al.*, 28 La. Ann. 210 (1876); **Crescent City Live Stock Landing & Slaughter-House Co. v. City of New Orleans*, 33 La. Ann. 934 (1881); **Howell v. Butchers' Union Slaughterhouse & Live Stock Landing Co.*, 36 La. Ann. 63 (1884); **Butchers' Union & Slaughterhouse Co. v. Howell*, 37 La. Ann. 280 (1885); **Butchers' Union Slaughterhouse & Live Stock Landing Co. v. Crescent City Live Stock Landing & Slaughterhouse Co.*, 37 La. Ann. 874 (1885); **Villavaso et al. v. Barthet et al.*, 39 La. Ann. 247, 1 So. 599 (1887); **Darcantel et al. v. People's Slaughterhouse & Refrigerating Co. et al.*, 44 La. Ann. 632, 11 So. 239 (1892); **Thibaut v. Hebert*, 45 La. Ann. 838, 12 So. 931 (1893). **Barthet v. City of New Orleans*, 24 Fed. 563 (1885).

Meat Products—Manufacturer—License: *Ballard v. Kentwood Ice Manufacturing & Bottling Works, Ltd.*, 147 La. 538, 85 So. 598 (1920).

Milk—Adulteration: **State v. Labatut*, 39 La. Ann. 513, 2 So. 550 (1887); **State v. Callac*, 45 La. Ann. 27, 12 So. 119 (1893); **Staet v. Fourcade*, 45 La. Ann. 717, 13 So. 187, 40 Am. St. Rep. 249 (1893); **State v. Stone*, 46 La. Ann. 147, 15 So. 11 (1894); **City of New Orleans v. Villere, In re Villere*, 126 La. 514, 52 So. 682 (1910); **City of New Orleans v. Vinci*, 153 La. 528, 96 So. 110, 28 A. L. R. 1382 (1923).

Milk—Dairyman—Not Peddler—Not Subject to License Tax: **State ex rel. Brittain v. Hayes*, 143 La. 39, 78 So. 143 (1918).

Milk—Dairymen—Cow Tax: **Police Jury, etc., v. Nougues*, 11 La. Ann. 739 (1856).

Milk—Pasteurizing and Distributing Plant Not a Nuisance: *Crump v. Carnahan*, 155 La. 648, 99 So. 493 (1924).

Milk—Prohibition of Cowhouse in City: City of New Orleans v. Anderson, 9 La. Ann. 323 (1854).

Milk—Prohibition of Dairy Within Certain Limits: *State v. Mahner et al., 43 La. Ann. 496, 9 So. 480 (1891); *State v. Dulaney, 43 La. Ann. 500, 9 So. 481 (1891); Murat v. City of New Orleans, In re Murat, 119 La. 505, 44 So. 279 (1907); *City of New Orleans v. Murat, 119 La. 1093, 44 So. 898 (1907).

Milk—Requirement to Furnish Sample for Inspection and Analysis: *State v. Dupaquier, 46 La. Ann. 577, 15 So. 502, 26 L. R. A. 162, 49 Am. St. Rep. 334 (1894).

Milk—Tubercular Cow—Right to Destroy Latter Without Compensation: *City of New Orleans v. Charouleau, 121 La. 890, 46 So. 911, 17 L. R. A. (N. S.) 368, 126 Am. St. Rep. 332 (1908).

Milk—Tuberculin Test of Cows Required: *City of New Orleans v. Ernst, 155 La. 426, 99 So. 391 (1923); *City of New Orleans v. Poulet et al., 155 La. 435, 99 So. 394 (1923); *City of New Orleans v. Hartman, 155 La. 436, 99 So. 394 (1923); *City of New Orleans v. Compagnet, 155 La. 437, 99 So. 395 (1923).

Oysters—Exclusive Privilege to Sell: Rosa v. Mayor et al., 1 La. 126 (1830); La Rosa v. Mayor et al., 4 La. 24 (1832).

Oysters—Export from State Limited: *State v. Ferrandau, 130 La. 1035, 58 So. 870 (1912).

Oysters—Regulation of Sale: Morano v. Mayor et al., 2 La. 217 (1831).

Oysters—Weights and Measures: State v. Cibilich, In re Cibilich et al., 122 La. 278, 47 So. 605 (1908); *State v. Cognevich, *In re Cognevich, 124 La. 414, 50 So. 439 (1909).

Shrimp—Manufacturer of Canned Shrimp—License: *State v. Dunbar-Dukate Co., 5 La. App. 365 (1927).

Sugar—Refiner—License: *American Sugar Refining Co. v. Louisiana, 179 U. S. 89, 21 S. Ct. 43, 45 L. Ed. 102 (1900).

Sugar—Refiner—Monopoly: *American Sugar Refining Co. v. McFarland et al., 229 Fed. 284 (1916), affirmed in *McFarland v. American Sugar Refining Co., 241 U. S. 79, 36 S. Ct. 498, 60 L. Ed. 899 (1916).

3. Special Drug Laws.

Itinerant Vendors of Drugs: State ex rel. Theus v. Edwards, 105 La. 371, 29 So. 893 (1901); *State ex rel. Wynne v. Lee, 106 La. 400, 31 So. 14 (1901); *State ex rel. Pettigrew et al. v. Hall, 109 La. 290, 33 So. 318 (1903). *Baccus v. Louisiana, 232 U. S. 334, 34 S. Ct. 439, 58 L. Ed. 627 (1914).

Manufacturer of Medicine—License: *State v. G. H. Tichenor Antiseptic Co., 118 La. 685, 43 So. 277 (1907).

Medical Practice Act—Sale of Trusses: Louisiana Board of Medical Examiners v. Seeley, 14 Orleans App. 335 (1917).

Narcotic Addicts: *Interdiction of Gasquet, 147 La. 722, 85 So. 884 (1920), writ of certiorari denied in Gasquet v. Lapeyre, 254 U. S. 648, 41 S. Ct. 62, 65 L. Ed. 456 (1920).

Pharmacy: State ex rel. Martin v. State Board of Pharmacy, 105 La. 535, 29 So. 989 (1901); State ex rel. Monnier v. Board of Pharmacy, 110 La. 99, 34 So. 159 (1902); *State v. Kumpfert, 115 La. 950, 40 So. 365 (1905); Monnier v. Godbold et al., 116 La. 165, 40 So. 604, 5 L. R. A. (N. S.) 463 (1906); *De Gruy v. Louisiana State Board of Pharmacy, 141 La. 896, 75 So. 835 (1917); Ballard v. Goldsby, 142 La. 15, 76 So. 219 (1917). See also: *Allopathic State Board of Medical Examiners v. Fowler, 50 La. Ann. 1358, 24 So. 809 (1898).

Pharmacy—Domestic Remedies—Sale by Merchants: State v. Holmes, 28 La. Ann. 765, 26 Am. Rep. 110 (1876).

Pharmacy—Liability of Apothecary for Refusal to Fill Physician's Prescription: Tarleton v. Lagarde, 46 La. Ann. 1368, 16 So. 180, 26 L. R. A. 325, 49 Am. St. Rep. 353 (1894).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Drugs: McCubbin v. Hastings, 27 La. Ann. 713 (1875); Walton et al. v. Booth, 34 La. Ann. 913 (1882); Guerrin v. Huberwald, Teiss, Orleans App. Dig. 65 (1917-1923).

Food: Stringfellow v. Grunewald et al., 109 La. 187, 33 So. 190 (1902); *Doyle v. Fuerst & Kraemer, Ltd.*, In re Fuerst & Kraemer, Ltd., 129 La. 838, 56 So. 906, 40 L. R. A. (N. S.) 480, Ann. Cas. 1913B, 1110 (1911); *Castillion v. Walsten*, 10 Orleans App. 286 (1913); *Same*, 11 Orleans App. 9 (1913); *Smith v. Robinson*, In re Smith, 142 La. 104, 76 So. 255 (1917). See also: *Huntington v. Lowe et al.*, 3 La. Ann. 377 (1848); *New Iberia National Bank v. Teche Canning & Syrup Co. et al.*, 159 La. 946, 106 So. 451 (1925); *McNeill & Higgins Co. v. Martin*, 160 La. 443, 107 So. 299 (1926).

5. Miscellaneous.

*Gift Enterprise: *State v. Boneil*, 42 La. Ann. 1110, 8 So. 298, 10 L. R. A. 60, 21 Am. St. Rep. 413 (1890); **Same*, 42 La. Ann. 1207, 8 So. 300 (1890); **City of New Orleans v. Collins*, 52 La. Ann. 973, 27 So. 532 (1900); *Tonahill v. Molony*, In re Molony, 156 La. 753, 101 So. 130 (1924).

Tobacco—Inspection: Kernion et al. v. Hills et al., 1 La. Ann. 419 (1846).

*Tobacco—License Tax on Retailers: *Lionel's Cigar Store et al. v. McFarland*, 162 La., 111 So. 341 (1927).

Trade-Marks: Wolfe v. Barnett & Lion, 24 La. Ann. 97, 13 Am. Rep. 111 (1872); *Insurance Oil Tank Co. v. Scott*, 33 La. Ann. 946, 39 Am. Rep. 286 (1881); *Funke v. Dreyfus & Co.*, *Same v. Gottschalk*, 34 La. Ann. 80, 44 Am. Rep. 413 (1882); *Scott & Jacobs v. Sewell & Montieu*, 2 M'Gloin 7 (1884); *Lacroix v. Escobal*, 37 La. Ann. 533 (1885); *Lacroix v. P. Nodal & Co.*, 41 La. Ann. 1018, 6 So. 795 (1889); *Handy et al v. Commander*, 49 La. Ann. 1119, 22 So. 230 (1897); *A. Cusimano & Co. v. Olive Oil Importing Co. Ltd.*, 114 La. 312, 38 So. 200 (1905); *Whann v. Whann*, 116 La. 690, 41 So. 38 (1906); *Paducah Distilleries Co. v. Crescent Mfg. Co.*, 6 Orleans App. 151 (1909); *Arbutnot v. Cage Drew Co.*, 6 Orleans App. 374 (1909); *New Orleans Coffee Co., Ltd. v. American Coffee Co. of New Orleans, Ltd.*, 124 La. 19, 49 So. 730 (1909); *New Iberia Extract of Tobasco Pepper Co., Ltd., v. E. McIlhenny's Son et al.*, 132 La. 149, 61 So. 131 (1912); *Coca-Cola Co. et al. v. Vivian Ice, Light & Water Co.*, 150 La. 445, 90 So. 755 (1922); *Gallagher Transfer & Storage Co., Inc., v. O. K. Storage & Transfer Co., Inc., et al.*, 151 La. 734, 92 So. 317 (1922); *Cire & Delhomme v. De Gruy*, 160 La. 336, 107 So. 130 (1926). See also: *Vonderbank v. Schmidt*, 44 La. Ann. 264, 10 So. 616, 15 L. R. A. 462, 32 Am. St. Rep. 336 (1892); *Henry Bloch Co v. Menard*, 2 Orleans App. 436 (1905); *Tharp-Bultman-Sontheimer Co. v. Tharp-Sontheimer-Tharp, Inc., et al.*, 147 La. 765, 85 So. 906 (1920); *Yellow Cab Co. of New Orleans, Inc., v. Jones*, 156 La. 837, 101 So. 216 (1924); *Marcev v. Mandich et al.*, 158 La. 15, 103 So. 389 (1925).

*Trading Stamps: *State v. Merchants' Trading Co.*, 114 La. 529, 38 So. 443 (1905); **State v. Underwood*, 139 La. 288, 71 So. 513 (1916).

*Weights and Measures: *State ex rel. Baumbach v. Dubuc*, 9 La. Ann. 237 (1854); **Guillotte v. City of New Orleans*, 12 La. Ann. 432 (1857); **State ex rel. Attorney-General & Martin v. Lamantia*, 33 La. Ann. 446 (1881); **State & Di Carlo v. Abbott*, 41 La. Ann. 1096, 6 So. 805 (1889). See also: **Pittsburg & Southern Coal Co. v. Louisiana*, 156 U. S. 590, 15 S. Ct. 459, 39 L. Ed. 544 (1895); *Oysters—Weights and Measures*, ante.

MAINE.*

PART I.

General Food and Drug Law.

1. Sale of Certain Adulterated Articles Prohibited.—No person shall, within this State, manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide, which is adulterated or misbranded within the meaning of this chapter. (R. S. 1916, c. 36, § 1.)†

2. Definitions.— . . . The term “commercial feeding stuff” as used herein shall be held to include all articles of food used for feeding live stock, and poultry, except hays and straws, the whole seeds, and the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, flaxseed and broom corn.

. . . The term “drug” as used herein shall be held to include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of man or other animals.

The term “food” as used herein shall be held to include all articles, whether simple, mixed or compound, used for food, drink, confectionery, or condiment by man or animals.

The term “fungicide” as used herein shall be held to include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation, or be present in any environment whatsoever.

The term “insecticide” as used herein shall include Paris green, lead arsenate, and any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insect which may infest vegetation, man, animals, or houses, or be present in any environment whatsoever. (Id. § 2.)

3. Marking of Packages of Commercial Feeding Stuff.—Every lot or package of commercial feeding stuff, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the State by any person, shall have affixed in a conspicuous place on the outside thereof, a plainly printed statement, clearly and truly giving the number of net pounds in the package; the name, brand or trade-mark under which the article is sold; the name and principal address of the manufacturer or shipper; a chemical analysis stating the maximum percentage of crude fiber, the minimum percentage of crude fat, and the minimum percentage of crude protein (allowing one per cent of nitrogen to equal six and one-fourth per cent of protein) which it contains, all three constituents to be determined by the methods adopted by the association of official agricultural chemists; if the feeding stuff is a compound feed, the name of each ingredient contained therein; and if artificially colored, the name of the material used for that purpose. If the feeding stuff is sold in bulk or put up in packages belonging to the purchaser, the seller shall upon the request of the purchaser furnish him with a copy of the statements named in this section. (Id. § 4.)

4. Sale and Manufacture of Commercial Feeding Stuff, Regulated; Registration Fee.—Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation, in the State, any commercial feeding stuff shall before so doing file with the Commissioner of Agriculture for each and every commercial feeding stuff bearing a distinguishing name or trade-mark, a certified copy of the statements required by section four. Said

*CITATIONS: “R. S. 1916” refers to the Revised Statutes of the State of Maine, Sixth Revision, 1916, enacted September 29, 1916. “P. L.” refers to the public acts of the year cited. “P. L. Spec. Sess. 1919” refers to the public acts enacted at the special session of the legislature in that year.

†The provisions relating to seeds and fertilizers are omitted.

certified copy shall be accompanied when said commissioner shall so request, with a sealed package containing not less than one pound of the commercial feeding stuff. The person who shall file said certificate shall pay annually to the Commissioner of Agriculture a registration fee of ten dollars, this fee to be assessed on any brand offered for sale, distribution or transportation in the State; provided, however, that a brand of commercial feeding stuff may be re-registered for the following year without the payment of the fee upon the establishment by the person who paid said fee that the total sales within the State during the year for which said fee was paid did not exceed fifty tons. Whenever any person shall have filed such certificate and paid such registration fee, no other person shall be required to file such statement or pay such fee. (Id. § 5.)

5. Marking of Packages of Fungicide.—Every lot or package of a fungicide or an insecticide which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the State by any person, shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the number of net pounds in the package, the name or trade-mark under which the article is sold, the name and address of the manufacturer or shipper, and a chemical analysis stating the minimum percentage of total arsenic and the maximum percentage of water-soluble arsenic which it contains, the constituents to be determined by the methods adopted by the Association of Official Agricultural Chemists. (Id. § 9.)

6. Manufacture and Sale of Fungicides, etc., Regulated; Registration Fee.—Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation in the State any fungicide or insecticide shall before so doing file with the Commissioner of Agriculture for each and every fungicide or insecticide bearing a distinguishing name or trade-mark, a certified copy of the statements made in accordance with the preceding section. Said certified copy shall be accompanied when said Commissioner of Agriculture shall so request with a sealed package containing not less than one pound of the fungicide or insecticide. The person filing such certificate shall pay annually to the Commissioner of Agriculture a registration fee of ten dollars, this fee to be assessed on any brand offered for sale, distribution or transportation in the State, except that said fee shall not be assessed for the registration of a fungicide or insecticide consisting of organic matter and not containing any added inorganic matter or mineral chemical, provided that a complete chemical analysis of said fungicide or insecticide is given in, and as part of, the certificate required under this section. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee. (Id. § 10.)

7. Registration May be Refused When Name or Trade-mark is Misleading.—The Commissioner of Agriculture may refuse to register any commercial feeding stuff or commercial fertilizer, bearing a name, brand or trade-mark which is misleading or deceptive or which would tend to mislead or deceive as to materials of which it is composed, and in the case of commercial feeding stuff when the specific names of each and all of the ingredients used in its manufacture are not stated. He may also cancel the registration of any feeding stuff, commercial fertilizer, fungicide or insecticide that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in violation of any of the provisions of this chapter. The registration of each brand of commercial feeding stuff, commercial fertilizer, fungicide or insecticide shall terminate on the thirty-first day of December of each year. (Id. § 11.)

8. When Goods Shall be Deemed to be Adulterated.—For the purpose of this chapter an article shall be deemed to be adulterated:

. . . In case of commercial feeding stuff:

First. If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty.

Second. If it be colored, coated, or stained in a manner whereby damage or inferiority is concealed.

Third. If it contains any poisonous or deleterious ingredients which may render such article injurious to the health of live stock or poultry.

Fourth. If any milling or manufactured offals or any foreign substance whatever have been added to any whole or ground grain or other commercial feeding stuff, unless the true composition, mixture or adulteration is plainly marked or indicated upon the container thereof.

. . . In case of a drug:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopoeia or National Formulary, it differs from the standard of

strength, quality, or purity, as laid down in the United States Pharmacopœia, or National Formulary official at the time of investigation, or as fixed by the Commissioner of Agriculture; provided, that no drug defined in the United States Pharmacopœia, the National Formulary or by said commissioner shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated, so as to be understood by the non-professional person, upon the bottle, box or other container thereof, although the standard may differ from that laid down in the United States Pharmacopœia, National Formulary, or that fixed by said commissioner.

Second. If its strength or purity differs from the professed standard or quality under which it is sold.

In case of confectionery: If it contains terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound, or narcotic drug.

In case of food:

First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituents of the article have been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any poisonous or other added deleterious ingredient which may render such article injurious to health.

Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Seventh. If in the manufacture, sale, distribution, transportation or in the offering or exposing for sale, distribution or transportation it is not at all times securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or unsanitary conditions.

Eighth. If it does not conform to the standards of strength, quality and purity, now or hereafter to be established by statute or fixed by the Commissioner of Agriculture: provided, that no food except clams, oysters and scallops shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated, so as to be understood by the non-professional person, upon the container thereof, although the standard may differ from that established by statute or fixed by said commissioner.

Ninth. If its strength or quality or purity fall below the professed standard or quality under which it is sold.

In case of fungicide or insecticide: In the case of Paris green:

First. If it does not contain at least fifty per centum of arsenious oxide (As_2O_3).

Second. If it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide. (As_2O_3).

Third. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

In the case of lead arsenate:

First. If it contains more than fifty per centum of water.

Second. If it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As_2O_5).

Third. If it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxide (As_2O_5).

Fourth. If any substances have been mixed and packed with it so as to reduce, lower or injuriously affect its quality or strength: provided, however, that extra water may be added to lead arsenate if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of fungicide or insecticide other than Paris green and lead arsenate:

First. If its strength or purity fall below the professed standard or quality under which it is sold.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it is intended for use on vegetation and shall contain any substance or substances injurious to such vegetation. (Id. § 12, as amended P. L. 1921, c. 113.)

9. Term "Misbranded" Defined.—The term "misbranded" as used herein, shall apply to all articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular or which is falsely branded in any particular.

For the purpose of this chapter an article shall also be deemed to be misbranded:

. . . In case of commercial feeding stuff:

First. If any package fails to bear all of the statements required by section 4.

Second. If the printed statements required by section 4 to be affixed to the package differ from the statements required by section 5.

Third. If any brand is manufactured, transported, distributed, sold, offered or exposed for sale, distribution or transportation upon which the registration fee required by section 5 has not been paid.

. . . In case of a drug:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or, except in the case of a physician's prescription compounded by a physician or a registered pharmacist, if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide or any derivative or any preparation of any such substances contained therein.

In case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of each and any added coloring matter, preservative, chemical or drug contained therein.

Third. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular: provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only, and whose presence is declared upon the label; provided, further, that nothing in this chapter shall be construed as requiring or compelling proprietors or manufacturers of proprietary goods which contain no unwholesome added ingredient to disclose their trade formulas except in so far as the provisions of this chapter may require to secure freedom from adulteration or misbranding.

In case of fungicide and insecticide:

First. If any lot or package fail to bear all the statements required by section 9.

Second. If the printed statements required by section 9 to be affixed to the lot or package differ from the statements required by section 10.

Third. If any brand is manufactured, transported, distributed, sold or offered or exposed for sale, distribution or transportation upon which the registration fee required by section 10 has not been paid.

Fourth. If it be an imitation of or offered for sale under the name of another article.

Fifth. If it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such packages.

Sixth. If it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel or mitigate insects or fungi and does not have the percentage amount of such inert ingredient plainly and correctly stated on the label. (R. S. 1916, c. 36, § 13.)

10. Misbranding of Food in Package Form.—For the purpose of this chapter an article of food in package form if sold at a greater price than five cents shall also be deemed to be misbranded if the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided, however, that reasonable variations shall be permitted and tolerances shall be established by rules and regulations made in accordance with section 35. And further provided that the penalties of this chapter shall not be enforced on account of sale of food not branded in terms of weight, measure, and numerical count, purchased prior to September third, nineteen hundred and fourteen. (Id. § 14.)

11. Annual Analysis; Results of Analyses to be Published.—The Director of the Maine Agricultural Experiment Station shall annually analyze or cause to be analyzed samples of articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide at such time and to such extent as the Commissioner of Agriculture may determine. And said commissioner, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide are manufactured, stored, transported, sold, offered or exposed for sale. He may also, in person or by deputy, open any case, package or other container and may, upon tendering the market price, take samples for analysis. The results of all analyses of articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide made by said director shall be published by him in the bulletins or reports of the experiment station, together with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof and such additional information as to him may seem advisable. (Id. § 15.)

12. Analysis of Commodities; Milk and Cream Excepted.—The Commissioner of Agriculture shall have all analyses of commodities, except milk and cream, examined under the inspection laws of which he is the executive made at the Maine Agricultural Experiment Station. The director of said station shall analyze or cause to be analyzed all samples submitted to him by said commissioner. Said station shall be compensated to cover the expense of said analyses by said commissioner. (Id. § 19, as amended P. L. 1919, c. 85.)

13. Certificates Signed by Director, Presumptive Evidence.—Every certificate duly signed and acknowledged by the director of the Maine Agricultural Experiment Station relating to the collection and analysis of any sample of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide shall be presumptive evidence of the facts therein stated. (R. S. 1916, c. 36, § 20.)

14. Penalty For Adulterating or Misbranding.—Any person who adulterates or misbrands within the meaning of this chapter any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide, or any person who manufactures, sells, distributes, transports, offers or exposes for sale, distribution or transportation any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide in violation of any provision of this chapter shall be punished by a fine not exceeding one hundred dollars for the first offense, and by a fine not exceeding two hundred dollars for each subsequent offense. (Id. § 21.)

15. Exemption From Prosecution.—No person shall be prosecuted under the provisions of the preceding sections of this chapter when he can establish proof of purchase and a guaranty signed by the person residing in the United States from whom the purchase was made to the effect that the article in question is not adulterated or misbranded within the meaning hereof. (Id. § 22.)

16. Uniform Rules and Regulations and Standards of Purity.—The Commissioner of Agriculture shall make uniform rules and regulations for carrying out the provisions of this chapter. He may also fix standards of purity, quality or strength when such standards are not specified or fixed by law and shall publish them together with such other information concerning articles of agricultural

seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide as he may deem to be of public benefit. (Id. § 35.)

17. Hearing in Case of Violation.—When the Commissioner of Agriculture becomes cognizant of the violation of any provision of this chapter, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the findings, or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label (if a resident of the State), who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made. (Id. § 36.)

18. Enforcement of Laws by Commissioner.—The Commissioner of Agriculture shall diligently enforce all provisions of this chapter, and shall be entitled to, and shall receive, the assistance of the Attorney-General and of the several county attorneys. He may recover the penalties imposed for violations of this chapter in an action of debt brought in his own name, the venue to be as in other civil cases, and if he prevails in any such action, shall recover full costs; or he may prosecute for violations hereof by complaint or indictment, and such prosecution shall be commenced in the county in which the offense was committed. (Id. § 37.)

19. Appointment of Deputies.—He may, with the approval of the Governor and council, appoint, and fix the compensation of, a chief deputy and such other deputies as in his judgment are required to assist him, and to enable him to carry out the provisions of all laws, the execution of which is entrusted to him. The chief deputy shall hold office during good behavior, and such other deputies during the pleasure of the commissioner; their compensation and expenses shall be paid from any funds appropriated for the use of the commissioner in the execution of said laws. (Id. § 38.)

20. Rules of Construction.—The word "person" as used in this chapter shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this chapter, the act, omission or failure of any officer, agent or other person acting for or empowered by any corporation, company, society or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such corporation, company, society or association as well as that of the person. (Id. § 39.)

21. Jurisdiction; Disposal of Funds.—Municipal and police courts and trial justices shall have original jurisdiction, concurrent with the supreme judicial court and superior courts, of actions brought for the recovery of penalties imposed by this chapter, and of prosecutions for violations hereof. All fines received under this chapter by county treasurers shall be paid by them to the Commissioner of Agriculture; and all money received by the Commissioner of Agriculture under this chapter shall be paid by him to the Treasurer of State, and the same is hereby appropriated for the purposes of this chapter. (Id. § 40.)

22. Appropriation.—The legislature shall from time to time appropriate sums in favor of the Commissioner of Agriculture, division of inspections, and the same shall be expended by the commissioner in executing the laws relating to the collection, examination, inspection and analysis of agricultural seeds, concentrated commercial feeding stuffs, commercial fertilizer, and foods and drugs. Payments of said appropriation shall be made upon the warrants of the Governor and council. The commissioner shall annually publish a classified account of all receipts and expenditures under this section. (Id. § 41, as amended P. L. 1919, c. 225.)

22a. Method of Expending Appropriation.—Any sums of money appropriated to carry out the provisions of chapter forty-eight* relating to the duties of the State Sealer of Weights and Measures, shall be added to the funds appropriated to carry out the provisions of this chapter, and expended as a part thereof; or any funds appropriated to carry out the provisions of this chapter, may be expended in carrying out the provisions aforesaid, relating to the duties of the State Sealer of Weights and Measures. (R. S. 1916, c. 36, § 42.)

Miscellaneous General Provisions.

23. Penalty Prescribed for Profiteering in the Necessities of Life; Term "Necessities of Life" Defined.—Any dealer, trader, manufacturer or warehouse-

*See No. 234 et seq.

man who with intent to enhance the price or restrict the supply of the necessities of life wilfully destroys or permits preventable waste in the production, manufacture, storage or distribution of the same, or, with such intent prevents, limits, lessens or restricts the manufacture, production, supply or distribution of said necessities, or hoards said necessities, or enters into any contract, combination or conspiracy in restraint of trade or commerce, or exacts or demands any unjust or unreasonable profit in the sale, exchange or handling of the said necessities, or unreasonably discriminates against any person in the sale of such necessities, or in any way aids or abets the doing of any act hereinbefore mentioned, shall be punished by fine not exceeding one thousand dollars or imprisonment for not more than three years or by both such fine and imprisonment.

The term "necessities of life" shall include food for human consumption, food for domestic animals, wearing apparel, shoes, building materials, gas and electricity for light, heat and power, ice, fuel of all kinds, fertilizer and fertilizer ingredients, together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. (P. L., Spec. Sess. 1919, c. 256, § 1, as amended P. L. 1921, c. 76, § 1.)

24. Attorney-General to Investigate Violations; May Summon Witnesses and Require Production of Books, Papers, Records, etc.; How Expense of Investigation Shall be Paid; Attorney-General to Prosecute or to Present Available Information to State or United States Officials; Supreme or Superior Court Justices May Compel Attendance of Witnesses Before Attorney-General; Failure to Obey Summons to be Considered Contempt of Court.—The Attorney-General upon his own initiative or upon petition of fifty or more citizens of this State shall investigate all seeming violations of this act, all contracts, combinations or conspiracies in restraint of trade or commerce and all monopolies, and may require, by summons, the attendance and testimony of witnesses and the production of books and papers before him relating to any such matter under investigation. Such summons shall be served in the same manner as summons for witnesses in criminal cases before said courts and all provisions of law relating thereto shall apply to summonses issued under this act so far as they are applicable. All investigations or hearings thereunder or connected therewith to which witnesses are summoned or called upon to testify or to produce books, records or correspondence, shall be public and shall be held in the county wherein the act to be investigated is alleged to have been committed, or if the investigation is on petition it shall be held in the county where the petitioners reside. The expense of such investigation shall be paid from the appropriation provided by section seventy-two of chapter eighty-two of the revised statutes.

If upon investigation, it appears to the Attorney-General that the laws of this State, including the provisions of this act, have been violated in any respect, he shall forthwith prosecute the guilty parties, and present all available information bearing upon such violation to the proper prosecuting officer of the United States.

Any justice of the supreme judicial court or of a superior court may by order, upon application of the Attorney-General, compel the attendance of witnesses, the production of books and papers, including correspondence, and the giving of testimony before the Attorney-General in the same manner and to the same extent as before said courts; and any failure to obey such order may be punished by such court as a contempt thereof. (P. L., Spec. Sess. 1919, c. 256, § 3, as amended P. L. 1921, c. 76, § 2.)

25. Corporations and Associations Engaged in Marketing of Fish or Agricultural Products Not to be Deemed in Restraint of Trade.—No association or corporation organized for the sole purpose of marketing fish, shellfish or any of the fish products or agricultural products of this State, the members of or stockholders in which are actually engaged in the production of such products, or in the selling, canning or otherwise preserving of the same, shall be deemed to be a conspiracy or a combination or in restraint of trade or an attempt to lessen competition or to fix prices arbitrarily; nor shall the marketing contracts and agreements between such association or corporation and its members or stockholders be considered illegal as such or in unlawful restraint of trade or as a part of a conspiracy or combination to accomplish an improper or illegal purpose. (P. L. 1923, c. 187.)

25a. Commissioner of Agriculture to Group Bureaus Into Divisions; Appropriations to be Made for Each Division.—The Commissioner of Agriculture is hereby authorized to group the various bureaus and lines of work in the Department of Agriculture into divisions, to be known as divisions of animal industry, plant industry, markets, inspection, and administration. Appropriations made for the various bureaus and other lines of work in a division and any other funds available

for the same purpose, shall be credited to that division. Hereafter, appropriations shall be made for each division, instead of separate appropriations for the several bureaus and lines of work. (P. L. 1919, c. 64.)

NOTE: See also Nos. 152 and 181.

PART II.

Special Food Laws.

Apples.

26. Standard Barrel for Apples; Standard Bushel Box.—The standard barrel for apples shall contain seven thousand cubic inches; provided, however, that a barrel of the following dimensions when measured without distention of parts: length of stave, twenty-eight and one-half inches; diameter of head, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge not less than sixty-four inches outside measurement, shall be a lawful barrel. The standard bushel box for apples shall contain two thousand three hundred and fifty cubic inches; provided, however, that a box eighteen inches by eleven and one-half inches by ten and one-half inches, inside measurement, without distention of parts, shall be a lawful bushel box. (R. S. 1916, c. 36, § 25.)

27. Marks Upon Barrels and Boxes Used in Shipping Apples.—Manufacturers of standard barrels and boxes to be used in shipping apples shall mark in a conspicuous place on each barrel the words "standard barrel" and on each box the words "standard box." Whoever fails to comply with this section shall be punished by a fine not exceeding one hundred dollars. Municipal and police courts and trial justices shall have original jurisdiction concurrent with the supreme judicial court and the superior courts of prosecutions under this section. (Id. § 26.)

28. Standard Grades Established; Color and Size Requirements; Definitions.—The standard grade for apples, when packed in closed packages shall be as follows:

First—Maine Standard Fancy, shall consist of apples of one variety which are mature but not overripe, well formed, and free from decay, spray burn, limb rub, sunscald, visible water-core, or injury caused by dirt or other foreign matter, by skin punctures or bruises except those incident to proper packing, of by hail, russetting, disease, insects or mechanical or other means. Each apple of this grade shall have the amount of color specified hereinafter for the variety.

Second—Maine Standard A, shall consist of apples of one variety which are mature but not overripe, free from decay and from damage caused by dirt or other foreign matter, by skin punctures or bruises except those incident to proper packing, or by spray burn, russetting, limb rubs, sunscald, visible water-core, hail, disease, insects, or mechanical or other means. Each apple of this grade shall have the amount of color specified hereinafter for the variety.

Third—Maine Commercial, shall consist of apples of one variety which meet the requirements of Maine Standard A except as to color and provided, further, that early varieties such as Duchess of Oldenburg, Gravenstein, Twenty Ounce, Wealthy, Williams, and other varieties which ripen at the same period need not be mature.

Fourth—Maine Standard B, shall consist of apples of one variety which are mature but not overripe, free from decay and from serious damage caused by dirt or other foreign matter, by bruises except those incident to proper packing, or by spray burn, sunscald, hail, disease, insects or mechanical or other means.

In order to allow for variations incident to proper grading and handling, not more than ten per centum, by weight, of the apples in any one lot may be below the requirements of said respective grades but not more than one-tenth of this amount or one per centum shall be allowed for decay.

Fifth—Unclassified shall consist of apples which are not graded in conformity with any of the foregoing grades.

COLOR REQUIREMENTS.

In addition to the foregoing requirements for Maine Standard Fancy and Maine Standard A, each apple of these grades must have the percentage of color shown in the table below. "Color" means a good shade of red characteristic of the variety. Faded brown stripes shall not be considered as color.

Variety	Maine Standard Fancy	Maine Standard A	Variety	Maine Standard Fancy	Maine Standard A
Solid Red:					
Black Ben Davis	50%	25%	Wealthy	33%	15%
Esopus Spitzenburg	50%	25%	Williams	33%	15%
Gano	50%	25%	York Imperial	33%	15%
King David	50%	25%	Other similar varieties .	33%	15%
Opalescent	50%	25%	Duchess of Oldenburg ..	25%	10%
Winesap	50%	25%	Gravenstein	25%	10%
Other similar varieties .	50%	25%	Hubbardston	25%	10%
Striped or partially red:					
Delicious	50%	25%	Red Astrachan	25%	10%
Jonathan	50%	25%	Stark	25%	10%
McIntosh	50%	25%	Twenty Ounce	25%	None
Other similar varieties .	50%	25%	Other similar varieties .	25%	None
Baldwin	33%	15%	Red Cheeked or Blushed:		
Ben Davis	33%	15%	Maiden Blush Blushed Cheek		None
Fameuse	33%	15%	Monmouth		
Nero	33%	15%	(Red Cheeked		
Northern Spy	33%	15%	Pippin) Blushed Cheek		None
Paragon	33%	15%	Winter Banana Blushed Cheek		None
Rome Beauty	33%	15%	Other red		
Stayman Winesap	33%	15%	cheeked		
Tompkins King	33%	15%	or blushed		
Wagener	33%	15%	varieties Blushed Cheek		None
			Yellow or green		
			varieties Character-		Character-
			istic Color		istic Color

SIZE REQUIREMENTS.

"Minimum size" as used in this chapter means the transverse diameter of the smallest apples permitted in the container taken at right angles to a line running from the stem to the blossom end. Minimum sizes shall be stated in terms of whole and quarter inches, as two and one-quarter inches minimum, two and one-half inches minimum, in accordance with the facts.

In order to allow for variations incident to proper sizing not more than five per centum, by weight, of the apples in any container may be below the specified minimum size.

DEFINITION OF TERMS.

The following terms as used in this section mean:

"Well formed" means having the shape characteristic of the variety.

"Free from damage" means that the apples shall not be injured by any defect to any extent either apparent in the process of proper grading or which would cause a loss in the ordinary preparation for use. The following blemishes shall not be considered as damage: (1) Two small healed insect punctures not larger than one-eighth inch in diameter in which the injured tissue is dry and corky; (2) russetting and limb rubs which do not materially disfigure the fruit; (3) scab spots affecting an aggregate area of not more than one-fourth inch in diameter; (4) hail marks where the injury is superficial and the skin has not been broken or discolored; (5) spray burn or sunscald where the injury is superficial and the normal color of the fruit is not materially changed and where there is no blistering or cracking of the skin.

"Free from serious damage" means that no defect shall be permitted which taken singly or collectively, materially deform or disfigure the fruit. The following defects shall not be considered as serious damages: (1) Healed insect punctures which do not materially deform the fruit; (2) small scab and blotch infections not exceeding an aggregate area of one-half inch in diameter, or cedar rust infection not exceeding an aggregate area of three-quarters inch in diameter provided the skin is not cracked; (3) superficial blemishes such as fly speck and sooty blotch

affecting not to exceed one-third of the surface; (4) or fruit spots such as Bitter Pit (Stippen) and Jonathan Spot affecting not to exceed ten per centum of the surface.

Decay, scald, or other deterioration developing in storage or in transit on apples otherwise up to grade shall be considered as affecting the condition and not the grade.

No shipment, consignment or lot of apples in closed packages shall be condemned without examination of at least one-fifth of the contents of five per centum of the packages in such shipment, consignment or lot. Any shipment, consignment or lot in which five per centum of the packages are found to contain fruit below the grade marked on the container may be condemned by the commissioner of agriculture or his authorized deputies. (Id. § 27, as amended P. L. 1927, c. 193.)

29. Minimum Size to be Stated; Word "Apples" to Appear.—Every closed package of apples, which is packed, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the State by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the size of the package in terms of standard bushel box or standard barrel, the name and address of the owner or shipper of the apples at the time of packing, the name of the variety, the class or grade of the apples contained therein, and the minimum size of the fruit in the packages, and if the apples were grown in Maine, that fact shall be plainly designated and the word apples must appear in all instances. (R. S. 1916, c. 36, § 28, as amended P. L. 1923, c. 94, § 2.)

30. Misbranded or Adulterated Apples Shall Not be Packed.—No person shall, within this State, pack, sell, distribute, transport, offer or expose for sale, distribution, or transportation, apples which are adulterated or misbranded within the meaning of sections thirty and thirty-one of this chapter. (R. S. 1916, c. 36, § 29.)

31. Term Adulterated Defined.—For the purpose of sections twenty-five to thirty-four, both inclusive, of this chapter, apples packed in a closed package shall be deemed to be adulterated if their measure, quality, grade or purity do not conform in each particular to the claims made upon the affixed guaranty. (Id. § 30.)

32. Misbranded, Defined.—For the purpose of sections twenty-five to thirty-four, both inclusive, of this chapter, apples packed in a closed package shall be deemed to be misbranded:

First. If the package fails to bear all statements required by section twenty-eight.

Second. If the package bears any statement, design or device regarding such article or its contents which shall be false or misleading in any particular, or is falsely branded in any particular. (Id. § 31.)

33. Commissioner of Agriculture Shall Have Access to Places Where Apples Are Packed.—The Commissioner of Agriculture, in person or by deputy, shall have free access, ingress and egress, at all reasonable hours to any place or any building wherein apples are packed, stored, transported, sold, offered or exposed for sale, or for transportation. He may also, in person or by deputy, open any box, barrel or other container, and may, upon tendering the market price, take samples therefrom. (Id. § 32.)

34. Penalty for Adulteration and Misbranding.—Whoever adulterates or misbrands apples within the meaning of sections thirty and thirty-one of this chapter, or whoever packs, sells, distributes, transports, offers or exposes for sale, distribution or transportation, apples in violation of any provision of sections twenty-five to thirty-four, both inclusive, of this chapter, shall be punished by a fine not exceeding one hundred dollars for the first offense, and by a fine not exceeding two hundred dollars for each subsequent offense. (Id. § 33.)

35. Guaranty as a Bar to Prosecution.—No person shall be prosecuted under the provisions of the nine preceding sections when he can establish a guaranty signed by the person from whom he received any such article, to the effect that the same is not adulterated or misbranded, within the meaning of sections thirty and thirty-one, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to said dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of the nine preceding sections. (Id. § 34.)

NOTE: See also Nos. 17 and 150a et seq.

Beverages.

36. Manufacturers, Bottlers and Wholesalers of Non-Alcoholic Beverages to be Licensed by Commissioner of Agriculture; Fee; Term of License; Manufacturers of Sweet Cider Excepted.—No person, firm or corporation shall manufacture or bottle for sale at wholesale any drink product or other non-alcoholic beverage within this State without having first filed with the Commissioner of Agriculture an application for license accompanied with a fee of ten dollars upon receipt of which application the Commissioner of Agriculture shall issue to the person, firm or corporation making such application a license to manufacture soft drinks or other non-alcoholic beverages as hereinafter provided. Said license shall run for one year from the date of the application unless sooner revoked as herein provided and shall be renewed annually thereafter. Said provision is not to apply to persons engaged in the manufacture of sweet cider. (P. L. 1925, c. 155, § 1.)

37. Commissioner Has Power to Revoke or Suspend License; May Revoke or Suspend License Temporarily; Authority Granted to Make Rules and Regulations.—The Commissioner of Agriculture shall have the power to revoke or suspend any license issued under the provision of this act whenever it is determined by himself or any of his deputies or other properly qualified official that any of the provisions of this act have been violated. Any person, firm or corporation whose license has been so revoked or suspended shall discontinue the manufacture and sale within the State of Maine of soft drinks and other non-alcoholic beverages until the provisions of this act have been complied with and a new license issued, or the suspension removed. The Commissioner of Agriculture may revoke or suspend such license temporarily until there is a compliance with the provisions of this act as hereinafter provided or permanently for the unexpired period of such license. The Commissioner of Agriculture is given the right to make such rules and regulations as he may deem necessary for the enforcement of the provisions of this act. Said license shall run for one year from the date of the application and shall terminate on the thirtieth day of June of each year unless sooner revoked or suspended as herein provided. (Id. § 2.)

38. Notice to be Given to Licensee Prior to Revoking License; Procedure; Right of Appeal.—Before revoking or suspending any license the Commissioner of Agriculture shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor. Such notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the licensee. On the day of the hearing the licensee may by himself or counsel present such evidence to the commissioner as he deems fit and after hearing all the testimony the commissioner shall decide the question in such manner as to him appears just and right. Any licensee who feels aggrieved or dissatisfied with the decision of the commissioner may appeal from said decision within ten days to the Supreme Court or the Superior Court of the county where the licensee resides. (Id. § 3.)

39. Term "Drink Product" Defined.—For the purpose of this act the term "drink product" as used herein shall be held to include all non-alcoholic beverages, non-alcoholic cereal beverages, non-alcoholic fruit juices and carbonated beverages. (Id. § 4.)

40. Labeling of Bottles Where Artificial Coloring is Used; Kind of Coloring Matter Permitted; Prohibited Ingredients.—Whenever artificial colors or flavors are used in the manufacture of drink products or other non-alcoholic beverages, the bottle or other container shall be distinctly labeled or crowned "Artificially colored and flavored." Whenever artificial coal tar colors are used, nothing but the certified colors as approved by the United States Bureau of Chemistry shall be allowed. All non-alcoholic ciders, non-alcoholic fruitades, non-alcoholic fruit juices or other similar drinks that are artificially colored or flavored shall be so labeled or crowned. All drink products and other non-alcoholic beverages sold in bulk or from open containers or receptacles that contain artificial coloring or artificial flavors of any character shall be so labeled. Said labels to be prominently displayed on all stands, booths or other places where said drink product or other non-alcoholic beverages are sold or dispensed. The use of saccharine, salicylic acid and sulphites in the manufacture of drink products and other non-alcoholic beverages is hereby prohibited. (Id. § 5.)

41. Manufacturing Plants to be Well Lighted and Ventilated and Kept Clean; Machines and Containers to be Kept Sanitary.—All buildings, stores, factories or other places where drink products or other non-alcoholic beverages are manufactured or bottled shall be well lighted and ventilated and shall be kept

at all times in a clean and sanitary condition. All machines, bottles, jars, jugs, crocks or other utensils or containers used in the manufacture of drink products or other non-alcoholic beverages shall be kept in a clean and sanitary place, and in a sanitary condition. (Id. § 6.)

42. Containers to be Cleaned and Sterilized Before Filling.—All bottles, jars, jugs or other containers used for drink products or other non-alcoholic beverages before being filled shall be thoroughly cleaned, sterilized and then thoroughly rinsed in pure water. (Id. § 7.)

43. Penalties for Violation of Provisions.—Any person, firm or corporation who shall violate any of the provisions of this act or neglect or refuse to comply with any of the provisions required herein or in any way violate any of its provisions shall be punished by a fine not exceeding one hundred dollars for the first offense and by a fine not exceeding two hundred dollars for each subsequent offense. (Id. § 8.)

44. Commissioner of Agriculture to Enforce Provisions; Penalties, How Recovered; Jurisdiction of Offenses; Disposition of Fees Collected.—The Commissioner of Agriculture shall diligently enforce all the provisions of this act. He may recover penalties imposed for violation of this act in an action of debt brought in his own name and if he prevails in such action shall recover full costs; or he may prosecute for violations hereof by complaint or indictment. Municipal and police courts and trial justices shall have original jurisdiction concurrent with the supreme judicial court and superior court of actions brought for the recovery of penalties imposed by this act and prosecutions for violations hereof. All fees received under this act by the Commissioner of Agriculture and all money and fines received by him under this act shall be paid by him to the Treasurer of State and the same is hereby appropriated for carrying out the provisions of this act. (Id. § 9.)

NOTE: See also Nos. 49a et seq., 50, 152, 204 et seq. and 231 et seq. .

Bread.

45. Bread Offered for Sale to be Enclosed in Sanitary Wrapper.—No person, firm or corporation shall distribute, transport, or sell for distribution or transportation any bread, in loaf form, which is not properly enclosed in a sanitary wrapper. (P. L. 1921, c. 133, § 1.)

46. Penalty for Violation.—Any person, firm or corporation who violates any provision of this act shall be punished by a fine of not more than one hundred dollars for the first offense and by a fine of not more than two hundred dollars for each subsequent offense. (Id. § 2.)

47. Jurisdiction.—Municipal and police courts and trial justices all have jurisdiction of the above offenses. (Id. § 3.)

Canned Food.

48. Packing of Food in Tin or Glass Regulated; Permit; Packer Shall Pay For Inspection of Product.—Any person intending to pack food in tin or glass within this State may annually file with the Commissioner of Agriculture an application for a permit. Said application shall state the location of the factory, the kind of food to be packed, the name of the packer and the date on which it is expected that packing will begin. Within sixty days after the filing of such application for permit, the commissioner shall, upon receipt of one hundred dollars, issue to such applicant a permit for packing said food in conformity with the requirements of this chapter for the calendar year. Such packer shall also pay monthly, not later than the tenth day of each month, the cost of maintaining the inspection of the food packed during the previous month. The one hundred dollars paid by a person for a permit, as aforesaid, shall be credited to him at the close of the calendar year as a payment toward the cost of inspecting his product. Said commissioner may, however, cancel any permit whenever the provisions of this chapter have not been complied with. (R. S. 1916, c. 36, § 23.)

49. Commissioner of Agriculture Shall See That Food is Packed in Conformity With Law; Penalty For False Marking.—The Commissioner of Agriculture shall, by adequate inspection, see that the food packed hereunder is in conformity with the requirements of this chapter; and he shall authorize the persons packing a food in conformity herewith to mark the container of said food with a statement certifying that the food contained therein was packed, inspected

and passed under the Maine Pure Food and Drug Law. Whoever shall falsely mark any container as having been packed in conformity with the requirements of this chapter shall be punished by a fine not exceeding five hundred dollars for each container thus falsely marked. (Id. § 24.)

Cider.

49a. Sale of New Cider Declared Lawful; When.—The sale of new cider which shall not have so far advanced in the natural process of fermentation as to contain more than one-half of one per cent of alcohol by volume, is hereby declared to be lawful. (P. L. 1927, c. 127, § 1.)

49b. Sale of Cider Containing More Than One-half of One Per Cent Unlawful; Exceptions.—The sale of cider which shall contain more than one-half of one per cent of alcohol by volume is hereby declared to be unlawful, except that it may be sold to manufacturers of vinegar to be used in the manufacture of vinegar and for no other purpose. Manufacturers of vinegar shall make use of cider purchased by them as authorized by this section in the manufacture of vinegar, and for no other purpose, and shall keep a record of all such purchases of cider, which shall be retained by them and which shall be open at all reasonable times to the inspection of any officer charged with the duty of the enforcement of law, for a period of three years from the date of such purchase, and which shall show as to each purchase, its date, the quantity purchased, the price at which purchased, and the name and address of the seller. (Id. § 2.)

49c. Penalties.—Whoever is convicted of violation of any of the provisions of this act shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and costs and in addition thereto be imprisoned for not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned not less than two nor more than six months additional, and on each subsequent conviction he shall be punished by a fine of five hundred dollars and costs, and in addition thereto be imprisoned six months, and in default of payment of said fine and costs he shall be imprisoned six months additional, provided that in case of violation of the provisions relating to the making and keeping of record of purchases punishment by imprisonment shall be in the discretion of the court. (Id. § 3.)

49d. Inconsistent Acts Repealed.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. (Id. § 4.)

NOTE: See also No. 205.

Cold Storage.

See No. 104 et seq.

Confectionery.

50. Sale of Adulterated Candy and Brandy Drops Forbidden.—Whoever, by himself, his servant, or as agent of any other person or corporation, manufactures for sale, or knowingly sells or offers for sale any candy adulterated by the admixture of terra alba, barytes, talc or any other mineral or metallic substance, or by poisonous colors or flavors, or containing brandy, whiskey, rum, wine or any alcoholic liquor in liquid form or other ingredients deleterious or detrimental to health or offers for sale any candy under the name of brandy, whiskey, rum or wine-drops, shall be punished by a fine not less than fifty nor more than one hundred dollars. The candy so adulterated shall be forfeited and destroyed under the direction of the court. County attorneys shall prosecute all complaints under this section in all courts in their respective counties. (R. S. 1916, c. 130, § 21.)

51. Penalty for Offering Prize Candy for Sale; Liability to Summary Arrest.—Whoever sells or offers for sale, prize candy in packages containing or purporting to contain a prize or gift shall, for each offense, be punished by imprisonment in any jail or house of correction not exceeding thirty days or by a fine not exceeding twenty dollars, and if discovered in the commission of such offense in any railroad car, steamboat, public conveyance or other place by any officer qualified to serve criminal process, he may be arrested by such officer and detained by imprisonment or otherwise not exceeding twenty-four hours, until a complaint has been made and a warrant issued against him. (Id. § 22.)

NOTE: See also No. 8.

Dairy Products—Substitutes For Dairy Products.

52. Duty of Commissioner of Agriculture; Shall Have Access to All Places of Business.—The Commissioner of Agriculture shall, either in person or by duly authorized agents and assistants, diligently inquire into and investigate the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products, substitutes therefor or imitations thereof. The commissioner, his agents and assistants, shall have access at all reasonable hours to all places of business, factories or carriages, cans or other vessels used or which he or they believe to be used in the production or handling of milk or any other dairy product, substitute therefor or imitation thereof, and upon tendering the market price of a sample of milk or other dairy product, substitute therefor or imitation thereof, may take such sample from any person, firm, corporation, association or society; the commissioner shall cause all samples so taken to be analyzed. (R. S. 1916, c. 37, § 1.)

53. Penalty for Obstructing Commissioner in Performance of Duty.—Whoever hinders, obstructs or in any way interferes with the Commissioner of Agriculture, his agents or assistants, in the performance of his or their duty, hereinabove set forth, by refusing entrance to any place where he is authorized to enter, or access to any receptacle to which he is authorized to have access, or by refusing to deliver to him, his agents or assistants a sample of milk or any other dairy product, substitute therefor or imitation thereof, sold, offered or exposed for sale by the person to whom such request is made, if the value thereof is tendered, or shall in any other manner hinder, obstruct or interfere with said commissioner, his agents or assistants, in the performance of any of their said duties shall be punished by a fine of one hundred dollars for the first offense and two hundred dollars for each subsequent offense. (Id. § 2.)

54. Discretionary With Commissioner as to Publication of Analyses.—The Commissioner of Agriculture may, in his discretion, publish the results of all analyses with the names of the persons, firms, corporations, associations and societies from which the samples analyzed were taken, together with such suggestions as he may deem advisable, in the regular or special bulletins issued by the Department of Agriculture. He may also, in his discretion, issue each month a report of the results of all analyses for distribution to such newspapers in the State as may request a copy. (Id. § 3, as amended P. L. 1919, c. 66, § 1.)

55. Appropriation Not Limited to \$4,000 Annually.—The Commissioner of Agriculture shall, either in person or by his duly authorized agent or assistant, diligently enforce the laws relating to the production, manufacture, transportation, storage and sale of milk and all other dairy products, substitutes therefor or imitations thereof, including oleomargarine and renovated butter. He shall likewise diligently enforce the laws relating to the sealing of cans, bottles and other vessels used in the purchase and sale of milk and cream, the protection thereof against mutilation, and the cleansing and sterilizing thereof before use or before being forwarded to producers or distributors of milk; and he may, either in person or by his duly authorized agent or assistant, seize without warrant such cans, bottles or other vessels used in the purchase or sale of milk or cream as may in his judgment be needed as evidence of violation of the laws above referred to. For the above purposes he may employ such agents, assistants, chemists, counsel and clerks, and he may purchase such samples of milk, cream and other dairy products, substitutes therefor or imitations thereof, and such stationery, postage, printed matter and other supplies incidental thereto, as may be necessary for the proper enforcement of said laws. (R. S. 1916, c. 37, § 4, as amended P. L. 1919, c. 204.)

56. Having Milk in Possession With Intent to Sell Same After Having Been Refused a Certificate of Registration, Prohibited.—Any person, firm, corporation, association or society who shall sell or deliver milk or cream as a business to any person from a wagon or other conveyance, depot or store, or who shall sell or deliver milk to a hotel, restaurant, boarding house or any public place, shall be considered a milk dealer within the meaning of this section, and shall on or before the first day of January in each year apply to the Commissioner of Agriculture for registration, furnishing such information as may be required upon blanks issued and furnished by the commissioner to such persons as may request the same. Every such registration shall expire on the first day of January, next after its issue and shall be granted only to the milk dealer owning or leasing the vehicle or place from which sales or supplies are to be made, and shall not be transferred. Upon receipt of the application for registration containing the information required, and upon being satisfied that all milk is being produced and handled in a sanitary way and is from cows free from disease, the commissioner shall issue to the applicant a certificate

of registration, which certificate shall be posted in a conspicuous place in the store or depot from which sale or supply is made, and the number of the certificate of registration for each wagon or other vehicle shall be placed in a conspicuous place on said wagon or other vehicle. The commissioner may cancel the certificate of any dealer who, after due hearing on complaint by the commissioner or his authorized agent, is found to be selling milk produced or handled under unsanitary conditions or milk from diseased cows. If any person, firm, corporation, association or society desires to become a milk dealer as provided by this section, before the first day of January, in any years, he or they shall, prior to engaging in the business register with the Commissioner of Agriculture in the manner hereinbefore provided, for each place or vehicle from which sale or supply is to be made. Any dealer who neglects or refuses to register with the Commissioner of Agriculture, or to post certificates of registration in the store or depot from which sale or supply is made, or to post the number of the certificate of registration on the wagon or other vehicle from which sale or supply is made, as provided in this section, or to surrender his certificate to the commissioner when notified in writing that the same has been canceled and the reason given for cancellation, or who shall himself or by his servant or agent, sell or deliver or have in his custody or possession with intent to sell or deliver any milk after having been refused the aforesaid certificate of registration by the Commissioner of Agriculture, forfeits fifty dollars to be recovered in an action of debt, to be prosecuted in the name of the State by the county attorney for the county in which such violation has occurred; but the provisions of this section shall not apply to milk or cream delivered to a creamery or butter or cheese factory. (R. S. 1916, c. 37, § 5, as amended P. L. 1927, c. 61.)

57. Municipal Officers Shall Prosecute Violations.—The mayor and aldermen, selectmen, assessors, city marshal, chief of police and constables in every city and town shall make complaint and prosecute all violations of the preceding sections, and promptly enforce all laws against illegal sale and transportation of dairy products. (R. S. 1916, c. 37, § 6.)

58. Inspector or Agent of State Board of Health May Make Inspection of Dairy Buildings.—Whenever, in the opinion of any officer or duly authorized inspector or agent of the State Board of Health, it may be necessary to guard against the spread of any infectious or communicable disease, or to investigate the source of infection of any case or outbreak of said disease, or to facilitate the control of said disease, said officer, inspector or agent may at all times enter and inspect premises, rooms, carriages or other places occupied or used in the production, manufacture, storage, sale, transportation or distribution of milk, cream, ice cream or other dairy product, and may inspect all cans and other utensils or things used in, or appertaining to the work or business. (Id. § 7.)

59. Officer May Prohibit Sale or Transportation of Infected Products; Duty of State Board of Health.—When any officer, inspector, or duly authorized agent of the State Board of Health has reason to believe that the milk, cream, ice cream or other dairy product from any farm, home or other place has been or is contaminated or infected by being handled or otherwise exposed to any person who has an infectious or communicable disease, or to any person of whom there is reason to believe that he may be an infection carrier, or that the milk is otherwise infected; said officer, inspector or agent may issue an order prohibiting the transportation, sale, distribution or use of such milk or other dairy product from that farm, home or other place so long as the danger of contamination or infection is believed to exist; but when such order is given, the State Board of Health shall, so far as possible, determine the time when the danger of transmitting infection has passed, and shall endeavor to shorten the period during which the milk or other dairy product shall be debarred or withheld from transportation, sale, distribution or use. (Id. § 8.)

60. Officers May Take Samples to Aid in Investigations.—Any officer or authorized inspector or agent of the State Board of Health, may, upon tendering the market price of a sample of milk, cream, ice cream or other dairy product, take such sample from any person, firm, corporation, association or society, when it is believed that such sample may help in any investigations which it may be thought desirable to make. (Id. § 9.)

61. State Board of Health May Make Rules and Regulations as to Diseases Transmitted Through Milk.—The State Board of Health may make, alter or modify such rules and regulations as may be thought necessary relating to the diseases which it believes may be carried or transmitted through milk or other dairy products, or relating to the ways and means through which the danger of the spread of infection may be prevented or lessened, and the methods which shall

be followed by any officer, inspector or agent of the State Board of Health in the performance of his duties in relation thereto. (Id. § 10.)

62. Penalty for Interference With Inspector or Agent in Performance of Duty.—Whoever hinders, obstructs or interferes with any officer, inspector or duly authorized agent of the State Board of Health while in the performance of his duties, or violates or disobeys any of the orders, rules or regulations which may be made or given by the State Board of Health or any officer, inspector or agent thereof, shall be punished by a fine of not less than five, nor more than fifty dollars, or by imprisonment for not less than ten, nor more than thirty days. (Id. § 11.)

63. Inspectors of Milk, Appointment.—The municipal officers of cities and towns containing not less than three thousand inhabitants, and the municipal officers of all other towns on application of ten voters therein, shall appoint annually one or more persons to be inspectors of milk, cream, butter and all other dairy products, substitutes therefor and imitations thereof, who before entering upon their duties, shall give notice of their appointment by publishing the same for two weeks in a newspaper published in their towns, if any, otherwise by posting such notice in two or more public places therein; and they may receive such fees as said officers establish. (Id. § 12, as amended P. L. 1917, c. 190, § 1.)

64. Inspectors Shall Have Access at Reasonable Hours to All Places Where Dairy Products Are Handled; Shall Pay For Sample Taken.—Inspectors appointed by the municipal officers of cities and towns shall keep an office and books for the purpose of recording the names and places of business of all persons selling milk or other dairy products within their jurisdiction. They shall have access at all reasonable hours to all places of business, factories or carriages, cans or other vessels used in the production, handling or sale of milk or any other dairy product, substitute therefor or imitation thereof, and, upon tendering the market price of a sample of milk or other dairy product, substitute therefor or imitation thereof, may take such sample from any person, firm, corporation or association; cause it to be analyzed or otherwise satisfactorily tested, and preserve the result as evidence. The inspectors shall, if the owner of the product inspected so requests, leave with the owner a sealed specimen of the product examined by them which shall be marked in the same manner as the specimen taken at the time by the inspector; and they shall prosecute for all violations of sections fifteen and twenty-eight. (R. S. 1916, c. 37, § 13, as amended P. L. 1917, c. 190, § 2.)

65. Standard Measure for Milk and Cream.—All milk and cream bought and sold by measure for consumption within this State shall be bought and sold by wine measure, the standard for which shall be two hundred and thirty-one cubic inches to the gallon, and for subdivisions of the gallon, in the same proportion. (R. S. 1916, c. 37, § 14.)

66. All Measures, Cans, etc., Shall be Proved and Plainly Marked.—All measures, cans or other vessels used in the purchase or sale of milk or cream, except glass bottles and jars sealed in accordance with the provisions of sections twenty and twenty-one, shall be tried and proved by the standard mentioned in the preceding section, by the scaler of weights and measures of the city or town in which the person, firm or corporation purchasing or selling such milk or cream resides or has a place of business. The scaler of weights and measures shall, agreeably to such standard, plainly stamp thereon the quantity which such measures, cans or other vessels hold, together with the year in which such measures, cans or other vessels are sealed. Whoever, by himself, clerk, servant or agent, sells by measure any milk or cream by any other than the measure so tried, sealed and marked, shall forfeit for each offense the sum of ten dollars. Any measure, can or other vessel used in the purchase or sale of milk or cream, lawfully sealed, as aforesaid, in any city or town within the State shall be deemed to be lawfully sealed under the provisions of this section. (Id. § 15.)

67. Penalty for Mutilating Cans and Measures, or Erasing Names and Marks.—Whoever by himself or by his servant or agent, or as the servant or agent of any other person, firm or corporation, having custody of a milk can, measure or other vessel used as a container for milk destined for sale, shall wantonly, willfully or maliciously indent, bend or otherwise mutilate said can, measure or other vessel so that the same will not contain eight quarts and one pint, standard measure, as hereinbefore provided, or who shall wantonly, willfully or maliciously erase, efface or otherwise mutilate said can, measure or other vessel so that any names, figures or other marks placed thereon by a scaler of weights and measures shall become illegible shall be punished by a fine not exceeding fifty dollars. (Id. § 17.)

68. Milk Cans Shall be Cleansed and Sterilized; Storage Room Shall be Kept in Sanitary Condition.—All persons, firms and corporations who shall purchase milk or cream for the purpose of reselling the same, either at wholesale or retail, shall thoroughly cleanse and sterilize all cans, vessels and other utensils prior to their being used in the manufacture, transportation, storage and sale of said milk or cream. All persons, firms and corporations engaged in the business of retailing milk or cream, shall thoroughly cleanse and sterilize all vessels, jars, cans and other utensils used in the manufacture, storage and sale of milk or cream immediately before such vessels, jars or cans are filled for distribution. And the place or room in which milk or cream is stored, bottled or otherwise handled shall be kept in a clean and sanitary condition. Any person, firm or corporation violating this section or section sixteen of this chapter* shall be punished by fine not exceeding fifty dollars. (Id. § 18.)

69. Milk Cans Shall be Cleansed and Sterilized Before Delivery; Cans and Receptacles Used in Transporting Ice Cream to be Cleansed.—All cans or other receptacles used in the transportation of milk or cream shall be cleansed and sterilized before being forwarded to the producer or distributor of milk or cream for use. All cans or other receptacles used in the transportation of ice cream, sherbet or frozen milk products shall be washed and cleansed with warm or cold water immediately upon the contents being used, and before being returned and forwarded to the producer or distributor of such ice cream, sherbet or frozen milk products for use. Whoever, by himself, clerk, servant or agent, ships or transports or causes to be shipped or transported any cans or other receptacles used in the transportation of milk or cream not cleansed and sterilized, or any cans or other receptacles used in the transportation of ice cream, sherbet or frozen milk [products] not washed or cleansed as provided in this section shall be punished by a fine not exceeding fifty dollars for each offense. (Id. § 19, as amended P. L. 1923, c. 189.)

70. Capacity of Milk Bottles and Jars.—Glass bottles and jars used for the sale of milk or cream shall be of the capacity of one quart or one pint or one-half pint and shall be sealed as full measure under the provisions of section thirteen of chapter forty-eight of the revised statutes,† or by the manufacturer, as provided in section twenty-one of this chapter. The following tolerances will be allowed: Four drams of excess and two drams of deficiency in the quart bottle, three drams of excess and one and one-half drams of deficiency in the pint, and two drams of excess and one dram of deficiency in the one-half pint. The use, for the distribution of milk or cream to the consumer of glass bottles or jars of any other capacity than that as herein provided is hereby prohibited and declared to be illegal. All dealers in milk or cream who use, for the distribution of milk or cream to consumers, glass bottles or jars which have not been sealed by the manufacturer, shall bring such bottles or jars to the office of their city or town sealer to be sealed as aforesaid. If a bottle or jar has once been sealed by a sealer of weights and measures or by the manufacturer, it shall not in any case be necessary to have it sealed again at any time while it is used for the distribution of milk or cream to consumers. Glass bottles or jars sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream. (R. S. 1916, c. 37, § 20, as amended P. L. 1927, c. 259.)

71. Marking of Bottles and Jars Sealed by Manufacturer; Bond of Manufacturer.—Such bottles or jars as are sealed by the manufacturer shall be marked with the name, initials or trade-mark of the manufacturer, and designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number and the words "Maine Seal" shall be marked on the outside of the upper half of each bottle. The designating number shall be furnished by the State Sealer of Weights and Measures upon application by the manufacturer, and upon filing by the manufacturer with the Treasurer of State of a bond payable to the State in the sum of one thousand dollars, with sureties to be approved by the Attorney-General, conditioned upon his conforming to the requirements of this section. A record of the bonds furnished, the designating numbers and to whom furnished shall be kept in the office of the State Sealer of Weights and Measures. (R. S. 1916, c. 37, § 21.)

72. Penalty for Violation.—Any manufacturer who sells milk or cream bottles to be used in this State that do not comply as to size and markings with the provisions of the two preceding sections, shall forfeit five hundred dollars, to be recovered by the Attorney-General in an action upon the bond of such manufacturer.

*Section 16 was repealed by P. L. 1919, chapter 11.

†See No. 246.

Any dealer who uses for the purpose of selling milk or cream jars or bottles purchased after the third day of July, nineteen hundred and twenty-seven, that do not comply with the requirements of section twenty of this chapter as to markings and capacity shall be deemed guilty of using false or insufficient measures and punished by a fine not to exceed fifty dollars for each offense. (Id. § 22, as amended P. L. 1927, c. 259.)

73. County Attorneys Shall Give Aid.—The county attorney for the county in which any violation of the preceding sections has occurred shall, when called upon to do so by the Commissioner of Agriculture or either of his duly authorized agents or assistants, give all the aid in his power to secure the enforcement thereof, and shall prosecute cases arising thereunder or under other provisions relating to dairy products, substitutes therefor or imitations thereof. (R. S. 1916, c. 37, § 23.)

74. Court Jurisdiction.—Trial justices and municipal and police courts, shall have original jurisdiction, concurrent with the supreme judicial court and superior courts, of prosecutions for violations of the preceding sections and of all other laws relating to the production, manufacture, transportation, storage and sale of milk, cream, butter, cheese and all other dairy products, substitutes therefor or imitations thereof. (Id. § 24.)

75. Milk Shall be Weighed and Tested by the Babcock Test.—All milk or cream purchased by any person, firm or corporation for use in or to be resold by any creamery in this State shall be weighed and shall be tested by the Babcock test to ascertain the amount of butter fat per pound therein contained; and the value of the cream or milk thus purchased shall be determined by the amount of butter fat per pound as thus ascertained. The test herein provided shall be made by the owners or operators of the creamery purchasing as aforesaid; but upon petition in writing, signed by twenty-five per cent or more of the patrons of any creamery and addressed to the Commissioner of Agriculture, or upon petition in writing signed by the owner or operator of any creamery and addressed to said commissioner, one or more tests shall be made by or under the direction of said commissioner, and the findings of said commissioner shall be conclusive upon all parties therein concerned; provided, however, that when the total number of patrons of any one creamery exceeds one hundred then the number of petitioners herein required need not exceed thirty. All samples of cream tested by said test shall be weighed and the standard unit for testing shall be eighteen grams. (Id. § 25.)

76. Penalty for Violation.—Any person, firm or corporation, or the servant or agent of any person, firm or corporation, who shall violate the preceding section shall be punished by fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days. (Id. § 26.)

77. Semi-monthly Payment for Cream and Milk.—Every person, firm or corporation purchasing cream or milk for the purposes of reselling, or of manufacturing the same into other products, shall pay the producer, unless otherwise provided by written contract, semi-monthly; payment shall be made on the first day of each and every month for all cream or milk received prior to the fifteenth day of the preceding month, and payment shall be made on the fifteenth day of each and every month for all cream or milk received prior to the first day of the same month. Whoever violates the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars. (Id. § 27.)

78. Bottles and Glasses Used to Measure Milk or Cream Shall be Tested For Accuracy, and Marked.—All bottles, pipettes or other measuring glasses used by any person, firm or corporation, or their agents or employees, at any creamery, butter factory, cheese factory, condensed milk factory or elsewhere in this State, in determining by the Babcock test or any other test, the value of milk or cream received from different persons at such creameries or factories, shall be tested before such use, for accuracy of measurement and for accuracy of the per cent scale marked thereon. Such bottles, pipettes or measuring glasses shall bear in marks or characters ineffaceable the evidence that such test has been made by the authority named in the following section. No inaccurate bottles, pipettes or other glasses shall bear such marks or characters. (Id. § 28.)

79. Duty of Director of Maine Agricultural Experiment Station, to Test and Mark All Bottles, Etc.—The Director of the Maine Agricultural Experiment Station, or some competent person designated by him, shall test the accuracy of all bottles, pipettes or other measuring glasses used by persons, firms or corporations in the State buying or pooling milk or cream, or apportioning butter or cheese, made from the same, by the contents of butter-fat contained therein. The said director, or the person designated by him, shall mark such bottles, pipettes or other measuring glasses as are found correct, with marks or characters which

cannot be erased, and which marks or characters shall stand as proof that they have been so tested. The said director shall receive for such service no more than the actual cost incurred, which shall be paid by the persons or corporations for whom it is done. (Id. § 29.)

80. Persons Who Manipulate Test Shall be Certified by Superintendent of Dairy School.—Any person, either for himself or in the employ of any other person, firm or corporation, who manipulates the Babcock test or any other test, whether mechanical or chemical, for the purpose of measuring the contents of butter fat in milk or cream for a basis of apportioning the value of such milk or cream, or of the butter or cheese made from the same, shall secure a certificate from the superintendent of the dairy school at the University of Maine that he is competent and well qualified to perform such work. The rules and regulations in the application for such certificate and in the granting of the same shall be such as the superintendent of that school may arrange, and the fee for issuing a certificate shall not exceed one dollar, and shall be paid by the applicant. (Id. § 30.)

81. Penalty for Using Sulphuric Acid of Less Than Required Specific Gravity; Penalty For Violations of §§ 28, 30.—Whoever uses, or has in his possession with intent to use, at any creamery, butter factory, cheese factory or condensed milk factory, any sulphuric acid of less than one and eighty-two hundredths of specific gravity in the process known as the Babcock test or any other test for determining the butter fat contents of milk or cream, shall be punished by a fine not exceeding twenty-five dollars for the first offense, and for a second offense not exceeding fifty dollars. Any person, firm or corporation, violating the provisions of section twenty-eight, shall be punished by a fine not exceeding fifty dollars for the first offense, and for a second offense not exceeding one hundred dollars; and any person violating section thirty shall be punished by a fine not exceeding ten dollars. Every inspector of milk, sheriff, deputy sheriff and constable shall institute complaint against any person violating said provisions, and one-half of the fines shall go to the complainant and the balance to the State. (Id. § 31.)

82. Dealers May File Description of Name and Devices and Publish Such Description.—All persons and corporations engaged in buying, selling or dealing in milk or cream in cans, jugs, bottles or jars, with their names or other marks or devices, together with the word "Registered," branded, engraved, blown or otherwise produced in a permanent manner in or upon such cans, jugs, bottles or jars, may file in the office of the clerk of the city or town in which their principal place of business is situated, and in the office of the Secretary of State, a description of the name or names, mark or marks, device or devices so used by them, and cause such description to be published once each week for four weeks successively in a newspaper published in the city or town in which said description has been filed aforesaid; if there is no newspaper published in such city or town, then such publication may be made in any newspaper published in the county in which such city or town is situated. (Id. § 32.)

83. Penalty for Using Any Milk Can Without Consent of Owner; Possession Constitutes Prima Facie Evidence.—Whoever without the consent of the owner takes, detains or uses in his business, sells, disposes of, buys, conceals or traffics in any milk can, jug, bottle or jar, the owner of which has complied with the provisions of the preceding section, shall be punished for the first offense by a fine not exceeding five dollars, or by imprisonment for a term not exceeding sixty days, for each can, jug, bottle or jar so taken, detained or used in his business, sold, disposed of, bought, concealed or trafficked in; and for any subsequent offense by a fine not exceeding ten dollars, or by imprisonment for a term not exceeding six months, for each can, jug, bottle or jar so taken, detained or used in his business, sold, disposed of, bought, concealed or trafficked in as aforesaid. Possession by any person in the transaction of his business of any such article the owner of which has complied with the provisions of the preceding section shall constitute prima facie evidence of the unlawful taking, use, detention, possession of or traffic in the same within the meaning of this section. (Id. § 33.)

84. Penalty for Defacing or Mutilating Any Can, Jug, etc.—Whoever without the consent of any owner who has complied with the provisions of section thirty-two willfully destroys, mutilates or defaces any can, jug, bottle or jar bearing such owner's name, mark or device, or willfully erases, mars, covers or changes any word or mark branded, engraved, blown or otherwise produced, in a permanent manner in or upon any such can, jug, bottle or jar, shall be punished for the first offense by a fine not exceeding five dollars, or by imprisonment for a term not exceeding sixty days, for each can, jug, bottle or jar so destroyed,

mutilated or defaced, or for each can, jug, bottle or jar upon which any word or mark has been erased, marred, covered or changed as aforesaid; and for any subsequent offense by a fine not exceeding ten dollars, or by imprisonment for a term not exceeding six months, for each can, jug, bottle or jar, so destroyed, mutilated or defaced, or for each can, jug, bottle or jar upon which any word or mark has been erased, marred, covered or changed as aforesaid. (Id. § 34.)

85. Penalty for Placing Any Foul Substance Into Any Can, Jug, Etc.

—Whoever shall, by himself, or by his servant, or agent, or as a servant or agent of any other person, firm, or corporation, send, ship, return or deliver, or cause, or permit to be sent, shipped, returned, or delivered to any producer of, or dealer in milk and cream, any can, jar, bottle, measure, or other vessel used as a container for milk and cream, containing any offal, swill, kerosene, vegetable matter, rotten or putrid milk, or any other offensive material, shall be punished for the first offense by a fine of not less than one dollar nor more than five dollars for each can, jug, bottle or jar so defiled; and for any subsequent offense by a fine of not less than two dollars nor more than twenty dollars for each can, jug, bottle, or jar so defiled. (Id. § 35, as amended P. L. 1919, c. 7.)

86. Search Warrant May be Issued for Vessels Held in Wrongful Possession.—Whenever any person or corporation having complied with the provisions of section thirty-two, or the agent of any such person or corporation, shall make oath before the judge of any municipal or police court, or before any trial justice, that he has reason to believe and does believe that any person or corporation has wrongfully in possession, or is secreting any of his or its milk cans, jugs, bottles or jars, marked and described as provided in section thirty-two, said judge or trial justice shall, if satisfied that there is reasonable cause for such belief, issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person or an agent or employee of the corporation in whose possession such cans, jugs, bottles or jars are found, and shall thereupon inquire into the circumstances of such possession; if said judge or trial justice finds that such person or corporation has been guilty of a willful violation of sections thirty-three, thirty-four or thirty-five, he shall impose the penalty prescribed in the section or sections so violated, and shall also award to the owner possession of the property taken upon such search warrant. (R. S. 1916, c. 37, § 36.)

87. Interference With Milk Inspector; Penalty.—Whoever in any way interferes with a milk inspector of a city or town, or his agent, in the performance of his duties, by refusing entrance to a place he is authorized to enter, or access to a receptacle to which he is authorized to have access or by refusing to deliver to him a sample which he is authorized to take, or in any other way interferes with said inspector or his agent in the performance of his duties, shall be fined not less than ten nor more than fifty dollars, or imprisoned for not less than ten nor more than thirty days. (Id. § 37 as added P. L. 1917, c. 190, § 3.)

88. Sale of Impure or Adulterated Milk or Cream, Forbidden; Standard Milk; Skimmed Milk Excepted.—Whoever by himself, clerk, servant or agent, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver, or exposes or offers for sale or exchange milk which is not of good standard quality, adulterated milk or milk to which water or any foreign substance has been added, or milk produced from sick or diseased cows, or milk in or from cans or other utensils that are not in a clean or sanitary condition, or as pure milk, milk from which the cream or part thereof has been removed; and whoever by himself, clerk, servant or agent, sells, exchanges or delivers, or has in his custody with intent to sell, exchange or deliver, cream containing less than eighteen per cent of milk fat, shall for the first offense be punished by a fine not exceeding fifty dollars, for a second offense by a fine of not less than fifty, nor more than one hundred dollars and for a subsequent offense by a fine of one hundred dollars and by imprisonment for not less than thirty, nor more than sixty days. And in prosecutions hereunder milk, which upon analysis is shown to contain less than eleven and seventy-five hundredths per cent of milk solids or less than three and twenty-five hundredths per cent of fat shall not be considered milk of good standard quality. Nothing in this section shall be construed to prohibit the sale of skimmed milk as such. (R. S. 1916, c. 130, § 3.)

89. Imitations of Butter or Cheese Not to be Manufactured or Sold.—No person shall manufacture, sell, expose for sale or have in his possession with intent to sell, or take orders for the future delivery of any article, substance or compound made in imitation of yellow butter or cheese, and not made exclusively and wholly of cream or milk, or containing any fats, oil or grease not produced from milk or cream, whether said articles, substance or compound be named oleomargarine, butterine, or otherwise named. Nor shall any person, firm or corporation sell, ex-

pose for sale, or have in his possession with intent to sell oleomargarine unless the original package in which same is shipped or conveyed from place of manufacture shall have the word "oleomargarine" in letters three-quarters inch high and of proportionate width plainly printed or stenciled on the top or side thereof and unless each carton or wrapper containing said oleomargarine and in which such oleomargarine is sold or kept for sale shall have the word "oleomargarine" printed on two principal display panels in plain gothic letters not less than twenty-point type. When said oleomargarine is sold from a tub or box or other container in which it is kept for sale in bulk, said oleomargarine must be wrapped in wrappers plainly stamped or printed on the outside thereof with the word "oleomargarine" in plain gothic letters not less than twenty-point size, and shall also contain the name and address of the seller thereof and the quantity sold. For the purpose of this act, any article, substance or compound manufactured from animal fats or oils, vegetable oils, or from compounds or mixtures of animal fats or oils and vegetable oils which has been churned in cream, milk or water or bathed in a solution of brine, shall be considered oleomargarine. Nor shall any person, firm or corporation within this State use in any way in connection or association with the sale, or exposure for sale or advertisement of any oleomargarine or any substance designed to be used as a substitute for butter, the word "butter," "creamery," "dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combinations thereof commonly used in the sale of butter. (Id. § 6, as amended P. L. 1927, c. 119.)

90. Oleomargarine.—No person shall by himself, his clerk, servant or agent, furnish oleomargarine or any other substitute instead of butter in any hotel, restaurant, boarding house, lunch room or lunch cart to a guest or patron thereof without notifying said guest or patron that the substance so furnished is not butter by placing on the walls of said hotel, restaurant, boarding house, lunch room or lunch cart where oleomargarine or other substitute is served, a white placard on which is printed in black ink, in plain Roman letters of not less than three inches in length and not less than two inches in width the words "Oleomargarine sold or used here," or the name of substitute displayed on the placard instead of the word oleomargarine, such placard to be displayed at all times exposed in such conspicuous place as to be readily seen by any and all persons entering such hotel dining room, restaurant, boarding house, lunch room or lunch cart, where oleomargarine or other substitutes, is [are] served. (R. S. 1916, c. 130, § 7, as amended P. L. 1925, c. 156.)

91. Imitations Not to be Sold.—No person shall sell or offer for sale to any person who asks, sends or inquires for butter or cheese, any substance or compound made in imitation of butter or cheese. (R. S. 1916, c. 130, § 8.)

92. Renovated Butter Shall be Labeled as Such.—No person shall sell, offer or expose for sale any renovated butter, unless the words "renovated butter" shall be conspicuously and plainly stamped, labeled or marked, so that said words cannot be easily defaced, upon the top and side of every tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound, which is not in the original package, shall attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing in a conspicuous place upon the outside of the package the words "renovated butter." (Id. § 9.)

93. Penalty for Violation of Four Preceding Sections.—Whoever violates any provision of the four preceding sections shall be punished for the first offense by a fine not exceeding one hundred dollars and for the second offense by a fine not exceeding two hundred dollars. (Id. § 10.)

94. Duty of Officers to Make Complaints; Suspected Articles to be Analyzed.—Every inspector of milk, sheriff, deputy sheriff or constable shall institute complaint for violations of sections six to nine, both inclusive, whenever he has reasonable cause for suspicion, and on the information of any person who shall lay before him satisfactory evidence of the same. Said inspector or officer shall take specimens of suspected butter or cheese and cause the same to be analyzed or otherwise satisfactorily tested. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the costs of prosecution, and taxed and allowed to the officer paying the same. (Id. § 11.)

95. Butter and Cheese Defined.—For the purposes of this chapter, the terms "butter" and "cheese," mean the products usually known by those names, and which are manufactured exclusively from milk or cream, or both, with salt and rennet, and with or without coloring matter. (Id. § 12.)

96. Commissioner of Agriculture May Take Samples From Creameries, Cheese or Condensed Milk Factories For Purpose of Testing Butter-fat Con-

tents; Owner May Require Duplicate Test.—The Commissioner of Agriculture, or his deputy, may enter upon the premises of any creamery, cheese factory, condensary or receiving station for milk or cream, and may take possession of any or all samples of milk or cream drawn for the purpose of testing their butter fat contents, which are on the premises or in the possession of any employee, or may take samples from patrons' deliveries, and then and there test the same. The owner, operator or manager of any creamery, cheese factory, condensary or receiving station for milk or cream shall, if requested by said commissioner or his deputy, give him full access to all creamery records appertaining to the tests thereof, and said commissioner or his deputy may make transcripts therefrom. The results of the tests made by said commissioner or his deputy may, at the discretion of said commissioner, be communicated to the owner, operator or manager or to any of the patrons of the creamery, cheese factory, condensary or receiving station for milk or cream from which such samples have been taken and tested, or to all of them. The owner, operator or manager of any creamery, cheese factory, condensary or receiving station for milk or cream at which tests, under the provisions of this section, are made by said commissioner or his deputy may require said commissioner or his deputy to take duplicate sealed sub-samples of all samples thus tested and to promptly forward the same to the Maine Agricultural Experiment Station for further test, in which case no communication of the results of the tests made by said commissioner or his deputy shall be made to the patrons of the creamery, cheese factory, condensary or receiving station for milk or cream, unless the same shall substantially agree with the results of the tests made by said Maine Agricultural Experiment Station, or unless the commissioner is notified by the Maine Agricultural Experiment Station that the samples were received in a condition unfit to analyze. The owner, operator or manager of a creamery, cheese factory, condensary or receiving station for milk or cream, who shall require the taking and forwarding of sub-samples shall pay in advance all the carriage charges thereon and said Maine Agricultural Experiment Station for all tests made under the provisions of this section at the rate of ten cents for each milk sample and fifteen cents for each cream sample. The money thus received shall be used to defray the expenses incurred by the said Agricultural Experiment Station in connection with this act, but any balance that may remain after paying said expenses shall be paid by the director of said Maine Agricultural Experiment Station to the State Treasurer. Said Maine Agricultural Experiment Station shall report in duplicate to the Commissioner of Agriculture and to the owner, operator or manager of any creamery, cheese factory, condensary or receiving station for milk or cream, the results of all tests made by it. If samples are received in poor condition said Maine Agricultural Experiment Station shall not be required to analyze the same, but in such case the advance payments required by this section shall be returned to the party making the same. (P. L. 1919, c. 170, § 1.)

97. Commissioner May Inspect Testing Apparatus and Order Same Condemned.—The Commissioner of Agriculture, or his deputy, may enter the premises of any creamery, cheese factory, condensary or receiving station for milk or cream, and may inspect all apparatus and materials used for making tests for the purpose of determining the accuracy of the same, and for ascertaining whether the provisions of sections 28, 29, 30 and 31 of chapter 37 of the revised statutes* are being complied with. Said Commissioner of Agriculture may order any testing apparatus to be repaired or may condemn the same or any part thereof or any materials used in making tests and may give such instructions regarding the making of tests as he deems proper. (Id. § 2.)

98. Penalty for False Tests or Impeding Officer.—Any owner, operator or manager of a creamery, cheese factory, condensary or receiving station for milk or cream, wherein milk or cream are bought and paid for on the basis of their butter fat contents, who credits any patron or patrons delivering milk or cream with a greater or less percentage of fat than is actually contained in the milk or cream so delivered, or who shall hinder, impede or obstruct said Commissioner of Agriculture, or his deputy, in the discharge of his duty under this act, or who shall refuse him access to his testing apparatus or his records of tests, or who shall neglect to follow the instruction given him by said Commissioner of Agriculture in accordance with the provisions of this act shall be fined not more than one hundred dollars nor less than twenty-five dollars for each offense. (Id. § 3.)

99. Sale of Condensed or Evaporated Milk Which Does Not Conform to Certain Standards, Prohibited; Can Must Bear Name of Manufacturer or

*See Nos. 78-81.

Jobber.—No person, firm or corporation shall by himself, his servant or agent, or as the servant or agent of another, manufacture, sell, exchange, distribute, offer or expose for sale or distribution in the State any condensed or evaporated milk which shall not conform at least to the minimum standards established by regulation by the Commissioner of Agriculture or established by statute and which if contained in hermetically sealed cans does not bear stamped or labeled thereon the name and address of the manufacturer or jobber thereof. (P. L. 1925, c. 137, § 1.)

100. Sale of Milk, Cream, Condensed, Milk, etc., to Which Has Been Added Any Fat or Oil Other Than Milk Fat, Prohibited.—No person, firm or corporation shall by himself, his servant or agent, or as the servant or agent of another, manufacture, sell, distribute, offer or expose for sale or distribution in the State, or have in possession with intent to sell or exchange any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. (Id. § 2.)

101. Containers of Condensed, Evaporated or Powdered Skim Milk, How Marked and Branded.—No person, firm or corporation shall by himself, his servant or agent, or as the servant or agent of another, sell, or exchange, or expose for sale or exchange, or offer or expose for sale or distribution, or have in possession with intent to sell or exchange any condensed or evaporated or powdered skim milk in containers holding less than ten pounds avoirdupois net weight, unless said container shall bear the name and address of the manufacturer distinctly branded, labeled or printed thereon, together with the words "Condensed Skim Milk" or "Powdered Skim Milk," as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand or label. (Id. § 3.)

102. Penalties.—Whoever violates any of the provisions of the foregoing section shall be punished by a fine not exceeding one hundred dollars for the first offense and by a fine not exceeding two hundred dollars for each subsequent offense. (Id. § 4.)

103. Commissioner of Agriculture to Enforce Provisions.—The Commissioner of Agriculture shall be charged with the enforcement of the provisions of this section. (Id. § 5.)

NOTE: See also Nos. 12, 150a and 151.

Eggs.

104. Definitions.—The term "storage eggs" as used in this act shall be held to mean any shell eggs that for a period of thirty days or over, have been held in storage at a temperature of forty-five degrees Fahrenheit, or less.

The term "processed eggs" shall be held to mean any shell eggs which in a way other than storage, have been so treated as to keep them from natural deterioration. (P. L. 1927, c. 93, § 1.)

104a. Selling Preserved Eggs, Without Notice to Purchaser, Prohibited.—Any person, firm or corporation who exposes or offers for sale, either in any public place or elsewhere, any shell eggs which have been in storage or which in any way have been processed, shall conspicuously display upon the receptacle in which such shell eggs are offered for sale, or upon the package in which they are delivered to the purchaser, a notice containing the words "cold storage eggs" or "processed eggs" in accordance with the fact; and in case any shell eggs which have been in storage or which have been processed are exposed for sale or offered for sale, in a manner which does not require a receptacle or package, the purchaser shall be informed definitely that such shell eggs are either cold storage or processed eggs, to the end that the purchaser may have knowledge of the facts with reference to the storage or processing of such eggs. (Id. § 2.)

104b. Use of Word "Fresh" Prohibited.—No person, firm, or corporation, selling or exposing for sale any shell eggs which have been in storage or in any way processed, shall use the word "fresh" in any combination of words to describe the character or value of such eggs. (Id. § 3.)

104c. Labeling.—Whenever any person, firm or corporation within the State of Maine, ships or delivers to a purchaser within the State of Maine, any shell eggs which have been in storage or processed, such person, firm or corporation shall deliver to the purchaser an invoice or bill showing thereon the character of such eggs. All containers of shell eggs deposited in cold storage shall be marked plainly

with date of receipt and date of withdrawal by the officer, or his agents, in charge of the cold storage plant. (Id. § 4.)

104d. Penalty.—Any person, firm or corporation who violates any provision of this act shall, upon conviction, be liable to a fine of not more than fifty dollars or imprisonment of not more than sixty days, or both, and jurisdiction upon the several municipal courts of the State for trial and punishment of offenses under this act is hereby expressly confirmed, and the Commissioner of Agriculture is expressly empowered to enforce the provisions of the act and to be vigilant in discovering violations hereof, and making complaint to the proper authorities. (Id. § 5.)

Feeding Stuffs.

See No. 1 et seq.

Fish.

104e. Commissioner of Sea and Shore Fisheries, Appointment, Term, Duties, Report; Record of Prosecutions.—The Governor, with the advice and consent of the council, shall appoint a commissioner who shall have general supervision of the sea and shore fisheries and shell-fish regulated by this chapter and shall hold his office for three years and until his successor is appointed and qualified. He shall exercise supervision over all the fisheries and their products taken from tide-waters within the State, including the proper enforcement of all laws relating to the catching, packing, curing, manufacturing, branding and transportation of all kinds of pickled, salt, smoked, fresh canned or frozen shell or other fish. He shall make a detailed biennial report in the month of December showing the amount of capital invested in, number of men employed in, value of products of, and any other information that he may be able to obtain relating to the sea and short fisheries, excepting the sardine fishery, concerning which no statement or estimate of the number of cases packed shall be made. He shall keep a record of all prosecutions for violations of this chapter; the names of persons or firms prosecuted, the fines imposed and collected in each case, and the final disposition of the same, and submit the same in his report to the Governor. (R. S. 1916, c. 45, § 1.)

105. Appointment of Inspectors of Fish; Term.—In each town where pickled fish are cured or packed for exportation, the Governor, with the advice and consent of the council, shall, from time to time, as occasion requires, appoint one or more persons skilled in the quality of the same, to be inspectors of fish, who shall hold their office for five years, unless sooner removed by the Governor and council. (Id. § 5.)

105a. Inspectors Shall Give Bond.—Every such inspector, before entering upon his duties, shall give bond with sufficient sureties to the treasurer of the town for which he is appointed, to the satisfaction of the municipal officers thereof, in the penal sum of not less than five hundred, nor more than five thousand dollars, for the faithful performance of his official duties; and such officers shall, at least once a year, examine the bonds given by said inspectors, and if that of any inspector is not in their opinion sufficient they shall forthwith notify him, and if for thirty days thereafter he neglects to give satisfactory bond, they shall give information thereof to the Governor who shall remove him from office. (Id. § 6.)

105b. Inspectors Shall Make Return Annually of All Fish Inspected.—Every inspector shall, by the thirtieth day of November, annually, make a return into the office of the Commissioner of Sea and Shore Fisheries of all fish by him inspected during the year preceding the thirtieth day of such November, designating the quantities, kinds and qualities of pickled fish, and said commissioner shall embody the substance thereof in his next official report. (Id. § 7.)

105c. Any person Injured by Neglect of Inspector May Bring Action on Bond.—Any person injured by the neglect or misdoings of an inspector, on tendering to such treasurer a reasonable indemnity against the costs may bring an action on such inspector's bond in the name of the treasurer, for his own use, and may have a copy of the bond therefor; and if judgment is rendered thereon for the plaintiff, execution shall issue for the sum found due to the person for whose use such action is brought and the sum awarded in damages shall be entered by the clerk of the court on the original bond, to remain in the custody of the treasurer. (Id. § 8.)

106. Duty of Inspector as to Inspection and Packing of Fish.—Every inspector who inspects any kind of fish that are split and pickled for packing shall see that they are, in the first instance, free from taint, rust or damage, and well struck with salt or pickle; and such of said fish as are in good order and of good

quality shall be pickled in barrels, half barrels, quarter barrels and tenths of barrels or kits, each barrel containing two hundred pounds and so on in that proportion; and the same shall be packed in good, clean coarse salt, sufficient for their preservation; and then each cask shall be headed up and filled with clear, strong pickle, and shall be branded by the inspector with the name and quality of the fish therein. (Id. § 9.)

107. Mackerel Shall be Branded.—Mackerel of the best quality, not mutilated, measuring, when split, not less than thirteen inches from the extremity of the head to the crotch or fork of the tail, free from taint, rust or damage, shall be branded "Number one"; the next best quality, being not less than eleven inches, measuring as aforesaid, free from taint, rust or damage, shall be branded "Number two"; those that remain after the above selection, free from taint or damage, and not less than thirteen inches, measuring as aforesaid, shall be branded "Number three large"; those of the next inferior, free from taint or damage, not less than ten inches, measured as aforesaid, shall be branded "Number three"; all other mackerel free from taint or damage shall be branded "Number three small." The inspector shall brand or stencil in plain letters on the head of every such cask the weight, the initials of his Christian name, the whole of his surname, the name of his town and the letters "Me.," and an abridgment in figures of the year when packed. (Id. § 10.)

108. Quality of Casks and How Made; Dimensions.—All barrels and casks used for packing pickled fish shall be made of sound, well seasoned white oak, white ash, spruce, pine, chestnut or poplar staves with heading of either of such kinds of wood, sound, well planed and seasoned, and when of pine, free from sap, and the barrels hooped with at least three strong hoops on each bilge, and three also on each chime; the barrel staves shall be twenty-eight inches in length and the heads not less than sixteen and one-half inches between the chimes, and made in workmanlike manner to hold pickle. The barrels shall contain from twenty-eight to thirty gallons each and the aliquot parts of a barrel in the same proportion. (Id. § 11.)

109. Pickled Alewives and Herring, How Prepared and Packed.—Every inspector who inspects pickled alewives or herring or other small fish, packed whole or round, shall see that they are struck with salt or pickle, and then put in good casks of the size and material aforesaid, packed closely therein and well salted, and the casks filled with fish and salt, putting no more salt with the fish than is necessary for their preservation; and the inspector shall brand or stencil all such casks with the name of the inspected fish as aforesaid. (Id. § 12.)

110. Fees for Inspection and Branding.—The fees for inspection and branding, exclusive of cooperage, are for each barrel seven cents, and all such fees shall in the first instance be paid by the original owners of the fish, who may recover the amount thereof from the party buying or receiving the same under the marks and brand aforesaid and in addition to the price thereof. (Id. § 13.)

111. Penalty for Selling or Exporting Uninspected or Damaged Fish.—Whoever sells in this State or exports therefrom any fish in barrels or boxes not inspected, packed and branded as aforesaid, except good and wholesome fish packed in kegs of less than ten gallons or pickled, dry or smoked fish imported into the State from some other State or country lawfully inspected and branded there, and whoever sells or exports unlawfully any fish known by him to be tainted or damaged, unless sold as such, forfeits ten dollars for every hundredweight thus sold or exported. (Id. § 14.)

112. Penalty for Attempting to Export Uninspected Fish; Warrant for Seizure; Penalty For Refusing to Aid Officer.—Whoever ships or receives on board any vessel or other carriage for transportation from the State any pickled fish in barrels, parts of barrels or casks, not inspected and branded or stenciled as aforesaid, forfeits not less than fifty dollars for each offense, and any trial justice may issue his warrant to the proper officer, directing him to seize and secure such prohibited fish, and convey it to any inspector within a convenient distance for inspection; and whoever refuses to give necessary aid in the service of such warrant, when required by the officer, forfeits five dollars to the prosecutor in an action of debt; and such inspector shall open, inspect, pack and brand such fish according to law, and detain the same until all lawful charges of seizure and inspection are paid. (Id. § 15.)

113. Penalty for Intermixing Inspected Fish; for Fraud of Inspector.—If any person takes from a cask or barrel any pickled fish lawfully inspected and branded and substitutes therefor or fraudulently intermixes other fish, or if any inspector marks any cask or barrel out of his own town, or which he has not inspected, packed and himself prepared according to law permits other persons un-

lawfully to use his brands, or willfully and fraudulently uses the same himself after the expiration of his commission, he forfeits one dollar for each cask or barrel so dealt with; but an inspector may, after a satisfactory examination, brand such packages, thereby becoming responsible for the quality of the contents as represented by his brand. (Id. § 16.)

114. Lobster Fishermen and Persons Purchasing Lobsters and Holding or Transporting for Sale Shall be Licensed; Exception of Common Carriers; Penalty.—No person, firm or corporation, either by themselves as principal or by their servants or agents, shall, at any time, catch, take, hold, buy, ship, transport, carry, give away, remove, sell or expose for sale, or have in his or its possession, except for immediate consumption of himself and family, any lobster from any of the waters within the jurisdiction of this State, or place, set, keep, maintain, supervise, lift, raise or draw in or from any of said waters, or cause to be placed, set, kept, maintained, supervised, lifted, raised or drawn in or from any of said waters any pot, trap, trawl, car, boat, smack, vessel or other contrivance designed or adapted for the catching, taking, holding or for removal or transportation of lobsters unless licensed to do so as hereinafter provided; except that common carriers engaged in carrying general freight on fixed schedules may without license, transport within or without the State lobsters legally caught; provided that said lobsters are received by said common carriers at one of their regular established places of business upon land for receiving freight, and provided the receptacle containing said lobsters is plainly marked showing the contents to be lobsters together with full and correct name and address of both consignor and consignee. Every person, firm or corporation who shall violate any of the provisions of this section, or aid in doing so, upon conviction in any court of competent jurisdiction, as defined in section thirty-four,* shall be fined twenty-five dollars for the first offense; for the second offense, fifty dollars; and for any subsequent offense, fifty dollars, and shall be sentenced to imprisonment for thirty days, in addition to said fine. No person, firm, or corporation convicted of any violation of any law relating to lobsters shall either by themselves, their servants or agents be entitled to a renewal of said license for the period of one year from such convictions. (Id. § 17, as amended P. L. 1921, c. 98.)

115. Applications for Licenses and Issuance Thereof; Fees; Report by Commissioner.—The Director of Sea and Shore Fisheries shall grant and issue licenses in the lobster industry. Such licenses shall be divided into four classes, namely: First class, fishermen's licenses; second class, selling licenses; third class, shipping licenses; and fourth class, smackmen's licenses. Licenses of the first class, fishermen's licenses, shall be issued only to citizens of this State or to any person who has resided within the State continuously for one year, immediately preceding the date of application for license. Licenses of the second class, selling licenses, shall be issued only to persons, firms, or corporations conducting hotels, restaurants, or boarding houses, or to persons, firms or corporations engaged in the business of buying and selling lobsters. Licenses of the third class, shipper's licenses, shall be issued only to persons, firms or corporations engaged in the lobster business in this State or other States to buy, sell and ship lobsters. Licenses of the fourth class, smackmen's licenses, shall be issued only to smackmen to buy, sell and transport lobsters by smack or boat. All licenses now outstanding shall become void on the passage of this act and new licenses must be obtained under the conditions herein set forth. Applications for licenses shall be made upon special forms provided by the Director of Sea and Shore Fisheries. Violations of the agreements of the application shall render the license thereon void. Dumping, destroying or removing any bag, box or other receptacle after command of the Director of Sea and Shore Fisheries or his wardens when pursued by the Director of Sea and Shore Fisheries or his wardens shall be evidence of violation of the agreement of his application and the license of such person shall be revoked. The said director shall keep the clerks of various cities, towns and plantations bordering on the sea shore and other clerks who request them, supplied with blank applications; said clerk shall keep a supply of them on hand and furnish them to applicants. All applications when filled out shall be forwarded to the office of said director together with fees for same. Such licenses shall be granted to expire on the last day of June next succeeding the granting of same, unless sooner revoked, as provided in section twenty. The director in his biennial report, shall state the number of licenses granted. He shall issue to each person,

*See No. 131.

firm or corporation licensed as aforesaid a certificate, stating the name of the person, firm or corporation to whom such license shall be granted, the number of said license and the date of expiration of said license. (R. S. 1916, c. 45, § 18, as amended P. L. 1923, c. 87.)

116. In Case License is Revoked, Licensee Prohibited From Assisting in Catching Lobsters.—If any person, firm, or corporation to whom such license shall be granted shall be incapacitated for any reason, except for the violation of the laws of the State relating to the lobster industry, from using said license, said person, firm or corporation may permit his agent or employee, if a citizen of this State, to perform such duties under the license as may be necessary during the period of his or its incapacity; provided that said agent or employee shall, when performing said duties so licensed, exhibit upon demand of any authorized person, the certificate issued to his superior, as provided in the preceding section. No person whose license has been revoked or suspended shall assist in the catching of lobsters in any way. Every person who shall violate the provisions of this section shall upon conviction be subject to the fines and penalties provided in section seventeen. (R. S. 1916, c. 45, § 19, as amended P. L. 1923, c. 80.)

117. In Case License is Revoked New License Shall Not be Issued Until Expiration of One Year From Date of Conviction; Director May Suspend Instead of Revoke License, Before Conviction; Traps and Gear to be Taken From Waters Within Five Days After Suspension of License; Penalty for Failure to Comply.—If any person, firm or corporation, their servants or agents, licensed as provided in this chapter, shall be adjudged guilty of violation of any law relating to lobsters, the Director of Sea and Shore fisheries may revoke the license of such person, firm or corporation so adjudged guilty and upon such revocation all rights under the license so revoked shall cease, and no such person, firm or corporation so adjudged guilty shall be entitled of right to receive a license for the period of one year, and the license shall be suspended from the date of complaint or indictment until the final determination by the court. The Director of Sea and Shore Fisheries in his discretion may, before conviction, suspend the license of any person, firm or corporation whenever he has evidence that such person has violated any of the laws relating to lobsters. Upon the suspension of license all traps, cars, gear, and all devices used in connection with catching lobsters shall be taken from the water within five days after suspension. Any person with traps, cars or any other device remaining in the water, after the expiration of the five days, shall be fined five dollars per day for each trap, car or other device remaining in the water, and any car, smack, vehicle or other device used in the holding, carrying or transporting lobsters by any person whose license has been revoked or suspended shall be forfeited and become the property of the State. (R. S. 1916, c. 45, § 20, as amended P. L. 1921, c. 98.)

118. Commissioner May Restore Licenses; on Refusal, Application to Court.—The commissioner may, in his discretion, on sufficient evidence, restore a license revoked by him, and, if he refuses so to do, the license may be restored by any justice of the supreme judicial or superior courts; provided the said justice finds that said commissioner erred in his conclusion of facts, and application is made to the said justice within ten days after the refusal of the said commissioner to restore said license. (R. S. 1916, c. 45, § 21.)

119. License Shall be Surrendered to Officer Making Arrest; Licenses Issued Through Fraud or Error Shall be Void; Penalty for the Fraud.—Any license which has been revoked for the violation of any law of this State relating to the lobster industry, shall be void, and shall immediately be surrendered to the officer who serves the warrant or indictment, or who secures the conviction of the offender; said officer shall forthwith forward said license to the Commissioner of Sea and Shore Fisheries, who shall cancel the same. Any license issued to any party through error or fraud, shall be void, and shall be surrendered on demand of any officer authorized to enforce any law governing the lobster industry in this State, and any party who fraudulently obtains a license under sections seventeen to thirty-four, both inclusive, shall be fined one hundred dollars and imprisonment sixty days in addition, for each offense. (Id. § 22, as amended P. L. 1919, c. 184.)

120. Penalty for Refusing to Show Certificate.—Each person, firm or corporation licensed under the provisions of section eighteen, shall, at all times while engaged in the pursuit so licensed, exhibit, upon demand of any authorized person, the certificate issued to him or them, as provided in said section.

Every person, firm or corporation violating this section shall, for each offense, upon conviction, be fined twenty-five dollars. (R. S. 1916, c. 45, § 23.)

121. Certificate of Commissioner May be Offered in Evidence.—Any certificate of the Commissioner of Sea and Shore Fisheries in regard to the records of his office, shall be admissible in evidence in all prosecutions under this chapter. (Id. § 24, as amended P. L. 1917, c. 99.)

122. Permission to Set Traps on Trawls Must be Obtained.—When pots or traps are set on trawls, when conditions make it impossible to set otherwise, buoys plainly marked, as provided in the laws of this State, governing the lobster industry, shall be set at both ends of the trawls; but permission for setting such trawls must be obtained from the Commissioner of Sea and Shore Fisheries, and so stated on the licenses issued under section eighteen. (R. S. 1916, c. 45, § 25.)

123. Method of Marking Pots, Traps, Boats and Other Contrivances Used by Lobster Fishermen; Penalty.—No person, firm or corporation licensed under section eighteen or section thirty shall use any pots, traps, boats, trawls or other contrivance used for the catching or taking of lobsters, or cars or other contrivance used for holding or keeping lobsters before transporting or selling, unless the same and the buoys attached thereto are plainly marked, as provided by the laws of the State governing the lobster industry, with the name or names of the owners thereof, or the person or persons using the same. In each instance the surname with initials shall be marked together with the license number or numbers of such party or parties. Every person, firm or corporation violating the provisions of this section shall be fined, upon conviction, twenty dollars, or imprisoned not more than thirty days; the license shall be suspended pending the decision of the court, and, on conviction, the license shall be forfeited, and the respondent shall not be entitled to receive a new one for the period of one year from date of conviction; all pots, traps, cars, buoys, trawls and other contrivance, together with the contents thereof, used contrary to the provisions of the laws of this State governing the lobster industry, shall be seized by any officer engaged in the enforcement of said laws and disposed of as provided by law. (Id. § 26.)

124. Only Owner or Authorized Person Shall Interfere With Contrivances Used in Lobster Industry.—No person, except the Commissioner of Sea and Shore Fisheries, his wardens and deputy wardens, or other officers qualified to enforce the laws of the State governing the lobster industry, shall lift or raise any pot or trap, car, trawl or other contrivance used in the lobster industry belonging to any person, firm or corporation licensed under section eighteen, and set for catching or taking and holding lobsters, except with the permission of the owners thereof. (Id. § 27.)

125. Right of Search and Seizure Given to Officers Enforcing Lobster Law.—For the purpose of enforcing the provisions relating to the protection of lobsters, as provided by the laws of the State, relating to the lobster industry, the Director of Sea and Shore Fisheries and his wardens may search, at any time in suspicious places, including buildings of every description, or any pot, trap, trawl, car, boat, smack, vessel or other vehicle that they may believe is used in the catching, taking, holding or transporting of lobsters, and may seize and remove lobsters taken, held or offered for sale in violation of the provisions of any law of the State relating to the lobster industry. But nothing herein shall be held to confer the right to search a dwelling house without a warrant. The director may appoint as many persons as he wishes, who hold licenses under section eighteen as wardens but so long as they hold licenses they shall serve without pay. (Id. § 28 as amended, P. L. 1917, c. 293.)

126. Lobsters Bought for Shipment Out of State Must Conform to the Law.—No person shall acquire any property in lobsters caught in the waters under the jurisdiction of this State, for the purpose of shipping the same beyond the limits of this State, unless such lobsters conform to the law, and are shipped in accordance with the provisions of sections seventeen to thirty-four, both inclusive. (R. S. 1916, c. 45, § 29.)

127. Owners of Vessels to Give Bond in Sum of \$5,000; Vessels to be Loaded in Day Time; Masters or Captains to be Licensed and to Give Bond in Sum of \$500.—No person, firm or corporation by itself, its servants or agents, save common carriers as provided in section seventeen of this chapter, shall transport or cause to be transported lobsters beyond the limits of this State, unless licensed and having given bond as herein provided. The owner or owners of any smack, vessel or other means of transportation shall make written application for license to the Director of Sea and Shore Fisheries who is hereby

authorized to grant licenses to purchase and transport lobsters within and beyond the limits of this State. The application shall state the name of the smack, vessel or other means of transportation together with a description sufficient to identify it, the name and address of the owner or owners, the name and address of the master, the port of enrollment and registry. The application shall further contain agreements by the applicant therein: to load the smack, vessel, or other means of transportation in the waters over which this State has jurisdiction, and there only between sunrise and sunset, to allow without let or hindrance, inspection and search of such smack, vessel or other means of transportation by the Director of Sea and Shore Fisheries or his wardens, to stop when underway and return to harbor on command of the Director of Sea and Shore Fisheries or his wardens, to return to the waters of the State when so ordered by the Director of Sea and Shore Fisheries or his wardens, to abide by all the laws of this State relating to lobsters. The application shall further contain an agreement that the full penal sum of the bond herein provided for shall be forfeited to the State on breach of any term in said application. The license issued on said application shall state the terms on which the license is issued and that it is issued in consideration of the agreements of the application. Before said license is issued, the applicant shall file with the director of sea and shore fisheries a bond with surety approved by the Director of Sea and Shore Fisheries in the penal sum of five thousand dollars conditioned that said sum shall be forfeited to the State upon breach of any agreement in the application and license. The fee for issuing said license shall be five dollars and a record shall be kept of the same, similar to that provided for other licenses in section eighteen. In addition to the statement of the terms on which the license is issued, the license shall bear the date of the taking effect and the termination thereof, which last named date shall be the last day of November next after it becomes effective. The license shall give no authority to purchase or transport in any smack, vessel or other means of transportation except that named in the license but the name of the smack, vessel or other means of transportation may be changed by the licensee upon application to said director within the license period without further charge. Conviction of the licensee of violation of any statute of Maine relating to lobsters or breach of any agreement of application and license shall render the license void and make the full penal sum of the bond due to the State of Maine, and no licensee so convicted shall be entitled of right to license during the remainder of license year. The Director of Sea and Shore Fisheries may revoke said license when he has evidence that such owner or owners have violated any of the provisions of the law relating to lobsters.

No person shall act as master or captain of any smack, vessel or other means of transportation engaged in transporting lobsters without the State unless licensed and having given bond as herein provided. The master or captain of any smack, vessel or other means of transportation shall make written application for license to the Director of Sea and Shore Fisheries, who is hereby authorized to grant licenses to such captain or master to purchase and transport lobsters within and beyond the limits of this State. The application shall state the name of the smack, vessel or other means of transportation together with a description sufficient to identify it, the name and address of the owner or owners, the name and the address of the master or captain, the port of enrollment or registry. The application shall further contain agreements by the applicant therein: to load the smack, vessel or other means of transportation in the waters under which this State has jurisdiction, and there only between sunrise and sunset, to allow without let or hindrance, inspection and search of such smack, vessel or other means of transportation by the Director of Sea and Shore Fisheries or his wardens, to stop when under way and return to harbor on command of the Director of Sea and Shore Fisheries or his wardens, to return to the waters of the State when so ordered by the Director of Sea and Shore Fisheries or his wardens, to abide by all the laws of this State relating to lobsters. The application shall further contain an agreement that the full penal sum of the bond herein provided for shall be forfeited to the State on breach of any term in said application. The license issued on said application shall state the terms on which the license is issued and that it is issued on consideration of the agreements of the application. Before said license is issued, the applicant shall file with the Director of Sea and Shore Fisheries a bond with surety approved by the Director of Sea and Shore Fisheries in the penal sum of five hundred dollars conditioned that said sum shall be forfeited to the State upon breach of any agreement in the application and

license. The fee for issuing said license shall be five dollars and a record shall be kept of the same, similar to that provided for other licenses in section eighteen. In addition to the statement of the terms on which the license is issued, the license shall bear the date of taking effect and the termination thereof, which last named date shall be the last day of November next after it becomes effective. The license shall give no authority to purchase or transport in any smack, vessel or other means of transportation except that named in the license but the name of the smack, vessel or other means of transportation may be changed by the licensee upon application to said director within the license period without further charge. Conviction of the licensee of violation of any statute of Maine relating to lobsters or breach of any agreement of application and license shall render the license void and make the full penal sum of the bond due to the State of Maine. And no licensee so convicted shall be entitled of right to license during the remainder of license year. The Director of Sea and Shore Fisheries may revoke said license when he has evidence that such master or captain has violated any of the provisions of the law relating to lobsters and no new license shall be issued for a period of one year to any party whose license has become void because of conviction or has been revoked by the Director of Sea and Shore Fisheries. (Id. § 30, as amended P. L. 1919, c. 184.)

128. Punishment of Persons Not Licensed for Violation of Section 30.—Whoever, as master or owner, transports lobsters without the State, not having obtained the license provided in the preceding section shall be punished by a fine of not less than fifty nor more than five hundred dollars, and both the owner and the master shall become indebted to and pay to the State the sum of five thousand dollars, which sum shall be a lien upon said smack, vessel or other contrivance, the lien to be enforced in the name of the State by appropriate process. (Id. § 31.)

129. Punishment of Licensee for Violation of Provisions of Section 30.—Any owner or master, licensed to transport lobsters without the State as provided in section thirty of this act, who shall either load said smack, vessel or other contrivance between sunset and sunrise or hinder or obstruct the Director of Sea and Shore Fisheries or his wardens either directly or by refusal to stop and commit search, or violate any of the State laws relating to lobsters, shall be punished by a fine of not less than fifty nor more than five hundred dollars. And loading said smack, vessel or other contrivance outside the waters over which the State has jurisdiction or refusal to return to the jurisdictional waters of the State on the order of the Director of Sea and Shore Fisheries or his warden shall be deemed a violation of the terms of the bond provided in section thirty and evidence of violation of the laws of the State relating to lobsters. (Id. § 32.)

130. Money Received From Fines and Forfeited Bonds, How Expended.—All fines collected and money received from bonds forfeited shall be turned over to the Commissioner of Sea and Shore Fisheries, who shall forward the same to the Treasurer of State; which amounts shall be credited to and be a part of the funds used for operating expenses in the Department of Sea and Shore Fisheries. (R. S. 1916, c. 45, § 33.)

131. Municipal and Police Courts to Have Jurisdiction in All Lobster Law Cases; Trial to be in Nearest Court.—The several municipal and police courts shall have concurrent jurisdiction with the supreme judicial court and superior courts over all offenses against the laws of the State relating to lobsters and to the full extent of the penalties therein specified. In case any warrant is issued or indictment found against any licensee under section thirty, and any officer qualified to serve said warrant or indictment shall certify to the court from which it is issued that he has made diligent search and has been unable to locate the respondent, the court shall cause a written notice to be sent to the respondent at the address given in the application for license setting forth the fact that said warrant or indictment has been issued against him and naming a time and place for hearing on the same, which shall not be less than fourteen nor more than thirty days from the date of mailing said notice; and the notice shall state that, in the event of his failure to appear, his bond given to the State shall be forfeited. If he appears, the court will proceed under the warrant or indictment as though he had been apprehended. In the event that he does not appear, the court shall order his bond forfeited; but the order of the court forfeiting said bond shall not otherwise affect the warrant or indictment. Any warrant issued by any such court shall cover offenses occurring in the county where said court is established or in any adjoining

county, but no party shall be tried in an adjoining county, unless the court in such adjoining county is nearer the place where the crime was committed than the court of the county where the offense is alleged to have been committed. Parties defendant, however, have the same right of appeal from the sentences of said inferior courts as is now provided by law in other criminal cases. (Id. § 34, as amended P. L. 1919, c. 184.)

132. Change in Method of Measurement; Penalty for Short Lobsters Increased From \$1 to \$5; Measures for Determining Length of Lobsters to be Furnished by State; Penalty for Selling Lobster Meat Increased From \$1 to \$10 Per Pound.—No person shall buy, or sell, give away or expose for sale or possess for any purpose any lobsters less than three and one-half inches in length, alive or dead, cooked or uncooked, measured from the rear of the eye-socket along a line parallel to the center line of the body shell to the rear end of the body shell; and any lobster shorter than the prescribed length when caught shall be immediately liberated alive at the risk and cost of the parties taking it, under a penalty of five dollars for each lobster so caught, bought, sold, given away, exposed for sale or in possession. The possession of mutilated lobsters, cooked or uncooked, shall be prima facie evidence that they are not of the required length. Measures for determining the legal length of lobsters shall be provided by the State and may be obtained from the Director of Sea and Shore Fisheries at cost. No evidence shall be received in any of the courts of the State in any matter in which the length of a lobster is in question unless such length has been determined by such a measure. All lobsters or parts of lobsters sold for use in this State or for export therefrom must be sold or delivered in the shell under a penalty of twenty dollars for each offense; and whoever ships, transports, carries, buys, gives away, sells or exposes for sale lobster meat after the same shall have been taken from the shell, shall be liable to a penalty of ten dollars for each pound of meat so shipped, transported, carried, bought, given away, sold or exposed for sale. Any person or corporation in the business of common carrier of merchandise who shall knowingly carry or transport from place to place lobster meat after the same shall have been taken from the shell, shall be liable to a penalty of fifty dollars upon each conviction thereof. All lobster meat so illegally shipped, carried, bought, given away, sold or exposed for sale shall be liable to seizure and may be confiscated. Nothing herein contained shall be held to prohibit the sale of lobsters that have been legally canned. (R. S. 1916, c. 45, § 35, as amended P. L. 1921, c. 98.)

133. Length of Lobsters That May be Canned; Penalty for Violation.—No person shall can lobsters less than four and three-fourths inches in length, alive or dead, measured in accordance with section thirty-five; and for every lobster canned contrary to the provisions of this section, every person, firm, association or corporation so canning shall be liable to a penalty of one dollar for every lobster so canned, and a further penalty of three hundred dollars for every day on which such unlawful canning is carried on. (R. S. 1916, c. 45, § 38.)

134. Shipment of Lobsters Regulated; Notice to Commissioner of Place of Business for Shipping Lobsters.—Every person, firm, association or corporation, that hereafter opens a place of business in this State for shipping lobsters, or shall change said place of business after once it is established, shall thirty days before shipping any lobsters therefrom notify the Commissioner of Sea and Shore Fisheries, of such location from which lobsters are to be shipped, or change of location, together with the information as to where and how said lobsters are to be kept before packing, by what carrier the shipments are to be made and the customary hours of said shipments. (Id. § 39.)

135. Discretionary With Commissioner as to Making Arrangement for Inspection Before Shipment; Subject to Inspection in Transit.—Whenever the commissioner shall receive from any person, firm, association or corporation that now has or hereafter may open such place of business, or may change said place of business after once it is established, the notice referred to in the preceding section, he shall, if in his judgment it is practicable to do so, arrange with said person, firm, association or corporation for the suitable inspection of lobsters before shipment from said place of business, and cause such lobsters to be inspected; but unless such arrangements are made all lobsters shall be subject to examination in transit. (Id. § 40, as amended P. L. 1917, c. 281.)

136. Lobster Shipping Cases, How Marked.—All lobsters to be shipped shall be packed in barrels, boxes, or packages marked with the word "Lobsters" in capital letters at least one inch in length, together with the full name of

the shipper, and said marking shall be placed in a plain and legible manner on the outside of said barrels, boxes or other packages. (R. S. 1916, c. 45, § 41.)

137. Inspected Packages to Bear Indicative Mark Prescribed by Commissioner; Live Lobsters Seized, Other Than Prescribed Length, to be Liberated; Others Forfeited.—All lobsters so packed shall be open to the inspection of the commissioner or his wardens, at or before the time of the packing thereof, and if inspected each barrel, box or package containing lobsters so inspected shall bear some mark to be prescribed by the commissioner indicative of such inspection; but after the same are packed and marked, as required by the preceding section, if bearing the mark indicative of inspection prescribed by the commissioner and by the shipper delivered to the transportation company the said barrels, boxes, or packages shall not be opened for inspection by anyone without the consent of the shipper; and in case of seizure by any duly authorized officer, of any barrels, boxes or other packages in transit, containing lobsters which are not so marked as required by the provisions of the preceding section, or in case of seizure by such officer, of barrels, boxes or other packages, containing lobsters, other than the prescribed length, such lobsters as are alive and other than the prescribed length shall be liberated, and all such lobsters as are of the prescribed length, found in such barrels, boxes or packages shall be forfeited and disposed of under the provisions of section forty-seven. (Id. § 42, as amended P. L. 1917, c. 281.)

138. Penalty for Shipping Lobsters Not Properly Marked; Penalty on Common Carriers.—Every person, firm, association or corporation who ships lobsters without having the barrels, boxes or other packages in which the same are contained, marked as prescribed in section forty-one, shall upon conviction be punished by a fine of twenty-five dollars, and upon subsequent conviction thereof by a fine of fifty dollars; and any person or corporation in the business of a common carrier of merchandise, who shall carry or transport from place to place lobsters in barrels, boxes, or other packages not so marked, shall be liable to a penalty of fifty dollars upon each conviction thereof. (R. S. 1916, c. 45, § 43.)

139. Rules Governing Sale or Packing of Herring; Enforcement by Commissioner.—Whoever takes, preserves, sells or offers for sale between the first day of December and the fifteenth day of the following April, any herring for canning purposes less than eight inches long, measured from one extreme to the other, or packs or cans sardines of any description, between the first day of December and the fifteenth day of the following April, forfeits twenty dollars for every hundred cans so packed or canned, and for every hundred herring so taken. All cans shall be decorated, stamped or labeled with quality, packer's name and place of business or merchant's name for whom the same are packed, except sardines packed in plain cans and shipped for buyers' labels or cartons. Whoever sells or offers for sale any sardines in cans not so decorated or labeled, shall forfeit one dollar for every can so sold or offered for sale, to be recovered by complaint, indictment or action of debt. No person shall use in the herring fishery, in any of the waters of this State except in so much of Sheepscot Bay as is comprised within the following lines: Beginning at the northerly point of Green Island, thence southerly by the coast line to the Cuckolds light station; thence westerly to Pond Island light station, thence northeasterly by the coast line to the northerly point of MacMahan Island, thence easterly to the point of beginning, torches or any artificial light, of any kind, for the purpose of catching herring, under a penalty of ten dollars for each offense. The Commissioner of Sea and Shore Fisheries shall insist upon the strict observance of the provisions of this section and enforce the penalties for violation thereof. (Id. § 48, as amended P. L. 1925, c. 94.)

140. Size of Smoked Herring Boxes Regulated.—No person, firm or corporation engaged in the State in buying, selling and packing of smoked herring shall sell or offer for sale smoked herring in boxes of less than the following dimensions, viz.: two inches in depth, six inches in width, inside measure, and twelve inches in length, outside measure. Whoever packs, sells or offers for sale smoked herring in boxes in violation of this section shall forfeit twenty-five cents for each box so packed, sold or offered for sale; but this section does not apply to boxes of boneless herring. (R. S. 1916, c. 45, § 49.)

141. Size of Bait Barrels.—In all contracts relating to the sale of clam bait, fresh or salt, by the barrel, and clam bait barrels, such barrel shall be twenty-five and one-fourth inches long and fifteen and one-half inches head diameter, outside measure. Whoever violates this provision shall be liable to a penalty not exceeding fifty dollars for each offense. (Id. § 60.)

141a. Transportation of Clams Regulated.—The shipping or transportation of clams in any manner beyond the limits of the State, between the first day of June and the fifteenth day of September following, except clams which had been canned, packed or barreled between the fifteenth day of September and the first day of June, is hereby prohibited under a penalty of three dollars for each bushel so shipped or transported. (Id. § 62.)

142. Swelling of Scallop Meats Prohibited.—No person shall swell, or expand scallop meats, by the use of fresh water, baking soda, or by any other artificial means. Whoever violates this section shall be punished by a fine of five dollars for each gallon of scallops so treated. Municipal and police courts and trial justices shall have jurisdiction of prosecutions for offenses under this section. (R. S. 1916, c. 130, § 14.)

NOTE: See also Nos. 8 and 25.

Flour.

143. Inspectors of Flour, Their Appointment.—The municipal officers of towns may appoint annually in their towns, one or more suitable persons not interested in the manufacture and sale of flour to be inspectors thereof for one year from the date of appointment. (R. S. 1916, c. 44, § 1.)

144. Inspectors to be Sworn and to Receive Certificate of Appointment.—Such inspector, before entering upon his duties, shall be sworn to the faithful and impartial discharge thereof before the town clerk, who, upon payment of fifty cents, shall give him a certificate of his appointment and qualification, to be exhibited on the demand of any person interested in any inspection made by him. (Id. § 2.)

145. Inspection; Duties of Inspectors Defined; Record to be Kept.—Inspection of flour shall be for the purpose of ascertaining its soundness; every package inspected shall be opened sufficiently to allow a trier to be passed through it, and a sample of the whole length of the passage shall be taken out and examined by the inspector, who shall mark upon each package with a brand or stencil the word "Sound" or "Unsound," as the quality of the flour contained in each is found, and his name, residence, office and the year of inspection. He shall keep a record of all flour inspected by him in a suitable book which he shall exhibit to any person requiring it. (Id. § 3.)

146. Penalty for Fraudulent Marks.—If an inspector falsely and fraudulently marks any package of flour, he shall be fined five dollars for every such package and forfeits to any person injured thereby three times the amount of damage, in an action of debt. (Id. § 4.)

147. Penalty for Alteration, etc., of Inspection Marks.—Whoever, with intent to defraud, alters, obliterates or counterfeits the marks of an inspector, and whoever, with such intent, places upon any package of flour, marks falsely purporting to be inspection marks, shall be fined not exceeding fifty dollars for each offense and on conviction of placing such false marks on as many as ten packages at one time shall also be imprisoned not exceeding ten months. (Id. § 5.)

148. Purchasers of Flour May Require Inspection Before Delivery; Fees.—The purchaser may require flour to be inspected before delivery. The inspector's fees shall be five cents a package for lots of less than ten; for lots of more than ten and not exceeding twenty, two cents a package; and for every package exceeding twenty, one cent; to be paid by the person demanding inspection. (Id. § 6.)

149. Duties of Inspectors in Relation to Sample Packages.—Inspectors shall, when required, determine whether the flour conforms to and equals the sample furnished, and shall mark, with some distinct and intelligible mark, the packages that are found like the sample and for this service they may charge an additional compensation of one-half cent a package. (Id. § 7.)

150. Contract for Sale of Uninspected Flour Not Prohibited, if Inspection is Not Required.—Nothing herein contained prohibits any contract for the manufacture or sale of uninspected flour when inspection is not required by the buyer or the seller. (Id. § 8.)

NOTE: See also No. 262.

Fruits, Vegetables, Etc.

150a. Commissioner of Agriculture May Establish Grades and Standards for Farm Products.—The Commissioner of Agriculture may establish and pro-

mulgate official grades and standards for farm products excepting dairy products and apples produced within the State for the purposes of sale, and may from time to time amend or modify such grades and standards. Before establishing, amending, or modifying any such grades or standards the commissioner shall hold public hearing in such places within the State as shall be most convenient to producers of the commodity under consideration. Notice of such hearings shall be advertised for three successive weeks prior thereto, in a newspaper or newspapers of general circulation within the county where the hearing is to be held, and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for farm products. (P. L. 1927, c. 49, § 1.)

150b. Labels or Trade-Marks.—The Commissioner of Agriculture may determine or design brands, labels or trade-marks for identifying farm products packed in accordance with such official grades and standards established as aforesaid, and may furnish information to packers and shippers as to where such labels and trade-marks may be obtained. A written application to the commissioner requesting permission to use said brands, labels or trade-marks and a written acceptance thereto by the commissioner or duly authorized assistants shall be a condition precedent to the use of such brands, labels or trade-marks. The commissioner may revoke or suspend the right to use such brands, labels, or trade-marks whenever it appears on investigation that they have been used to identify farm products not in fact conforming to the grade indicated. (Id. § 2.)

150c. Same; Publicity.—Upon the establishment of such grades or standards, brands, labels or trade-marks, the Commissioner of Agriculture shall give due publicity through the newspapers of the State, setting forth the grade or grades so established and the date on which such establishment is to become effective, and distribute information explaining the same and their use. (Id. § 3.)

150d. Unlawful to Use Label or Trade-Mark Before Permit Granted; Penalty.—After notice of the establishment of grades or standards and the determination of brands, labels or trade-marks as herein provided, it shall be unlawful to use a brand, label or trade-mark to identify farm products as being of a grade established as aforesaid before a permit is granted or after the revocation of the right to use such brand, label or trade-mark by the commissioner. Violations of this section shall be punished for the first offense by a fine of not more than fifty dollars and for subsequent offenses by a fine of not more than two hundred dollars. (Id. § 4.)

150e. Inspection; Certificates.—The commissioner or his duly authorized agents may inspect farm products, marked, branded, or labeled in accordance with official grades or standards established and promulgated by the commissioner, as herein provided, for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition and approximate quality of the farm products inspected and such other pertinent facts as the commissioner may require. Such a certificate relative to the condition or quality of said farm products shall be prima facie evidence in all courts of the State of the facts required as aforesaid to be stated therein. (Id. § 5.)

150f. Rules and Regulations.—The commissioner may prescribe rules and regulations for carrying out the purposes of this act, including the fixing of fees as provided in section two, chapter thirty-four of the Revised Statutes, as amended by chapter eighty-one of the public laws of nineteen hundred and twenty-one and further amended by chapter two hundred and one of the public laws of nineteen hundred and twenty-three. (Id. § 6.)

150g. Commissioner to Have Access to Buildings; Penalty for Hindering Commissioner.—The commissioner, in person or by deputy, shall have free access at all reasonable hours to any building or other place wherein it is reasonably believed that farm products are marked, branded or labeled in accordance with official grades established and promulgated by the commissioner are being marketed or held for commercial purposes. He shall also have power in person or by deputy to open any bags, crates, or other containers containing said farm products and examine the contents thereof, and may upon tendering the market price, take samples therefrom. Whoever obstructs or hinders the Commissioner of Agriculture or any of his duly qualified assistants in the performance of his duties under this act shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. (Id. § 7.)

NOTE: See also Nos. 25, 26 et seq., and 261 et seq.

Ice

See Nos. 23, 239, 257 and 264.

Meat—Meat Products.

151. Holding Any Diseased Meat or Milk, for Human Food.—Whoever, having charge of any animal or meat or milk of any animal affected with tuberculosis or other contagious or infectious disease, knowing that the animal is thus affected, shall hold the animal or its meat or milk for human food, shall be punished by a fine of not less than five nor more than fifty dollars. (R. S. 1916, c. 130, § 2.)

152. Sale of Unwholesome Provisions or Drinks; Killing for Sale, or Selling Meat of Calves Killed When Less Than Four Weeks Old.—Whoever sells diseased, corrupted or unwholesome provision for food or drink, knowing it to be such, or fraudulently adulterates for the purpose of sale any substance intended for food or any wine, spirits or other liquors intended for drink, so as to render them injurious to health, shall be punished by imprisonment for not more than five years, or by fine not exceeding one thousand dollars; and whoever kills or causes to be killed for the purpose of sale any calf less than four weeks old, or knowingly sells, or has in possession with intent to sell for food the meat of any calf killed when less than four weeks old shall be punished by imprisonment in the jail or house of correction not exceeding thirty days or by fine not exceeding fifty dollars; and all such meat exposed for sale or kept with intent to sell may be seized and destroyed by any board of health or health officer or any sheriff, deputy sheriff, constable or police officer. (Id. § 4.)

153. Warrants May be Issued to Search for Such Veal.—When complaint is made on oath to any court or justice authorized to issue warrants in criminal cases that meat of calves killed when less than four weeks old is kept or concealed with intent to sell the same for purposes of food, such magistrate, when satisfied that there is reasonable cause for such belief, may issue a warrant to search therefor. (Id. § 5.)

153a. Marketmen, Etc., May be Licensed to Buy and Sell Deer Meat; License Fees.—Any marketman or provision dealer having an established place of business in this State, may purchase and have in possession at his said place of business not more than two deer, nor more than one bull moose, lawfully killed or destroyed, or any part thereof, in any one year, and may sell the same at retail to his local customers and may sell the heads of such deer or bull moose to any licensed taxidermist; provided, however, that said marketman or provision dealer shall annually procure a license of the Commissioner of Inland Fisheries and Game to buy and sell deer or bull moose as aforesaid; and, provided, further, that said marketman shall record in a book kept for that purpose, and open to the inspection of inland fish and game wardens, deputy inland fish and game wardens and the commissioners of inland fisheries and game, the name and residence of each person of whom he purchases any deer or bull moose, and the date of such purchase; and if any marketman or provision dealer shall violate any provision of this section he shall pay a fine of five hundred dollars and costs for each offense, and be prohibited for five years thereafter from the benefits of this section. All marketmen or provision dealers licensed as aforesaid shall pay to the Commissioner of Inland Fisheries and Game a fee of five dollars annually; each marketman or provision dealer licensed as aforesaid shall, on the thirty-first day of each December make, sign and send to the commissioner, under oath, a statement setting forth in detail the name and residence of each person of whom a deer, or a bull moose, or part thereof, has been purchased and the date of each purchase, during the time covered by his license; and whoever fails to make such report shall pay a fine of one hundred dollars and costs for each offense. (R. S. 1916, c. 219, § 70, as amended P. L. 1927, c. 228.)

Oysters, Etc.

See Nos. 8, 25 and 104e et seq.

Vinegar.

154. Sale of Adulterated or Misbranded Vinegar Prohibited.—No person shall, within this State, manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation, any product known as vinegar which is adulterated or misbranded within the meaning of this act. (P. L. 1923, c. 172, § 1.)

155. Definitions of Vinegars.—The terms "cider vinegar," "apple vinegar," shall be construed to mean the product made exclusively from the expressed juice of clean whole apples, by alcoholic and subsequent acetous fermentations, the acidity, solids and ash of which have been derived exclusively from the apples from which it was fermented.

The term "sugar vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, syrup, molasses or refiner's syrup.

The term "malt vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of an infusion of barley malt.

The terms "wine vinegar" and "grape vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of the juice of grapes.

The term "glucose vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of corn sugar or glucose.

The terms "spirit vinegar," "distilled vinegar," "grain vinegar" shall be construed to mean the product made by the acetous fermentations of dilute distilled alcohol. (Id. § 2.)

156. Adulterations of Vinegars Defined.—For the purpose of this act vinegar shall be deemed to be adulterated:

First. If it contains any drugs, acids, coloring matter or ingredients not derived exclusively from the substances from which they were respectively made.

Second. If it contains less than four grams of acetic acid in one hundred cubic centimeters of the vinegar at seventy degrees Fahrenheit.

Third. If manufactured by the destructive distillation of wood, known as pyroligneous acid, or acetic acid derived from other sources than fruit, grain, vegetables, sugar or syrup.

Fourth. If it is found to contain any preparations of lead, copper, sulphur dioxide, sulphuric acid, other mineral acids or any substitute for vinegar produced other than by alcoholic and subsequent acetous fermentation or other ingredients injurious to health. (Id. § 3.)

157. Misbrandings of Vinegars Defined.—For the purposes of this act vinegar shall be deemed to be misbranded:

First. If packages containing vinegar made from wine or fruits which have been reduced with water are not plainly marked or branded "Reduced to Four Per Centum Acid Strength" or "Reduced to Forty Grains," indicating the acidity to which it has been so reduced;

Second. If a product made from dried apples or from apple skins, apple cores and chops by the process of grinding and soaking with subsequent alcoholic and acetous fermentations of the solution thus obtained is not plainly marked to show the material from which it is produced;

Third. If the package containing said vinegar or its label is not plainly branded with the name of the manufacturer or distributor and his place of business;

Fourth. If every container or receptacle which contains any vinegar other than pure cider or apple vinegar, except delivered to the purchaser in the unbroken package, does not bear plain or conspicuous marks or brands showing the kind of vinegar so delivered and the substance or substances from which it was made;

Fifth. If mixtures of two or more of the vinegars above defined are not plainly and conspicuously branded with the word "compound" together with the proportions of the vinegars so mixed. (Id. § 4.)

158. Penalties.—Any person who adulterates or misbrands, within the meaning of this act, any vinegar, or any person who manufactures, sells, distributes, transports, offers or exposes for sale, distribution or transportation any vinegar in violation of any of the provisions of this act shall be punished by a fine not exceeding one hundred dollars for the first offense and by a fine not exceeding two hundred dollars for each subsequent offense. (Id. § 5.)

159. Provisions of Act Not Applicable to Common Carriers Unless Knowingly Violated.—The provisions of this act shall not apply to railroad companies, steamboat companies, express companies or other common carriers of property coming under the jurisdiction of the Interstate Commerce Commission or the Public Utilities Commission of the State of Maine unless they knowingly violate it. (Id. § 6.)

NOTE: See also No. 49a et seq

Water.

160. Persons Selling Water for Domestic Purposes May be Required to Submit Samples For Examination; Sale may be Prohibited if Polluted.—The State Board of Health may require any person selling water for domestic purposes to furnish samples thereof for chemical and bacteriological examination, and if said water is found to be contaminated, polluted and unfit for domestic use, the State Board of Health may issue an order prohibiting the transporting, sale, distribution or supplying of such water as long as such contamination, pollution or unfitness remains. (R. S. 1916, c. 19, § 125, as added P. L. 1925, c. 138.)

161. Penalty.—Whoever neglects or refuses to furnish such samples of water, or violates or disobeys any order of said State Board of Health shall be punished by a fine of not less than five nor more than fifty dollars, or by imprisonment for not less than ten nor more than thirty days. (Id. § 126.)

Sanitation.

161a. Commissioner of Health; Appointment, Qualifications, Tenure of Office, Duties, etc.—The Commissioner of Health shall be appointed by the Governor with the advice and consent of the council and he shall be a physician skilled in sanitary science and experienced in public health administration. The term of office of the Commissioner of Health shall be six years and he shall devote his entire time to his official duties. The Commissioner of Health shall be the administrative head of the State Department of Health and his powers and duties shall be to administer the laws relative to health and sanitation and the regulations of the department; * * * (P. L. 1917, c. 197, § 3.)

NOTE: See also No. 8; the beverage law, No. 36 et seq.; the bread law, No. 45 et seq.; the dairy law, No. 52 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

162. Publication or Sale of Certain Circulars Prohibited.—Whoever publishes, sells or distributes by hand or otherwise any circular, pamphlet, or book containing recipes or prescriptions for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compound designed to prevent conception, or tending to produce miscarriage or abortion, shall be deemed guilty of a misdemeanor and shall be punished by fine of not less than fifty, nor more than one hundred dollars, or by imprisonment for not more than three months. (R. S. 1916, c. 126, § 10.)

Antitoxin.

163. Antitoxin, in Certain Cases, Shall be Furnished Free.—To provide for the control of diphtheria and other contagious diseases, local boards of health shall furnish antitoxin free to all indigent persons suffering from such diseases, in such manner as the State Board of Health may direct. (R. S. 1916, c. 19, § 66.)

164. Contracts for Supply of Antitoxin.—The State Board of Health shall make contracts with reputable manufacturers for the sale of antitoxin to the local boards of health in such manner as is deemed best and most economical for the several towns, and may arrange several towns and plantations into groups for the purchase of antitoxin when it appears that such arrangement would be the best, most convenient and most economical for them. (Id. § 67.)

165. Antitoxin Shall be Furnished Physicians.—The antitoxin shall be kept by the secretary or chairman of the local board and shall be furnished physicians upon application on blanks provided and furnished by the State board. The local board shall provide a repository for antitoxin which may be furnished to physicians at the same rates as furnished by the State Board of Health and to their patients on prescriptions. The local board of health in any town furnishing an indigent person residing in another town antitoxin upon application as above provided shall be reimbursed by the town where the patient belongs. The State shall reimburse cities or towns furnishing antitoxin to any person having no legal residence in any city or town within the State. (Id. § 68.)

Distribution of Samples.

166. Throwing or Leaving Samples of Patent Medicines Upon Doorsteps Prohibited.—Any person, firm or corporation who, by himself, his servant or agent, or as the servant or agent of any other person or firm, shall leave, throw or deposit, or have in his possession with intent to leave, throw or deposit upon the doorstep, hall, porch, doorway, vestibule or premises owned or occupied by another any patent or proprietary medicine or any preparation, pill, tablet or drug shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty nor more than one thousand dollars, or by imprisonment for not less than thirty days nor more than one year. (R. S. 1916, c. 126, § 11.)

Insecticides and Fungicides.

See No. 1 et seq.

Pharmacy, Poisons and Narcotics.

167. Business of Apothecaries Regulated.—No person shall within the limits of the State conduct the business of an apothecary or any part thereof, or display any drugs, medicine, drug store fittings or furnishings or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claim to be or represent himself to be an apothecary, except as hereinafter provided. (R. S. 1916, c. 20, § 1.)

168. Commissioners of Pharmacy, Nomination and Appointment; Tenure; Vacancies, How Filled.—A Board of Commissioners of Pharmacy consisting of three suitable persons, shall be appointed, and may be removed for cause, by the Governor with the advice and consent of the council. The terms of office of said commissioners shall be so arranged that one member of said board shall be appointed annually for a term of three years from the first day of December in each year. Vacancies caused by death, resignation, removal or inability to perform the duties of the office shall be filled by appointment for the unexpired term. The Maine Pharmaceutical Association may, at its annual meeting each year, nominate six members of said association, whose names shall be forthwith certified by the president and secretary of said association to the Governor, and members of said commission appointed during any year, shall be selected from the persons whose names are so certified for said year, unless in the opinion of the Governor said persons are manifestly unsuitable or incompetent. (Id. § 2.)

169. Meetings; Election of Officers.—The members of said board shall meet on the second Wednesday of December in each year at such time and place as they may determine, and shall organize by electing from their number a president and secretary, who shall hold their respective offices for the term of one year. The said board shall hold three regular meetings in each year, one on the second Wednesday of December, one on the second Wednesday of April and one on the second Wednesday of August, and such additional meetings at such times and places as they shall determine. (Id. § 3.)

170. Record of Persons Examined and Money Received; Annual Report.—The board shall keep a record of the names of all persons examined and registered thereunder, and a record of all moneys received and disbursed by said board, a duplicate of which record shall always be open to inspection in the office of the Secretary of State. Said board shall annually in December make to the governor and council a report stating the condition of pharmacy in the State, with a full and complete record of all its official acts during the year and of the receipts and disbursements of the board to the last day of the preceding month. (Id. § 4.)

171. Complaints Against Registered Apothecaries; Notice and Hearing.—Said board shall hear all complaints against any person registered as an apothecary for the violation of any of the requirements of this chapter to be performed by a registered apothecary. Such complaints shall be made in writing under oath, shall set out the offense alleged, and shall be made within sixty days after the act complained of has been committed. The person against whom complaint is made, shall be notified of the charge made against him and of the time and place when and where the matter will be heard, at least fourteen days before the date fixed for the hearing. He may then and there appear before the board with his witnesses and be heard by counsel. Either member of the board may administer oaths to the witnesses at such hearings, and any person so sworn who willfully swears or affirms falsely respecting any matter upon which his testimony is required shall be deemed guilty of perjury. Said board may send for persons and compel the attendance of witnesses at said hearings by process duly served. (Id. § 5.)

172. Penalty if Person Complained of is Guilty.—If the full board sitting at such hearing shall find that the person so complained against is guilty of the acts charged against him, said board may suspend his registration as a pharmacist and his certificate thereof, for such term as the board in their judgment, after due consideration of the facts, may deem for the best interest of the public, or may revoke it altogether, but the certificate of registration of a registered pharmacist shall not be suspended or revoked for a cause punishable by law until after conviction by a court of competent jurisdiction. (Id. § 6.)

173. Examination and Certification of Apothecaries; Certificates Issued to Persons Registered in Other States; Certificates Shall be Displayed.—Every person not already registered, entering on the business of an apothecary, upon the payment of the fee of ten dollars, to the secretary of said board, except as hereinafter provided, shall be examined by said commissioners, and shall present to them satisfactory evidence that he had been an apprentice, or employed in an apothecary store where physicians' prescriptions are compounded, at least four years; or has graduated from some regularly incorporated medical college or college of pharmacy and has been employed in such an apothecary store for at least one year, and is competent for the business; the commissioners may give him a certificate of the fact and that he is authorized to engage in the business of an apothecary, and such certificate must be signed by at least two members of the commission. No such certificate shall be issued unless the applicant is at least twenty-one years of age, of good moral character, a citizen of the United States, and shall be a graduate of a high school or its equivalent: Provided, that exemption from the high school graduate requirement to registration as apothecary, shall be allowed to persons, who, before this act becomes effective, have been employed for at least four years in a drug store under the supervision of a qualified apothecary and who present to the board satisfactory evidence of such service and successfully pass the examination of said board within three years of the passage of this act. In case the result of the examination is unsatisfactory, and no certificate is granted, the applicant shall have the right to another examination without charge, after an interval of two months, and within twelve months after the date of his first examination. The board may, in its discretion, grant certificates of registration to such persons as shall furnish with their application satisfactory proof that they have been registered in some other State, provided that such other State shall require a degree of competency equal to that required of applicants of this State. Only one of the partners in a firm need be a registered druggist, provided, the partner who compounds medicines be registered. All certificates issued under the provisions of this chapter shall be constantly displayed, in a conspicuous place, in the store or shop of the persons to whom the same were issued. (Id. § 7, as amended P. L. 1927, c. 209.)

174. Certificates of Two Grades May be Issued.—Certificates of two grades or kinds may be issued, whereof one shall declare that the holder is skilled in pharmacy as in the preceding section, and the other kind which after the examination of the applicants therefor, may be issued to such as shall not be less than eighteen years of age and who have served two full years in an apothecary store where physicians' prescriptions are compounded, shall declare that the holder is a qualified assistant and is qualified to take charge of the business of an apothecary during the temporary absence of the registered apothecary, and the fee for such assistant's examination shall be five dollars. (R. S. 1916, c. 20, § 8.)

175. No Registered Apothecary Shall Permit Use of His Name.—No registered apothecary shall suffer or permit the use of his name or certificate of registration in the conduct of business of pharmacy when he himself is not actively

engaged in such business in the store where his certificate is displayed for at least six hours in each business day. (Id. § 9.)

176. Drug Stores Under Control of Registered Apothecary.—No store shall be kept open for the sale of medicines or poisons, or for compounding physicians' prescriptions, nor shall drugs or medicines be exposed or displayed for sale in any store, except as otherwise provided herein, unless the same is placed and kept under the personal control and supervision of a registered apothecary or qualified assistant, but such store may be under the charge of a qualified assistant during the temporary absence of such registered apothecary. (Id. § 10.)

177. Penalty for Falsely Claiming to be an Apothecary; Disposal of Fines and Forfeitures.—Whoever engages in or is found in charge of or carrying on a business of, or displays any drugs, medicines, drug store fittings or furnishings, or any sign recognized as peculiar to a drug store to give the appearance of an apothecary store, or claims to be or represents himself to be an apothecary, contrary to the provisions of this chapter, shall be subject to a penalty of five dollars a day for the first offense and ten dollars a day for each and every subsequent offense. All fines and forfeitures collected under the provisions of this section shall be paid to the Treasurer of State and shall be considered funds of the board of Commissioners of Pharmacy, to be by them expended for expenses incurred in their official work. (Id. § 11, as amended P. L. 1927, c. 209.)

178. Application of Chapter.—The provisions of this chapter shall apply to women who enter upon and carry on the business of apothecaries. This chapter shall not apply to physicians who prepare and dispense their own medicines, nor to the sale of non-poisonous domestic remedies and patent or proprietary preparations usually sold by grocers and others. (R. S. 1916, c. 20, § 12.)

179. Employment of Registered Apothecary.—Any person may enter upon the business of an apothecary without the certificate required by this chapter; provided, he does not personally do the duties of an apothecary, but employs a duly registered apothecary who has sole charge of compounding, putting up and dispensing medicines and drugs under the provisions hereof. (Id. § 13.)

180. Penalty for Using Drugs Not Named in Physician's Prescription.—Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be fined not less than five, nor more than one hundred dollars. (Id. § 14.)

181. Penalty for Adulterating Drugs and Selling the Same.—Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding four hundred dollars; and such adulterated drugs and medicine shall be forfeited, and destroyed under the direction of the court. (Id. § 15.)

182. Sale of Poisonous Drugs Without Prescription Regulated.—Whoever sells arsenic, arsenious acid, atropia, or any of its salts, chloral hydrate, chloroform, cotton root and its fluid extract, Fowler's solution, corrosive sublimate, cyanide of potassium, Donovan's solution, ergot and its fluid extract, sugar of lead, oil of savin, oil of tansy, Parsons' vermin exterminator, phosphorous, prussic acid, Rough on Rats, strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, crystals of carbolic acid or a strong solution of carbolic acid without the written prescription of a physician shall keep a record of such sales, the name and quantity of the article sold and the name and residence of the person or persons to whom it was delivered, which record shall be made before the article was delivered and shall be open to inspection by any member of the Board of Commissioners of Pharmacy, or by any inland fish and game warden, or by the police authorities and the officers of cities and towns. Whoever neglects to keep or refuses to show to said officers such record shall be punished by fine not exceeding fifty dollars. Whoever sells any of the poisonous articles named in this section without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper or white paper and red printing, upon which shall be printed in large letters the word "poison" and also the word "antidote" and the name and place of business of the vendor. The name of an antidote, if there be any, for the poison sold, shall also be upon the label. Every neglect to affix such label to such poisonous article sold before the delivery thereof to the purchaser shall be punished by a fine not exceeding fifty dollars. Whoever purchases poisons as aforesaid and gives a false or fictitious name to the vendor shall be punished by fine not exceeding fifty dollars. But nothing in this section shall be construed to apply to wholesale dealers or to

manufacturing chemists in their sales to retail trade, nor to the general merchant, nor to a firm or corporation in trade, who may sell in unbroken packages prepared by the manufacturers, Paris green, London purple or other poisonous preparations or compounds used for the destruction of bugs, beetles, insects, slugs, grubs, caterpillars or worms. Upon each and every package so sold shall be printed in large letters the word "poison," and the name of an antidote or antidotes if any. Every neglect to affix such label with the word "poison" thereon to such poisonous article before the delivery thereof to the purchaser shall be punished by fine not exceeding fifty dollars. (Id. § 16, as amended P. L. 1925, c. 78, § 2.)

183. Registered Apothecaries, Their Duties and Restrictions.—The drugs and medicinal preparations of a poisonous character of the United States Pharmacopœia, Dispensatory, or National Formulary may be sold or dispensed only by registered apothecaries in cities, towns or villages where registered apothecaries are located: that in cities, towns or villages where registered apothecaries are not located, and where necessity exists for some means of obtaining drugs and medicines, the commission shall designate such drugs and medicines, other than those permitted to be sold under the provisions of section twelve of chapter twenty of the revised statutes, as might with safety to public health be sold in original packages as and when put up and labeled by qualified pharmacists: Provided, that nothing herein contained authorizes the sale of intoxicating liquors. (R. S. 1916, c. 20, § 17, as amended P. L. 1927, c. 209.)

184. Sale of Opium Restricted.—No person except a registered apothecary, or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine or laudanum. Whoever violates this section shall be punished by a fine of not less than five, nor more than fifty dollars for each offense, to be recovered by complaint or indictment. (R. S. 1916, c. 20, § 19.)

185. Manufacture of Preparations Containing Cocaine, etc., Forbidden.—No person, firm or corporation shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them. (Id. § 20.)

186. Cocaine, etc., Shall be Sold Only Upon Written Prescription; Original Prescription Shall be Open to Inspection.—No person, firm or corporation shall sell, or expose or offer for sale, or give, deliver or exchange cocaine, or alpha or beta eucaine, or any synthetic substitute for them or any preparation containing the same, or any salts or compounds thereof, except upon the written prescription of a physician, dentist, or veterinary surgeon, registered under the laws of the State in which he resides, which prescription shall be dated and bear the name of the person giving it and of the person prescribed for; the original prescription shall be retained by the druggist filling the same for at least two years and shall not again be filled, except upon the written order of the original prescriber, and shall at all times be open to inspection by members of the State Board of Health, members of the Board of Commissioners of Pharmacy, and their authorized agents, by State officials and their authorized agents, and by the police authorities and officers of cities and towns. No practitioner of veterinary medicine shall prescribe any of the above mentioned substances for the use of a human being. (Id. § 21.)

187. Opium, Morphine, etc., Shall be Sold Only Upon a Written Prescription; Prescriptions Shall be Open to Inspection; Exceptions.—No person shall sell, furnish, give away or deliver opium, morphine, heroin, codeine, cannabis indica or cannabis sativa, or any salt, compound or preparation of said substances except upon the written prescription or order of a lawfully authorized practitioner of medicine, dentistry or veterinary medicine, which prescription shall be dated and shall bear the name of the person giving it, and the name of the person prescribed for; the original prescription shall be retained by the druggist filling the same for at least two years, and shall not again be filled except upon the written order of the original prescriber. Such prescriptions shall at all times be open to inspection by members of the State Board of Health, the Board of Commissioners of Pharmacy, State officials and their duly authorized agents, and by the police authorities and officers of the cities and towns. No practitioner of veterinary medicine shall prescribe any of the above substances for the use of a human being. The provisions of this section shall not apply to sales made by the manufacturer or wholesale or retail druggist to another manufacturer, wholesale or retail druggist; nor to sales made to hospitals, colleges, scientific or public institutions, or to physicians, dentists or veterinary surgeons; nor to the sale of cough remedies and other domestic and proprietary preparations, provided that such remedies and preparations are sold in good faith as medicines, and not for the

purpose of evading the provisions of this chapter; and provided, further, that such remedies and preparations do not contain more than two grains of opium, or one-half of a grain of morphine, or one-fourth of a grain of heroin, or one grain of codeine or their salts, in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce; but such provisos shall not apply to liniments and ointments which are prepared for external use only. Nor shall the provisions of this section apply to preparations containing opium or any of its salts, which are sold in good faith as remedies for diarrhœa, cholera or neuralgia, nor to powder of ipecac and opium, commonly known as Dover's powders, provided, that any such preparation is sold in good faith as medicine and not for the purpose of evading the provisions of this chapter. (Id. § 22.)

188. Practitioners Shall Not Prescribe Opium, etc., to Habitual Users.—No practitioner of medicine, dentistry, or veterinary medicine shall prescribe, for the use of an habitual user of the same, opium, morphine, heroin, codeine, or any salt or compound of the said substances, or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts, or alpha or beta eucaine or their salts, or any synthetic substitute for them, or any preparation containing the same or any salt or compound thereof; nor shall any practitioner of dentistry prescribe any of the said substances for any person not under his treatment in the regular practice of his profession; nor shall any practitioner of veterinary medicine prescribe any of the substances for the use of a human being; provided, however, that the provisions of this section shall not be construed to prevent a lawfully authorized practitioner of medicine from prescribing for the use of any habitual user of hypnotic or narcotic drugs, who is under the professional care of such practitioner, such substances as he may deem necessary for treatment, if such prescriptions are given in good faith and not for the purpose of evading the provisions of this section. (Id. § 23.)

189. Sales by Manufacturers or Jobbers, Regulated; Orders Shall be Kept on File.—A manufacturer or jobber of any or all of the drugs enumerated in sections twenty-one and twenty-two of this chapter, a wholesale druggist, or a registered pharmacist may sell any drug mentioned in said sections to a manufacturer, jobber, wholesale druggist, or to a pharmacist, physician, veterinarian or dentist, qualified to practice under the laws of this State, or to an incorporated hospital, but only upon a written order duly signed by such manufacturer, jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, or the superintendent of such incorporated hospital, which order shall show the article or articles ordered and the date of delivery. The said order shall be kept on file in the laboratory, warehouse, pharmacy or store from which it was filled by the proprietor thereof, or his successor, for a period of not less than two years from the date of delivery, and shall at all times be open to inspection by officers of the State Board of Health, members of the Board of Commissioners of Pharmacy, or their authorized agents, State officials and their authorized agents, and the police authorities and officers of cities and towns; and such order shall not contain items of any drug not mentioned in sections twenty-one and twenty-two of this chapter. (Id. § 24.)

190. Unauthorized Persons Shall Not Have Opium, etc., in Possession; Application of Section.—A person not being a physician, dentist or veterinary surgeon, qualified to practice in this State, or not being a manufacturer or wholesale or retail dealer in drugs, who has in his possession opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or any other hypnotic or narcotic drug or salt, compound or preparation of said substances, cocaine, alpha or beta eucaine or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, except by reason of a prescription of a physician, dentist or veterinary surgeon qualified to practice in this State, shall be punished as provided in section twenty-seven of this chapter. The provisions of this section shall not apply to a person, firm or corporation while transporting any of the above mentioned drugs from or to a manufacturer or jobber, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, or incorporated hospital, nor to persons who may have the above mentioned articles in their possession in connection with the enforcement of the provisions of this chapter or with the trial of cases arising thereunder. Possession of any of the drugs mentioned in this section shall be prima facie evidence that such possession is unlawful. (Id. § 25.)

191. No Practitioner Shall Dispense or Give Away Opium, etc., Except as a Medicine.—No practitioner of medicine, surgery, dentistry or veterinary medicine shall dispense, furnish or give away opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or any salt [or] compound of said substances or any prepa-

ration containing any of the said substances or their salts or compounds, or cocaine or its salts or alpha or beta eucaine or their salts or any synthetic substitute for them, or any preparation containing the same or any salt or compound thereof except in good faith as medicines for diseases indicated. (Id. § 26.)

192. Penalty.—Whoever violates any provision of the seven preceding sections or aids or abets another in the violation thereof shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for not more than one year, or by both fine and imprisonment. The county attorney in each county, upon complaint made by any member of the Board of Commissioners of Pharmacy or of the State Board of Health, shall prosecute all violations of this chapter. Judges of the municipal and police courts and trial justices shall have original and concurrent jurisdiction with the supreme judicial court and superior courts of offenses under the seven preceding sections. (Id. § 27.)

193. Analysis to Determine Composition of Substances Mentioned.—The director of the Maine Agricultural Experiment Station shall make a chemical analysis to determine the composition and quality of any substance mentioned in sections 20 to 26, both inclusive, on application of any county attorney and shall furnish a certificate certifying to the composition or quality thereof. The certificate under seal of the Maine Agricultural Experiment Station which shall be affixed by the chemist thereof making the analysis shall be prima facie evidence of the composition and quality of the substance analyzed. (Id. § 28.)

194. Buildings Resorted to by Drug Users Declared Common Nuisances; Narcotic Drugs, Contraband; Search Warrants May be Issued; Procedure; Penalties.—Each building, place or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs, or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance.

Narcotic drugs unlawfully in the possession or under the control of any person, and which are kept and deposited in the State, intended for unlawful sale in the State, and the vessels in which they are contained, are contraband and forfeited to the county in which they are so kept at the time when they are seized under this chapter. And in all cases where an officer may seize narcotic drugs or the vessels containing them, upon a warrant, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

If any person competent to be a witness in civil suits, makes sworn complaint before any judge of a municipal or police court or trial justice that he believes that narcotic drugs are unlawfully kept or deposited in any place in the State by any person, or that the same are intended for sale within the State in violation of law, such magistrate shall issue his warrant directed to any officer having power to serve criminal process, commanding him to search the premises described and specially designated in such complaint and warrant, and if said narcotic drugs are there found to seize the same with the vessels in which they are contained, and them safely keep until final action thereon, and make immediate return of said warrant. The name of the person so keeping said drugs as aforesaid, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he finds said drugs, to arrest said person and hold him to answer as having in possession said drugs as aforesaid. Any person who may be suspected of unlawfully having in his possession, or selling from, or keeping for illegal sale in his pockets, narcotic drugs may be searched in the same manner and by the same process as is provided for the search of places, and if drugs are found upon his person may be held to answer as though such drugs were kept and deposited by him in any place. If narcotic drugs are in any manner destroyed by the tenant, assistant or other person when premises are about to be searched, manifestly for the purpose of preventing their seizure by officers authorized to make such search and seizure, such drugs may be held to have been unlawfully in possession, and the penalties shall be the same as if said drugs had been seized. If the name of the person keeping such drugs is unknown to the complainant, he shall so allege in his complaint, and the magistrate shall thereupon issue his warrant as provided in the first sentence of this paragraph. If, upon trial, the court is of the opinion that the drug was possessed as aforesaid or intended for unlawful sale by the person named in said complaint, or by any other person with his knowledge or consent, he shall be found guilty thereof and sentenced to a fine of not less than one hundred nor more than five hundred dollars and costs, and in addition thereto be imprisoned not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional. (Id. § 31, as added P. L. 1925, c. 189.)

195. Dwelling House Not to be Searched Unless Part of it is Used as an Inn or Shop Unless Evidence is Presented to Satisfy Magistrate That Drugs Are

Kept Therein.—No warrant shall be issued to search a dwelling house occupied as such unless it or some part of it is used as an inn or shop or for purposes of traffic or unless the magistrate before whom the complaint is made is satisfied by evidence presented to him and so alleges in said warrant that narcotic drugs are kept in such house or its appurtenances in the manner or for the purposes aforesaid in violation of law. (Id. § 32.)

196. Forms Provided in Intoxicating Liquor Cases Made Applicable.—The forms set forth in section 54 of chapter 127 of the revised statutes, when changed by substituting the words "narcotic drugs" for the words "intoxicating liquors" wherever found in the same, together with such other changes therein as further adapt them for use under the provisions of this act, and with such additional changes as adapt them for use in cities, town and plantations, are sufficient in law for all cases arising under this act to which they purport to be adapted. (Id. § 33.)

196a. Term "Narcotic Drugs" Defined.—Under sections thirty-one, thirty-two and thirty-three of this chapter, the term "narcotic drugs" shall mean opium, morphine, heroin, codeine, cannabis indica, cannabis sativa or the salts, compounds or preparations of said substances, cocaine, alpha or beta eucaine or any synthetic substitute for them, or any preparation containing the same or any salts or compounds thereof. (Id. § 34.)

197. Definitions.—"Commission" means Maine Commission of Pharmacy.

"Board" means Maine Board of Pharmacy.

"Medicine" means a drug or preparation of drugs for use as a curative or remedial substance.

"Pharmacy" means the place registered by the board in which drugs, chemicals, medicines, prescriptions or poisons are compounded, dispensed, or retailed.

"Physician" means a practitioner of medicine duly registered under the laws of Maine or some other State.

"Dentist" means a practitioner of dentistry duly registered under the laws of Maine or some other State.

"Veterinarian" means a practitioner of veterinary duly registered under the laws of Maine or some other State.

"Poison" means any drug, chemical or preparation liable to be destructive to human life in quantities of sixty grains or less.

"Supervision" means under the direct charge or direction and does not contemplate any continued absence of such supervision.

"Proprietary Medicine" means remedies that certain individuals, firms, associations, or corporations have the exclusive right to manufacture or sell.

"Apothecary" or "Pharmacist" means a person who prepares, dispenses, or sells drugs or medicines and authorized by the commission to conduct the business of apothecary.

"Apothecary store" means a place where drugs or chemicals or medicines are compounded, dispensed or sold, and registered by the commission.

"Secretary" means the secretary of the Maine Board of Pharmacy. (R. S. 1916, c. 20, § 31, as added P. L. 1927, c. 209.)*

197a. Persons Suffering From Use of Opiates May be Committed to General Hospital.—A person, alleged to be suffering from the effects of the use of an opiate, cocaine, chloral hydrate, or other narcotic, may be committed to the care of any general hospital receiving aid from the State, or any legally qualified physician of not less than five years' actual practice, for treatment; and the medical authorities of said hospital or said physician to whom said patient is committed, may restrain said patient, so committed, in such manner, as may be necessary for his protection, for a period not exceeding ninety days. (R. S. 1916, c. 19, § 122.)

197b. Agreement for Personal Restraint.—Before any restraint shall be imposed under the authority of the preceding section, a voluntary agreement shall be made in writing by the person suffering from the effects of any drug mentioned in said section, to the imposition of restraint upon his actions, if necessary, and such agreement must be witnessed by the husband, wife, or parent of the person aforesaid, or one of the municipal officers of the city or town in which the person, so suffering, is a resident, and approved, after reasonable notice, by a justice of the Supreme Judicial Court or a judge of the Superior Court or Probate Court in the county where the patient resides. (Id. § 123.)

197c. Investigation as to Progress of Cases May be Required.—Any justice of the Supreme Judicial Court, or a judge of the Superior Court or Probate Court in the county where the patient resides, may, at his discretion, require the president

*P. L. 1927, c. 209, adds § 31 to c. 20, R. S. 1916, notwithstanding the addition of § 31 by P. L. 1925, c. 189. See No. 194.

or secretary of the State Board of Health, or one of the county examiners of insane criminals, to investigate as to the progress of any such case; and, upon his certificate that further restraint is unnecessary, may annul the agreement, and the person restrained shall be immediately released upon the order of said justice. (Id. § 124.)

NOTE: See also No. 218.

Venereal Disease Drugs.

198. No Person to Publish or Cause to be Published Any Notices or Advertisements for Cure of Venereal Diseases.—It shall be unlawful for any person to publish or cause to be published, to deliver or distribute or cause to be delivered or distributed in any manner whatsoever, or to post, or display, or to permit to be posted, displayed, or to remain on any buildings, windows, or out-houses, or premises, or other surface owned or controlled by him in this State, or to have displayed in or on any window or place where the same could be read by passers-by or the public, any advertisement, label, statement, print, or writing which refers to any person or persons from whom, or to any means by which, or to any office or place at which, may be obtained any treatment or cure for syphilis, gonorrhea, chancroid, lost manhood, sexual weakness, lost vitality, impotency, seminal emissions, gleet, varicocele, or self-abuse, whether described by such names, words, terms or phrases, or by any other names, words, terms or phrases, calculated or intended to convey to the reader the idea that any of said diseases, infirmities, disabilities, conditions or habits are meant or referred to, or which refers to any medicine, article, device, or preparation that may be used for the treatment, cure, or prevention of any of the diseases, infirmities, disabilities, conditions or habits mentioned in this act. (P. L. 1921, c. 32, § 1.)

199. Definition of Word "Person."—The word "person" as used herein, shall mean and include natural persons, co-partnerships, corporations and associations, and shall include persons of both sexes. (Id. § 2.)

200. Not to Apply to United States, State or Municipal Governments or to Public Officers.—This act shall not apply to publications, advertisements, or notices of the United States Government, the State of Maine, or of any city, town or plantation in said State, or of any public official, department or agency of this State, charged with the enforcement of its health laws. (Id. § 3.)

201. Penalty for Violation.—Any person violating any of the provisions of this act shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months or by both such fine and imprisonment. (Id. § 4.)

Wood Alcohol.

202. Vessels Containing Wood Alcohol Shall be Labeled.—Whoever, himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers any wood alcohol, otherwise known as methyl alcohol, shall affix to the vessel containing the same and shall deliver therewith a label bearing the words "Wood Alcohol, Poison" in red letters of not less than one-fourth inch in height. Whoever violates this section shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars. (R. S. 1916, c. 20, § 29.)

203. Sale of Any Articles Containing Wood Alcohol, for Internal Use, Prohibited.—Whoever, himself or by his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers, or has in his possession with intent to sell, exchange or deliver, any article of food or drink, or any drug intended for internal use, containing any wood alcohol, otherwise known as methyl alcohol, shall be punished by a fine of not less than two hundred dollars or by imprisonment for not more than thirty days, or by both fine and imprisonment. (Id. § 30.)

Intoxicating Liquors.

204. Manufacturing for Sale.—Whoever manufactures or attempts to manufacture any intoxicating liquors, except cider, and whoever has in his possession any wort or mash fit for distillation or for the production of distilled spirits, or has in his possession any worm, still or other device for the purpose of manufacturing intoxicating liquors, shall be imprisoned for not less than two months nor more than six months and fined not less than one hundred dollars nor more than one thousand

dollars and costs of prosecution, and in default of payment of fine and costs be imprisoned for not less than sixty days nor more than six months additional; and said wort, mash, worm, still or other device shall be seized by any officer having authority to seize intoxicating liquors and shall be declared forfeited by the court or magistrate having cognizance of the case and ordered destroyed. Alcohol may be used in the manufacture of flavoring extracts and syrups, Jamaica ginger not included, provided such extracts and syrups contain no more alcohol than is necessary for extraction, solution and preservation, and measure up to the standards prescribed and published by Commissioner of Internal Revenue and are unfit for use as beverages or for intoxicating beverage purposes. (R. S. 1916, c. 127, § 17, as amended P. L. 1923, c. 162.)

205. Sale of Pure Cider.—This chapter does not apply to the sale of unadulterated cider unless the same is sold to be used as a beverage or for tipping purposes nor to cider which has been so treated as to prevent fermentation and which does not contain one-half of one per cent of alcohol by volume. (R. S. 1916, c. 127, § 18, as amended P. L. 1925, c. 77, § 1.)

206. Sale of Intoxicating Liquors Prohibited; Definition.—No person shall at any time, by himself, his clerk, servant, or agent, directly or indirectly, sell any intoxicating liquors, of whatever origin; wine, ale, porter, strong beer, lager beer and all other malt liquors and cider when kept or deposited with intent to sell the same for tipping purposes, or as a beverage, and which has not been treated so as to prevent fermentation and all distilled spirits, as well as any beverage containing one-half of one per cent of alcohol by volume, are declared intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating. (R. S. 1916, c. 127, § 21, as amended P. L. 1925, c. 77, § 2.)

207. Penalties for Selling Liquors in Violation of Law; Liability of Clerk, Servant or Agent.—Whoever by himself, clerk, servant or agent, sells any intoxicating liquors in this State, or who shall knowingly sell any extract or syrup for intoxicating beverage purposes, or who shall sell any of the same, under circumstances from which the seller might reasonably adduce the intention of the purchaser to be to use them for such purposes, in violation of law, shall be punished by a fine of not less than one hundred nor more than five hundred dollars and costs and in addition thereto be imprisoned for not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned not less than two nor more than six months additional, and on each subsequent conviction he shall be punished by a fine of five hundred dollars and costs and in addition thereto be imprisoned six months, and in default of payment of said fine and costs he shall be imprisoned six months additional. Any person who aids in the sale of intoxicating liquor, by acting as agent, broker, clerk, employee, servant or otherwise, or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties. (R. S. 1916, c. 127, § 22, as amended P. L. 1923, c. 206.)

208. Law Applies to Importations in Original Packages.—All the provisions of this chapter, chapter twenty-three, section twenty-five of chapter one hundred and thirty-five, and section one of chapter one hundred and thirty-seven, so far as they relate to intoxicating liquors, are hereby made to apply to all intoxicating liquor imported in the original package. (R. S. 1916, c. 127, § 48.)

209. All Liquors With Alcohol as an Ingredient to be Plainly Labeled Showing Percentage, etc.; Penalty For Violation.—All ale, beer and other liquors kept for sale in this State of which alcohol is an ingredient or constituent part, shall be plainly labeled by having conspicuously affixed on the vessels in which they are contained, a paper label showing in print the percentage of alcohol contained in said liquors. Any liquors not so labeled shall be deemed to be intoxicating liquors within the meaning of the statute, shall be subject to seizure and shall be disposed of in the manner provided for disposing of intoxicating liquors. Any person who keeps and offers for sale any such liquors not so labeled shall be subject to a fine of one hundred dollars and costs and be imprisoned for not less than two nor more than six months, and in default of payment of said fine and costs he shall be imprisoned six months additional (Id. § 57, as added P. L. 1917, c. 209.)

PART IV.

Miscellaneous Laws.

Flag Desecration.

210. Terms Defined.—The words flag, standard, color, ensign or shield, as used in this act, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this State, or a copy, picture or representation thereof. (P. L. 1919, c. 158, § 1.)

211. Prohibition as to Display of U. S. Flag.—No person shall, in any manner, for exhibition or display: (a) place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this State, or authorized by any law of the United States or of this State; or (b) expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or (c) expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance. (Id. § 2.)

212. Flag Not to be Mutilated.—No person shall publicly mutilate, deface, defile, defy, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield. (Id. § 3.)

213. Not to Apply in Certain Cases.—This statute shall not apply to any act permitted by the statutes of the United States (or of this State), or by the United States Army and Navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement. (Id. § 4.)

214. Penalty for Violation.—Any violation of section two of this act shall be a misdemeanor and punishable by a fine of not more than fifty dollars. Any violation of section three of this act shall be punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or by both fine and imprisonment, in the discretion of the court. (Id. § 5.)

215. Law Made Uniform.—This act shall be so construed as to effectuate its general purpose and to make uniform the laws of the States which enact it. (Id. § 7.)

216. Denomination.—This act may be cited as the Uniform Flag Law. (Id. § 8.)

216a. Right to Place Names of Candidates of President and Vice-President, Eliminated.—Whoever in any manner, for exhibition or display, places or causes to be placed any inscription, device, advertisement or notice whatever upon any flag, standard, color or ensign of the United States or State flag of this State, or displays or exhibits or causes to be displayed or exhibited any flag, standard, color or ensign of the United States or flag of this State upon which shall in any manner be placed or affixed any inscription, device, advertisement or notice whatever or attaches to or represents upon any goods, wares or merchandise any imitation or representation of the national flag of the United States, or uses any imitation or representation of the national flag of the United States for advertising purposes or in any manner mutilates, tramples upon or otherwise defaces or defiles any of said flags, standards, colors or ensigns, whether they are public or private property, shall be punished by a fine of not less than five nor more than fifty dollars. Provided, however, that flags, standards, colors or ensigns, the property of or used in the service of the United States, or of this State, may have inscriptions, names of actions, words, marks or symbols, placed thereon pursuant to law or authorized regulations, and that associations organized by men who have served in the army or navy of the United States may place appropriate inscriptions upon

flags borne by them or used for memorial purposes. (R. S. 1916, c. 119, § 5, as amended P. L. 1925, c. 110.)

Gift Enterprise.

See No. 51.

Sperm Oil.

216b. Pure Sperm Oil Defined; Penalty for Adulteration.—All oils sold under the names of sperm, summer, fall and winter oils, are deemed to be sold for pure sperm oil, the test of which is Southworth's oleometer. Whoever sells under said names, any oils which are adulterated by the mixture of an inferior article, without disclosing the full extent of adulteration to the purchaser, forfeits to the prosecutor fifteen dollars for each offense; and the oil so sold shall be deemed whale-oil, and the seller is liable to the purchaser for the difference between pure sperm and whale oil, to be recovered in an action on the case. (R. S. 1916, c. 44, § 24.)

Tobacco—Tobacco Products.

217. Sale of Cigarettes to Minors Prohibited.—Whoever by himself, clerk, servant or agent, directly or indirectly, sells, offers for sale, has in his possession with intent to sell, or gives away to, or in any way obtains for any person under the age of twenty-one years, any cigarette, cigarette paper, so called, or tobacco such as is used for making any cigarette, shall be punished by a fine not exceeding fifty dollars or by imprisonment not exceeding sixty days. Trial justices and municipal and police courts shall have jurisdiction of offenses under this section. (R. S. 1916, c. 130, § 23.)

218. Selling or Giving Cigarettes, Tobacco, Liquor or Narcotic Drugs to Children.—Whoever sells or gives to any child under the age of sixteen years, or furnishes any such child with cigarettes, cigarette papers, tobacco, liquor or narcotic drugs in any form, or encourages such child to use the same, unless prescribed by a physician or otherwise used in case of sickness, shall be deemed guilty of encouraging, causing or contributing to the delinquency or distress of such child, and upon conviction shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days. (R. S. 1916, c. 120, § 33.)

Trade-Marks, Etc.

219. No Person Shall Use Another's Trade-Mark.—When a person uses any peculiar name, letters, marks, device, or figures, cut, stamped, cast or engraved upon, or in any way attached to or connected with any article manufactured or sold by him to designate it as an article of a peculiar kind, character or quality, or as manufactured by him, no other person shall use, without his consent, the same or any similar names, letters, marks, devices or figures, for the purpose of falsely representing any articles to have been manufactured by him, or to be of the same kind, character or quality, as that manufactured or sold by the party rightfully using the same. (R. S. 1916, c. 44, § 12.)

220. Damages for Violation.—Whoever violates the provisions of the preceding section, is liable to any party aggrieved thereby, for all damages actually incurred, to be recovered in an action on the case. (Id. § 13.)

221. Business Names, Unauthorized Use of, Prohibited.—No one shall assume, or continue to use in his business, either alone, or in connection with his own or any other name, or designation, the name of any person formerly connected with him in partnership, without the written consent of such person or his legal representative. (Id. § 14.)

222. Injunctions.—The Supreme Judicial Court may restrain, by injunction, any use of trade-marks or names, in violation of the foregoing provisions. (Id. § 15.)

223. Proprietor of Trade-Mark May File Certificate With Secretary of State; Its Contents.—Any person, entitled to the exclusive use of any trade-mark, or who intends to adopt and use any trade-mark not previously adopted or used by another, may file for record in the office of the Secretary of State a certificate setting forth his name, residence and place of business; the class of merchandise and the particular description of goods comprised in such class to which such trade-mark has been or is to be appropriated; a description thereof,

and of the mode in which it is to be applied and used; the date when it was first used or adopted; that he has a right to the use of it; and that no other person, firm or corporation has the right to such use, either in the identical form, or having such near resemblance thereto as is calculated to deceive. A facsimile of such trade-mark shall be incorporated in or annexed to said certificate, and a duplicate shall be filed therewith, to be pasted or bound into the record book, if practicable. Such certificate shall be signed and sworn to by such person, or his agent. (Id. § 16.)

224. Penalty for Perjury; if Secretary of State Believes Certificate Untrue, He May Decline to Record it, Until Compelled by Mandamus; Proceedings.—Whoever willfully swears or affirms falsely to any such certificate, is guilty of perjury, and shall pay treble damages to every party injured thereby. If the Secretary of State has reason to apprehend, on the filing of such certificate, that any statement therein contained is untrue, he may decline to record the same, unless the party filing it obtains a writ of mandamus to compel him. Such writ may be granted by any proper court, but without costs to the secretary, on proof that all the statements in such certificate are true, but no final hearing on the application therefor, shall be had until such notice thereof as said court orders has been advertised in one or more newspapers published in the county where the party filing said certificate resides; and any persons who desire may appear and intervene as parties defendant, and oppose the granting of such writ, and shall be liable to judgment for any costs occasioned by such intervention. (Id. § 17.)

225. Exclusive Right to Use of Trade-Mark, Guaranteed; Rights are Assignable.—Every party entitled to make and file such certificate and affidavit, upon recording the same in said office, becomes entitled to the exclusive use of the trade-mark therein described, so long as he or his assigns continue to be engaged in the manufacture or sale of the merchandise or description of goods to which it is appropriated; and such right is assignable in writing, but all assignments thereof are good only against the assignor and his personal representatives, until lodged for record in said office. (Id. § 18.)

226. Certificates and Assignments Recorded; Copies are Evidence.—The Secretary of State shall retain all such certificates on file and cause the same and all assignments of trade-mark rights to be recorded at length in his office. Copies of the record of any such certificate, attested by him under the seal of the State, are prima facie evidence of the right of the party filing such certificate to the exclusive use of the trade-mark therein described for the periods limited in the preceding section. (Id. § 19.)

227. Counterfeiting Trade-Marks, and Sale of Goods With Such Counterfeits Thereon, Prohibited; Penalty.—Whoever knowingly and willfully counterfeits, or causes to be counterfeited, any private stamps, labels or trade-marks used by a mechanic or manufacturer about the sale of his goods with intent to defraud the purchaser or manufacturer, or sells such goods with such counterfeit stamps, labels or trade-marks thereon, knowing them to be counterfeit, without disclosing the fact to the purchaser, shall be punished by imprisonment for [not] less than one year or by a fine not exceeding two hundred dollars. (Id. § 20.)

228. Penalty for Counterfeiting Recorded Trade-Marks.—Whoever reproduces, copies, counterfeits or imitates any such recorded trade-mark, knowing the same to have been recorded, and affixes such reproduction, copy, counterfeit or imitation to goods resembling or designed to resemble those to which such trade-mark is so appropriated, shall pay to the owner of such trade-mark double damages besides such sum, not exceeding five hundred dollars, as the court before which the action is brought orders to be added to the damages found by the verdict or judgment. (Id. § 21.)

229. Penalty for Fraudulent Use of Such Trade-Marks.—Whoever fraudulently and with intent to deceive affixes any trade-mark recorded under section 19 or any such imitation thereof as is calculated to deceive to any goods, receptacle or package similar in descriptive properties to those to which such trade-mark is appropriated, or who fraudulently and with intent to deceive places in any receptacle or package to which is lawfully affixed a recorded trade-mark goods other than those which said trade-mark is designed and appropriated to protect, or who fraudulently and with intent to deceive deals in or keeps for sale any goods with a trade-mark fraudulently affixed as above described, or any goods contained in any package or receptacle having a lawful trade-mark but not being such goods as said trade-mark was designed and appropriated to protect, shall be fined not more than five hundred dollars or imprisoned not more than thirty days. (Id. § 22.)

230. Rights to Existing Trade-Marks Not Abridged.—This chapter does not abridge rights to any existing trade-marks, whether the same are hereafter recorded or not, nor any remedies or rights of action otherwise or heretofore existing in favor of owners of trade-marks. (Id. § 23.)

231. Protection of Marks on Containers Used for Soda-water and Similar Beverages.—All persons or corporations engaged in the manufacture or sale of soda water, mineral and aerated waters, ginger ale, small beer, spruce beer, white beer, or other similar beverages in syphons, boxes, cans, bottles, kegs or other vessels, with their names or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such syphons, boxes, cans, bottles, kegs or anything connected therewith and appertaining thereto, may file in the office of the town or city clerk in which their principal place of business is situated a description of the names and marks aforesaid used by them, and cause the same to be published once a week for three successive weeks in any newspaper published in the county in which said notice may have been filed as aforesaid. (Id. § 30.)

232. Unlawful Use, or Defacing of Containers so Marked; Penalty.—Whoever knowingly and willfully, without the written consent of an owner who has complied with the provisions of the preceding section or of section twenty-nine* uses, buys, sells, fills or traffics in any such syphon, box, can, bottle, keg or other vessel, or any such can of a capacity of not less than five gallons, used in the sale of kerosene, refined petroleum, gasoline or other burning or illuminating oils or fluids, so marked as aforesaid, or defaces, covers up or obliterates the names, marks or devices thereon, with intent to use, fill, buy, sell, dispose of or traffic therein, or to convert the same to his own use, shall, on complaint, be punished by imprisonment for not more than thirty days or by fine of not more than twenty dollars, and fifty cents additional for each such syphon, box, can, bottle, keg or other vessel or such can of a capacity of not less than five gallons so used, bought, sold, filled, trafficked in or disposed of, or by both such imprisonment and fine in the discretion of the magistrate hearing the complaint; and the said magistrate on finding such person or persons guilty, shall impose the punishment herein prescribed and shall award possession of the property taken to the owner thereof. (Id. § 31.)

233. Search Warrant May Issue to Search for Such Containers.—Whenever any person in his own behalf or in behalf of any corporation shall make complaint on oath to any magistrate or court authorized to issue warrants in criminal cases that he has reason to believe and does believe that any of his or said corporation's syphons, boxes, cans, bottles, kegs or other vessels or any of his or said corporation's cans of a capacity of not less than five gallons, used in the sale of kerosene, refined petroleum, gasoline or other burning or illuminating oils or fluids, a description of the names, marks or devices wherein has been so filed and published as aforesaid, are being unlawfully used, filled, bought, sold, disposed of or trafficked in or unlawfully had by any person or corporation manufacturing or selling said beverages, oils, fluids or liquids, or by any junk dealer or dealer in second-hand articles, or by any vendor of such syphons, boxes, cans, bottles, kegs or other vessels, or cans of a capacity of not less than five gallons, used for the purposes aforesaid, the said magistrate shall thereupon issue a search warrant to search therefor. (Id. § 32.)

NOTE: See also Nos. 71, 82 et seq., and 150a et seq.

Weights and Measures.

234. State Sealer of Weights and Measures.—The Commissioner of Agriculture shall be the State Sealer of Weights and Measures.

The standard weights and measures furnished by the government of the United States in accordance with the joint resolution of Congress approved June fourteenth, eighteen hundred and thirty-six, and any additions thereto and renewals thereof certified to by the United States Bureau of Standards, and weights, measures, balances and apparatus added by the State Sealer of Weights and Measures and verified by the United States Bureau of Standards, shall be the standards of weights and measures throughout this State. (R. S. 1916, c. 48, § 1.)

235. Standards Adopted by the State.—The standards adopted by the State shall be kept at the Statehouse under the supervision of the State Sealer and shall not be removed or used except for the adjustment of a set of working standards that are copies of the original standards or for scientific purposes or to be verified

*Relates to sale of kerosene, etc.

by the National Bureau of Standards. The State Sealer shall maintain the State standards in good order and shall submit them at least once in ten years to the National Bureau of Standards for certification. He shall at least once in five years cause the standards of the several cities and towns to be compared and corrected to conform with the State standards. (Id. § 2.)

236. Shall Establish Tolerances in This State; Other Powers and Duties.—The State Sealer of Weights and Measures shall, after consultation with, and with the advice of, the National Bureau of Standards, establish tolerances for use in this State and said tolerances shall be the legal tolerances of the State. He shall have general supervision of the weights and measures and weighing and measuring devices of the cities and towns of the State, and cause the enforcement of all laws pertaining to weights and measures in use in the State and may appoint such agents as he desires to assist in the enforcement. (Id. § 3.)

237. State Sealer Shall Enforce Provisions of Law.—He shall enforce the provisions of law requiring municipal officers to procure and maintain standards of weights and measures, and the appointing of a sealer of weights and measures. He may appoint a deputy who shall have the authority conferred by the two following sections and may appoint inspectors with authority to perform any part or all of the duties provided in sections 5 and 6. (Id. § 4, as amended P. L. 1919, c. 6.)

238. State Sealer or Deputy Shall Inspect Work of Local Sealers.—He or his duly appointed deputy shall visit the various cities and towns in the State in order to inspect the work of the local sealers, and may at all times inspect and test the weights, measures and balances of any person, firm, association or corporation used, or to be used, in purchasing from or selling to the public any goods, wares, merchandise or other commodities; if any such weights, measures or balances are found to be inaccurate or defective, he shall forthwith cause the same to be corrected or condemned. (R. S. 1916, c. 48, § 5.)

239. May Test Commodities Offered for Sale; May Have Access to Buildings.—He or his duly appointed deputy may, at irregular intervals, examine commodities sold or offered for sale and test them for correct weight, measure or count, and bring complaint for violations of sections eight to twenty-five, both inclusive, of this chapter. He, or his duly appointed deputy may for the purpose stated above, and in the general performance of his or their official duties, have access without formal warrant to any stand, place, building or premises, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any person for the purpose of making the proper tests. (Id. § 6.)

240. Record and Annual Report.—He shall keep a record in detail of the work of his office and shall annually, on or before the first day of December, make a written report of the work and the expenses of his office to the Governor and council. (Id. § 7.)

241. Municipal Officers to Elect for Indefinite Term; Removable Only for Neglect; State Sealer to Have Jurisdiction.—The municipal officers of each town shall elect a sealer of weights and measures, also a deputy sealer if necessary, not necessarily a resident therein, and said sealer and deputy shall hold office during their efficiency and the faithful performance of their duties and shall be removed by said officers only for neglect of duty. The State Sealer of Weights and Measures shall have jurisdiction over said sealer or deputy sealer, and any vacancy caused by death or resignation shall be filled by election by said municipal officers within thirty days; for each month that said municipal officers neglect their duty they severally shall forfeit ten dollars. Within ten days after each such election the clerk of each city or town shall communicate the name of the person so elected to the State Sealer of Weights and Measures, and for neglect of this duty shall forfeit ten dollars. Such sealer of weights and measures in any town may be sealer for several towns if such is the pleasure of the municipal officers therein, provided such action received the approval of the State Sealer of Weights and Measures. (Id. § 8, as amended P. L. 1917, c. 61.)

242. Treasurers of Each Town Shall Keep Town Standards.—The treasurers of each town, at the expense thereof, or jointly with the treasurers of adjacent towns, shall constantly keep as town standards a set of beams and weights and measures subject to the approval of the State Sealer and conformable to the State standards. Said treasurers shall cause all beams and weights and measures belonging to their towns to be proved and sealed by the State standards once in five years, beginning the first day of January, nineteen hundred and thirteen, and for every neglect of said duty they forfeit one hundred dollars. (R. S. 1916, c. 48, § 9.)

243. Cities May Own Scales; Appoint Weighers and Deputy Sealers.—Any city may purchase and keep for use scales for weighing hay and other articles,

appoint weighers and fix their fees, to be paid by the purchaser. The municipal officers of cities and towns may appoint a deputy sealer of weights and measures to hold office during their pleasure and fix his compensation. Such deputy shall act under the direction of the sealer of weights and measures in the municipality, and shall have the same authority as the sealer in the performance of his duties. (Id. § 10.)

244. City and Town Sealers Shall Keep Records of Weights and Measures Sealed; Shall Make Annual Report.—The several city and town sealers, and other persons authorized to inspect weights and measures shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by them, giving the name of the owner or agent, the place of business, the date of inspection and kind of apparatus so inspected, sealed or condemned. He shall make an annual report, duly sworn to, on or before the first day of November of each year, to the State Sealer, giving in addition to the above an inventory of the standards and apparatus in his possession, and such other information as he may deem important, or as the State Sealer may require. (Id. § 11.)

245. Duty of Sealer to Receive and Receipt for Standards; Penalty for Neglect.—The person appointed as provided in section eight, shall receive the standards and seal from the treasurer, giving a receipt therefor, describing them and their condition, and therein engaging to redeliver them at the expiration of his office in like good order; and he shall be accountable for their due preservation while in his possession. For every neglect of any duty prescribed by this chapter he shall forfeit ten dollars. (Id. § 12.)

246. Sealers Shall Give Notice of Times and Places for Sealing Weights and Measures.—The sealers of weights and measures in the several cities and towns shall annually give public notice by advertisement, or by posting in one or more public places in their respective cities and towns notices to all inhabitants or persons having usual places of business therein and who use weights, measures or balances for the purpose of selling any goods, wares, merchandise or other commodities or for public weighing to bring in their weights, measures and balances to be adjusted and sealed. Such sealers shall attend in one or more convenient places and shall adjust, seal and record all weights, measures and balances so brought in. (Id. § 13.)

247. Sealers Shall Visit Persons Who Neglect to Comply.—After giving said notice the said sealers shall go to the houses, stores and shops of persons who neglect to comply therewith, and having entered the same with the assent of the occupants thereof, shall adjust and seal their weights, measures and balances. (Id. § 14.)

248. Shall Visit Annually Owners of Hay, Coal and Platform Scales and Test Same.—Said sealers shall go once a year and oftener if necessary, to every hay and coal scale, to every platform balance within their respective cities and towns that cannot be easily or conveniently removed, and shall test the accuracy of and adjust and seal the same. (Id. § 15.)

249. All Scales, Weights and Measures May be Tested Any Time.—All persons using any scales, weights or measures for the purpose of buying or selling any commodity, may, when they desire it, have the same tested and sealed by the sealers of weights and measures at the office of any of said sealers. (Id. § 16.)

250. If Sealer Cannot Seal Any Weights, Etc., He May Mark to Show Inspection; Use of Weights, Etc., That Cannot be Adjusted by Sealers Forbidden.—In case a sealer of weights and measures cannot seal any weights, measures and balances in the manner before provided, he may mark them with a stencil or by other suitable means so as to show that they have been inspected; but he shall in no case seal or mark as correct any weights, measures or balances which do not conform to the standards. If such weights, measures or balances can be readily adjusted by such means as he has at hand, he may adjust and seal them; but if they cannot be readily adjusted, he shall affix to such weights, measures or balances a notice, forbidding their use until he is satisfied that they have been so adjusted as to conform to the standards; and whoever removes said notice without consent of the officer affixing the same, shall for each offense forfeit a sum not less than ten dollars and not exceeding fifty dollars. (Id. § 17.)

251. Sealer Shall be Furnished With Appliances for Testing Weights, etc.—A sealer when visiting the place of business of any person for the purpose of testing any weights, measures or balances, may use for that purpose such weights, measures or balances as he can conveniently carry with him, and each city and town shall furnish its sealer with one or more duplicate sets of weights, measures and balances, which shall at all times be kept to conform to the standards furnished by the State, and all weights, measures and balances so sealed shall be deemed to

be legally sealed the same as if tested and sealed with the standard weights, measures and balances. (Id. § 18.)

252. False Weights and Measures May be Seized.—A sealer of weights and measures may seize without a warrant such weights, measures or balances as may be necessary to be used as evidence in cases of violation of the law relating to the sealing of weights and measures, such weights, measures or balances to be returned to the owners, or forfeited as the court may direct. (Id. § 19.)

253. Proceedings, When Complaint is Made, That Incorrect Weights, etc., Are Being Used; Penalty for Using Weight, etc., After Refusal of Permission to Test.—When a complaint is made to a sealer of weights and measures by any person that he has reasonable cause to believe or when such sealer himself has reasonable cause to believe that a weight, measure or balance used in the sale of any commodity within his city or town is incorrect, the said sealer shall go to the place where such weight, measure or balance is and shall test the same, and mark it according to the result of the test applied thereto; and if the same is incorrect and cannot be adjusted, the said sealer shall attach a notice thereto, certifying that fact, and forbidding the use thereof until it has been made to conform to the authorized standard. Any person using a weight, measure or balance after a sealer has demanded permission to test the same, and has been refused such permission shall be liable to a penalty of not less than ten, nor more than one hundred dollars. (Id. § 20.)

254. How Incorreced Weights, Etc., Shall be Stamped.—All weights, measures and balances that cannot be made to conform to the standard shall be stamped "condemned" or "CD" by the sealer, and no person shall thereafter use the same under the penalties provided in the case of the use of false weights and measures. (Id. § 21.)

255. Scales Shall be Sealed Before Use.—Before any weights, measures, scales, steelyards, beams or balances are used, they shall be sealed by a public sealer of weights and measures. (Id. § 22.)

256. Sales by Gross Weight.—Such articles as are sold or exchanged in any market or town in the State by gross or avoirdupois weight, shall be sold or exchanged as follows: twenty-five avoirdupois pounds constitute one quarter; four quarters, one hundred; and twenty hundreds, one ton; and all other articles, usually sold by tale, shall be sold by decimal hundred. (Id. § 23.)

257. Penalty for Use of False Scales or Measures; Presumptive Evidence.—Whoever by himself, or by his servant, or as the agent or servant of another, shall use or retain in his possession any false scales, weight or measure or weighing or measuring device in the buying or selling of any commodity or thing, or whoever after a weight, measure, scale, balance, or beam has been adjusted and sealed, shall alter it so that it does not conform to the public standard and shall fraudulently make use of it, or whoever shall dispose of any condemned scales, weight, measure, or weighing or measuring device, contrary to law, or remove any tag, stamp or mark placed thereon by the sealer; or whoever by himself, or by his agent or servant, or as agent or servant of another, shall sell, offer or expose for sale less than the quantity he represents or whoever by himself, or by his agent or servant, or as the agent or servant of another, shall sell, offer for sale, or have in his possession for the purpose of selling, any false scales, weight or measure, or any device or instrument to be used or calculated to falsify any weight or measure, shall be guilty of a misdemeanor and shall for the first offense be punished by a fine of not more than fifty dollars; for the second offense by a fine of not less than twenty, nor more than two hundred dollars, and for any subsequent offense by a fine of fifty dollars and by imprisonment for not less than thirty, nor more than ninety days. The possession or use by any person of any false weight, measure or other apparatus for determining the quantity of any commodity or article of merchandise is presumptive evidence of knowledge by such person of the falsity of such weight, measure or other apparatus. Every sealer of weights and measures who has reasonable cause to believe that a weight, measure, scale, balance or beam has been altered since it was last adjusted and sealed shall enter the premises in which it is kept or used and shall examine the same. A sealer, or his duly appointed deputy may examine commodities sold or offered for sale and test them for correct weight, measure or count, and bring complaint for violations of sections eight to twenty-five, both inclusive, of this chapter. He, or his duly appointed deputy may, for the purpose stated above, and in the general performance of his or their official duties, have access without formal warrant to any stand, place, building, or premises, or to any sales slip, record of sale, or weight slip, or may stop any vendor, peddler, junk dealer, coal wagon,

ice wagon, or any person for the purpose of making the proper tests. Any person refusing to exhibit any sales slip, record of sale, or weight slip in his possession, or to allow proper tests for correct weight, measure or count, or refusing to proceed to a proper and convenient place for the making of any such test, shall be punished by a fine not exceeding ten dollars. (Id. § 24, as amended P. L. 1917, c. 207.)

258. Penalty for Using Weights, etc., Which Have Not Been Sealed.—Whoever sells by any other weights, measures, scales, beams or balances than those which have been sealed as before provided, shall forfeit a sum not exceeding twenty dollars for each offense, and when by the custom of trade such weights, measures, scales, beams, or balances are provided by the buyer, he shall, if he purchases by any other, be subject to a like penalty to be recovered by an action of tort to the use of the complainant. (R. S. 1916, c. 48, § 25.)

259. Jurisdiction of Courts.—Municipal and police courts and trial justices shall have original jurisdiction, concurrent with the Supreme Judicial Court and Superior Courts, of prosecutions for all offenses against the laws pertaining to weights and measures. (Id. § 26.)

260. Sealer May be Paid Salary and Fees Paid Into Treasury.—The city council of a city may by ordinance, and a town may by by-law, provide that the sealer of weights and measures for their city or town shall be paid by a salary, and that he shall account for and pay into the treasury of the city or town the fees received by him by virtue of his office; and where such salary is paid no fees shall be charged for services rendered under section thirteen. (Id. § 27.)

261. Appointment and Fees of Measurers.—The municipal officers of towns annually may appoint measurers of salt, corn and grain therein, who shall receive such fees from the purchaser as said officers establish, and in every contract made in the State for the sale of salt by the hogshead, such hogshead shall consist of eight bushels; and, when the buyer or seller requests, salt, corn or grain bought or sold in places where such measurers live shall be measured by them. (Id. § 28.)

262. Standard Weight Fixed.—The standard weight of a bushel of potatoes is sixty pounds; of apples, forty-four pounds; of dried apples, twenty-five pounds; of wheat, sixty pounds; of corn or rye, fifty-six pounds; of cracked corn, feed, or meal of any kind except oatmeal, fifty pounds; of barley or buckwheat, forty-eight pounds; of carrots or English turnips, fifty pounds; of onions, fifty-two pounds; of rutabaga, sugar beets, mangel-wurzel, turnip and other beets, sixty pounds; of parsnips, forty-five pounds; of beans, sixty pounds; of Lima beans, fifty-six pounds; of shell beans, twenty-eight pounds; of soy beans, fifty-eight pounds; of scarlet or white runner pole beans, fifty pounds; of string beans, twenty-four pounds; of Windsor (broad) beans, forty-seven pounds; of beet greens, dandelions, kale or spinach, twelve pounds; of parsley, eight pounds; of peas, sixty pounds; of unshelled green peas, twenty-eight pounds; of wrinkled peas, fifty-six pounds; of rough rice, forty-four pounds; of oats, thirty-two pounds; of green peanuts, twenty-two pounds; of roasted peanuts, twenty pounds; of Turk's Island or other coarse grades of salt, seventy pounds; of Liverpool or other fine grades of salt, sixty pounds; of lime, seventy pounds; of hair used in masonry, well dried and cleaned, eleven pounds; of strawberries, raspberries or blackberries, forty pounds; of blueberries, forty-two pounds; of currants, forty pounds; of cranberries, thirty-two pounds; of peaches, forty-eight pounds; of pears, fifty-eight pounds; of dried peaches, thirty-three pounds; of sweet potatoes, fifty-four pounds; of quinces, forty-eight pounds; of tomatoes, fifty-six pounds; all to be in good order and fit for shipping or for market; the measure of each of these articles shall be determined as aforesaid at the request of the vendor or vendee; and if either party refuses so to do he forfeits twenty cents for each bushel, to the person prosecuting therefor within thirty days.

The standard weight of a bushel of herd's grass seed when well cleaned and in good condition is forty-five pounds; of clover seed, sixty pounds; of alfalfa seed, sixty pounds; of flaxseed, fifty-six pounds; of hemp seed, forty-four pounds; of Hungarian grass seed, forty-eight pounds; of orchard grass seed, fourteen pounds; of redtop seed, fourteen pounds; of sorghum seed, fifty pounds; of timothy seed, forty-five pounds; of millet seed, fifty pounds; of Japanese millet seed, thirty-five pounds; of bran, twenty pounds; of Sea Island cotton seed, forty-four pounds; of upland cotton seed, thirty pounds.

The standard weight of a barrel of flour is one hundred and ninety-six pounds; of a barrel of potatoes in good order and fit for shipping is one hundred

and sixty-five pounds; of a barrel of sweet potatoes in like condition one hundred and fifty pounds. (Id. § 29.)

263. Sale of Fruits, Nuts and Vegetables, by Measure, Regulated.—All fruits, nuts and vegetables, if sold by measure, shall be sold by dry measure, United States Standard, and shall be measured by level measure. Baskets or other receptacles holding one quart or less which are to be used in the sale of strawberries, blackberries, cherries, currants, blueberries, huckleberries, raspberries or gooseberries, shall be of the capacity of one quart, one pint or one-half pint, United States standard, dry measure. Whoever sells or offers for sale or has in possession with intent to sell, any of the aforesaid fruits in any basket or other receptacle holding one quart or less which does not conform to said standard, or conforming to said standard is not level measure, shall be punished by a fine of ten dollars for each offense. Said baskets or other receptacles shall not be required to be tested and sealed as provided by this chapter, but any sealer or health officer may test the capacity of any basket or other receptacle in which any of the aforesaid fruit is sold or intended to be sold; and if the same is found to contain less than the standard measure, or if the quantity of such fruit is otherwise less than as herein provided, he shall seize the same and make complaint against the vendor. (Id. § 30.)

264. Sale of Ice by Weight, When Requested.—A dealer in ice who on request of the purchaser of ice refuses or neglects to weigh the same when delivered or give false weight shall for each offense be punished as provided in section twenty-four of this chapter. Whoever, having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses on the request of the purchaser of ice to weigh the same when it is delivered or gives false weight, shall be punished by a fine of not more than ten dollars. (Id. § 31.)

265. Scales and Weighing Devices Not to be Sold Until Standard Approved.—It shall be unlawful to sell, offer for sale or give away any scale or other weighing or measuring device until a scale or measuring device of the same manufacture, type and kind shall have been approved by the National Bureau of Standards in Washington, D. C., and until a certificate of said approval shall have been filed with the State sealer of weights and measures in Augusta, which certificate shall state the name and manufacturer of said scale or other measuring device, the place where manufactured and that the same has been approved by said bureau of standards. This act shall not apply to liquid or standard dry measures. (P. L. 1919, c. 159, § 1.)

266. Penalty for Violation.—Whoever violates section one of this act shall upon conviction be punished by a fine of not less than twenty dollars nor more than fifty dollars for each offense. Municipal and police courts and trial justices shall have original jurisdiction concurrent with the supreme judicial court and superior court of prosecutions for all violations of this act. (Id. § 2.)

267. Powers of Local Sealers of Weights and Measures Increased.—All local sealers of weights and measures and their deputy sealers in cities and towns shall have the same power that is given the State Sealer of Weights and Measures and Deputy State Sealer by section six of chapter forty-eight of the revised statutes.* (P. L. 1917, c. 33)

NOTE: See also Nos. 10 and 22a; the apple law, No. 26 et seq.; the dairy law, No. 52 et seq.; the fish law, No. 104e et seq.

PART V.

Cases.

1. General Food and Drug Law.

Beverages—Liquors—Adulterated and Misbranded Within Federal Food and Drugs Act—Subject to State Law Upon Arrival: *State v. Intoxicating Liquors, 106 Me. 135, 76 Atl. 268 (1909).

Lard—Butter—Adulteration—Sanitation: State v. Long, 121 Me. 365, 117 Atl. 303 (1922).

*See No. 239.

2. Special Food Laws.

Apples: See Look v. Watson, 118 Me. 339, 108 Atl. 106 (1919).

Beverages—Jamaica Ginger: State v. Intoxicating Liquors & Vessels, 118 Me. 198, 106 Atl. 711, 4 A. L. R. 1128 (1919).

Feeding Stuffs: See Guarantee Food Co. v. Consumers Fuel Co., 123 Me. 439, 123 Atl. 518 (1924).

Lobsters—Export From State—License: *State v. Dodge, 117 Me. 269, 104 Atl. 5 (1918).

Lobster—Short Size: *Thompson v. Smith, 79 Me. 160, 8 Atl. 687 (1887); *State v. Craig, 80 Me. 85, 13 Atl. 129 (1888); State v. Dunning, 83 Me. 178, 22 Atl. 109 (1891); State v. Swett, 87 Me. 99, 32 Atl. 806, 25 L. R. A. 714, 47 Am. St. Rep. 306 (1895); *State v. Lube, 93 Me. 418, 45 Atl. 520 (1899); *Campbell v. Burns, 94 Me. 127, 46 Atl. 812 (1900); State v. Giles, 101 Me. 349, 64 Atl. 619 (1906); State v. Brewer, 102 Me. 293, 66 Atl. 642 (1906); State v. Damerest, 118 Me. 86, 105 Atl. 858 (1919); State v. Chadwick, 118 Me. 233, 107 Atl. 129 (1919); State v. Bridges, 118 Me. 487, 105 Atl. 854 (1919); State v. Chadwick, 119 Me. 45, 109 Atl. 372 (1920); State v. Morton, 125 Me. 9, 130 Atl. 352 (1925). See also: State v. Bennett, 79 Me. 55, 7 Atl. 903 (1887); State v. Hanna, 99 Me. 224, 58 Atl. 1061 (1904).

Meat—Inspection: *State v. Starkey, 112 Me. 8, 90 Atl. 431, Ann. Cas. 1917 A, 196 (1914); *State v. Maheu, 115 Me. 316, 98 Atl. 819 (1916).

Milk & Cream—Methods of Payment to Producers: *State v. Latham, 115 Me. 176, 98 Atl. 578, L. R. A. 1917 A, 480 (1916).

Milk—Bottles—Sealing: Old Tavern Farm, Inc. v. Fickett, 125 Me. 123, 131 Atl. 305 (1925).

Oleomargarine: *State v. Rogers, 95 Me. 94, 49 Atl. 564, 85 Am. St. Rep. 395 (1901).

3. Special Drug Laws.

Pharmacy: Plaisted v. Walker, 77 Me. 459, 1 Atl. 356 (1885). See also: Pollard v. Allen, 96 Me. 455, 52 Atl. 924 (1902); State v. Holland, 117 Me. 288, 104 Atl. 159 (1918); Cullinan v. Tetrault, 123 Me. 302, 122 Atl. 770, 31 A. L. R. 1330 (1923).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product

Drugs: Tremblay v. Kimball, 107 Me. 53, 77 Atl. 405, 29 L. R. A. (N. S.) 900, Ann. Cas. 1912 C, 1215 (1910); Coughlin v. Bradbury, 109 Me. 571, 85 Atl. 294 (1912); Cullinan v. Tetrault, 123 Me. 302, 122 Atl. 770, 31 A. L. R. 1330 (1923).

Food: Bigelow v. Maine Central Railroad Co., 110 Me. 105, 85 Atl. 396, 43 L. R. A. (N. S.) 627 (1912); Pelletier v. Dupont, 124 Me. 269, 128 Atl. 186, 39 A. L. R. 972 (1925). See also: Briggs v. Hunton, 87 Me. 145, 149, 32 Atl. 794, 47 Am. St. Rep. 318 (1895); Williams v. Sweet, 119 Me. 228, 110 Atl. 316 (1920).

Ice: See Campion v. Marston, 99 Me. 410, 59 Atl. 548 (1904).

5. Miscellaneous.

Gift Enterprise: State v. Googin, 117 Me. 102, 102 Atl. 970 (1918).

Trade-Marks: Symonds et al. v. Jones, 82 Me. 302, 19 Atl. 820, 8 L. R. A. 570, 17 Am. St. Rep. 485 (1890); Hiram Ricker & Sons v. Portland & Rumford Falls Railway, 90 Me. 395, 38 Atl. 338 (1897); W. R. Lynn Shoe Co. v. Auburn-Lynn Shoe Co. et al., 100 Me. 461, 62 Atl. 499, 4 L. R. A. (N. S.) 960 (1905); Same, 103 Me. 334, 69 Atl. 569 (1907). See also: Lapointe Machine Tool Co. v. J. N. Lapointe Co., 115 Me. 472, 99 Atl. 348 (1916).

Weights and Measures: Old Tavern Farm, Inc. v. Fickett, 125 Me. 123, 131 Atl. 305 (1925). See also: Washington Ice Co. v. Webster, 68 Me. 449, 470 (1878); MacHatton v. Dufresne, 121 Me. 221, 116 Atl. 449 (1922); *Lobsters—Short Size*, supra.

MARYLAND.*

PART I.

General Food and Drug Law.

1. **Powers of Bureau of Chemistry.**—The Bureau of Chemistry shall conduct inquiries into the nature, source and vehicles of infectious diseases, and into the nature and character of sewage, trade wastes, and into nuisances. It shall examine and analyze free of cost, public and private water supplies, milk and such other foods, drinks, confectionery, drugs, spices and condiments as the board shall direct; it shall establish and maintain, under the direction of the State Board of Health, a properly equipped laboratory, and perform such other duties and exercise such other functions as the State Board of Health or the secretary thereof shall designate. Nothing herein contained, however, shall be construed to repeal or interfere in any way whatsoever with the operation of the pure food and drug act, which is entitled "An act for preventing the manufacture or sale of adulterated, misbranded, poisonous or deleterious foods, drugs, medicines, waters, candies and liquors, and regulating traffic therein within the State of Maryland, and to provide for the punishment of violations of its provisions and to appropriate an annual sum of money for the purpose of enforcing this act by adding certain additional sections to article 43, title 'Health,' sub-title 'Adulteration of Food and Drink,' of the code of public general laws of Maryland of 1904, and to be known as 140A, 140B, 140C, 140D, 140E, 140F, 140G, 140H, 140I, 140J, 140K, 140L, 140M, 140N, and 140O, and repeal sections 122, 123, 124, 140L, 140M, 140N, and 140O, and repeal sections 221 and 222 and 125 of said article 43 of the code of public general laws of Maryland of 1904, and also to repeal sections 221 and 222 of article 27 of the code of public general laws of Maryland of 1904, title 'Crimes and Punishments,' sub-title 'Health, Deleterious Candy or Cakes,'" and in case of any conflict between sections 35 to 44 and the said pure food and drug act† the provisions of the latter shall prevail and control. (Annotated Code 1924, Art. 43, § 38.)

2. **Chiefs and Assistants for Each Bureau.**—The State Board of Health is authorized and empowered to appoint a chief and an assistant chief for each of the bureaus hereinbefore provided, and to appoint such inspectors, draughtsmen and employees as may be necessary in the execution of sections 35 to 44. Such chiefs and assistant chiefs shall be men of good technical education and ability, competent to properly conduct their respective bureaus; they shall be appointed by the Secretary of the State Board of Health by and with the consent of the said board, and the said board is empowered to fix the compensation of said chiefs and assistant chiefs at an annual salary of not less than fifteen hundred dollars, nor more than twenty-four hundred dollars, for the said chiefs, and an annual salary of not less than one thousand, nor more than eighteen hundred dollars, for assistant chiefs; such chiefs and assistant chiefs may be removed from office upon the recommendation of the secretary and a majority vote of the board. (Id. § 42.)

3. **How State Board of Health and Secretary Known.**—For the purpose of sections 35 to 44 the State Board of Health shall be known under the title and designated "State Department of Health," and the secretary of the said board shall be known under the title and designated "Secretary of the Department of Health." (Id. § 43.)

4. **Appropriation.**—For the purpose of making effective the provisions of sections 35 to 44 the sum of twenty-four thousand dollars per annum, or as much thereof as may be necessary, is hereby appropriated, payable by the Treasurer of the State upon warrant of the Comptroller at such times and in such sums as may be authorized by the State Board of Health upon presentation of the proper voucher. (Id. § 44.)

*CITATION: "Annotated Code 1924" refers to Bagby's Annotated Code of the Public General Laws of Maryland, 1924, published by authority of Chapter 219, Acts of 1924.

†See Nos. 10-20.

5. Duty of State Board of Health.—The State Board of Health shall be charged with the duty of rendering effective the provisions of this sub-title, and shall take such steps and do such things as the board may deem necessary, to detect and publicly expose any adulteration or corruption of all articles sold or liquid intended or offered for sale as food or drink; and shall when deemed necessary have the suspected article subjected to chemical or other scientific examination in order to establish more clearly the fact and degree of adulteration. (Id. § 175.)

6. Power to Forbid Sale, Etc., of Adulterated Food, Etc.—Whenever the said board of health, or its proper officer shall be satisfied that any article of food, condiment or drink has been adulterated, or is otherwise unsound or unwholesome, the said board or its proper officer, shall forbid the sale or disposal of such article for human food and order it to be destroyed or disposed of so as to prevent it from being exposed for sale or used for the food of man; and the person or persons to whom the same belongs or did belong at the time of exposure for sale, or in whose possession, or [on] whose premises the same was found, refusing or neglecting to destroy or otherwise dispose of such unsound or unwholesome article as directed, shall be liable to the penalty imposed under the provisions of section 174.*

Whenever the State Board of Health, or its proper officer, shall be satisfied that any article of food, condiment or drink has been misbranded, the said board or its proper officer shall forbid the sale or disposal of such article for human food until such article of food, condiment or drink has been re-labeled in accordance with an order in writing by the state board of health or its proper officer, and any person or persons to whom the same belong, or in whose possession, or on whose premises the same was found, selling or offering for sale, or delivering any such article of food, condiment or drink, before the same shall have been re-labeled in accordance with the aforementioned order, shall be liable to the penalty imposed under the provisions of section 174.* (Id. § 176.)

7. Inspection—Order for Preventing Sale, Etc.—Penalty for Refusal to Obey.—The said State Board of Health, or its proper officer or any inspector or inspectors appointed by said board are empowered at all reasonable times to inspect and examine any live animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, bread, milk, wine, spirits, malt or other liquors or things exposed for sale or deposited in any place for the purpose of sale, or of preparation for sale and intended for the food of man, the proof that the same was not exposed or deposited for any such purpose, or was not intended for the food of man, resting with the party charged; and if such animal, carcass, meat, poultry, game, flesh, fish, fruits, vegetables, bread, milk or other things appear to the said board or its proper officer or inspector, to be diseased or unsound, or unwholesome and unfit for the food of man, the said board or its proper officer shall issue an order preventing the sale of such article or articles for human food, and any person neglecting or refusing to obey such an order shall be deemed guilty of a misdemeanor, and shall be punished by fine in any sum not less than fifty dollars, and, in default of the payment thereof, by imprisonment in the public jail not more than six months. (Id. § 177.)

8. Duty of Attorneys.—It is hereby made the duty of the prosecuting attorneys of this State to appear for the people and to attend to the prosecution of all complaints under this sub-title in all the courts of their respective counties or the city of Baltimore, as the case may be. (Id. § 178.)

9. Appropriation for Defraying Expenses of Examination of Suspected Articles of Food and Drink.—The sum of twenty-five hundred dollars or so much thereof as may be necessary is annually appropriated for defraying the expenses of chemical and scientific examination of suspected articles of food or drink, for salary of inspector and other necessary expenses, to be paid by the treasurer of the State on the warrant of the Comptroller at such times and in such sums as the board may direct. (Id. § 179.)

10. Manufacture and Sale of Adulterated or Misbranded Food, Etc., Unlawful.—It shall be unlawful for any person, persons, firm or corporation within this State to manufacture for sale, produce for sale, expose for sale or sell any article of food, water, drug or disinfectant which is adulterated, misbranded or insufficiently labeled within the meaning of sections 189 to 200, and any person or persons, firm or corporation who or which shall manufacture for sale, produce for sale, expose for sale or sell any article of food, water, drug or disinfectant which is adulterated, misbranded or insufficiently labeled within the meaning of sections 189 to 200, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not to exceed five hundred dollars, or shall be sentenced to no more than one year's imprisonment, or both such fine and imprisonment, in the discretion

*See No. 21.

of the court; provided, that no article shall be deemed misbranded or adulterated within the provisions of sections 189 to 200 when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the provisions of sections 189 to 200. (Id. § 189.)

11. "Drug" and "Food" Defined.—For the purpose of sections 189 to 200 the term "drug" shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or animal. The term "food" as used herein shall include all articles used for food, drink, confectionery or condiment by man or animals, whether simple, mixed or compound. (Id. § 190.)

12. When Deemed Adulterated.—For the purpose of sections 189 to 200 an article shall be deemed adulterated in case of drugs:

First. If when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test or tests laid down in the United States Pharmacopœia or National Formulary; provided, that no drug defined in the United States Pharmacopœia or National Formulary, except preparations of opium, shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test or tests laid down in the United States Pharmacopœia or National Formulary.

Second. If its strength or purity fall below the professed standard or quality under which it is sold.

Third. If used in the compounding of a medicine or medicines intended for the cure, mitigation or prevention of disease in man or animal, it shall not be of the standard of strength, quality or purity as determined by the test or tests laid down in the United States Pharmacopœia or National Formulary; provided, that manufacturing chemists in compounding medicines may use, when necessary, drugs other than that of standard strength if the finished product obtained fully meets the requirements of the United States Pharmacopœia or National Formulary. In the case of confectionery, if it contains terra alba, barytes, talc, chrome yellow or other mineral substance, except salt, or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquors or compound, or narcotic drug. In the case of food:

First. If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality, strength or purity.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted, or if the product be below that standard of quality, strength or purity represented to the purchaser or consumer.

Fourth. If it be mixed, colored or changed in color, powder coated, stained or bleached, in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any added poisonous or other added deleterious ingredients which may render such article injurious to health; provided, that when in the preparation of food products for shipment they are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package; the provisions of sections 189 to 200 shall be construed as applying only when said products are ready for consumption.

Sixth. If it consists in whole or in part of a filthy, contaminated, decomposed or putrid animal or vegetable substance or any portion of a substance unfit for food, whether manufactured or not, or any animal or vegetable substance produced, stored, transferred or kept in a condition which would render the article diseased, contaminated or unwholesome, or if it is the product of a diseased animal or one that has died otherwise than by slaughter, or that has been fed upon the offal from a slaughter house, or if it is the milk from an animal fed upon substances unfit for food for dairy animals, or from an animal kept and milked in a filthy or contaminated stable, or in surroundings that would render the milk contaminated.

In the case of water:

First. If manufactured for sale, produced for sale, exposed for sale or advertised for sale, as a spring, well or mineral water, or if served in a public place as a spring, well or mineral water, it be found upon analysis to differ in composition or constituents from the composition or constituents of the water taken from the spring, well or other original source, or alleged original source, from which such water is obtained or alleged to be obtained, unless the changes therein or additions thereto be plainly indicated upon the label; provided, that in the case of waters manufactured to resemble natural mineral waters, such waters must be labeled in a conspicuous manner "artificial"; and provided further, that when such waters are sold or served as mineral waters, they must contain one or more mineral constituents in sufficient quantities to have a therapeutic effect from these constituents when a reasonable quantity of the water is consumed.

Second. If when advertised and sold as a pure drinking water, spring, well or mineral water, it shows contamination." (Id. § 191.)

13. When Deemed Misbranded.—The term misbranded, as used herein, shall apply to all drugs or articles of food or articles which enter into the composition of food the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the state, territory, place or country in which it is manufactured or produced; that for the purpose of sections 189 to 200 an article shall also be deemed to be misbranded.

In case of drugs:

First. If it be an imitation of or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

Third. If it be labeled or branded so as to deceive or mislead the purchaser, or purports to be a foreign product when not so.

Fourth. If the package fail to bear a statement on the label of the quantity or proportion of any alcohol, opium, morphine, diacetyl morphine, heroin, cocaine, holocaine, alpha or beta eucaine, novocaine, alypin, chloroform, cannabis indica, chloral hydrate, codeine, acetanilid, antifebrin, acetphenetidin, phenacetine, antipyrin, or any derivative or preparation of any of such substances contained therein; provided, that nothing in this paragraph shall be construed to apply to the dispensing of prescriptions of regularly licensed physicians, veterinarians and dentists, intended for immediate or temporary use, and kept on file by the dispensing pharmacists; and provided further, that nothing in this paragraph shall be construed to apply to such drugs or medicines as are personally dispensed by regularly licensed practicing physicians, dentists and veterinarians in the course of their practice. Physicians conducting drug stores shall be subject to all the laws, rules and regulations governing pharmacists.

In case of foods:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any opium, morphine, diacetyl morphine, heroin, cocaine, holocaine, alpha or beta eucaine, novocaine, alypin, chloroform, cannabis indica, chloral hydrate, acetanilid, antifebrin, acetphenetidin, phenacetine, antipyrin or any derivative or preparation of any such substance contained therein.

Third. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided, however, that reasonable variations shall be permitted and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 196.

Fourth. If the package containing it, or its label, shall bear any statement, design or device regarding the ingredients or the substances contained therein which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only.

In case of water:

First. In case of mineral waters labeled "artificial," in conformity with the provisions of sections 189 to 200, the label bearing any design or device which would lead the consumer to believe that the water is a natural one.

Second. Or if characterized by a geographical name which gives a false or misleading idea in regard to composition of said water.

As to disinfectants:

If in the case of disinfectants manufactured or sold in this State the manufacturers, sales agents or dealers fail to show on the labels the carbolic acid coefficient or relative germicidal strength of such disinfectants as compared with pure carbolic acid; provided, however, that deodorants and antiseptics having no germicidal strength must be plainly labeled and be sold as such and such preparations as have no such germicidal strength, shall not be labeled "disinfectants." (Id. § 192.)

14. **Guaranty.**—No dealer shall be prosecuted under the provisions of sections 189 to 200 when he can establish a guaranty, signed by the wholesaler, jobber, manufacturer or other parties residing in this state from whom any article or articles which may or can come within the provisions of sections 189 to 200 has or have been purchased, to the effect, that same is not adulterated or misbranded within the meaning of sections 189 to 200, designating them. Any guaranty under the provisions of sections 189 to 200 to afford protection shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said guarantor or guarantors shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of sections 189 to 200. (Id. § 193.)

15. **Standard for Purity, Etc., of Foods and Drugs.**—The standard under sections 189 to 200 for the quality, purity and strength of drugs shall be the standard set by the United States Pharmacopœia or the National Formulary. That any standards of quality, purity and strength for foods or for drugs not already standardized by the United States Pharmacopœia or National Formulary* the standards heretofore adopted by the United States Department of Agriculture are hereby declared to be the standards of purity, quality and strength for such foods and drugs in the State of Maryland, except in the case of ice cream, in which case the standards are declared to be as follows:

(a) Ice cream is a frozen product from cream and other milk substances and sugar, with or without natural flavoring and containing not less than 10 per cent. of milk fat, to which may be added fresh eggs and not exceeding 1 per cent. of pure gelatin, gum-tragacanth or vegetable gum, without statement of such fact, and such goods may be called ice cream, provided the required percentage of fat is maintained. Provided, however, in ice cream, flavored either by fruits or nuts, a lower milk fat content is permissible, but in no case shall the ice cream so flavored contain less than 8 per cent of milk fat. (Id. § 194.)

16. **Food and Drug Commissioner, Etc.—Duties.**—The State Board of Health of the State of Maryland shall appoint a State Food and Drug Commissioner and a Deputy State Food and Drug Commissioner, one of whom shall always be an experienced certified pharmacist, at such salaries as may be determined by the State Board of Health, whose duties shall be the administration of this law under the direction and supervision of the said State Board of Health. The said commissioner and the said deputy shall have an office or offices in the city of Baltimore. The said State Board of Health shall appoint such other employees as may be necessary to assist in the enforcement of Sections 189 to 200; said employees shall work under the direction of the said State Board of Health and shall perform such duties as the said State Board of Health shall prescribe for them to perform. (Id. § 195.)

*So in Code.

17. Enforcement of Law—Rules and Regulations by State Board of Health.—The State Board of Health shall enforce the provisions of sections 189 to 200, and shall have the power to adopt from time to time, promulgate and publish by circular or otherwise, such general rules and regulations for the enforcement thereof and for the government of the analysts, chemists, inspectors and employees appointed by the said board as it may deem proper; but such rules and regulations shall be the valid and legal rules and regulations adopted, or hereafter adopted, for the execution of the food and drug act of the United States of June 30th, 1906, so far as such rules and regulations may be applicable to the duties of said board under and to the purposes of sections 189 to 200. The State Board of Health shall have copies of sections 189 to 200 printed and shall issue them as far as possible to persons, firms or corporations manufacturing or selling at wholesale or retail articles of food or drugs, and shall furnish the same to all persons, firms or corporations requesting them. The State Board of Health shall also enforce the provisions of sections 288 to 291, inclusive, of Article 27 of the Annotated Code of Public General Laws, title, "Crimes and Punishments," sub-title, "Health," and sections 456 and 457 of said Article 27, sub-title, "Poison," and sections 228, 229, 236 and 237 of Article 43, title, "Health," sub-title, "Commissioners of Pharmacy."* (Id. § 196.)

18. Examination of Food and Drugs—Samples—Proceedings.—The examination of specimens of foods and drugs shall be made in the laboratories of the State Board of Health and under the direction or supervision of such commissioner or deputy commissioner, appointed as provided in section 195, for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of sections 189 to 200; and if it shall appear from any such examination that such articles are adulterated or misbranded within the meaning of sections 189 to 200, the State Board of Health shall cause notice thereof to be given to the party from whom such sample or samples was or were obtained; any party so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed as aforesaid, and if it appears to the State Board of Health that such party should be prosecuted, then the State Board of Health shall at once certify the facts to the state's attorney of the county or the state's attorney of Baltimore city, where the law has been violated, with a copy of the results of the analysis or the examination of such article, duly authenticated by the analyst or officer making such examination, under the oath of such officer, and it shall be the duty of the state's attorney to whom the State Board of Health shall report any violation of sections 189 to 200, to cause appropriate proceedings to be commenced and prosecuted in the courts of the State without delay for the enforcement of the penalties as in such cases herein provided; after judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 197.)

19. Appropriation.—For the purpose of making effective the provisions of sections 189 to 200 and to provide for the salaries and expenses of the commissioner and employees, the sum of fifteen thousand dollars (\$15,000) annually, or as much thereof as may be necessary, is hereby appropriated, payable by the Treasurer of the State upon warrant of the comptroller at such time and such sums as may be authorized by the State Board of Health, upon presentation of proper vouchers. (Id. § 198.)

20. "Person" Defined.—The word "person," as used in sections 189 to 200, shall be construed to import both the plural and singular, as the case demands, and shall include corporations, companies, societies and associations; when construing and enforcing the provisions of sections 189 to 200, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company or society, or association, shall in every case be also deemed to be the act, omission or failure of such corporation, company, society or association, as well as that of the person. (Id. § 199.)

Miscellaneous General Provisions.

21. Sale, Etc., of Diseased or Unwholesome Provisions—Penalty.—If any person shall sell or offer for sale any kind of diseased, corrupted or unwholesome provisions such as poultry, game, flesh, or preparations of flesh, fruits, vegetables, bread, flour, meal, milk or other things intended to be used for human food, he shall be punished by imprisonment in the county jail not more than one year, or be fined not exceeding five hundred dollars, or be both fined and imprisoned

*See No. 134 et seq.

in the discretion of the court having jurisdiction, and the unwholesome provisions offered or exposed for sale shall be forfeited and destroyed or so disposed of as to prevent their being used for food; provided, that nothing in this section shall apply to the shippers or consignors of green fruits or vegetables that may be spoiled in transitu. (Annotated Code 1924, Art. 43, § 174.)

22. Foodstuffs—Cornering, Etc.—Penalty.—Any person carrying on or employed in interstate trade in any article suitable for human food who, either in his individual capacity or as an officer, agent or employee of a corporation, or member of a partnership, carrying on or employed in such trade, shall store any such article for the purpose of cornering the market or increasing the price above the market price thereof, or for the purpose of limiting the supply thereof to the public, whether temporarily or otherwise, shall be deemed guilty of a felony, and punished by imprisonment for not less than six months nor more than three years. (Annotated Code 1924, Art. 27, § 151.)

23. Poisoning Drink, Food or Food Products a Felony—Penalty.—Every person, his aiders and abettors, who knowingly and wilfully poisons, defiles or in any way corrupts or contaminates the waters of any well, spring, brook, lake, pond, stream, river, reservoir or other source of water supply, or any tributary thereof, used or usable for drinking or domestic purposes, by means of disease germs or bacteria or the insertion of any other poison or poisonous matter therein, or attempts so to do, or conspires or connives thereat, and every person, his aiders and abettors, who, by like means, knowingly and wilfully poisons, defiles or in any way corrupts or contaminates any drink, food or food products or supply, or attempts so to do, or conspires or connives thereat, shall be guilty of a felony, and upon conviction thereof shall be subject to imprisonment in the penitentiary for not more than twenty years, in the discretion of the court. (Id. § 455.)

23a. State Board of Agriculture, Powers.—The State Board of Agriculture shall investigate the conditions surrounding the breeding, raising and marketing of live stock, and the products thereof, and contagious and infectious diseases affecting the same; the raising, distribution and sale of farm, orchard, forest and nursery products, generally, and plant diseases and injurious insects affecting the same; the preparation, manufacture, quality, analysis, inspection, control and distribution of animal and vegetable products, animal feeds, seeds, fertilizers, agricultural lime, agricultural and horticultural chemicals, and biological products; and shall secure information and statistics in relation thereto and publish such information, statistics and the results of such investigations at such times and in such manner as to it shall seem best adapted to the efficient dissemination thereof; and except where such powers and duties are by law conferred or laid upon other boards, commissions or officials, the State Board of Agriculture shall have general supervision, direction and control of the herein recited matters and generally of all matters in any way affecting or relating to the fostering, protection and development of the agricultural interests of the State, including the encouragement of desirable immigration thereto, with power and authority to issue rules and regulations in respect thereof not in conflict with the Constitution and laws of the State or the United States, which shall have the force and effect of law, and all violations of which shall be punished as misdemeanors are punished at common law; and where such powers and duties are by law conferred or laid on other governmental agencies the State Board of Agriculture and such other governmental agencies may co-operate in the execution and performance thereof, and when so co-operating each shall be vested with such authority as is now or may hereafter by law be conferred on the other. The powers and duties herein recited shall be in addition to and not in limitation of any power and duties which now are or hereafter may be conferred or laid upon said board. (Annotated Code 1924, Art. 2A, § 7.)

23b. Bureau of Bacteriology, Powers.—The Bureau of Bacteriology shall conduct inquiries into the nature, source and vehicles of infectious diseases; it shall establish and maintain under the direction of the State Board of Health a properly equipped laboratory. The services of the said bureau shall be free to all local boards of health and to all practicing physicians of the State for such inquiries concerning infectious and contagious diseases as the said board may from time to time direct; and to the vaccine agent for testing vaccine virus; it shall examine into and analyze public and private water supplies, milk and other foods. It shall examine properly prepared specimens from all animals known or suspected to be suffering from hydrophobia or rabies, and shall perform such other duties and exercise such other functions as the State Board of Health or the Secretary thereof shall designate. (Annotated Code 1924, Art. 43, § 37.)

PART II.

Special Food Laws.

Apples.

24. Standard Grades or Classes.—The standard grades or classes for apples grown in this State, when packed in closed packages, shall be as follows:

(a) "Maryland standard fancy grade" shall consist of apples of one variety, which are well grown specimens, hand-picked, properly packed, of good color for the variety, normal shape, free from dirt, diseases, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing; or apples of one variety which are not more than five per centum below the foregoing specifications on a combination of all defects or two per centum on any single defect.

(b) "Maryland standard A grade" shall consist of apples of one variety which are well grown specimens, hand-picked, properly packed, normal shape, practically free from dirt, diseases, insect and fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing; or apples of one variety which are not more than ten per centum below the foregoing specifications on a combination of all defects or five per centum on any single defect. No apples in this grade shall show less than thirty-three and one-third per centum of good color for the variety.

(c) "Maryland standard B grade" shall consist of apples of one variety which are well matured, hand-picked, properly packed, practically normal shape, practically free from dirt, disease, insect and fungus injury; or apples of one variety which are not more than fifteen per centum below the foregoing specifications on a combination of all defects or five per centum on any single defect.

(d) "Cull grade" shall consist of apples not conforming to the foregoing specifications of grade, and shall be classed as culls and shall be so branded. This grade shall be used to include those apples rejected as not meeting the specifications of the foregoing "Fancy," "A" and "B" grades. The minimum size of the fruit and the grade of the fruit in the package shall be branded upon it as hereinafter specified and in addition to the other marks hereinafter required.

(e) "Orchard run" class shall consist of all apples grown in the orchard irrespective of grade or quality. It shall be unlawful for any person to cull or sort from a lot of apples any of the larger sizes or better grades or qualities thereof, and then pack, brand, sell or ship the remaining fruit as "Orchard run." The minimum size of the fruit and the class of the fruit in the package shall also be branded upon it as hereinafter specified and in addition to the other marks hereinafter specified. (Annotated Code 1924, Art. 97, § 32.)

25. Marks Indicating Grades.—The marks indicating grade as above prescribed may be accompanied by any other designation of grade or brand if that designation of grade or brand is not inconsistent with or marked more conspicuously than the one of the said five marks which is used on the said package. Apples packed and branded in accordance with the United States law approved August third, nineteen hundred and twelve, shall be exempt from the provisions of this sub-title. (Id. § 33.)

26. Minimum Size of Fruit—Tolerance, Etc., Allowed.—(a) The minimum size of the fruit in all classes or grades shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end. Minimum sizes shall be stated in variations of one-quarter of an inch, like two inches, two and one-quarter inches, two and one-half inches, two and three-quarter inches, three inches, three and one-quarter inches, and so on, in accordance with the facts.

(b) Minimum sizes may be designated by figures instead of words. The word "minimum" may be designated by using the abbreviation "min."

(c) A tolerance or variation of five per centum on size shall be allowed in all classes, but such five per centum shall not be in addition to the variations or tolerances for defects provided in grades "Fancy," "A" and "B." (Id. § 34.)

27. Marking Packages—Sale, Etc., of Misbranded or Adulterated Apples Unlawful.—(a) Every closed package containing apples grown in the State of Maryland which is sold, offered or exposed for sale, or packed for sale, or transported for sale by any person shall bear upon the outside of one end in plain letters and figures the name and address of the packer or the person by whose authority the apples were packed and the package marked, the true name

of the variety, the grade or class of the apples therein contained and the minimum size of the fruit in the packages. If the true name of the variety shall not be known to the packer or the person by whose authority the package is packed or branded, then such variety shall be designated as "variety unknown." Every package of apples which is repacked shall bear the name and address of the repacker or the name of the person by whose authority it is repacked in place of that of the original packer.

(b) The brands or marks as prescribed by this sub-title shall be in block letters and figures of size of not less than thirty-six point Gothic.

(c) It shall be unlawful for any person within the state to sell, offer or expose for sale, or pack for sale, or transport for sale apples which are adulterated or misbranded within the meaning of this sub-title. (Id. § 35.)

28. When Apples in Closed Packages Deemed Misbranded.—For the purposes of this sub-title apples packed in a closed package shall be deemed to be misbranded.

(a) If the package shall fail to bear the statements required by this sub-title.

(b) If the package shall be falsely branded or shall bear any statement, design or device regarding such apples which is false or misleading, or if the package bears any statement, design, or device indicating that the apples contained therein are a given Maryland "standard grade," or "cull grade," or "orchard run class," and said apples when packed or repacked do not conform to the requirements of such grade. (Id. § 36.)

29. Same; When Deemed Adulterated.—For the purposes of this sub-title apples packed in closed packages shall be deemed to be adulterated if their quality or grade when packed or repacked does not conform to the marks upon the package. (Id. § 37.)

30. Unlawful, Unless in Regrading, to Erase Original Marks on Apple Packages and Substitute Different Marks Thereon.—It shall be unlawful for any person, unless he regrades and repacks the apples, to erase the original size, grade or variety of apples branded upon the package and in its place substitute a size, grade or variety-name different from the one marked upon the barrel by the packer of the apples. (Id. § 38.)

31. False Representation of Contents of Packages.—No person shall pack, or shall sell, or offer, expose, or have in his possession for sale any apples packed in any package in which the face or shown surface gives a false representation of the contents of such package; and it shall be considered a false representation when more than fifteen per centum of such fruit is substantially smaller in size than, or inferior in grade to, or different in variety from, the faced or shown surface of such packing. (Id. § 39.)

32. Penalty for Misbranding, Etc., or Violation of Other Provisions of Act.—Any person who misbrands or adulterates, or falsely represents apples within the meaning of this sub-title, or who violates any of the provisions of this sub-title shall upon conviction thereof, forfeit and pay to the people of the State of Maryland a sum of not less than twenty-five dollars nor more than fifty dollars for the first violation and not less than fifty dollars nor more than one hundred dollars for each subsequent violation. (Id. § 40.)

33. Guaranty, Etc.—No person shall be prosecuted under the provisions of this sub-title when he can establish satisfactory evidence to the effect that he was not a party to the packing and grading of such articles and had no knowledge that the same were misbranded or illegally packed, or when he can establish a guaranty, signed by the person from whom he received such articles, to the effect that the same are not adulterated or misbranded within the meaning of this sub-title. Said guaranty, or said satisfactory evidence, to afford protection, shall contain the true name and address of the party or parties from whom said articles were received, or who made the sale or shipment of such articles to such person. (Id. § 41.)

34. Definitions.—The word "person" as used herein shall be construed to include both the singular and plural, individuals, corporations, co-partnerships, companies, societies and associations. The act, omission or failure of any officer, agent, servant or employee acting within the scope of his employment or office shall be deemed the act, omission or failure of the principal. The words "closed package" shall mean a box, barrel, basket, hamper, or other package covered with burlap, tarlatan, slat or other covers, the contents of which cannot be seen or inspected when such package is closed. (Id. § 42.)

35. Packing Apples Contrary to Provisions Herewith Given, Forbidden.—No person shall on behalf of any other person pack any apples for sale or transportation contrary to the provisions of this sub-title. (Id. § 43.)

36. Where They Do Not Apply.—This sub-title shall not apply to apples actually transported in barrels to storage within this State until the same are sold, offered or exposed for sale, packed for sale, or transported for sale. Regulations and requirements herein in relation to transportation shall not apply to common carriers. (Id. § 44.)

37. Packing and Marketing—State Control.—The business of packing and marketing apples in the State of Maryland is hereby declared to be affected with a public interest and is subject to regulation and control by the State. (Id. § 45.)

38. Enforcement—Authority to Enter Premises and Inspect Packages.—Official Grades, Etc.—The enforcement of this sub-title shall be vested in the State Board of Agriculture, and its officers, employees, agents and servants are authorized to enter upon the land and premises of any person within this State for the purpose of inspecting packages of apples and securing evidence of violation of this sub-title. Provided, however, that any such grades or classes for apples packed in closed packages which may hereafter be established by the United States shall be established and promulgated by the State Board of Agriculture, as the official grades and classes for apples packed in closed packages in the State of Maryland. (Id. § 46.)

NOTE: See also the weights and measures law, No. 289 et seq.

Bakeries—Bakery Products.

See Nos. 7, 21, 53-54, and 125 et seq.

Beverages.

39. License—Fees—Inspection Before Sale.—No person, firm or corporation shall manufacture for sale in bottles or jugs any soft drink or other non-alcoholic beverage (except apple cider) within this State without having first applied for and having received a license from the State Board of Health. Said of his manufacturing plant or plants, the name of the beverage or beverages manufactured, and such other pertinent information as shall be prescribed by the State Board of Health in pursuance of the provisions of sections 160-173. The application shall be accompanied by a fee of twenty-five dollars (25.00), upon receipt of which application and fee the State Board of Health shall issue to said applicant a license for the manufacture of the beverages mentioned in this section. Said license shall extend for one year from the date of its issue, unless sooner revoked, as herein provided, and shall be renewed annually thereafter. A license may be denied at the time of application if the establishment of the applicant is known to be in an unsanitary condition or if the water supply is known to be dangerously polluted. No soft drink or other non-alcoholic beverage (except apple cider) not manufactured in this State shall be sold or offered for sale in the State of Maryland, unless same is first inspected and registered with the State Board of Health, and an inspection fee of five dollars (\$5.00) for each brand of such drink or other non-alcoholic beverage bearing a distinguishing flavor or name shall be paid by said manufacturer, his agent or dealer, to the State Board of Health, same to be renewed annually; provided that no one manufacturer (either personally or through his agent or dealer) shall be required to pay annual inspection fees in excess of \$25.00, upon brands of such drink manufactured by him, irrespective of the number of his said brands inspected and registered. (Annotated Code 1924, Art. 43, § 160.)

40. Disposition of Moneys Collected.—All moneys collected by the State Board of Health under the provisions of sections 160-173 shall be paid into the State treasury. Such funds in excess of twenty-two hundred dollars (\$2,200.00) may be withdrawn by the State Board of Health by warrant from the State treasury and used for the enforcement of this act. (Id. § 161.)

40a. Sanitary Requirements.—Persons, firms, or corporations granted a license to manufacture soft drinks or other non-alcoholic beverages, must comply with the Sanitary Inspection Law, Chapter 678*, Laws of Maryland, 1914, and with the following requirements:

(a) Every building, room, basement or cellar, occupied or used for the preparation for sale, manufacture, packing, storage, sale or distribution of any drink prod-

*See Nos. 125-131.

ucts shall be properly lighted, drained, plumbed and ventilated and conducted with due regard for the purity and wholesomeness of the products therein produced, and with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks, or other persons therein employed. The term "Drink Products" as used herein, shall include all waters, beverages, soft drinks and like products, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

(b) The floors, side walls, ceilings, furniture, receptacles, implements and machinery of every establishment where drink products are manufactured, packed, stored, sold or distributed shall at all times be kept in a clean, healthful and sanitary condition.

(c) Drink products in the process of manufacture, preparation, packing, storing, sale or distribution must be securely protected from flies, dust, dirt, and, as far as may be necessary, from all other foreign or injurious contamination.

(d) All refuse, dirt and waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling and distribution of drink products must be removed from the premises daily.

(e) All bottles, jugs, barrels and other containers used in the packing, storage, distribution and sale of drink products must be cleansed with water containing a detergent or cleansing mixture and before filling with food product must be sterilized with boiling water, live steam or a solution of sodium hypochlorite, or by some other effective system which meets with the approval of the Board of Health. It is provided, however, that when bottles are washed by machine with the water at a temperature of at least 125° F. and containing a cleansing mixture of a strength equivalent to at least 2½ per cent caustic soda, and are rinsed with clean, pure water, sterilization with steam, hot water or sodium hypochlorite may be dispensed with. All water used for rinsing must be potable and of good sanitary quality. The cleansing solution must be changed frequently so as to prevent its becoming foul and insanitary.

(f) The clothing of operatives, employees, clerks or other persons must be clean.

(g) The side walls and ceilings in that part of bottling establishments in which the beverages or syrups are manufactured shall be kept oil painted or well lime washed and all interior woodwork in every bottling establishment shall be kept washed and cleaned with soap and water, and every building, room, basement or cellar occupied for use in the preparation, manufacture, packing, storage, sale or distribution of drink products shall have an impermeable floor made of cement or tile, laid in cement, brick, wood or other suitable nonabsorbent material which can be flushed and washed clean with water.

(h) The doors, windows and other openings of syrup rooms or any part of a bottling establishment used in the manufacture or mixing of syrups and extracts, etc., shall be fitted with self-closing screen doors and wire window screens made with wire of not less than fourteen meshes to the inch.

(i) No employer shall knowingly permit, require or suffer any person to work in a bottling establishment who is afflicted with any contagious or infectious disease, or with any skin disease.

(j) Every bottling establishment shall be provided with or have available for use, a convenient washroom and toilet of sanitary construction, but such toilet shall be entirely separate and apart from any room used for the manufacture or storage of drink products. (Id. § 162.)

41. Labeling Products.—Persons, firms, or corporations granted a license to manufacture soft drinks or other non-alcoholic beverages, must manufacture and label their products in compliance with the Food and Drug Law of Maryland, chapter 156, acts of 1910, chapter 667, acts of 1916, chapter 333, acts of 1920.* (Id. § 163.)

42. Regulations for Licenses and Permits.—All licenses granted shall be numbered and bear the name of the town or city and the street address where the establishment is located, and all permits so granted shall be displayed in a conspicuous place on the premises so covered.

All delivery trucks and wagons maintained by persons holding permits shall be kept clean and shall bear the permit number and the name of the town or city where the establishment is located. (Id. § 164.)

43. Revocation of License.—The State Board of Health shall have the power to revoke any license issued under the provisions of this act whenever it is determined by itself or any of its deputies, chemists or other properly qualified

*See No. 1 et seq.

officials that any of the provisions of this act have been violated. Any person, firm or corporation whose license has been so revoked shall discontinue the manufacture or sale within this State of soft drinks, syrups or other non-alcoholic beverages until the provisions of this act have been complied with and a new license issued. The State Board of Health make [may] revoke such license temporarily until there is a compliance with such conditions as it may prescribe, or permanently for the unexpired period of such license. (Id. § 165.)

44. Notice of Same to be Given—Hearing.—Before revoking any license the State Board of Health shall give written notice to the licensee affected, stating that it contemplates the revocation of the same and giving its reasons therefor. Said notice shall appoint a time of hearing before said board or its deputies, and shall be mailed by registered mail to the licensee. On the day of hearing the licensee may present such evidence to the State Board of Health as he deems fit, and after hearing all the testimony the State Board of Health shall decide the question in such a manner as to it appears just and right. (Id. § 166.)

45. Appeal.—Any licensee who feels aggrieved at the State Board of Health may appeal from said decision within ten days by writ of certiorari to the Circuit Court for the county in which such licensee resides, or to the Baltimore city court, if said licensee resides in Baltimore city, and issue shall be framed in said court and a trial had, and its decision shall be final. (Id. § 167.)

46. Prohibited Sweeteners.—The use of saccharin, dulcin, glucin and other artificial sweeteners is prohibited. (Id. § 168.)

47. Permitted Syrups for Beverages—Exceptions—Proviso.—For the purpose of sections 160-173 all soft drinks or other non-alcoholic beverages, except non-alcoholic fruit juices, shall consist of a beverage made from pure cane or beet sugar syrup or such other sweetening liquids or substances as shall be permitted by the regulations of the State Board of Health, containing pure flavoring material with or without added fruit acid, with or without added color, provided that nothing in sections 160-173 shall prohibit the use of any other harmless ingredient in the manufacture of soft drinks or other non-alcoholic beverages; provided that in case pure cane or beet sugar syrups are used as the sole sweetening agents, the finished beverage shall contain no less than seven (7%) per cent by weight of sugar, except in case of Ginger Ale which must contain not less than six (6%) per cent. The provisions of this section shall not apply to non-alcoholic beverages, made in imitation of beer, bitter drinks and other similar drinks. It is provided further that when artificial coal tar colors are used nothing but the certified colors as approved by the Federal Government are permissible. (Id. § 169.)

48. How Act Shall be Construed.—This act shall be construed as in no way affecting, modifying or changing in any manner, any act passed by the Legislature relating to the liquor traffic. (Id. § 170.)

49. Violation—Penalty.—Any person, firm or corporation who shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things required by sections 160-173, or in any way violate any of its [their] provisions, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 171.)

50. Enforcement.—The Food and Drug Commissioner of the State Board of Health shall be charged with the act of enforcement of the provisions of this sub-title. (Id. § 172.)

51. Exceptions.—Nothing in sections 160-173 shall apply to persons, firms or corporations operating a soda fountain, provided the soft drinks there manufactured shall be used on the premises. (Id. § 173.)

52. Manufacture and Sale of Malt Extract, Etc.—No person shall manufacture, sell or offer for sale, or order or permit any employee or other person to sell or offer for sale, either at wholesale or retail, any malt extract, beer, porter, ale or stout unless the same shall have been brewed and fermented as such; and any person or corporation or officer or agent thereof violating this provision, or any person or corporation or officer or agent thereof selling or offering for sale, or ordering or permitting any employee or other person to sell or offer for sale any beer (to which coloring matter or portine has been added) representing the same to be malt extract or porter or other beverage, or any malt or spirituous liquor other than by its proper name, shall be deemed guilty of a misdemeanor, and punished by imprisonment for not longer than one year, or by a fine not exceeding five hundred dollars, or by both fine and imprisonment, in the discretion of the court having jurisdiction. (Id. § 180.)

52a. Beer, Etc.—Imitations—Penalty.—No person shall manufacture, sell or offer for sale, or order or permit any employee or other person to sell or offer for sale either at wholesale or retail, any malt extract, beer, porter, ale or stout unless the same shall have been brewed and fermented as such; and any person or corporation or officer or agent thereof violating this provision, or any person or corporation or officer thereof selling or offering for sale, or ordering or permitting any employee or other person to sell or offer for sale any beer (to which coloring matter or portine has been added) representing the same to be malt extract or porter or other beverage, or any malt or spirituous liquor other than by its proper name, shall be deemed guilty of a misdemeanor, and punished by imprisonment for not longer than one year, or by a fine not exceeding five hundred dollars, or by both fine and imprisonment in the discretion of the court having jurisdiction. (Annotated Code 1924, Art. 27, § 377.)

NOTE: See also Nos. 7, 12, 13, 118, and 183.

Cake and Confectionery.

53. Manufacture and Sale of Deleterious Candy, Etc.—No person shall manufacture or sell in this State candy or cakes of any kind soever which contain any ingredient which may be deleterious, injurious or poisonous to the consumer. (Annotated Code 1924, Art. 27, § 267.)

54. Penalty.—Each and every person who shall manufacture or sell in this State candy or cakes of any kind soever which contain any ingredient which may be deleterious, injurious or poisonous to the consumer shall be guilty of a misdemeanor, and, on conviction in a court of competent jurisdiction, shall be fined for each and every offense a sum not less than fifty dollars nor more than two hundred dollars. (Id. § 268.)

55. Manufacture and Sale of Adulterated Candy, Etc., a Misdemeanor—Penalty.—If any person or corporation shall use terra alba, or any poisonous or injurious drug or narcotic in the manufacture or coloring of any candy or lozenges in this State, or if any trader shall knowingly sell any candy or lozenges manufactured either in or out of this State, knowing the same to contain terra alba, or any poisonous or injurious drug or narcotic, or to be colored with any poisonous or injurious drug or narcotic, or with any poisonous substance, he, or if a corporation, it and all its agents who shall knowingly violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon indictment and conviction shall be fined not less than fifty dollars nor more than five hundred dollars for the first offense; and not less than five hundred dollars nor more than one thousand dollars for the second offense, one-half of said fine to be paid to the informer. (Id. § 269.)

56. Persons Injured by Use of Same May Recover Damages.—If any person shall be injured by the use of any such adulterated or poisonous candy or lozenges, he shall be entitled to recover in an action to be brought in any court of competent jurisdiction not less than fifty dollars as liquidated damages and such other and further actual damages as he may prove. (Id. § 270.)

NOTE: See also Nos. 1, 12, and 125 et seq.

Canned Goods.

56a. Forging Sealing Devices.—If any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or shall willingly aid or assist in falsely making, altering, forging or counterfeiting, or shall utter or pass, knowing it to be falsely made, altered, forged or counterfeited, any metallic check, card or other substance or device used or intended to be used by any person engaged in hermetically sealing or canning fruits, vegetables or other articles of food in this State, as an evidence of indebtedness from or by any person engaged in preserving foods as aforesaid, to any person employed by him, her or them, or used as an evidence or record of the state of accounts existing between the said employer and any of his employees, he shall be deemed a felon, and on conviction in any court in this State be sentenced to the penitentiary for not less than one nor more than five years. (Annotated Code 1924, Art. 27, § 64.)

NOTE: See also No. 125 et seq.

Canned Tomatoes.

57. Canning Tomatoes with Puree Other Than Tomato Juice, Unlawful.—On and after June 1, 1920, it shall be unlawful for any person, firm or corporation to

can or prepare in any way at any factory or plant of any kind in this State, any tomatoes or tomatoes with puree with which there is used or introduced into the can any liquid substance of any kind whatever except the juice or juices arising from the said tomatoes themselves after they have been properly peeled, trimmed, cored and prepared for canning as food. (Annotated Code 1924, Art 43, § 223.)

58. Deceptive Labels, Unlawful.—It shall be unlawful for any person, firm or corporation to can or prepare in any way any goods or vegetable product purporting to be canned tomatoes or canned tomatoes with puree, or having anything on the label or advertised in any way likely to deceive prospective customers with believing that they are canned tomatoes or canned tomatoes with puree, except in accordance with the provisions of the preceding section. (Id. § 224.)

59. Sale of Canned Tomatoes by Wholesale or Retail Unlawful, Unless in Accordance with Preceding Sections.—On and after January 1, 1921, it shall be unlawful for any person, firm or corporation to sell or offer for sale within this State, either by retail or wholesale, any canned tomatoes or canned tomatoes with puree, or goods purporting in any way to be canned tomatoes or canned tomatoes with puree, or having anything on the label or advertised in any way likely to deceive prospective customers with believing that they are canned tomatoes or canned tomatoes with puree if such canned tomatoes or canned tomatoes with puree have had at any time any liquid substance of any kind whatever introduced into the cans except the juice or juices arising from the tomatoes themselves after they have been properly peeled, trimmed, cored and prepared for canning as food. (Id. § 225.)

60. Penalty for Violation of Provisions Relating to Canning, or Sale by Wholesale.—Any person, firm or corporation, or the agent of any person, firm or corporation violating the provisions of this sub-title relative to the manufacture or canning of tomatoes or tomatoes with puree, or the selling or offering for sale by wholesale of canned tomatoes or canned tomatoes with puree shall, upon conviction, be guilty of a misdemeanor and be fined not less than one thousand (\$1,000) dollars for the first offense and not less than five thousand (\$5,000) dollars for each succeeding offense. (Id. § 226.)

61. Penalty for Violations of Provisions Relative to Retail Sales.—Any person, firm or corporation, or the agent of any person, firm or corporation violating the provisions of this sub-title relative to the sale or the offering for sale at retail of canned tomatoes or goods purporting to be canned tomatoes or canned tomatoes with puree, shall, upon conviction, be fined not less than one hundred (\$100) dollars for each and every offense. (Id. § 227.)

Coffee.

62. Conditions for Sale of Chicory.—It is lawful to sell chicory mixed with coffee if it conforms to the following conditions:

1. The amount of chicory shall not exceed fifteen per centum of the mixture of coffee and chicory.

2. The package containing the mixture shall bear the words in letters of the same style and size, but not less than one-half ($\frac{1}{2}$) inch high, "coffee and chicory," and may contain also the name and address of the manufacturer and distributor, a non-descriptive brand-name, and a statement of the net weight of the package contents, but no other printed matter.

3. The mixture shall contain no cereal in any form.

4. If sold in the form of a beverage in hotels and restaurants, there shall be displayed in a prominent place, in characters easily legible to the patrons, a placard bearing the words, "The coffee sold here is mixed with chicory." (Annotated Code 1924, Art. 43, § 375.)

63. Violation—Penalty.—Any person, firm or corporate body who shall violate any of the provisions of this sub-title shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred (\$100) dollars. (Id. § 376.)

64. Enforcement.—The State Board of Health shall be charged with the enforcement of the provisions of this sub-title. (Id. § 377.)

Cold Storage.

65. Definitions.—For the purpose of this sub-title, "cold storage" shall mean the storage or keeping of articles of food at or below a temperature above zero of 45 degrees Fahrenheit in a cold storage warehouse; "cold storage warehouse" shall

mean any place artificially cooled to or below a temperature above zero of 45 degrees Fahrenheit, in which articles of food are placed and held for 30 days or more; "articles of food" shall mean fresh meat and fresh meat products and all fish, game, poultry, eggs and butter. (Annotated Code 1924, Art. 43, § 209.)

66. License—Application—Fee.—No person, firm or corporation shall maintain or operate a cold storage warehouse without a license so to do issued by the Secretary of the State Board of Health. Any person, firm or corporation desiring such a license shall make written application to the Secretary of the State Board of Health for that purpose, stating the location of the warehouse. The Secretary of the State Board of Health thereupon shall cause an examination to be made of said warehouse and, if it be found by it to be in a proper sanitary condition and otherwise properly equipped for its intended use, it shall issue a license authorizing the applicant to operate the same as a cold storage warehouse during one year. The license shall be issued upon payment by the applicant of a license fee of twenty-five dollars to the treasurer of the state. (Id. § 210.)

67. Revocation of License.—In case any cold storage warehouse, or any part thereof, shall at any time be deemed by the Secretary of the State Board of Health to be in an insanitary condition, or not properly equipped for its intended use, it shall notify the licensee of such condition and upon the failure of the licensee to put such cold storage warehouse in a sanitary condition or to properly equip the same for its intended use, within a time to be designated by the Secretary of the State Board of Health, it shall revoke such license. (Id. § 211.)

68. Records—Reports, Open to Public Inspection.—Every such licensee shall keep accurate records of the articles of food received in and of the articles of food withdrawn from his cold storage warehouse, and the Secretary of the State Board of Health shall have free access to such records at any time. Every such licensee shall submit a monthly report to the Secretary of the State Board of Health, setting forth in itemized particulars the quantities and kinds of articles of food in his cold storage warehouse. Such monthly reports shall be filed on or before the fifth day of each month, and the reports so rendered shall show the conditions existing on the last day of the preceding month reported and a summary of such reports shall be prepared by the Secretary of the State Board of Health and shall be open to public inspection on or before the tenth day of each month. (Id. § 212.)

69. Inspection and Supervision.—The Secretary of the State Board of Health shall inspect and supervise all cold storage warehouses and make such inspection of articles of food therein as it [he] may deem necessary to secure the proper enforcement of this sub-title, and it [he] shall have access to all cold storage warehouses at all reasonable times. The Secretary of the State Board of Health may appoint such persons as it [he] deems qualified to make any inspection under this sub-title. (Id. § 213.)

70. Food Unfit for Human Consumption Not to be Kept in Cold Storage—Articles of Food for Other Uses, Unless So Marked, Prohibited.—No article of food intended for human consumption shall be placed, received knowingly or kept in any cold storage warehouse, if diseased, tainted, otherwise unfit for human consumption, or in such condition that it will not keep wholesome for human consumption. No article of food, for use other than for human consumption, shall be placed, received or kept in any cold storage warehouse unless previously marked, in accordance with forms to be prescribed by the Secretary of the State Board of Health, in such a way as to indicate plainly the fact that such article of food is not to be sold or used for human food. (Id. § 214.)

71. Date of Receipt and Removal of Articles to be Shown on Containers.—No person, firm or corporation shall place, receive or keep in any cold storage warehouse in this State articles of food unless the same shall be plainly marked, stamped or tagged, either upon the container in which they are packed, or upon the article of food itself, with the date when placed therein; and no person, firm or corporation shall remove, or allow to be removed, such article of food from any cold storage warehouse unless the same shall be plainly marked, stamped or tagged, either on the container in which it is enclosed or upon the article of food itself, with the date of such removal, and such marks, stamps and tags shall be *prima facie* evidence of such receipt and removal and of the dates thereof. All articles of food in any cold storage warehouse on June 1, 1916, shall, before being removed therefrom, be plainly marked, stamped or tagged with the date when this sub-title goes into effect and the date of removal therefrom. (Id. § 215.)

72. Period of Storage.—No person, firm or corporation shall hereafter keep or permit to remain in any cold storage warehouse any article of food which has been held in cold storage either within or without the State, for a longer aggregate period than 12 months, except with the consent of the Secretary of the State Board

of Health as hereinafter provided. The Secretary of the State Board of Health shall, upon application during the twelfth month, extend the period of storage beyond 12 months for any particular article of food, provided the same is found upon examination to be in proper condition for further cold storage. The length of time for which such further storage is allowed shall be specified in the order granting the permission. A report on each case in which such extension of storage may be permitted, including information relating to the reason for the action of the Secretary of the State Board of Health, the kinds and amounts of the articles of food for which the storage period was extended, and the length of time for which this continuance was granted, shall be filed, open to public inspection, in the office of the Secretary of the State Board of Health, and shall be included in its annual report. Such extension shall be not more than 60 days; a second extension of not more than 60 days may be granted upon a re-examination, but the entire extended period shall not be more than 120 days in all. (Id. § 216.)

73. Articles in Storage 30 Days Must be so Marked Before Being Sold.—It shall be unlawful to sell, or to offer for sale, any article of food which has been held for a period of 30 days or over in cold storage either within or without the State, without notifying persons purchasing, or intending to purchase, the same, that it has been so held by the display of a placard plainly and conspicuously marked "Cold Storage Goods," on the bulk mass or articles of food; and it shall be unlawful to represent or advertise as fresh any article of food which has been held in cold storage for a period of 30 days or over. (Id. § 217.)

74. No Return to Storage of Goods Once Removed—Transfer of Goods.—It shall be unlawful to return to any cold storage warehouse any article of food which has been once released from storage for the purpose of placing it on the market for sale. It shall be unlawful to transfer any article of food from one cold storage warehouse to another if such transfer is made for the purpose of avoiding any provision of this sub-title, and such transfer shall be unlawful unless all prior stampings, markings and taggings upon such article shall remain thereon. (Id. § 218.)

75. Rules and Regulations.—The Secretary of the State Board of Health may make all necessary rules and regulations to carry this sub-title into effect. Such rules and regulations shall be filed in the Secretary of the State Board of Health's office, and shall not take effect until thirty days after such filing. (Id. § 219.)

76. Penalties.—Any person, firm or corporation violating any provision of this sub-title shall be guilty of a misdemeanor and shall upon conviction be punished for the first offense by a fine not exceeding one hundred dollars (\$100) and for the second or any subsequent offense by a fine not exceeding five hundred dollars (\$500) or by imprisonment of not more than six months, or by both such fine and imprisonment in the discretion of the court. (Id. § 220.)

77. Purpose of Act.—This sub-title shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it. (Id. § 221.)

Condiments.

See No. 1.

Dairy Products—Substitutes for Dairy Products.

78. Manufacture and Sale of Imitation Butters for Natural Butter Prohibited.—No person shall manufacture, offer or expose for sale, sell or deliver, or have in his possession with intent to sell or deliver within this State, as for natural butter, renovated butter, butter made by the Quinness patent or process, or that made by other similar process, whereby casein of milk or other ingredients are made to imitate and resemble natural butter made from cream or other substitute made or colored to imitate natural butter. (Annotated Code 1924, Art. 27, § 156.)

79. How Oleomargarine, Etc., May be Sold.—Renovated butter, process butter, oleomargarine, butterine, or other butter substitute may be sold, if free from prohibited ingredients and otherwise wholesome, provided each vessel, package, roll or parcel of such substance be plainly and conspicuously branded by a stamp or label, with the true name of such substance in letters not less than thirty-six point bold-faced gothic capitals, and also the name of each article or ingredient used or entering into the composition of such substance, in letters of reasonable size; and provided also that the seller keep constantly and conspicuously posted on all sides of the room in which the sale is made a placard the face of which shall contain plainly printed in black ink thereon in the English language, in type not smaller than six inches in height, the words "(the true name of the substance) sold here." (Id. § 157.)

80. Patrons of Hotels, Etc., Must be Notified When Imitation Butter is Served.—Any proprietor or person in charge of hotel, boarding-house, restaurant, or other place or vehicle where food is sold or served for pay, who shall serve, sell or use as butter any substance or compound other than that produced wholly from unadulterated milk or cream, with or without salt or harmless coloring matter, shall cause to be plainly printed on every bill of fare, if one be used, in letters not smaller than eight point bold-faced gothic capitals, in the English language, the words "(true name of substance) used here in place of butter"; and in case no bill of fare be used, shall cause to be conspicuously posted upon each side of the eating-room or place, and in letters large enough to be distinctly seen and read from all parts of the room or place, placards containing on the face thereof in the English language the words, "(true name of substance) used here in place of butter"; and such person shall keep said placards continuously posted as aforesaid so long as such butter substitute be kept or used. (Id. § 158.)

81. "Natural Butter" Defined.—The term "Natural Butter" as used in section 156 shall be understood to mean the product usually known by the term "Butter," and which butter is manufactured exclusively from pure milk or cream, or both, with or without salt or harmless coloring matter. (Id. § 159.)

82. Penalty.—Anyone violating any of the provisions of sections 156-159 shall for the first offense be punished by a fine of not less than \$25, or more than \$200; for a second offense, a fine of not less than \$100, or more than \$500; or by imprisonment of not less than thirty days or more than six months, or both. (Id. § 160.)

83. Standard for Pure Milk.—For the purposes of sections 278, 279 and 280 the standard for pure milk shall be not more than eighty-seven and one-half per centum of water or fluids, and not less than twelve and one-half per centum of milk solids, of which at least three and one-half per centum shall be butter fats. (Id. § 278.)

84. Adulterated or Unwholesome Milk Defined—Condensed Milk, Etc.—Sale of Skimmed Milk—Exception.—For the purposes of said sections milk shall be deemed to be sophisticated, adulterated or unwholesome when it does not contain twelve and one-half per centum of milk solids, of which three and one-half per centum shall be butter fats; or to which has been added salt, boracic acid, salicylic acid, salicylate of soda, formaldehyde, or any other acid, drug, compound or substance, or to which ice or water has been added for any purpose whatsoever; or which has been taken from an animal ten days before or five days after parturition; or which has been taken from a sick or diseased animal; or which has been taken from animals fed in whole or in part on garbage or any substance in a state of fermentation or putrefaction, or food that produces impure, diseased or unwholesome milk, or from cows stabled near a house where there is an infectious disease; or from which a portion of the cream has been taken; but nothing in these sections shall be construed as prohibiting the addition of sugar in the manufacture of condensed or preserved milk, or as prohibiting the sale of pure skimmed milk, when sold as such, and from cans plainly and conspicuously marked with the sign or placard "Skimmed Milk," in capital letters, each of a size of not less than one inch square, or as prohibiting the sale of pure, wholesome milk, not complying with the provisions of section 278, for the manufacture therefrom of butter, cheese or other products. Nothing in this section shall be construed as prohibiting the feeding of ensilage from silos. (Id. § 279.)

85. Penalty.—Whoever shall violate any of the provisions of sections 278 and 279 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars or imprisoned for not more than sixty days, or both fine [d] and imprisoned, in the discretion of the court, for each offense; said sections not to limit the powers of the mayor and city council of Baltimore to enact ordinances and regulations not inconsistent with the provisions of these sections for the inspection and sale of milk or the products thereof in the city of Baltimore. (Id. § 280.)

86. Manufacture and Sale of Condensed Milk, Etc.—Penalty for Violations of This Section.—No condensed, evaporated or preserved milk shall be manufactured, sold or exchanged, or offered or exposed for sale or exchange, except as hereinafter in this section authorized and provided, unless the same be manufactured from or out of pure, clean, healthy, fresh, unadulterated and wholesome milk, from which the cream has not been removed either wholly or in part, and unless the proportion of milk solids of same shall be in quantity the equivalent of twelve and fifty one-hundredths per centum of milk solids in crude milk, and of which milk solids three and fifty one-hundredths per centum shall be butter fats. No person shall manufacture, sell or exchange, or offer or expose for sale or exchange, any

condensed, evaporated or preserved milk unless the same be put up, packed or contained in packages with the name of the manufacturer of the said milk distinctly branded or stamped thereon. Whoever by himself or another violates any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned for not less than ten days nor more than thirty days, or be punished by both such fine and imprisonment for the first offense, and by a fine of one hundred dollars or imprisonment for three months, or both such fine and imprisonment, for each subsequent offense. Provided, however, that nothing in this section shall prohibit the manufacture, sale or exchange of condensed, evaporated or preserved skimmed milk in bulk for manufacturing purposes, if sold as such in containers which hold not less than ten pounds avoirdupois thereof each and which are conspicuously labeled "Condensed Skimmed Milk" in capital letters each of a size not less than two inches square. (Id. § 281.)

87. Regulations for Milk Containers—Penalty for Violations.—No person or persons shall hereafter, without the consent of the owner or shipper, use, sell dispose of, buy or traffic in any milk cans, cream cans or cases belonging to any dealer or shipper of milk or cream residing in the State of Maryland or elsewhere who may ship milk or cream to any city, town or place within this State, having the name or initials of the owners, dealers or shippers stamped, marked or fastened on such cans, or wilfully change by re-marking or otherwise said name or initials of any such owner, dealer or shipper so stamped, marked or fastened upon such cans; nor shall any person, without the consent of the owner, use such cans for any other purpose than for milk or cream; nor shall any person or persons, without the consent of the owner, place in any such cans any substance or product other than milk or cream. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction before a justice of the peace of the city or county wherein the offense was committed, or in a court of competent jurisdiction, shall be fined not more than fifty dollars and cost of prosecution; one-half of all fines imposed shall be paid to the informer, and the other half of said fine shall be paid to the board of school commissioners of the county or city of Baltimore in which the offense shall be committed; and in default in the payment of said fine shall be confined in the jail for a period not less than thirty days nor more than sixty days. (Id. § 282.)

88. Penalty for Failing to Register Cattle.—It shall be the duty of all dairy-men or herdsmen or individuals making a business of supplying milk to cities, towns and villages or elsewhere, to register their herds or cattle with the State Board of Agriculture, in violation of which the parties offending shall be fined not less than one dollar nor more than twenty for each offense. (Annotated Code 1924, Art. 58, § 24.)

89. Inspection of Premises—Sanitary Rules.—It shall be the duty of the State Board of Agriculture to have inspected at least annually without notice to the owner or those in charge of any dairy, or the parties supplying milk as named in section 24, the premises wherein cows are kept, and if such premises are found in an unsanitary condition, the said board may prohibit the sale and shipment of milk from such premises until such time as such premises shall conform to the following sanitary rules:

Rule 1. No building or shed shall be used for stabling cows for dairy purposes which is not well lighted and ventilated, and which is not provided with sufficient feed troughs or boxes, and suitable floor, laid with proper grades and channels to immediately carry off all drainage; and if a public sewer abuts the premises upon which such building is situated, they shall be connected therewith whenever the inspector considers such sewer connection necessary.

Rule 2. No water-closet, privy, cesspool or urinal, inhabited room or workshop shall be located within any building or shed used for stabling cows for dairy purposes, or for the storage of milk or cream; nor shall any fowl, hog, sheep or goat be kept in any room used for such purposes.

Rule 3. It shall be the duty of each person using any premises for keeping cows for dairy purposes to keep such premises thoroughly clean and in good repairs and well painted or whitewashed at all times.

Rule 4. It shall be the duty of each person using any premises for keeping cows for dairy purposes to cause the buildings in which cows are kept to be thoroughly cleaned, and remove all dung from the premises so as to prevent its accumulation in great quantities.

Rule 5. Any person using any premises for keeping cows for dairy purposes shall provide and use a sufficient number of receptacles, made of nonabsorbent materials for the reception, storage and delivery of milk, and shall cause them at

all times to be cleaned and purified, and shall cause all milk to be removed without delay from the rooms in which cows are kept.

Rule 6. Every person keeping cows for the production of milk for sale shall cause every such cow to be cleaned every day, and to be properly fed and watered with an abundance of pure, clean water.

Rule 7. Any enclosure where cows are kept shall be graded and drained, so as to keep the surface reasonably dry; no garbage, fecal matter or similar matter shall be placed or allowed to remain in such enclosure unless sufficient straw or similar good absorbent material be used to keep the enclosure clean at all times, and no open drain shall be allowed to run through it. Any person who shall ship or sell milk contrary to the aforesaid order of said board shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one dollar nor more than twenty dollars for each day during which shipments shall be made after notice of such order. (Id. § 25.)

90. **Examinations—Inspection—Rules and Regulations.**—The State Board of Agriculture is hereby empowered to appoint and employ such assistants and agents, and to purchase such supplies and materials as may be necessary, to conduct examinations into the condition and care of the live stock of the State in its relation to the milk supply of cities, towns and villages or elsewhere, as may seem necessary, and to make rules and regulations which shall have the effect of law for the protection of such milk supplies in its relation to public health and for the promotion of the dairy industry. The State Board of Agriculture may require the grading of all milk or the pasteurization of any or all milk to be sold or offered for sale in cities, towns and villages or elsewhere, and make rules and regulations having the effect of law covering such grading or pasteurization.

On petition of twenty-five patrons of any dairy, creamery, or cooling station, the State Board of Agriculture shall, through its duly authorized agent, make an inspection of such dairy, creamery or cooling station, including the testing and weighing of the milk or cream of each patron.

The State Board of Agriculture shall make such regulations and inspections of dairies, creameries and cooling stations as it may deem necessary for the protection of the public health and the promotion of the dairy industry. (Id. § 26.)

91. **Unlawful Sale of Milk—Penalty.**—It shall be unlawful to sell or offer for sale as certified milk or milk products any milk or milk products that have not been produced under such rules and regulations as are or may from time to time be approved by the State Board of Agriculture; and said board shall make its rules and regulations for the production of said milk comply with all the rules and requirements for the production of certified milk as may from time to time be approved by the American Association of Medical Milk Commissioners and the Certified Milk Producers Association of America. Any person, firm or corporation failing to comply with any of the provisions of this section or of section 26 shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than fifty dollars for each day on which the offense was committed. (Id. § 27.)

92. **Standards for Imported Milk—Penalty for Violation.**—It shall be unlawful to import into the State of Maryland any fluid milk that has not been produced, handled and shipped according to the same standards and under the same conditions applicable to milk produced in Maryland under the rules and regulations of the municipalities into which such milk is shipped. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of \$50 for the first offense and \$100 for each subsequent offense. (Id. § 28.)

NOTE: See also Nos. 1, 7, 12, 15, 21, 23b, 65 et seq., 125 et seq., 174, and 251.

Eggs.

See No. 65 et seq.

Feeding Stuffs.

93. **"Commercial Feeding Stuffs" Defined.**—The term "Commercial Feeding Stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except the following:

(a) Whole seeds or grains.

(b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo.

(c) Whole hays, straws, cottonseed hulls and corn stover, when unmixed with other materials.

(d) All other materials containing 60 per centum or more of water. (Annotated Code, 1924, Article 48, § 95.)

94. Labels, Contents.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this State shall have printed thereon or affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum per centum of crude protein;
- (e) The minimum per centum of crude fat;
- (f) The maximum per centum of crude fibre;
- (g) The specific name of each ingredient used in its manufacture. (Id. § 96.)

95. Statement—Sample—Registration.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs, he or they shall file with the State Chemist, as appointed by the State Board of Agriculture, a certified copy of the statement specified in section 96, with the exception of sub-division (a), for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the State Chemist shall so request, by a sealed package containing at least one pound of the commercial feeding stuffs to be sold, offered or exposed for sale or distributed in this State, and the company or person furnishing said sample shall thereupon certify that the said sample is representative of the commercial feeding stuffs offered for registration. (Id. § 97.)

96. Inspection Fees—Tags—Cards.—Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing, selling, offering or exposing for sale or distributing any commercial feeding stuffs as defined in section 95 of this article, shall pay to the University of Maryland an annual inspection fee of twenty dollars (\$20) for each brand of commercial feeding stuffs sold, offered or exposed for sale or distributed in this State except the following: purest wheat bran, pure wheat middlings, pure wheat mixed feed; pure rye bran, pure rye middlings, pure rye mixed feed; pure buckwheat bran, pure buckwheat middlings, pure buckwheat feed; pure corn and oat chop, pure corn bran and pure corn meal, sold as a feeding stuffs, on which no fee is required, and receive therefor a license to sell such commercial feeding stuffs, until the first day of January next following; said fees to constitute a fund for the payment of the cost of the inspections, sampling, analysis and other expenses incident to putting into effect the provisions of this sub-title. Whenever any commercial feeding stuffs, as defined in sections 95 or 98, is offered or exposed for sale in bulk or otherwise stored the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand tags upon which shall be printed the statement required by the provisions of section 96, and when such feeding stuffs is sold at retail in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser with sufficient tags for said packages, and upon request, with a card or cards upon which appears the statement required by the provisions of section 96. (Id. § 98.)

97. Refusal to Register by State Chemist—Power to Cancel Registrations, Etc.—The State Chemist shall have power to refuse to register any commercial feeding stuff under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each and all ingredients used in its manufacture are not stated. He shall also have power to refuse to register more than one commercial feeding stuff under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be registered in this State, and it is afterwards discovered that such registration is in violation of any of the provisions of this sub-title, the State Chemist shall have the power to cancel such registration. The State Chemist shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeding stuffs during the term for which registered, unless satisfactory reasons are presented for making such change or changes. (Id. § 99.)

98. Filing Statement, Etc.—Whenever a manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling a brand of commercial feeding stuffs shall have filed the statement required by section 97 and paid the inspection fee, as required by section 98 of this article, no other agent, importer, jobber, firm, association, corporation or person shall be required to file such statement or pay such fee upon such brand. (Id. § 100.)

99. Access to Premises—Taking Samples—Reports.—The State Chemist is authorized in person or by deputy to have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in manufacture, transportation, importation, sale or storage of any commercial feeding stuffs, and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and to take therefrom samples for analysis, and said State Chemist shall annually cause to be analyzed at least one sample so taken of every commercial feeding stuffs that is found, sold, offered or exposed for sale or distributed in this State, and the result of such analysis, together with such additional information as the said State Chemist may deem advisable, shall be transmitted to the manufacturer or person responsible for placing the commodity on the market, and shall be published in reports or bulletins from time to time. (Id. § 101.)

100. Result of Analysis—Violations—Hearing—Prima Facie Evidence.—If it appears that any of the provisions of this sub-title have been violated the State Chemist shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the result of the analysis or other examination of such feeding stuffs duly authenticated by the analysis [analyst] or other officer making the determination, under the oath of such officer; provided that if it shall appear from any such examination that any of the provisions of this sub-title have been violated the State Chemist shall cause notice to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the State Chemist before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this sub-title certificates of the analysis of the officer making the examination or analysis, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified. (Id. § 102.)

101. Requirements for Sale of Feeding Stuff—Ingredients—Penalty for Violations.—Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale, or distribute in this State any commercial feeding stuffs without having attached thereto or printed thereon the analysis and statement as required by the provisions of this sub-title, or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said State Chemist or his authorized agent in the performance of his duty in connection with the provisions of this article, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section 95, without complying with the requirements of the provisions of this sub-title, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs which contains a smaller per centum of crude protein or crude fat or a larger per centum of crude fibre than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture, shall be deemed guilty of a violation of the provisions of this article and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00) for the first violation and not less than one hundred dollars (\$100.00) for each subsequent violation. Any manufacturer, importer, jobber, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of live stock or poultry shall be deemed guilty of a violation of the provisions of this sub-title, and in addition to the penalty provided in this section, the lot of feeding stuffs shall be subject to seizure, condemnation and sale as the court may direct; the proceeds from such sale to be paid into the treasury of the Maryland State College of Agriculture to be added to the fund provided for in section 98. The court may, in its discretion, release the feeding stuffs so seized when the requirements of the provisions of this sub-title have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure. (Id. § 103.)

102. Adulterations—Penalty.—If it shall be found upon analysis or other examination that any feeding stuff is deficient in one or more valuable constituent or that an inferior product has been substituted in whole or in part, the purchaser or purchasers shall be entitled to recover as damages a sum equal to twice the commercial value of said deficiency, to be determined by reasonable rules to be

published by said State Chemist with the approval of the State Board of Agriculture. (Id. § 104.)

103. Enforcement of Act—Rules and Regulations.—The Maryland State Board of Agriculture is hereby empowered to enforce the provisions of this subtitle and to prescribe the form of tags or labels to be used on commercial feeding stuff and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this sub-title. (Id. § 105.)

NOTE: See also No. 23a.

Fish.

See Nos. 7 and 65 et seq.

Flavoring Extracts.

104. Penalty for Use of Wood Alcohol in Flavoring Extracts, Etc.—No person, firm or corporation engaged in making, manufacturing, compounding and selling extracts, essences or other fluids commonly used for the purpose of flavoring articles of food or drink shall use or employ, or permit to be used or employed by his, their or its agents or employees, [in] the making, manufacture or compounding of such flavoring extracts, essences or fluids any methyl, or wood alcohol; nor shall any person, firm or corporation, his, their or its agents or employees, sell, or offer for sale at wholesale or retail, any flavoring extract, essence or other fluid commonly used for flavoring articles of food or drink when the same contains any methyl, or wood alcohol; and any person, firm or corporation, his, their or its agents, employees or officers, violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by not less than three months nor more than twelve months' imprisonment, or by both, in the discretion of the court. (Annotated Code 1924, Art. 43, § 182.)

NOTE: See also No. 183.

Flour.

105. Selling Mixed Flour for Wheat Flour Prohibited—Penalty.—If any person shall mix, or cause to be mixed, any corn meal or other flour with wheat flour, for the purpose of selling or otherwise disposing of the same as wheat flour, or shall send the same out of the State for the purpose, or with the intent of selling or otherwise disposing of it, he, on conviction thereof, shall forfeit and pay for each and every such offense a sum not less than two hundred dollars, nor more than one thousand dollars, one-half to the informer and the other half to the state. And in case such offender shall be unable to pay the same, he shall suffer not less than three nor more than twelve months' imprisonment, in the discretion of the court. (Annotated Code 1924, Art. 27, § 208.)

105a. Warrants.—It shall be the duty of every justice of the peace before whom any information may be lodged and proof made of any violation of the preceding section to issue his warrant to any constable of the county in which the same shall be committed commanding him to bring such offender before him, or any other justice of the peace of said county who shall recognize him in the sum of two thousand dollars, with good and sufficient security; or in case of neglect or refusal, then to commit such offender to prison to take his trial at the next term of the circuit court for the county. (Id. § 209.)

105b. Fraudulent Sale—Penalty.—If any person shall give or promise to give to any driver or person having charge of any wagon or other carriage, any sum of money or goods of any description for the purpose of obtaining flour or whiskey intrusted to the care of such driver or person having the charge or care thereof, at any price below the market price of the day, or shall willfully make out any bill or bills for the same, without stating the full amount paid or promised to be paid to such wagoner or person having the care thereof, he shall forfeit and pay a sum not less than twenty nor more than fifty dollars, one-half to the informer and the other half to the use of the person injured, to be recovered before any justice of the peace as small debts are recovered. (Id. § 176.)

105c. Same.—If any driver or person having charge of any wagon or other carriage shall take or receive any sum of money or goods of any description from any person as an inducement for selling any flour or whiskey under the market price

of the day, and not make return thereof to the proper owner of such flour or whiskey, he shall pay to the person injured double the amount of the sum so received, and shall pay a fine not less than five nor more than twenty dollars, one-half to the person prosecuting for the same and the other half to the use of the county or city where the case is heard, to be recovered as small debts are recovered. (Id. § 177.)

NOTE: See also Nos. 21 and 295.

Fruits, Vegetables, Etc.

105d. Erasing Owner's Name on Fruit Crate, Etc.—Penalty.—The concealment, defacement or erasure of the owner's name, by any mode whatever, without his consent, from any peach or other fruit basket, box or crate shall be deemed a misdemeanor, and on conviction before a justice of the peace in the county or the city of Baltimore where the offense was committed, the party offending shall be required to make restitution to the owner of the basket, box or crate in a sum equal to ten times its original cost and shall be fined not less than ten nor more than thirty dollars for every concealment, defacement or erasure of the name of the owner from every peach or other fruit basket, box or crate; one-half of said fine to be paid to the informer and the other half to the county commissioners, or to the Mayor and City Council of Baltimore, to be applied to the ordinary expenses of the county or city, as the case may be. (Annotated Code 1924, Art. 27, § 110.)

105e. Willful Destruction of Fruit Crate, Etc.—Penalty.—Any person who shall willfully destroy any peach or other fruit basket, box or crate without the consent of the owner either by splitting it up or burning it, or any part of it, shall, on conviction thereof before a justice of the peace of the county or the city of Baltimore where the offense was committed, be subject to all the penalties imposed in the preceding section. (Id. § 111.)

105f. Market Garden Boxes—Fraudulent Use—Penalty.—It shall be unlawful for any person, persons, firm or corporation, not the owner thereof, to use or have in his, her or its possession any garden box, market box or bushel box used as a container of farm or garden produce, when such box, garden box, market box or bushel box is stamped, stenciled, or marked in plain letters with the name of the owner or owners thereof, unless such person, persons, firm or corporation using or having the same in his, her or its possession, shall first have obtained the express privilege or permission of the owner or owners of such bushel box, market box or garden box, or from his, her or their duly authorized agent or agents, to use or have in his, her or its possession such bushel box, market box or garden box as aforesaid. Any person, persons, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of the several counties of this State or the city of Baltimore, shall be fined not more than twenty-five dollars for each such offense. (Id. § 206.)

NOTE: See also Nos. 7, 21, 23a, 24 et seq., 56a, 57 et seq., and 287 et seq.

Grain.

See Nos. 295-296.

Ice.

106. Ice for Domestic Purposes—Approval, Rules and Regulations by State Board of Health.—After April 16, 1914, no new source of ice supply, either natural or artificial, shall be used for furnishing ice to the public for domestic purposes unless such source be approved by the State Board of Health and a written permit be issued by the board for the harvesting or manufacture, and the sale of ice from said source. No ice shall be stored in an unclean place, handled in an unclean manner, nor brought into contact with polluted water. The State Board of Health shall be empowered to make and enforce such rules and regulations as it may deem proper regarding the selection and care of sources of ice supply and the methods employed in harvesting, manufacturing, storing and handling ice. (Annotated Code 1924, Art. 43, § 342.)

107. Records—Right of Entry to Buildings, to Take Samples, Etc.—All such records as may be required by the State Board of Health shall be kept by counties, municipalities, districts, corporations, companies and persons supplying water, ice, sewerage or refuse disposal service to the public; by corporations, companies and persons owning manufacturing and industrial establishments; and by owners of private systems of water supply and sewerage; and the State Board of Health

shall be supplied at all times with all records and information upon demand. Agents of the State Board of Health shall be allowed entry to all buildings, structures and premises owned by counties, municipalities, districts, corporations, companies and persons supplying the public with water, ice, sewerage or refuse disposal service or upon all private properties, for the purpose of collecting samples, records and information and ascertaining whether the rules, regulations and orders of the State Board of Health are obeyed. (Id. § 343.)

108. Permits Revocable, Etc.—Every permit issued by the State Board of Health under this sub-title shall be revocable or subject to modification and change by the State Board of Health after due notice of which contemplated action has been given by the board to the recipient of such permit. When the length of time that a permit is to run is specified in such permit, said permit shall become automatically inoperative at the expiration of the period of time prescribed, without notice to that effect having been given by the State Board of Health. (Id. § 344.)

109. Penalties for Failure to Comply with Order of State Board of Health.—

- If any county, municipality, water, sewerage or sanitary district, corporation, company or institution, or officer thereof upon whom the duty to act is cast, or any person, shall fail to comply with any order of the State Board of Health before the expiration of the time specified for compliance with said order, or in case of appeal or appeals, for a period of ten days after final judgment affirming the board's order shall have been entered, to obey said order or in good faith to begin to obey the same; such county, municipality, district, corporation, company or institution, or officer thereof, or person, so failing shall become liable for and forfeit to the State of Maryland a sum of not less than ten nor more than five hundred dollars, with an extra fine of not less than five nor more than fifty dollars per day for each day beyond the time limit that said order is not complied with. All penalties are to be recovered by the State in civil action brought by the State of Maryland, and such penalty when collected shall be paid into the State treasury. (Id. § 346.)

Meat—Meat Products.

110. "Kosher" Meat—Misrepresentation of—Penalty.—Any person or persons who with intent to defraud sells or exposes for sale any meat preparation and falsely represents the same to be kosher, or as having been prepared under and of a product or products sanctioned by the Orthodox Hebrew religious requirements; or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "Kosher" in any language; or sells or exposes for sale in the same place of business both kosher and non-kosher meat or meat preparations who fails to indicate on his window signs and all display advertising, in block letters at least four inches in height, "Kosher and non-kosher meat sold here," or who exposes for sale in any show window or place of business both kosher and non-kosher meat or meat products who fails to display over such meat or meat preparation so exposed a sign in block letters at least four inches in height reading "kosher meat," or "non-kosher" meat, as the case may be, shall be guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment of not less than thirty days nor more than one year, or both, at the discretion of the court. (Annotated Code 1924, Article 27, § 185.)

111. Sale of Immature Meat Unlawful—Penalty.—It shall be unlawful for any person to sell any calf less than three weeks old to any butcher, or to any person to be butchered. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a penalty of ten dollars, one-half of which shall be paid to the informer, and upon failure to pay said fine and cost of prosecution shall be committed to jail for a period not exceeding ten days. (Id. § 266.)

112. Sale of Animals Unfit for Human Food Prohibited—Penalty.—No person shall kill for human food, or shall carry or offer to any butcher, or at any slaughter-house to be killed for human food, any female animal within 30 days before the time for the delivery of its young, or within 30 days thereafter, or any animal that is so far disabled by sickness as to be unable to walk, or any animal known to said person, by reason of disease or injury, to be unfit for human food; and whenever any of said animals shall be found at any place where animals are usually killed for human food, the burden of proving that such animal was not

intended for human food shall rest on the party charged, and any person violating the provisions of this section shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. (Id. § 296.)

NOTE: See also Nos. 7, 12, 21, 23a, 65 et seq., and 125 et seq.

Oysters.

112a. Measure of Shells.—All oysters taken from any of the waters of this State, either with scoops, dredges or any similar instruments, or tongs or rakes, shall be culled upon their natural bed or bar whence taken, and all shells shall be returned to the bed or bar from which they were taken, and all oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, shall be included in said culling and replaced upon said bed or bar as taken; and the culling of oysters taken as aforesaid required by this section shall be actually made and completed before such oysters are thrown or deposited in the hole or bottom of any such canoe or boat or vessel aforesaid. (Annotated Code 1924, Art. 72, § 8.)

112b. Same.—Any person who shall have oysters in his possession which contain more than five per cent of shells, and oysters less than two and one-half inches from hinge to mouth, which for the purpose of this article are declared to be unmerchantable oysters, shall be guilty of a misdemeanor, and in ascertaining such percentage the officers of the oyster police force in the measurers and inspectors are hereby authorized and directed to select such amount of oysters from any pile, hold, bin, house or other place as he may think proper and to require the same to be culled and disposed of, as provided in section 11 of this article; and any person violating any of the provisions of this section shall be subject to the penalties and fines as provided in section 11 of this article, in precisely the same manner as if he were a captain of a boat. (Id. § 9.)

112c. Same.—It shall be unlawful for any person to transport, or attempt to transport, outside of this State, for any purpose whatsoever, unmerchantable oysters as declared in the preceding section of this article, whether the unmerchantable oysters be taken from or caught on the natural bars or beds of this State, or from private beds and lots in this State; and any violation of the provisions of this section shall be deemed a misdemeanor, and the captain or person in charge of any boat or vessel used in violation of the same shall upon the conviction of violating the provisions of this section before any justice of the peace or court of competent jurisdiction be sentenced to the House of Correction for a period of not less than three months nor more than six months, and the boat or vessel so used shall be forfeited, but shall be released upon the payment of a fine of not less than \$100 and not more than \$300, and the cargo of such vessel shall be confiscated to the State and shall be distributed under the supervision of the commander or some deputy commander, or general oyster inspector of the State fishery force, upon the natural rocks and bars. (Id. § 10.)

112d. Same.—Any person violating any provision of Sections 8 or 9 of this article, and found having in his possession oysters more than five per centum unmerchantable shall be deemed guilty of a misdemeanor, and upon conviction before any justice of the peace or court of competent jurisdiction, shall be fined the sum of not less than \$40 nor more than \$200, or confined in jail not less than 30 days nor more than six months, either or both, and said cargo confiscated and returned to natural beds or bars under the supervision of the oyster inspector or other officer making the arrest, and the boat or vessel shall be held as security for the payment of said fine. If the boat in which only oyster tongs are used,* the said captain or other person in charge shall be fined not less than \$20 nor more than \$100 and the boat in which said oysters are found shall be held as security for the payment of said fine. (Id. § 11.)

112e. Same.—All the provisions of this article relating to the inspection and culling of oysters and the imposition of penalties for the violation of the cull law shall apply to oysters in the shell found anywhere within the State, whether afloat or ashore, and whether said oysters have been caught within the waters of this State or shipped or brought into Maryland from other States. (Id. § 12.)

112f. Same.—All local and general laws of this State fixing or regulating minimum or maximum sizes of oysters, fish or crabs, respectively, shall apply whether the same be caught inside the State of Maryland or outside of this State

*So in Code.

and that the fines and penalties prescribed for violation of said laws respectively shall apply to the same extent. (Id. § 13.)

112g. Same.—It shall be the duty of the captain or other person in charge of any vessel from which oysters are being taken, as provided in section 11 of this article, to keep said vessel at the wharf or other place of delivery until the inspector of oysters shall have inspected the oysters dumped on deck, as provided for in said section 11, and give a certificate in form following:

Baltimore, ..., 19....

This is to certify that I have this day inspected the oysters contained in the vessel, captain, delivered to, and found said cargo to contain, per cent of marketable oysters.

(Signed)

Inspector of Oysters.

And any violation of this section by any captain or other person in charge of any vessel shall be a misdemeanor, and he shall be fined the sum of one hundred dollars for every such offense. (Id. § 14.)

112h. Same.—Any packer, commission man, boatman or other person who shall conspire or agree with any other person to evade any of the provisions of this article, or who shall connive at or participate in such violation shall be guilty of a misdemeanor. It shall be unlawful for any captain or other person in charge of a vessel to discharge his oysters, or for any packing house or any other person to receive oysters between the hours of 8 o'clock P. M. and 6 o'clock A. M. Any violation of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars and not more than five hundred dollars for each offense on conviction before a court of competent jurisdiction; one-half of said fine to go to the informer and the other one-half to the comptroller to be placed to the credit of the oyster fund, unless the informer be an officer of the State fishery force. And the general inspectors and measurers or special inspectors shall be on duty continuously during the working or delivery hours, viz; from 6 A. M. to 8 P. M. (Id. § 15.)

112i. Same.—It shall be the duty of general measurers and inspectors of oysters and other officers of the police force to supervise the operation of this article and diligently to aid in the enforcement of its provisions, and they or any of them are authorized and empowered to enter into any house or boat or any other place where oysters may be dumped or stored to inspect the same at any time; and any packer, commission man or boatman who shall refuse to open his house or boat where oysters may be dumped or stored for the inspection thereof by the officer whose duty it shall be to inspect the same, and any person who shall conspire or agree with any other person to evade any of the provisions of this article or who shall connive at or participate in such violation shall be deemed guilty of a misdemeanor and subject to the penalties prescribed in section 15 of this article. (Id. § 16.)

112j. Same.—Any general measurer or inspector of oysters in this State who shall knowingly permit any evasion or violation of this article to take place without causing the arrest of the offender shall be guilty of a misdemeanor and, upon conviction of the same, shall be dismissed from the service and be fined not less than fifty dollars nor more than three hundred dollars, or sentenced to the House of Correction for a term of not* (Id. § 17.)

112k. Same.—All oysters taken from any natural rocks, beds or shoals in the waters of the Potomac River shall be culled on their natural rocks, beds or shoals as taken, and oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, and all shells shall be included in said culling and replaced upon said rocks, beds or shoals, provided that oysters once passed from the culler less than the prohibited size, and all shells shall be considered as not having been culled, according to the provisions of this section; provided, that when small oysters are adhering so closely to the shell of a marketable oyster as to render removal impossible without destroying the young oyster, then it shall not be necessary to remove it. And it shall be unlawful for any person to take, buy or sell the small oysters and shells from the natural rocks, beds, and shoals as aforesaid, or to take, buy, sell or have in possession oysters less than two and one-half inches in length from hinge to mouth. Whenever any inspector or other officer shall have reason to believe that this section has been violated with reference to the culling of oysters, said inspector or other officer is hereby authorized to examine the cargo of any boat or vessel, and if upon examination of said cargo the said inspector or other officer shall find that five per centum or more of said cargo

*So in Code.

shall consist of shells and oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, the captain of the boat or other person in charge of said boat shall be deemed to have violated this section, and upon conviction, if of a dredge-boat or a vendor of oysters shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars and confined in jail not less than thirty days or more than six months, and said cargo confiscated and returned to the natural beds under the supervision of the oyster inspector or other officer making the arrest, and the boat or vessel on which said oysters are found shall be held as security for the payment of said fine; if a boat in which only oyster tongs are used, the said captain or other person in charge shall be fined not less than fifty dollars nor more than one hundred and twenty-five dollars, and confined in jail not less than fifteen days nor more than three months, and said cargo confiscated and returned to the natural beds under the supervision of the oyster inspector or other officer making the arrest. And the boat or vessel on which said oysters are found shall be held as security for the payment of said fine; provided, however, that when any person shall be found with oysters in violation of this section he shall be presumed to be a dredger or vender of oysters, and if he claims to be a tonger the burden shall be upon said person to show that he is a tonger. Because of the necessity that legislation regulating the taking of oysters in the Potomac River shall be concurrent as to the States of Maryland and Virginia, it is further provided that this section shall take effect from the date of its passage provided, concurrent legislation has heretofore been passed by the General Assembly of Virginia, or if not passed then, immediately upon the passage thereof. (Id. § 63.)

112l. Same.—All oysters taken from any natural rocks, beds or shoals within the Potomac River shall be culled on their natural rocks, beds or shoals as taken, and oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, and all shells shall be included in said culling and replaced on said rocks, beds or shoals; provided that oysters once passed from the culler less than the prohibited size and all shells shall be considered as not having been culled according to the provisions of this section; provided, that when small oysters are adhering so closely to the shell of a marketable oyster as to render removal impossible without destroying the small oyster, then it shall be necessary to remove it. And it shall be unlawful for any person to take, buy or sell the small oysters and shells from the natural rocks, beds and shoals as aforesaid, or to take, buy, sell or have in possession oysters less than two and one-half inches in length from hinge to mouth. Whenever any inspector or other officer shall have reason to believe that this section has been violated with the reference to the culling of oysters, such inspector or other officer is hereby authorized to examine the cargo of any boat or vessel, and if upon examination of said cargo the said inspector or other officer shall find that five per centum or more of said cargo shall consist of shells and oysters whose shells measure less than two and one-half inches in length, measuring from hinge to mouth, the captain of the boat or other person in charge of said boat shall be deemed to have violated this section, and upon conviction, if of a dredge boat or vender of oysters, shall be fined not less than forty dollars nor more than two hundred dollars, or confined in jail not less than thirty days nor more than six months, either or both, and said cargo confiscated and returned to the natural beds under the supervision of the oyster inspector or other officer making the arrest, and the boat or vessel on which said oysters are found shall be held as security for the payment of said fine; if the boat in which only oyster tongs are used, the said captain or other person in charge shall be fined not less than twenty dollars nor more than one hundred dollars, or confined in jail not less than fifteen days nor more than three months, either or both, and said cargo confiscated and returned to the natural beds under the supervision of the oyster inspector or other officer making the arrest. And the boat or vessel on which said oysters are found shall be held as security for the payment of said fine; provided, however, that when any person shall be found with oysters in violation of this section, he shall be presumed to be a dredger or vender of oysters, and if he claims to be a tonger the burden shall be upon said person to show that he is a tonger only: Provided, that this section shall not apply to that portion of the Potomac River above a straight line drawn from the point at the mouth of Upper Machodoc Creek, in the County of King George, Virginia, to Lower Cedar Point, in Charles County, Maryland. (Id. § 73.)

112m. Inspection.—It shall be the duty of said general measurers and inspectors of oysters to see that the law in reference to the inspection of oysters be strictly complied with by all subordinates, and the general measurers and inspectors of oysters shall have authority at all times to enter all places and all vessels where oysters are being measured and inspected in the shell and to inspect all the measures

or instruments used in measuring oysters and to see that the inspection laws are properly enforced, and if the measures are incorrect, the said general measurer and inspector of oysters shall take possession of the incorrect measures, and the inspectors of oysters are authorized, directed and required to arrest any person or persons violating any of the provisions of this article. It shall be the further duty of the general measurers and inspectors of oysters to return under oath to the comptroller of the State annually a complete statement of the amount of oysters inspected or measured in the city, town or port for which they shall be respectively appointed. (Id. § 85.)

113. How Oysters Shall be Measured—Penalties for Violations of This Section.—All oysters sold in this State shall be measured either in a one-half bushel tub, a bushel tub, a bushel and one-half tub or a three bushel tub, and no instruments shall be used for measuring oysters in the shell but an iron circular tub with straight sides and straight solid bottom, with holes in bottom for draining, such holes to be no larger, however, than one inch in diameter; a half-bushel tub shall have the following dimensions, all measurements to be from inside to inside: fifteen inches across the top, thirteen inches across the bottom, and seventeen inches diagonally from the inside chime to the top; a bushel tub shall measure sixteen and one-half inches across at the bottom from inside to inside, twenty-one inches diagonally from the inside chime to the top, and eighteen inches across from inside to inside from the top; a bushel and one-half tub shall measure nineteen inches across the top from inside to inside, eighteen inches across the bottom from inside to inside, and twenty-four inches diagonally from the inside chime to the top; a three bushel tub shall measure twenty-four inches across the top from inside to inside, twenty-two inches from inside to inside at the bottom, and twenty-nine twenty-six hundredths inches diagonally from the inside chime to the top, and all oysters measured in the shell as required by law shall be even measure to the top of the tub only, and any person or persons engaged in the business of buying or selling oysters in this State who shall own or have in his possession any instrument or measurement for oysters in the shell which differs in size or description from the measure hereinbefore mentioned, or shall demand a greater measure than hereinbefore mentioned, shall be guilty of a misdemeanor and punished upon conviction before a court of competent jurisdiction, to be fined a sum of not less than fifty dollars nor more than one hundred dollars, or committed to the house of correction for a period of not less than three months nor more than six months, or both, in the discretion of the judge or justice of the peace trying the same; and in case a fine is imposed under the provisions of this section, said fine to be paid over by the officer making the arrest to the comptroller of the State, to be credited to the oyster fund; one-half, however, to be paid to the informer, unless he be an officer of the State fishery force. Said measures shall also be the standard measure for shells, and the use of any other measure for that purpose shall be punished, as is prescribed by this section for the use of any other measures for measuring oysters, and the measurers or special inspectors are hereby forbidden to handle or interfere with the oysters in or upon the tub or measure for the purpose of pressing or pushing down same under penalty of removal from office and a fine of ten dollars for each offense. (Id. § 88.)

114. License for Selling, Etc., of Oysters—Fees—Separate License for Each Place of Business.—It shall be unlawful for any person, firm or corporation having a fixed place of business, buying oysters and employing labor to prepare them for market to engage in the business of buying, selling, marketing, packing or canning oysters without first taking out a license to engage in such business by application to the clerk of the Circuit Court of the county in which the place of business of such applicant may be situated, or to the clerk of the Court of Common Pleas, if the place of business of such applicant shall be in Baltimore City; and such applicant, at the time such license is issued to him by the said clerk shall pay to said clerk the sum of twenty-five dollars for such license, and said license shall have effect from the first day of September, in the year in which it may have been obtained, to the twenty-fifth day of April, inclusive, next succeeding; and all said moneys received for said license shall be paid over and accounted for by the several clerks of courts to the comptroller of the State, to be placed to the credit of the conservation fund, as provided by section 33 of this Article.* Where any such person, firm or corporation operates more than one house for the buying, selling, marketing, packing or canning of oysters, a separate license shall be obtained for each house in which oysters are shucked or otherwise prepared for market. (Id. § 91.)

*Section 33 refers to the oyster fund.

115. Penalty for Packing or Canning Without License.—If any person, firm or corporation shall engage or attempt to engage in the business of packing or canning oysters without first obtaining a license, as provided in section 91, he shall be deemed guilty of a misdemeanor, and shall be fined not less than two hundred and fifty dollars, nor more than one thousand dollars for each offense. (Id. § 93.)

116. Application for License to Sell Oysters on Commission—Fees—Penalty for Selling Without License.—Every person or member of a firm, or member of a corporation engaged in the business of selling oysters on commission shall, on or before the first day of September, in each year, take out a license to engage in such business, by application to the clerk of the circuit court for the county in which the place of business of such applicant may be situated, or to the clerk of the court of common pleas; if the place of business of such applicant shall be in Baltimore city; and such applicant, at the time of issuing such license, shall pay the sum of twenty-five dollars; and all said money received for said license shall be paid over and accounted for by the said several clerks of courts to the comptroller of the State, to be placed to the credit of the oyster fund, as provided by section 33,* and if any person, member of a firm or member of a corporation shall engage or attempt to engage in the business of selling oysters on commission without first obtaining a license, as provided in this section, he shall be deemed guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. (Id. § 94.)

117. Regulations for Shucked Oysters—Inspection of Measures—Penalties.—All shucked oysters opened at any oyster house in this State or any other place where oysters are opened or sold as a business or delivered to proprietors of any such oyster house or other place shall be shucked by the gallon and not by the can or vessel of any other name and designation, and it shall not be lawful for the proprietor of any such place to contract with any person to shuck or open oysters at any such house or for the proprietors thereof for the purpose of shipping the same to the customers of said proprietors otherwise than by the gallon. The said oyster house or the proprietors thereof may, in consideration of the quantity of water contained in shucked oysters, use a cup, which is hereby declared and determined to be an oyster gallon cup, which shall contain nine pints and no more, and no other than this standard measure or said oyster gallon cup shall be used in said houses or by the proprietors thereof in measuring any oysters received by them from the shuckers. Said oyster gallon cup shall be inspected and stamped by the same officer in the city of Baltimore or in any of the counties of the State, as is now required by law to inspect and stamp measures, and the person neglecting so to have the same stamped and inspected shall be subject to the same fines and penalties as are now or may hereafter be prescribed by law for neglecting to have inspected and stamped the said gallon measure, and any person using any other measure than the one above prescribed in any such oyster house or similar place in this State or any proprietor of any such house using any other than the above prescribed measures to measure any oysters received by him from shuckers shall be guilty of a misdemeanor and on conviction thereof before any justice of the peace in said city or county shall be fined not less than ten nor more than one hundred dollars, in the discretion of the justice of the peace trying the same, and shall stand committed until such fine and costs are paid, which fine shall be paid to the State of Maryland; but the person so convicted shall have the right of appeal as now provided by law in other criminal cases. (Id. § 95.)

Potable Water.

118. Water for Potable Purposes—Permit—Powers of State Board of Health.—The State Board of Health shall have supervision and control over the surroundings of any source from which either surface or under ground water, for potable purposes, is collected for delivery in containers; and it shall also assume jurisdiction over the method of collecting, bottling and delivering such waters. After April 16, 1914, no such waters shall be collected, bottled or delivered until a written permit so to do has been issued by the State Board of Health to the owner of such supply. No such permit will be issued if the State Board of Health determines that said water is in any way injurious to the public health. Corporations, companies and persons handling potable waters, shipped from points outside of

*Section 33 refers to the oyster fund.

the State of Maryland, shall receive permits to sell waters only upon presentation to the State Board of Health of a permit issued by the State Board of Health of the State from which the water is collected, stating that the source of such water supply and the method of handling the water, as practiced within the limits of that State, are such as not to be prejudicial to the public health, and that said water is allowed to be sold within the limits of the State issuing said permit. Nothing herein provided shall, however, prevent the State Board of Health from prohibiting the use of such water shipped from another State, if in its judgment said water is shown by analysis to be unfit for potable purposes, or if its quality in any way is injured by such handling as may be accorded to it after arriving within this State. (Annotated Code 1924, Art. 43, § 341.)

NOTE: See also Nos. 12, 13, 23, 23b, 39 et seq., and 106 et seq.

Spices.

See No. 1.

Vinegar.

119. Manufacture and Sale of Vinegar.—No person, firm, or corporate body shall manufacture for sale, sell or deliver, or have in his, her or their possession, within intent to sell or deliver, any vinegar not in compliance with the provisions of sections 183 and 184. No vinegar shall be marked, branded, sold or exposed for sale as apple or cider vinegar which is not the legitimate product of pure apple juice and containing at least one and one-half per cent. of solids, and all vinegar shall contain not less than three and one-half per cent. by weight of absolute acetic acid, except when mixed with other articles of food. (Annotated Code 1924, Art. 43, § 183.)

120. Deleterious Vinegar Prohibited.—No person, firm or corporate body shall manufacture for sale, offer for sale, or have in his, her or their possession with intent to sell, or offer for sale, any vinegar found upon proper test to contain ingredients injurious to health. (Id. § 184.)

121. Violations—Penalty—Power and Authority of Health Officers.—Every person, firm or corporate body who shall violate any of the provisions of sections 183 and 184 shall, for every offense, forfeit and pay not less than five dollars nor more than one hundred dollars, which shall be recoverable, with costs, including expense of inspection and analysis, by any person suing in the name of the State, as debts of like amount are by law recoverable; provided, that the State Board of Health or other health authority, through its executive officers, together with its deputies, agents and assistants, shall be charged with the enforcement of sections 183 and 184, and shall have full access to all places of business, factories, mills, buildings, carriages, cars, vessels, barrels, tanks and packages of whatever kind used in the manufacture and transportation and sale of any vinegar or any adulteration or imitation thereof, or any package in which vinegar is mixed with articles of food. They shall also have power and authority to open any package, barrel or vessel containing any vinegar or any adulteration or imitation thereof which may be manufactured, sold or exposed for sale, and they shall also have full power and authority to take samples therefrom for analysis upon tendering the value of said samples; and all charges, accounts and expenses of the department for the enforcement of sections 183 and 184 through the said executive officer or officers and his or their deputies, agents, assistants, chemist and counsel employed by him or them in carrying out said provisions shall be paid by the treasurer of the State in the same manner as other accounts and expenses of the department are paid; and all penalties and costs for the violation thereof shall be paid to the Secretary of the State Board of Health, and by him immediately covered into the State treasury. (Id. § 185.)

122. Forfeiture of Vinegar Sold in Violation of Law—Penalty.—Every person who violates any of the provisions of sections 183 and 184 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five dollars nor more than one hundred dollars; provided, that all fines and costs including the expense of inspection and analysis imposed under this section shall be covered into the State treasury, and all vinegar sold or offered for sale in violation thereof shall be subject to forfeiture and spoliation. (Id. § 186.)

123. Jurisdiction.—Magistrates and justices of the peace throughout the State shall have jurisdiction to hear and determine actions arising for violations of these provisions, and to hold for court or impose the penalties provided therein, subject to appeal, as the law shall direct. (Id. § 187.)

124. Appropriation.—The sum of five hundred dollars is appropriated to carry out the foregoing provisions. The money so appropriated shall be paid by the treasurer of the State upon the warrant of the comptroller, to the State Board of health for the purposes herein contemplated. (Id. § 188.)

Sanitation.

125. Supervision of Canneries, Bakeries, Etc., by State Board of Health.—From and after April 16, 1914, all matters and things relating to the sanitation of factories, canneries, bakeries, confectioneries, creameries, milk plants and distributing dairies, hotels, restaurants or eating houses, packing and slaughter houses, ice cream plants, and other places where food products are manufactured, packed, stored, deposited, collected, prepared, produced, or sold for any purpose whatever, shall be under the supervision of the State Board of Health of Maryland, which said State Board of Health, with its officers and such agents as may be appointed by it, is hereby vested with power and authority to carry into effect the provisions hereof. (Annotated Code 1924, Art. 43, § 201.)

126. Inspection of Same.—The said State Board of Health of Maryland shall cause to be inspected at reasonable hours, and as often as practicable, all factories, canneries, bakeries, confectioneries, creameries, milk plants and distributing dairies, hotels, restaurants or eating houses, packing and slaughter houses, ice cream plants, and other places where food products are manufactured, packed, stored, deposited, collected, prepared, produced or sold for any purpose whatever, and to enforce the correction of all unsanitary conditions and practices found therein. (Id. § 202.)

127. Rules and Regulations Herein Contained Made Law of State.—The said State Board of Health of Maryland and its agents and inspectors in the discharge of their duties under the provisions hereof and every person, firm, association or corporation engaged in the handling of food and food products, shall be governed by the following rules and regulations, which are hereby made the law of this State:

(a) The floors, side-walls, ceilings, furniture, receptacles, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of food products, shall at all times be kept in a clean and sanitary condition. Unclean and unsanitary conditions shall be deemed to exist if the food in the process of manufacture, preparation, packing, storing, sale, distribution or transportation, is not protected as far as practicable from flies, filth and all foreign or injurious contamination; or if the refuse, dirt and waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, distribution and transportation of food, are not removed daily; or if all the trucks, trays, boxes, baskets and other receptacles, chutes, platform [s], racks, tables, shelves and knives, saws, cleavers and other utensils and other machinery used in moving, handling, cutting, chopping, mixing, canning, and all processes, are not at all times kept clean, or if the clothing and body of operatives, employees, clerks or other persons therein employed, are not kept as clean as the nature of their employment will permit.

(b) The side-walls and ceilings of every bakery, confectionery, creamery, cheese factory, ice cream plant, milk plant, and distributing dairy, hotel and restaurant kitchen, shall be kept clean; and the floor of every building, room, basement, cellar or other place occupied or used for the preparation, manufacture, packing, storing, selling or distribution of food must be kept clean.

(c) Every building, room, basement, cellar or other place occupied or used for the preparation, manufacture, packing, canning, sale or distributing of food, shall have convenient toilet or toilet rooms which shall be kept separate or partitioned from the room or rooms where the process of production, manufacture, packing, canning, selling or distribution is conducted, and the floor and all parts of such toilet room [s] shall be kept clean.

(d) No person or persons shall sleep in any workroom of a bake shop, creamery, cheese factory, milk plant or distributing dairy, ice cream plant or in the kitchen, dining room or food storage room of any hotel, restaurant or boarding house.

(e) No employer shall knowingly require, permit or suffer any person to work, nor shall any person knowingly work, in any building, room, basement, cellar or vehicle or any other place occupied or used for the production, preparation, manufacture, packing, storage, sale, collection, distribution and transportation of food, who is affected with any venereal disease, smallpox, diphtheria, scarlet fever,

yellow fever, tuberculosis or consumption, bubonic plague, Asiatic cholera, leprosy, trachoma, typhoid fever, epidemic dysentery, measles, mumps, German measles, whooping cough, chicken-pox or any other infectious or contagious diseases, unless a person so affected shall produce a certificate from the State Board of Health granting him or her permission to work or be employed as aforesaid.

(f) Every building, basement, cellar or other place occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food, shall have a convenient lavatory and shall be supplied with soap, water and towels maintained in a sanitary condition.

All persons, firms, or corporations, operating canning factories affected by this sub-title, shall be subject to the following additional rules and regulations which are hereby made the law of this State:

(g) All rooms in which fruits, vegetables, or by-products thereof are packed and preserved, and in which manufacturing is actually carried on, shall be provided with smooth, water-tight floors, made of concrete or wood, which can be properly cleansed, except when the factory is built over flowing water of sufficient volume to carry away all waste liquids, an open floor may be permitted in the discretion of the board.

(h) Adequately equipped wash stations and places where employees may change their clothing and hang the clothes not in use, shall be provided for male and female employees.

(i) Separate toilet rooms shall be maintained for male and female employees.

(j) Living quarters, if provided by the canner, shall have waterproof roofs and tight board floors, and shall be provided with ample light and ventilation, and provision shall be made therein for the proper separation and privacy of sexes. An ample supply of pure drinking water shall be furnished within reasonable distance of the living quarters.

(k) Adequate drainage shall be provided to lead all waste liquids outside and away from the building.

(l) No litter, drainage or waste matter of any kind shall be allowed to collect in and around the buildings, and the surroundings shall be kept in a clean and sanitary condition.

(m) Occupants of living quarters provided by the canner shall be required to keep the same in a clean and sanitary condition.

(n) Employees are prohibited from smoking or spitting in any room in the cannery where foods are being prepared for canning.

(o) Female employees who work where foods are being prepared for canning shall wear clean aprons or dresses made of washable fabrics and shall also wear clean, washable caps over the hair.

(p) Employees with infected wounds on the hands or arms are prohibited from handling food products, or the containers in which they are placed, before such containers are sealed or capped. Clean cuts, which are not infected, shall be covered with rubber cots securely fastened. (Id. § 203.)

128. Violations—Prosecutions—Appeal, Etc.—Whenever any person, firm or corporation shall violate any of the provisions of this sub-title, the said State Board of Health of Maryland shall cause the person, firm or corporation so violating to be prosecuted before any justice of the peace in any county of this State where such offense is committed, or before any committing magistrate in the city of Baltimore, provided, that the accused shall have the right of trial by a jury if he so elects, and the right of appeal from the decision of the justice of the peace where the accused does not elect a jury trial; and that in any such case the State Board of Health of Maryland shall before prosecuting such person, firm or corporation, cause an order to be served on such person, firm or corporation commanding him or it to discontinue or abate such violation or to make such improvements as may be necessary to abate such violation, within a reasonable time to be fixed by the said board and stated in said order. Such order shall be in writing and the person receiving such order shall have the right to be heard, either in person or by attorney, by the said State Board of Health of Maryland. (Id. § 204.)

129. Penalties for Non-Compliance With or Violation of Law.—Any person, firm or corporation who violates any of the provisions of this sub-title or refuses, neglects or fails to comply with the provisions and requirements hereof, or fails to comply with any lawful order or requirements of said board of health duly made in writing as herein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall, for the first offense, be fined not more than fifty dollars; for the second offense, not more than one hundred dollars; and for the third offense, not more than three hundred dollars. (Id. § 205.)

130. Right of Entry to Premises—Penalty to Refuse Access to Premises or Interfere with Officers of the Law in Exercise of Duties.—The State Board of Health of Maryland, its agents and servants, are hereby authorized and empowered to enter at reasonable hours the premises of any establishment in this State, or into any room in any building in this State engaged in any business herein set forth, for the purpose of inspecting and enforcing the provisions of this subtitle; and any person, firm or corporation engaged in the business aforesaid refusing access to the said State Board of Health of Maryland, its officers and agents, or in any way interfering with them in the exercise of their duties, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum not exceeding one hundred dollars for each offense. (Id. § 206.)

131. Power of State Board of Health to Make Rules and Regulations for Enforcement of Law—Notice to Be Given of Same.—The said State Board of Health of Maryland shall have the power to adopt, from time to time, promulgate and publish by circular or otherwise, such general rules and regulations for the enforcement of the sub-title and for the government of the inspectors and employees of said board as may be necessary, and it shall have prepared and printed abstracts of this law which shall be furnished to any person, firm or corporation in this State demanding the same; provided, however, that before finally adopting or enforcing such general rules and regulations hereinbefore referred to, the said State Board of Health shall give at least 30 days' notice, by publication, circular or otherwise, informing all persons who may be interested in the enforcement of said rules and regulations that said board of health will hear such persons on a certain day or days named in said notice for the purpose of receiving and considering suggestions before the final adoption of such rules and regulations. The said notice shall contain a copy of the proposed rules and regulations. (Id. § 207.)

NOTE: See also the beverage law, No. 39 et seq.; the cold storage law, No. 65 et seq.; the dairy law, No. 78 et seq.; the ice law, No. 106 et seq.; the potable water law, No. 118.

PART III.

• Special Drug Laws.

Abortifacients.

132. Penalty for Sale of.—Any person who shall knowingly advertise, print, publish, distribute or circulate, or knowingly cause to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper notice, advertisement or reference containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop or office, where any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, for the purpose of producing abortion, can be procured, or who shall knowingly sell, or cause to be sold, any such poison, drug, mixture, preparation, medicine or noxious thing or instrument of any kind whatever; or from whom any advice, direction, information or knowledge may be obtained for the purpose of causing the miscarriage or abortion of any woman pregnant with child, at any period of her pregnancy, or shall knowingly sell or cause to be sold any medicine, or who shall knowingly use or cause to be used any means whatsoever for that purpose, shall be punished by imprisonment in the penitentiary for not less than three years, or by a fine of not less than five hundred dollars nor more than one thousand dollars, or by both, in the discretion of the court; and in case of fine being imposed, one-half thereof shall be paid to the State of Maryland, and one-half to the school fund of the city or county where the offense was committed; provided, however, that nothing herein contained shall be construed so as to prohibit the supervision and management by a regular practitioner of medicine of all cases of abortion occurring spontaneously, either as the result of accident, constitutional debility or any other natural cause, or the producing of abortion by a regular practitioner of medicine when, after consulting with one or more respectable physicians he shall be satisfied that the foetus

is dead, or that no other method will secure the safety of the mother. (Annotated Code 1924, Art. 27, § 3.)

133. For Grand Jury at Each Term of Court.—It shall be the duty of the judges of the several Circuit Courts of this State and of the Criminal Court of Baltimore to give the preceding section in charge of the grand jury of their respective courts at each term of said courts. (Id. § 4.)

Antiseptics.

See No. 13.

Disinfectants.

See Nos. 10 and 13.

Deodorants.

See No. 13.

Pharmacy, Poisons and Narcotics.

134. Fraudulent Physician's Prescription, Etc.—Penalty.—If any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or shall willingly aid or assist in falsely making, altering, forging, or counterfeiting or shall utter or pass, knowing it to be falsely made, altered, forged or counterfeited, any order, paper, letter writing, prescription, recipe or other device purporting to have been made by a regular practicing physician, for any drugs, medicines, spirituous or fermented liquors, he shall be deemed guilty of a misdemeanor, and on conviction in any court in this State shall be sentenced to the jail, the house of correction or penitentiary, for not less than six months nor more than two years, in the discretion of the court. If upon trial of any person charged with, or indicted for such misdemeanor, it shall appear that he paid for, or offered or promised to pay for, the drugs, medicine, spirituous liquor or fermented liquor obtained by means of such falsely made, altered, forged, or counterfeited order, paper, letter writing, prescription, recipe or other device purporting to have been made by a regular practicing physician, he shall not by reason thereof be acquitted of such misdemeanor. (Annotated Code 1924, Art. 27, § 65.)

135. Fraud in Compounding and Selling Drugs, Etc.—Penalty.—Any person or corporation engaged in the business of selling drugs, medicines, chemicals or preparations for medical use or of compounding or dispensing physicians' prescriptions, who shall, in person or by his or its agents or employees, or as agent or employee of some other person, knowingly sell or deliver to any person a drug, medicine, chemical preparation for medicinal use, recognized or authorized by the latest edition of the United States Pharmacopœia, or prepared according to the private formula of some individual or firm, other or different from the drug, medicine, chemical, or preparation for medicinal use, recognized or authorized by the latest edition of the United States Pharmacopœia, or prepared according to the private formula of some individual or firm, ordered or called for by such person, or called for in a physician's prescription, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by not less than one month nor more than twelve months' imprisonment, or by both, and any person so convicted shall forfeit the right to practice pharmacy under any certificate or registration issued under the laws of this State. (Id. § 171.)

136. Who May Open or Keep a Pharmacy—Penalty for Violation of This Section.—No person, on or after the 1st day of July, 1902, shall open, conduct or keep a pharmacy in this State, either as a principal or agent, unless such a person shall have obtained a pharmacist's certificate, as hereinafter provided, and no pharmacy shall be at any time left in charge of any person who is not a certified pharmacist, a certified acting pharmacist, or a certified assistant pharmacist, to compound prescriptions, or sell or dispense poisonous drugs; and, providing, that in the case of a certified assistant pharmacist he shall not be left in charge of any pharmacy in this State for a period of more than twenty-four hours, and then acting only in the temporary absence of a certified acting pharmacist, regularly and continuously employed in that pharmacy. It shall, however, be lawful for physicians and dentists to compound and dispense their own prescriptions, but unlawful for any person, dealer or firm, not a certified pharmacist, a certified acting pharmacist, or certified assistant phar-

macist, to compound a physician's prescription. Any person violating this section shall, upon conviction, be deemed guilty of a misdemeanor and fined not more than one hundred dollars for each offense. (Annotated Code 1924, Art. 43, § 228.)

137. What Considered a Pharmacy.—Every store or shop where drugs, medicines or chemicals are sold at retail, displayed for sale at retail, where physicians' prescriptions are compounded, which has upon it or in it as a sign, the words "Pharmacist," "Pharmacy," "Apothecary," "Drug Store," "Druggist," or any of these words or exhibits, [or] the characteristic show bottles or globes filled with colored liquids shall be considered a pharmacy within the meaning of this sub-title. (Id. § 229.)

138. Appointment, Etc., of Commissioners of Pharmacy.—The Governor shall appoint five persons who are skilled and competent pharmacists, who have had ten years' active pharmaceutical experience, are actively engaged in the retail drug business and not connected with any school of pharmacy or medicine either as teachers, instructors or members of the board of trustees, to be commissioners of pharmacy, two of whom shall be residents of the city of Baltimore and three residents of the counties of the State. Said commissioners shall constitute the Maryland Board of Pharmacy, and shall hold office as follows: One to serve five years, one four years, one three years, one two years, and one one year from the first of May, 1902; in the first instance the Governor to designate in the appointment who to serve one, two, three, four and five years, and thereafter annually the Governor shall appoint one person to serve as a member of said board for the term of five years. The said commissioners shall within ten days after notification of their appointment each subscribe to an oath before the clerk of the superior court of Baltimore City, or the clerk of the circuit court for any county, to impartially and faithfully discharge the duties prescribed herein. The position of any commissioner so appointed who shall fail to qualify within the time and in the manner herein-before named shall be deemed vacant. The Governor shall fill all occurring vacancies from such sections of the State as will cause the board to be constituted as herein-before provided. (Id. § 230.)

139. Organization, Meetings, Etc., of Pharmacy Board.—Said board shall organize by the election of a president, secretary and treasurer, who shall serve for the term of one year, and who shall perform the duties prescribed by the board. Meetings for the examinations of applicants for registration shall be held on the first Thursday in April and October in each year, in the city of Baltimore, or at such times and places as may be fixed upon by the board; provided, that ten days' public notice of the hour and place of each meeting at which there is an examination of candidates for registration shall be given. It shall be the duty of the board to receive all applicants for examination and registration submitted in proper form, to grant certificates to such persons as may be entitled to the same hereunder, to report annually to the Governor and the Maryland Pharmaceutical Association upon the condition of pharmacy in the State, which report shall also furnish a record of the proceedings of the board, as well as the names of all persons registered under these provisions; to keep a book in which shall be registered the names and places of business of all persons so registered, and all facts pertaining to the granting of certificates. The said board shall have the power to adopt any rules and by-laws not inconsistent herewith necessary to the transactions of the business of the board, to demand and receive from applicants the fees herein provided, which shall by the treasurer of the board be paid to the Treasurer of the State. (Id. § 231.)

140. Salaries, Etc.—The salaries of said board shall be fifty dollars per annum to each member, and all legitimate expenses incurred in the discharge of official duties. The secretary of said board shall receive an additional salary to be fixed by the board, and not to exceed two hundred dollars per annum; he shall pay to the treasurer at each meeting, or whenever the board may direct, such funds of the board as may be in his possession, and take the treasurer's receipt therefor. In its annual report to the Governor, the board shall render an account of all moneys received and expenses incurred pursuant herewith, and the secretary and treasurer shall give such bonds as the board shall from time to time direct. (Id. § 232.)

141. Persons Entitled to Registration and Certificate as Pharmacists.—Any person who on April 8, 1902, is registered or entitled to registration in Baltimore City as managing owner, managing assistant or relief clerk, and who shall, on or before the first day of July, 1902, pay to the Maryland Board of Pharmacy a fee of one dollar, shall be entitled to registration as pharmacist and receive a certificate of such registration. (Id. § 233.)

142. Requirements for Pharmacists, Etc.—Application—Fees, Etc.—Any person of good moral character, who has had four years' active experience in a pharmacy where physicians' prescriptions are daily compounded, and has attained the

age of twenty-one years who shall present satisfactory evidence to the Maryland Board of Pharmacy that he or she has had at least four years' standard high school training or its equivalent and is a graduate of a reputable school or college of pharmacy approved by the said board and who after examination by the said board shall be by it deemed competent, shall be registered as pharmacist and be given a certificate of such registration. Such person shall make application to the secretary of said board at least ten days before any stated meeting of the board and shall pay to the said board a fee of fifteen dollars.

Any person of good moral character who has had two years' active experience in a pharmacy where physicians' prescriptions are daily compounded and has attained the age of eighteen years, who shall present satisfactory evidence to the said board that he or she has had at least two years' standard high school training or its equivalent and has attended a reputable school or college of pharmacy approved by said board for a period of one full session of at least eight months and in good standing therein, and who after examination by said board shall be by it deemed competent, shall be registered as an assistant pharmacist and be given a certificate of such registration.

Such person shall make application to the secretary of the said board at least ten days before any stated meeting of the board and shall pay to the board a fee of ten dollars. Provided, however, that the actual time of attendance at a reputable school or college of pharmacy, not to exceed two years in the case of an applicant for a registered pharmacist and one year in the case of an applicant for registered assistant pharmacist, may be deducted as hereinbefore prescribed; and provided further, that the provisions of this section prescribing a pre-requisite high school training or its equivalent shall not apply to any one now licensed as assistant pharmacist, or who shall become so licensed before the time when this act shall become effective; and provided further, that no applicant for examination before the board of pharmacy having the other qualifications herein set forth shall be disapproved because he took his course of studies at a night school or college. (Id. § 234.)

143. Affidavit.—Every applicant for examination shall, with his application to the secretary of the board, file a written declaration, duly sworn to before a justice of the peace or notary public, stating the pharmacy or pharmacies in which he has had the experience demanded in section 234. Any one swearing falsely in the affidavit so filed shall be deemed guilty of perjury. (Id. § 235.)

144. Posting Certificate—Penalty for Failure to do so.—Every person receiving a pharmacist's or assistant pharmacist's certificate shall keep the same conspicuously posted in his place of business. Violation of this section shall be punishable by a fine of twenty-five dollars in each instance. (Id. § 236.)

145. Certificate Obtained by False Representation—Penalty.—Any certificate obtained by false representation shall be void, and the offender shall be fined not more than fifty dollars, or be imprisoned for thirty days, or both, in the discretion of the court. (Id. § 237.)

146. Reciprocal Relations with Other States.—It shall be within the power of the Maryland Board of Pharmacy to enter into reciprocal relations with the boards of pharmacy of such other states as do likewise, and whose requirements are satisfactory as regards the awards and interchanging of certificates for registration of registered pharmacists. Applicants for registration under this clause to produce satisfactory documents bearing upon his [their] previous examination from the secretary of that board, and paying the secretary of the Maryland Board of Pharmacists the accustomed fee. Applicants, in addition, will be required to furnish satisfactory record as to his [their] morality, sobriety, and close observance of the more important laws touching the life of a pharmacist. (Id. § 238.)

147. Repeal of Former Acts Pertaining to Pharmacy; Exception, Etc.—This sub-title shall repeal and supersede all prior acts and parts of acts pertaining to the practice of pharmacy in this State, but shall not apply to Talbot county. Provided, that all persons now holding certificates, and all persons who shall hereafter hold certificates from the Maryland board of pharmacy, authorizing them to practice as a pharmacist or assistant pharmacist, in pursuance of the act of 1906, chapter 571, entitled "An Act to regulate the practice of pharmacy in Talbot county," shall be entitled to practice as a pharmacist or assistant pharmacist, as the case may be, anywhere within the State of Maryland. Any person holding, or who shall hereafter hold, a certificate from the Maryland Board of Pharmacists, authorizing him or her to practice as a pharmacist or assistant pharmacist in any place within the State of Maryland, shall also have the right to practice as a pharmacist or assistant pharmacist, as the case may be, in Talbot county. (Id. § 239.)

148. General Merchants Excepted.—Nothing however in this sub-title shall be construed as preventing general merchants of the counties of the state or of Baltimore city from selling such drugs and medicines as having [have] heretofore been handled by the general merchants of the State of Maryland. (Id. § 240.)

149. Appropriation.—The sum of twenty-four hundred dollars is appropriated for the salaries and expenses of the members of the said Maryland Board of Pharmacy up to and including the thirtieth day of September, 1905, the said sum of twenty-four hundred dollars to be paid to the Maryland Board of Pharmacy in two equal annual payments. (Id. § 241.)

150. Narcotic Drugs—Sale, Etc., Regulated—Exemptions—Penalty.—It shall be unlawful for any person, firm or corporation to furnish, sell, give away or otherwise dispense any cocaine, eucaine, opium, morphine, heroin, chloral hydrate, or any salts or compounds of any of the foregoing substances or any preparation or compound containing any of the foregoing substances or their salts or their compounds, except upon the original written order or prescription of a lawfully authorized practitioner of medicine, dentistry or veterinary medicine of good standing in his profession, not of intemperate habits, or addicted to the use of any drugs, and any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one thousand dollars or be imprisoned in the penitentiary of this State for not less than one year nor more than five years or both in the discretion of the court for each offense. Provided, that the above provisions shall not apply to paregoric, laudanum or to bona fide proprietary medicines containing codeine of [or] not more than two grains of opium or not more than two-fifths grain of morphine, or not more than one-fourth grain of heroin, or not more than ten grains of chloral hydrate in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce; provided, also, that the above provisions shall not apply to preparations containing opium and recommended and sold in good faith for diarrhoea and cholera, each bottle or package of which is accompanied by specific directions; and provided, further, that nothing herein contained shall be construed to prohibit the sale of any said drugs by any licensed manufacturing pharmacists or chemists, or wholesale or retail pharmacists or druggists to other licensed manufacturing pharmacists or chemists or wholesale or retail pharmacists or druggists, or to hospitals, colleges, scientific or public institutions, or to licensed physicians, dentists or practitioners of veterinary medicine and surgery; nor to the use of any of the said drugs by any licensed physician, dentist or practitioner of veterinary medicine or surgery in the regular course of his practice. (Annotated Code 1924, Art. 27, § 283.)

151. Unlawful Possession of Narcotics—Penalty.—If any person except a licensed physician, dentist or practitioner of veterinary medicine or surgery, manufacturing pharmacist or chemist or wholesale or retail pharmacist or druggist have in his possession cocaine, eucaine, opium, morphine, heroin, chloral hydrate or any salts or compounds of any of the foregoing substances or their salts or compounds other than paregoric and laudanum or bona fide proprietary medicines containing codeine or not more than two grains of opium or not more than two-fifths grain of morphine or not more than one-fourth grain of heroin or not more than ten grains of chloral hydrate in one fluid ounce, or if a solid preparation in one avoirdupois ounce, or any of them with intent to sell, give away or otherwise dispose of the same he shall be deemed guilty of a misdemeanor and punished by a fine of not more than one thousand dollars or by confinement in the penitentiary of this State for not less than one year nor more than five years or both in the discretion of the court, and possession of any of the above enumerated drugs or mixtures thereof, except by a licensed physician, dentist, practitioner of veterinary medicine or surgery, manufacturing chemist or pharmacist, wholesale or retail pharmacist or druggist or on the prescription of a licensed physician, dentist or veterinarian in good standing in his profession not of intemperate habits and not addicted to the use of any drug, shall be prima facie evidence of an intent to sell, give away or otherwise dispose of the same. Provided, that nothing herein contained shall be construed to apply to any hospital, college or scientific or public institution. (Id. § 284.)

152. Prescriptions—Records—Penalties.—It shall be unlawful for any practitioner of medicine or dentistry to furnish or prescribe for the use of any person any cocaine, heroin, alpha or beta eucaine, opium, morphine, chloral hydrate or any salts or compounds of any of the foregoing substances or any preparation containing any of the foregoing substances or their salts or compounds except to such persons who are under his care and for whom he, in good faith, prescribed as necessary for their professional treatment; and no practitioner of veterinary medicine or surgery shall prescribe the same for the use of any human being.

Any written order or prescription given or made by any practitioner of medicine, dentistry or veterinary medicine or surgery in the course of his professional treatment shall be dated and shall contain the name of the person for whom prescribed, or if ordered by a practitioner of veterinary medicine or surgery shall state the kind of animal for which ordered and said prescription shall be signed by the person giving the prescription or order. Such written order or prescription shall be permanently retained on file by the person, firm or corporation who shall compound or dispense the articles ordered or prescribed, and it shall not be again compounded or dispensed except upon the written order of the original prescriber for each and every subsequent compounding or dispensing. No copy or duplicate of such written order or prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by the prescriber, the state's attorney for the county or Baltimore city or committee of the Grand Jury of the county or of Baltimore city in which said prescription was filled. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars, and may, in the discretion of the court, be confined in the county or city jail in addition to the said fine for a period of not exceeding one year. (Id. § 285.)

153. Prosecutions for Violation of Act.—It shall be the duty under this act of all judges of courts having criminal jurisdiction in this state at every regular term thereof to charge all regularly impanelled juries to diligently inquire into and investigate all cases of the violation of the provisions of this sub-title, and to make a true presentment of all persons guilty of such violations. It shall be the duty of the State Board of Health, as well as all prosecuting officers, to cause the prosecution of all persons violating the provisions of this sub-title.

All criminal proceedings pending or which may be hereafter instituted for offenses already committed shall be instituted, proceeded with and prosecuted to final determination and judgment as if this act had not been passed. (Id. § 286.)

154. Poisons—Labeling for Retail Sales.—It shall be unlawful for any person to retail any of the following poisons: arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnine and all other poisonous vegetables, alkaloids and their salts, essential oil of bitter almonds, opium and its preparations, aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton-root, cantharides, creosote, digitalis and their pharmaceutical preparations, cotton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, without distinctly labeling the box, vessel or paper in which the said poison is contained with the name of the article the word "Poison" and the name and place of business of the seller. (Id. § 456.)

155. Record of Sales—Prescriptions, Etc.—Penalty.—Nor shall it be lawful for any registered pharmacist or other person to sell any of the poisons in section 456 enumerated without causing any [an] entry to be made in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities or doses, upon the prescription of practitioners of medicine. Any violation of the provisions of sections 456 and 457 shall make the offender liable to a fine of not less than five dollars and not more than one hundred dollars. (Id. § 457.)

156. Opium Joints Prohibited—Penalty.—If any person shall set up or establish, or cause to be set up or established in any building, house, room, outhouse, tent, booth, arbor, shed, vessel or other place whatsoever any apparatus or device or instrument whereby opium may be smoked or used in any manner whatsoever by other persons, or if any person shall procure, permit, suffer or allow persons to collect and assemble in his house, building, room, outhouse, tent, booth, arbor, shed or vessel, or other place whatsoever under his control, for the purpose of smoking opium, or of using opium in any manner, or if the owner, tenant, lessee or occupant of any house, room, outhouse, tent, booth, arbor or other place whatever shall lease, hire, rent or permit the same, or any part thereof, to be used and occupied or employed for the purpose of smoking opium, or of using opium in any way or manner by other persons, the persons so offending in either of the enumerated cases shall be guilty of a misdemeanor, and on conviction be sentenced to pay a fine not exceeding five hundred dollars and undergo imprisonment in jail not exceeding one year; the owner of such building, house, room, outhouse, tent, booth, arbor, shed, vessel or other place whatsoever, who shall have received information that any such smoking, or use as aforesaid, is practiced in or upon said premises, and shall not, within ten days there-

after, cause complaint to be made against the person or persons who has or have set up or established, or permitted the same, shall be deemed and held to have knowingly leased, hired or rented the premises for the said unlawful purposes. (Id. § 419.)

157. Keeping Opium Apparatus, Etc., a Misdemeanor—Penalty.—If any person shall keep or exhibit any apparatus, device or instrument for the smoking of opium, or for using opium in any way or manner by other persons, or aid or assist or permit others to do the same, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to imprisonment in jail not exceeding one year, and to a fine not exceeding five hundred dollars. (Id. § 420.)

158. Penalty for Inducing Persons to Frequent Prohibited Places.—If any person shall, through solicitation, invitation or device, persuade or prevail on any person to visit any place mentioned in the two preceding sections, kept for the purpose of smoking opium, or of using opium in any way or manner, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof be sentenced to pay a fine not exceeding five hundred dollars and undergo imprisonment in jail not exceeding one year. (Id. § 421.)

159. Search Warrants, Seizures, Etc.—Whenever any officer of police, or any police officer, any sheriff or deputy sheriff, in the city of Baltimore or other city or town of this State having a regularly organized police force, or any sheriff, deputy sheriff or constable in any county shall make oath before any justice of the peace that he has good reason to believe, or does believe, that any place described in sections 419 and 420, and within his jurisdiction, is used or occupied for the purposes set forth in said sections, and shall in his oath specifically designate such place, the justice of the peace shall issue his search warrant to any officer of police, or police officer, sheriff or deputy sheriff in the city of Baltimore, or other city or town in this State having a regularly organized police force, or sheriff or deputy sheriff or constable in any county, commanding him to make entrance into the place specifically mentioned in said oath, and there make diligent search for such opium, device, apparatus or instrument as described in section 420 of this article; and if found the officer shall seize the same and deliver the same to the sheriff, who shall retain such apparatus, device or instrument, as described in section 420, until the trial of the person or persons accused of such misdemeanor; and after said trial, said apparatus, device or instrument, as described in section 420, shall be destroyed by the sheriff. (Id. § 422.)

160. Exceptions.—The four preceding sections shall not apply to druggists or physicians, or others engaged in the legitimate use or sale of opium. (Id. § 423.)

160a. Unlawful to Give Narcotics to Hospital Inmates.—Any person, or persons who shall knowingly sell, give, send, procure, or purchase any spirituous or intoxicating liquor or narcotic drugs to or for any inmate, patient, attendant or employee of any State Hospital for the Insane, or of the Rosewood State Training School, or of any private institution for the insane licensed by the Board of Mental Hygiene, unless with the permission and consent of the superintendent or chief medical officer of such hospital or institution, shall be guilty of a misdemeanor, and upon conviction thereof shall, for each offense, be fined not less than \$10.00 nor more than \$100.00 or imprisoned for not less than ten days nor more than sixty days, or both; and the justices of the peace of the respective counties of the State shall have concurrent jurisdiction over such offense with the Circuit Court for their respective counties, and the justices of the peace selected to sit at the respective station-houses in the city of Baltimore shall have concurrent jurisdiction over such offenses with the Criminal Court of Baltimore City. (Annotated Code 1924, Art. 59, § 70.)

160b. Unlawful to Have Narcotics in Mine.—No person shall go into or around a mine or the buildings or machinery connected therewith, while under the influence of intoxicants or deleterious drugs; nor shall any person use, carry, or have in his possession, at, in, or around any such mine or the buildings or machinery connected therewith, any intoxicants or deleterious drugs; and any violation of this provision shall be a misdemeanor. (Annotated Code 1924, Art. 89, § 173.)

160c. Addicts.—Whenever, by petition, under oath, any person shall be alleged to be an habitual drunkard, incapable of taking care of himself or his property, any Circuit Court of this State and also either of the Circuit Courts of Baltimore City shall have the power, in its discretion, on such preliminary examinations of inquiry, as it may think proper to make ex parte, to issue a warrant to the sheriff of the county or city, respectively, to arrest and bring the party so charged before such court; and it shall be the duty of the sheriff to obey such warrant; and such court shall cause a jury of good and lawful men, to be summoned by the said sheriff, to be empaneled forthwith, and shall charge said jury, under oath, to inquire in the presence of such person, whether he is an habitual

drunkard, incapable of taking care of himself; and the proceedings in such case shall be like those now authorized by law; in cases of persons alleged to be lunatics or insane; and the rules of law and proceedings now applicable to the property of lunatics shall apply to cases of persons declared to be habitual drunkards under the provisions of this section, except when herein otherwise directed; and any person who may be alleged to be an habitual drunkard may dispense with the legal proceedings to establish the same, and may, with the approbation of the court wherein said petition may be filed, appoint his own committee, and may voluntarily enter any institution selected by the court, for a limited time; and the board of trustees or managers of such institution may retain such person the length of time he may have agreed therein to remain; and if the person against whom the petition may be filed shall be found by the jury to be an habitual drunkard, incapable of taking care of himself, it shall be the duty of the court to appoint a committee of such person, and such committee shall, with the written assent and approbation of the court, have the power of confining such person in any suitable institution, for such length of time, as the court may, in writing, approve; but said committee, with the written assent and approbation of the court, may at any time release from confinement said habitual drunkard, and the period of confinement of said habitual drunkard may, by the said committee, with the written assent and approbation of the court, be from time to time extended, for such period as may be necessary for his complete reformation; and the words "habitual drunkard," as used in this section, shall be construed to embrace any person who may be habitually addicted to the use of alcohol, opium, cocaine, morphine or any other intoxicant. (Annotated Code 1924, Art. 16, § 52.)

160d. Same.—Any inhabitant of this State, who is of kin to or a friend of an habitual drunkard, as defined in section 57, may petition the Circuit Court for the county for the residence of such drunkard, or the Circuit Courts of Baltimore City, if said habitual drunkard resides therein, for leave to send such drunkard, at the expense of said county or city of Baltimore, to such institution for the medical treatment of drunkenness, as the said court may designate; which petition shall set forth the name, age and condition of such habitual drunkard, and that such drunkard or those of his kin petitioning are not financially able to incur the expense of his cure, and shall set forth that said drunkard is willing and will agree to attend such institution for the cure of drunkenness; which petition shall be verified by the person making such request and shall contain in addition thereto the written agreement of such habitual drunkard to take such treatment and obey the rules of the institution administering the same, and the names of three taxpayers in the county of his residence, or of Baltimore City, if he resides therein, stating that they are familiar with the facts set forth in the petition, and that they are familiar with the financial circumstances of such drunkard and of the petitioning kin, and think it a proper case for assistance from the county wherein the said habitual drunkard resides, or Baltimore City, if he resides therein. (Id. § 53.)

160e. Same.—When such petition is filed, any judge of the Circuit Court referred to in section 53, if satisfied from examination that the facts set forth in the petition are true, and that the said drunkard has been a resident of the county or of Baltimore City for six months next preceding the application, and that such drunkard of his own free will desires to take such treatment, shall send such habitual drunkard to some institution for the cure of drunkenness; provided, said institution is located in the State of Maryland, and that the managers of such institution will agree to treat such patient for a sum not to exceed one hundred dollars; but such court shall not be compelled to send such habitual drunkard to any institution making a lower bid than the sum herein specified, unless in their judgment the best interest of such drunkard shall be promoted thereby; and the said judge of the Circuit Court shall thereupon make an order that the expense of such treatment be paid out of the treasury of the county or the city of Baltimore, as the case may be, in the same manner that other claims against such county or city of Baltimore for the administration of justice are paid; provided, that no county or the city of Baltimore shall be required to send the same habitual drunkard to any institution for the medical treatment of drunkenness a second time at its expense. (Id. § 54.)

160f. Same.—The provisions of sections 53, 54, 56, 57 shall not be at any time construed as in any way abrogating, limiting or abolishing the powers of judges of the Circuit Courts under section 52. (Id. § 55.)

160g. Same.—The officers of whatever institutions may be designated for the treatment of the habitual drunkards, payment for whose cure is provided by section 54, shall become sworn officers of the court committing said habitual drunkards to their care, and shall have power to enforce such reasonable rules as may be necessary for the administration of treatment to said patient, but they shall

receive no fee or compensation from any county or the city of Baltimore other than the sum provided and limited by said section 54. (Id. § 56.)

160h. Same.—A drunkard as mentioned in the four preceding sections shall be deemed to include any person who has acquired the habit of using spirituous, malt or fermented liquors, cocaine or other narcotics to such a degree as to deprive him of reasonable self-control. (Id. § 57.)

160i. Same.—The Mayor and City Council of Baltimore shall not be obliged to appropriate more than three thousand dollars (\$3,000) in any one year for the care of inebriates, under sections 53 to 57 of the above article, and no order shall be passed by a court under said sections for the care of inebriates at the expense of the Mayor and City Council of Baltimore, in any year, after the appropriation made in the ordinance of estimates for that year shall have been exhausted, except by the consent of the board of estimates, acting by the city solicitor. (Id. § 58.)

161. Requirements for Bichloride of Mercury Tablets for Antiseptic Purposes.—All tablets made of bichloride of mercury in sufficient quantity to render said tablet strong enough for antiseptic purposes,* each tablet shall be triangular, diamond, square, oblong, or other irregular shape, and the color of each and every one of said tablets shall be blue, green or purple, with the word "Poison" impressed or embossed upon it. (Annotated Code 1924, Art. 27, § 288.)

162. When Sale, Etc., Unlawful.—It shall be unlawful for any person or persons to sell, dispense or give away bichloride of mercury in tablet form if said tablets contain more than one-tenth of a grain of the said bichloride of mercury, unless tablets are of the color and shape and marked as described in section 288. (Id. § 289.)

163. Label Requirements.—The bottle in which said tablets for antiseptic purposes of bichloride of mercury are sold, dispensed or given away shall have the word "Poison" blown in one side of said bottle, and a label on the opposite side bearing the word "Poison" in conspicuous letters. (Id. § 290.)

164. Penalty.—Any person or persons violating any of the provisions of sections 288-290 shall be guilty of a misdemeanor and shall be fined not less than twenty-five nor more than one hundred dollars for each and every offense, or be imprisoned in the county or city jail not less than thirty days nor more than three months, or both, in the discretion of the court. (Id. § 291.)

NOTE: See also Nos. 12, 16 and 17.

Vaccine Virus, Tuberculin, Etc.

165. Vaccine Virus Supply.—The State Board of Health shall keep on hand, at all times, a supply of fresh and pure vaccine virus, if practicable, not more than four removes from the cow, for the use of the physicians residing and practicing medicine and surgery in this State. (Annotated Code 1924, Art. 43, § 67.)

166. To Whom Furnished—Record, Etc.—The State Board of Health shall keep on hand, and procure as often as may be necessary, pure vaccine virus, and furnish such virus to the physicians of the State, gratuitously, when called for; said board shall keep a record of the name and location of each physician so furnished with virus, together with the quantities, qualities and number of times and shall advertise once a month in one or more of the newspapers published in the city of Baltimore, and once during the year (three insertions) in one paper of each county. (Id. § 68.)

167. Use of Defective Virus Forbidden—Penalty.—Any physician who shall knowingly and willfully use any virus defective in its nature, by having passed through a scrofulous system, from having been taken from one laboring under any disease of the skin, chronic sore or other febrile, or other disease, during the progress of the vaccine disease, or any crust which, during the progress of said vaccine disease, was punctured, or had sustained other injury, shall, upon conviction thereof, forfeit and pay a sum not less than one hundred nor more than five hundred dollars for each offense. (Id. § 71.)

168. Regulations for Furnishing of Vaccine.—The State Board of Health is hereby required to take all steps necessary to reproduce from the cow true vaccine virus, for the use of physicians residing and practicing medicine and surgery in the State, and shall furnish none more than four removes from the cow, if practicable, and none that has not been produced under its own supervision and direction; provided, that said board may take, use and furnish such virus furnished to it by any physician entrusted by it to procure the same; such virus not to be taken from the arm of a child less than three months old; and the said board shall report

*So in Code.

annually to the Governor the particular of its expenditures and other matters connected with the duties imposed by this and the 8 preceding sections. (Id. § 75.)

169. All Tuberculin, Etc., to be Labeled.—All tuberculin, mallein or other biological products used for testing or immunizing of animals sold, given away or used within the State shall bear a label, stating the name and address of the person, firm or institution making it, and the date of its preparation. (Annotated Code 1924, Art. 58, § 35.)

170. Monthly Reports of Sale.—All persons selling or giving away any of the above mentioned products shall report monthly to the director of the State Laboratory for Biological Products the amount of each sold or given away, the degree of strength of the same, the name and address of the person to whom sold or given, and the date of delivery. Said report shall include the address of and be signed by the person making the report. (Id. § 36.)

171. Record of Sales—Information, Etc.—Persons buying or procuring any of the above mentioned products shall not use or dispose of the same until assured in writing by the person from whom the tuberculin is received that its delivery to said person has been reported to the director of the State Laboratory for Biological Products, or unless they have themselves reported its receipt to the said director, with information required to be furnished by those who distribute such products; and such persons buying or procuring such products shall keep a correct record of the amount received, the amount used and the amount on hand, and shall report these facts whenever any of those products left on hand are not deemed fit for use, or are not to be used, said person shall forward the same to the director of the State Laboratory for Biological Products, with a statement of where and when procured, the amount procured at the time, the amount used, and his name and address. If the amount forwarded to the director of the State Laboratory for Biological Products, and the amount used, do not total the amount procured or purchased, a satisfactory statement shall be made as to what became of the remainder. (Id. § 37.)

172. Sale, Etc., of Animals Reacting to Tuberculin or Other Tests, Prohibited.—No person shall treat any animal with any material or substance nor in any manner for the purpose of preventing normal reaction on the part of such animal to the tuberculin, mallein or other test.

No person shall knowingly sell or offer for sale any animal that has reacted to the tuberculin, mallein or other test, without giving information of such reaction to the purchaser.

No animal that has reacted to the tuberculin, mallein or other test shall be sold or removed from the premises where the test was made without permission in writing from the State Veterinarian. (Id. § 38.)

173. Distribution, Etc., of Biological Products.—The selling, giving away or distribution of vaccines, or biological products containing living organisms, to be used for the immunizations of the cattle against tuberculosis, glanders or other diseases of live stock, is hereby prohibited, except as hereinafter provided. An order of a doctor of medicine or graduate veterinarian, who has been admitted by the representative State boards to practice in Maryland, in either case the doctor or veterinarian shall accompany the order for the material, with a statement containing the name and address of the owner of the animals it is proposed to treat, and the object of the treatment; and the said doctor or veterinarian shall state over his signature that he will be personally responsible for the proper use of the vaccinating material or other biological products. The original of the order shall be kept on file by the vendor or distributor, and a copy of the same shall immediately be filed by him with the director of the State Laboratory for Biological Products. The person, firm or corporation shall report the receipt of the material to the director of the State Laboratory for Biological Products, along with a list of the animals it is proposed to treat, giving their ages and such description of each as will enable the State Veterinarian, or his representatives, to identify the same. (Id. § 39.)

174. Distribution and Sale of Milk or Milk Products from Animals Treated With Vaccine, Etc., Prohibited—Exceptions.—The sale and distribution of milk or milk products from any animals treated with the vaccine or other biological products, containing living organisms, within six months of the date of their last dose or injection of such material, is hereby prohibited, except with the written consent of and under such conditions as may be determined by the director of the State Laboratory for Biological Products. (Id. § 40.)

175. Experiments by Authorized Persons.—The director of the State Laboratory for Biological Products may, with the consent of the State Veterinarian, authorize such persons not connected with the State laboratory, as they deem

qualified to make experiments with these materials, and such shall not be considered a violation of sections 35-41. (Id. § 41.)

176. Penalties.—Any person, firm or corporation violating any of the provisions of sections 35-41 shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25 or more than \$100, or by imprisonment for not less than one week or more than six months; or by both such fine and imprisonment in the discretion of the court. (Id. § 42.)

177. Biological Laboratory Established, Etc.—The State Board of Agriculture shall establish, equip and supervise a biological laboratory for the production, testing or standardizing of tuberculin, mallein, hog cholera serum and other biological products needed for diagnosing, preventing, immunizing against or curing diseases among live stock in the State of Maryland, and to investigate and test biological methods and products that have apparent value in treating diseases among live stock. (Id. § 43.)

178. Director, Assistants, Etc., of State Laboratory for Biological Products.—The director of the Maryland Agricultural Experiment Station shall be the director of the State Laboratory for Biological Products, and the State Board of Agriculture shall on nomination by the said director, appoint such persons as may be necessary to carry on the work of preparing, distributing or using the products of the laboratory for the diagnosis, prevention, immunization or treatment of diseases among live stock in the State of Maryland, and shall fix the compensation for the services of such persons. (Id. § 44.)

179. Sale of Laboratory Products Regulated.—The director of the State Laboratory for Biological Products may at his discretion sell to regularly licensed physicians and veterinarians, or charge for the administration of the products of the laboratory at approximate cost of the same as may be set from time to time by the State Board of Agriculture. (Id. § 45.)

180. Investigations and Tests.—The director of the State Laboratory for Biological Products shall, at the request of the State Board of Health, the State Live Stock Sanitary Board or the State Veterinarian, and for State and public purposes only, pursue such tests or investigations with biological products, on and for animals, as may be requested, provided the work in hand permits and the cost is within the State appropriation. (Id. § 46.)

181. Appropriation.—There shall be appropriated out of any money in the Treasury of Maryland not otherwise appropriated, the sum of \$5,000.00 for the establishment of said Biological Laboratory, and for carrying out the purpose of sections 43-46 the sum of \$5,000.00, or so much thereof as may be needed, is hereby appropriated for the year 1913, and like sum of \$5,000.00, is hereby appropriated for the year 1914, to be paid to the said State Board of Agriculture out of any money in the Treasury not otherwise appropriated. (Id. § 47.)

NOTE: See also Nos. 23a and 23b.

Wood Alcohol.

182. Substituting Wood Alcohol for Grain Alcohol a Misdemeanor—Penalty.—Any person, firm or corporation engaged in the business of making, manufacturing, compounding or dispensing drugs, medicines, medicinal or chemical preparations for human consumption, who shall in person or by his, their or its agents or employes, make, mix, manufacture, compound, dispense, sell, or deliver to any person, any drug, medicine, medicinal or chemical preparation, intended for internal use, wherein ethyl, or grain alcohol usually enters as a part of, or is in anywise employed in the making, mixing or manufacture, compounding or preparation of such drug, medicine, medicinal or chemical preparation, and who shall, in the making, mixing, manufacturing or compounding of such drug, medicine or medicinal or chemical preparation, substitute or use, in part or in whole, methyl, or wood alcohol, in place and stead of ethyl, or grain alcohol, or who shall in any manner put or introduce methyl, or wood alcohol, into such drug, medicine, medicinal or chemical preparation, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by not less than three months nor more than twelve months imprisonment, or by both, in the discretion of the court. (Annotated Code 1924, Art. 27, § 237.)

NOTE: See also No. 104.

Intoxicating Liquors.

183. Lawful Percentage of Alcohol in Medicinal and Other Preparations.—It shall not be unlawful to manufacture, buy, sell or deal in, any medicinal, pharma-

ceutical, scientific, sacramental, mechanical, culinary or toilet preparations which may contain such percentage of alcohol as may be necessary to hold the constituents in solution, preserve the preparation or keep it from freezing; provided, however, that no such preparation shall be manufactured, bought, sold or dealt in, for use as a beverage or intoxicant. (Annotated Code 1924, Art. 27, § 287.)

NOTE: See also No. 134.

PART IV.

Miscellaneous Laws.

False Advertising.

183a. Advertisements to Defraud Forbidden.—Any person who with intent to injure, humiliate or defraud any person or body corporate of this State, by causing any false notice by way of advertisement or otherwise, to be inserted in the columns of any newspaper, periodical or public press shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the House of Correction, not exceeding six months or by a fine not exceeding five hundred dollars, or by both fine and imprisonment, as aforesaid, in the discretion of the court. (Annotated Code 1924, Art. 27, § 181.)

183b. Same.—Any person, firm, corporation or association, who or which in a newspaper, circular, or circular or form letter or other publication published in this State willfully and knowingly makes or disseminates any statement or asseveration of fact concerning the quality, the quantity, the value, the method of production or manufacture or the reason for the price of his or their merchandise or the manner of course of purchase of such merchandise or the possession of awards, prizes, or distinction conferring a gain of such merchandise, or the motive or purpose of a sale, intended to give the appearance of an offer advantageous to the purchaser, which is false and fraudulent, shall be guilty of a misdemeanor. Any person, firm, corporation or association or any employee thereof, who violates any provision of this section shall be liable to a fine of no less than \$25 nor more than \$100 for each offense. (Id. § 182.)

184. Deceptive or Misleading Advertisements.—Any person, firm, corporation or association, who with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated, or placed before the public in this State, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement, of any sort regarding merchandise, securities, service or anything so offered to the public which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, and which is known by such person, firm, corporation or association or which by the exercise of reasonable care should be known by such person, firm or corporation to be untrue, deceptive or misleading, shall be guilty of a misdemeanor. (Id. § 183.)

185. Penalty.—Any person, firm or association violating any of the provisions of section 183, shall, upon conviction thereof, be punished by a fine of not more than \$1,000.00, or by imprisonment of not more than one year or by both fine and imprisonment, in the discretion of the court. A corporation convicted of any offense under the provisions of section 183 shall be fined not more than \$1,000.00, and its president or such other officials as may be responsible for the conduct and management thereof shall be imprisoned not more than one year in the discretion of the court. (Id. § 184.)

Flag Desecration.

186. Definition.—The words flag, standard, color, ensign or shield, as used in this sub-title, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this State, or a copy, picture or representation thereof. (Annotated Code 1924, Art. 27, § 80.)

187. Desecration.—No person shall, in any manner, for exhibition or display:

(a) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign, or shield of the United States or of this State, or authorized by any law of the United States or of this State; or

(b) Expose to public view any such flag, standard, color, ensign or shield, upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or

(c) Expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance. (Id. § 81.)

188. Mutilation.—No person shall publicly mutilate, deface, defile, defy, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield. (Id. § 82.)

189. Exceptions.—This statute shall not apply to any act permitted by the statutes of the United States (or of this State), or by the United States Army and Navy Regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture, apparel or jewelry whereon shall be depicted said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement. (Id. § 83.)

190. Penalty.—Any violation of section 81 shall be a misdemeanor and punishable by a fine of not more than five hundred dollars. Any violation of section 82 shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both fine and imprisonment, in the discretion of the court. (Id. § 84.)

191. Interpretation.—This sub-title shall be so construed as to effectuate its general purpose to make uniform the laws of the States which enact it. (Id. § 85.)

192. Name of Act.—This sub-title consisting of sections 80 to 86 of this article, both inclusive, may be cited as the Uniform Flag Law. (Id. § 86.)

Tobacco—Tobacco Products.

192a. Sale of Cigarettes to Minors.—Any person who shall furnish to any minor, by gift, sale or otherwise, any cigarette or cigarette paper, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than twenty-five dollars nor more than fifty dollars for the first offense, and for each subsequent offense shall be liable for a fine of not less than one hundred dollars nor more than three hundred dollars and to undergo an imprisonment in the jail of the proper county for a period of not less than thirty days nor more than six months, and on failure to pay the fine and costs of prosecution, shall be required to work the same out on the public roads. (Annotated Code 1924, Art. 27, § 40.)

192b. Penalty.—Any minor being in possession of a cigarette or cigarette paper and being by any police officer, constable, juvenile court officer, truant officer or teacher in any school asked where and from whom such cigarette or cigarette paper was obtained, who shall refuse to furnish such information, shall be guilty of a misdemeanor, and upon conviction thereof before any alderman, magistrate or justice of the peace, shall be sentenced to pay a fine not less than five dollars nor more than ten dollars, and on failure to pay the fine and costs of prosecution, shall be sentenced to be confined in the jail of the proper county for a period of not less than ten days or more than thirty days; provided; however, that nothing

contained in this or the preceding section shall apply to Baltimore City or any county in the State of Maryland, except Garrett County. (Id. § 41.)

193. Sale of Cigars and Tobacco to Minors.—It shall not be lawful for any dealer, vendor or other person or persons or body corporate engaged in the manufacture of cigars, cigarettes or tobacco, or in any occupation in which the buying or selling of said goods, wares and merchandise shall constitute the whole or any part of his, her, its or their occupation, to sell, barter or give any cigar or cigars, cigarette or cigarettes, smoking or chewing tobacco to any minor under the age of fifteen years, unless previously authorized in writing by the parent or guardian of such minor, or unless such minor is acting solely as the agent of his employer; nor shall it be lawful for any person not a dealer to purchase for any minor any cigar or cigars, cigarette or cigarettes, smoking or chewing tobacco. (Id. § 389.)

194. Penalty.—Any person or persons or body corporate being a manufacturer, dealer, vendor as aforesaid, or any other person or persons or body corporate violating the provisions of the preceding section, shall, upon conviction thereof in any court of competent jurisdiction, be fined in a sum of not less than ten dollars nor more than one hundred dollars for each and every offense, or imprisoned in jail for not less than five nor more than thirty days in default of payment of said fine. (Id. § 390.)

195. Appointment of Tobacco Inspector.—The Governor shall appoint one inspector of tobacco, who shall be a tobacco grower or duly qualified leaf tobacco dealer and resident of one of the tobacco growing counties of this State. He shall receive such salary as the Legislature shall provide in the general appropriation or budget bill and he shall have charge of the State Tobacco Warehouses and other property connected therewith in the city of Baltimore, and the Governor may remove said inspector at his pleasure. (Annotated Code 1924, Art. 43, § 9.)

196. Bond, Etc., of Inspector of Tobacco Warehouses.—The inspector so appointed shall, before entering upon the discharge of the duties of his office, give bond to the State of Maryland in the sum of thirty thousand dollars, with a surety or sureties to be approved by the Treasurer of the State, conditioned for the faithful performance of the duties imposed upon him by law, which bond shall be recorded in the office of the clerk of the Superior Court of Baltimore City; and he shall, as soon as he shall have bonded and qualified as required by law, take charge of all the tobacco warehouses in Baltimore City and all the tobacco, books, furniture, appurtenances and effects belonging to the same, and shall receipt to his predecessor in office for the same, and upon the appointment and qualification of his successor shall deliver the same to the said successor, and take a similar receipt. Said inspector shall, personally or by a sampler or samplers, in this article provided for, inspect all tobacco in said warehouse, but neither he nor any other person appointed to or employed in said warehouses shall engage in the purchase or sale of tobacco (except that he may sell tobacco of his own raising), nor shall any person appointed to or employed in said warehouses receive any gift or emolument whatever, either directly or indirectly, for any service in the line of his duty other than his regular salary or wages; and any person violating the provisions of this section shall be immediately dismissed from office or service. Each of said samplers, before entering on the duty of his office, shall give bond to the inspector with a surety or sureties, to be approved by said inspector, in the sum of two thousand dollars, conditioned for the faithful discharge of his duties, and the said inspector, in his discretion, may exact a bond from the person or persons who receive and handle the moneys collected on account of the business of said warehouses. Said inspector shall have authority to dismiss any and all appointees and employees in said warehouse, whenever in his judgment it shall be for the good of the service; and neglect of duty on the part of any employee shall be cause for his immediate removal by the inspector or the Governor. (Id. § 10.)

197. Tobacco Receipts.—All tobacco landed or delivered at any of the warehouses in the city of Baltimore, for inspection, shall be taken charge of by the inspector, through his receiving clerk, and the parties delivering the same shall be entitled to receive, upon demand, the inspector's receipt therefor. (Id. § 16.)

198. Tobacco Records.—It shall be the duty of the inspector to cause each hogshead of tobacco landed or delivered at the warehouses to be numbered in succession, as received, and cause said number to be entered in a book kept for that purpose, together with the time said hogshead was received, the name of the vessel or other conveyance, it known to him, by which said hogshead was brought to the city of Baltimore and of the owner or consignee of said tobacco, and the initials or other trade-marks on said hogshead identifying the same, and when said hogshead shall be removed from said warehouse he shall cause an entry to be made in some

book, kept for that purpose, of the time when the same was removed, the name of the person to whom the same was delivered and of the vessel or other conveyance by which the same was taken away. (Id. § 17.)

199. Penalty for Violation of This Section.—It shall be the duty of each tobacco inspector to cause all tobacco in the warehouse to which he may have been appointed to be inspected as speedily as practicable in regular order as numbered without favor, affection or partiality to anyone; and each violation of the provision of this section shall subject the offender to a penalty of one hundred dollars, to be recovered in the criminal court of Baltimore. (Id. § 18.)

200. Record of Tobacco Weighed.—It shall be the duty of each inspector to cause each hogshead of tobacco before it is uncased, to be weighed, and the tobacco in each hogshead and the cask itself, to be separately weighed in his presence or that of his weighing clerk, in scales with weights of the proper standard; and the weight of each hogshead as first weighed, and the gross and net weight of the tobacco therein contained after inspection, to be entered in a proper book, with sufficient reference to its numbers and marks as previously recorded. (Id. § 19.)

201. Marking Hogsheads.—It shall be the duty of each inspector to cause to be marked with a marking-iron on the side of each hogshead of tobacco under his charge the warehouse, number and weight of said hogshead, and the net weight of tobacco contained therein, and to cause warehouse number of such hogshead to be marked with blacking on each head thereof. (Id. § 20.)

202. Samples of Tobacco.—Every inspector shall have uncased and break every hogshead of tobacco that may be delivered for inspection in not less than five different places for Maryland and Ohio and not less than three different place[s] for Kentucky and Virginia tobacco and in as many more places as may be necessary to fully determine the contents of said hogshead, and if the inspector shall be of the opinion that such tobacco is sound, clean and in good order, then he shall select from each break as many bundles as will correctly represent the different qualities of tobacco contained in the break, and the bundles so selected shall be considered the sample of the hogshead; he shall also have the hogshead properly marked with its number, the year of inspection and the names legibly written of the owner on each head and bilge and shall have the tare and net weight marked with iron on the bilge as directed in the preceding section. (Id. § 21.)

203. Arbitration for Disputes Regarding Samples.—Whenever any dispute shall arise concerning the correctness of any sample furnished by the inspector of tobacco under the seal of the State, said controversy shall be referred to a committee of arbitration consisting of three persons to be selected as follows: one thereof shall be selected by the inspector with the approval of the Governor, one thereof shall be selected by the claimant or claimants or his or their agents, and the two thus selected shall select the remaining member of said committee; provided, however, that no person shall be so selected, or if selected shall be competent to serve as a member of any committee of arbitration who shall have a direct or indirect interest in the tobacco in controversy. (Id. § 22.)

204. Investigation, Etc., by Committee of Arbitration.—The said committee of arbitration when duly constituted and appointed shall fully examine and investigate all the facts concerning the subject in controversy before them, and to that end they shall have power to send for persons and papers, to compel the attendance of witnesses, to administer oaths, and to examine witnesses on oath; they shall determine all questions which may be submitted to them by a majority vote, and shall assess whatever damages, if any, they may adjudge due by reason of any false or erroneous inspection, and from their finding or award there shall be no appeal; all damages shall be assessed upon the basis of the market value of the particular grade of tobacco on the date of the reclamation; and no claims on tobacco shipped to any point in the United States shall be considered or allowed after the expiration of six months from the date of its inspection, nor after the expiration of nine months from the date of its inspection, if shipped to any foreign country; nor shall any claim be allowed upon tobacco which shall have changed by fermentation. (Id. § 23.)

205. Payment of Awards, Etc.—The inspector shall pay the amount of any award made in writing and under seal by any committee of arbitration duly constituted, as heretofore provided, to the party or parties thereto entitled, within thirty days after the date thereof, and shall take the receipt of the claimant or his agent for the same, which said receipt together with said award signed and sealed by said committee of arbitration, or a majority of them, shall be returned by the inspector to the Comptroller of the Treasury in the inspector's next ensuing report thereafter and shall be a voucher for money expended. (Id. § 24.)

206. Repacking Tobacco, Etc.—If any inspector upon examination of any hogshead of tobacco has reason to suspect that the same is trash or false packed, he shall cause the same to be shaken out and repacked, and shall charge for so doing the sum of two dollars per hogshead, the same to be paid by the owner or his agent; and if any inspector shall find that the package, cask, or hogshead containing said tobacco is constructed of green or unseasoned timber, it shall be his duty to uncase said tobacco and furnish a new and dry package, cask or hogshead for the same at the cost and expense of the owner of said tobacco or his agent; said cost and expense not to exceed, however, the sum of one dollar for each package, cask or hogshead so furnished. (Id. § 25.)

207. Sales of Leaf Tobacco.—In all sales of leaf tobacco, where the same may be packed in hogsheads or casks and no price is specifically agreed upon between the seller and buyer, the buyer shall be deemed to have agreed to pay for said hogshead or cask in which said tobacco may be packed, the sum of three (\$3.00) dollars, and the seller shall have the right, in the absence of an express agreement to the contrary, to demand the said sum of three (\$3.00) dollars for said hogshead or cask to be added to the purchase price of said tobacco. (Id. § 26.)

208. Labeling Samples, Etc.—It shall be the duty of the inspector to confine the samples of each hogshead of tobacco inspected, by tying them together with a strong tape run through the head of said sample in such manner as shall be most likely to prevent the bundles from separating or being pulled out, and shall fasten on said sample a pasteboard label on which shall be written the marks and number of the hogshead, the date of inspection, and the name or number of the warehouse, and shall seal said tape and label with sealing wax, and shall stamp it with the seal of the warehouse. Whenever a hogshead of tobacco is redrawn or reviewed, the sample and label thereon of the original inspection shall be returned to the inspector to be by him destroyed; and the label on the sample given at the redrawing or reopening of the tobacco shall show that the hogshead has been re-inspected or reviewed. (Id. § 27.)

209. Penalty for Tampering with Samples.—Any person or persons who shall pull out or break off any leaf or leaves, or in any manner tamper with any sample of tobacco, shall be guilty of a misdemeanor, and shall upon conviction thereof in the criminal court of Baltimore city, be fined not more than one hundred dollars for each offense; and no person, except the inspector, sampler, sample-tyer or other designated employee shall be permitted to handle any bundle of tobacco, drawn for the purpose of a sample until the same shall have been tied up and sealed as required by law; and any unauthorized person handling said tobacco in violation of the provisions of this section, shall pay a fine of twenty dollars for each offense, to be recovered before any police justice of the city of Baltimore, as other fines are now recovered. It shall be the duty of each and every employee in the State tobacco warehouses to report to the inspector any and all violations of the provisions of this section that may come to his notice or of which he may be cognizant; and it shall be the duty of the inspector to make a memorandum in writing, of each and every such violation reported to him as aforesaid in a book to be kept in his office for that purpose and to be open to public inspection. (Id. § 28.)

210. Lost Certificate, Etc.—Procedure.—If any certificates or note be lost or mislaid or destroyed the person entitled to receive the tobacco by virtue of such note or certificate may make oath before a justice of the peace to the effect of said note being lost and shall take a certificate to that effect from such justice of the peace to the inspector and deposit the same with him; then the inspector may deliver to such person a new note or certificate with marks, numbers, weights and date corresponding with the former note and the inspector shall thereby be discharged from all action and demands on account of such former note or certificate. (Id. § 29.)

211. Time for Notification to Inspector.—No person shall be entitled to receive a new note or certificate in lieu of any note or certificate lost or mislaid unless he shall notify the inspector at whose house it was issued within twenty days after such note or certificate is first discovered to be lost or mislaid. (Id. § 30.)

212. Condemned or Stayed Tobacco.—All tobacco inspected in any of the warehouses which may be condemned or stayed shall be carefully cased up and weighed and the gross weight and tare be entered upon a book kept for that purpose, together with the number of breaks in such hogshead as may be stayed, also the cause, whether for false packing, trash, order or wet. (Id. § 31.)

213. Same to be Re-weighed, Etc.—All tobacco thus stayed shall, with all convenient dispatch be shaken out, reconditioned and packed under the supervision

of the inspector and reweighed and entered upon the inspection books as all other tobacco. (Id. § 32.)

214. Charges.—The inspector shall charge for reconditioning and repacking all stayed tobacco, and for reinspecting and redrawing, such rates as shall be fixed from time to time by the State Board of Agriculture, and such charges shall be paid by the owner or his agents; and for all outage the charge shall be as fixed from time to time by the State Board of Agriculture and shall be paid by the shipper of the tobacco or his agents. (Id. § 33.)

215. No Inspection Except Upon Payment.—No inspection shall be made for any person, his, their or her agents, other than provided in above sections, except upon payment of the charges therein provided. (Id. § 34.)

216. Privilege of Removing Stayed Tobacco.—The owner of any tobacco that may be stayed or condemned shall have the privilege of removing the same from the warehouse free of all costs or charges whatever, either for outage, cooperage or storage: provided, however, that it shall not be lawful to remove any stayed tobacco from one warehouse to another, except as all other tobacco is removed. (Id. § 35.)

217. Cooperage.—All tobacco delivered at any of the warehouses in the city of Baltimore for inspection, in such condition as to require cooperage, shall be properly coopered and taken care of, and the owner, or his agent charged for the same not less than twenty-five cents nor more than fifty cents for each hogshead thus coopered. (Id. § 36.)

218. Scrap Tobacco. All scrap tobacco accruing in any of the warehouses in the city of Baltimore shall be sold by the inspector to the best advantage, for the benefit of the tobacco fund, and the proceeds accounted for with all other receipts in return to the Comptroller. (Id. § 37.)

219. Advertisement of Tobacco Inspected and Remaining in Warehouse Four Years—Sale of Same.—The inspector shall, in the month of April annually, cause to be inserted in some one of the Baltimore newspapers, once each week, for four successive weeks, an advertisement, stating the name of the warehouse, the weight, gross, tare, and net, the number and the name or initials of any hogshead of tobacco that may have been inspected, which has remained in the warehouse for the space of four years, and the owners whereof are unknown to the inspector; and if such tobacco shall not be claimed within thirty days after the termination of the advertisement, the same shall be sold by the inspector in such manner as he shall deem best, and the proceeds be accounted for in the first quarterly return thereafter. (Id. § 38.)

220. Warrant for Amount of Such Sale Drawn by Comptroller, if Owner Claims Tobacco Within One Year.—If the owner of any tobacco, sold under the preceding section, shall, within one year from the date thereof, satisfy the Comptroller that the tobacco so sold was his right and property, the Comptroller shall draw his warrant on the Treasurer for the amount of such sale, after deducting warehouse costs and charges. (Id. § 39.)

221. Dimensions of Hogshead.—No tobacco of the growth of this State shall be passed or accounted lawful tobacco unless the same be packed in hogsheads not exceeding fifty-four inches in length of the staves, nor exceeding forty-six inches across the head; and the owner or his agent of tobacco packed in any hogshead of greater dimensions shall repack the same in hogsheads of the size herein prescribed, at his own expense before the same shall be passed. (Id. § 40.)

222. Right to Rent Storage for Large Accumulation of Inspected Tobacco.—Whenever so large an amount of inspected tobacco shall have accumulated in the warehouses as to delay inspection, the inspector shall have the right to rent storage for as much as may be necessary to remove. (Id. § 41.)

223. Free Storage for Six Months from Date of Sale.—All tobacco inspected in the State Tobacco Warehouse of Maryland shall be entitled to storage free of charge for six months from the date of sale. (Id. § 42.)

224. Storage for Longer Period Subject to Charges Fixed by Inspector.—Every hogshead of tobacco inspected in the Maryland State Tobacco warehouse which shall remain in such warehouse, after having been sold by the grower or his agent, for a period longer than six months from date of sale thereof, shall be subject to such storage charges, after the expiration of such period of six months from date of sale, as shall, from time to time, be fixed by the inspector. (Id. § 43.)

225. Control of Wharves by Whom, Etc.—In the absence of the State Wharfinger [Wharfinger], the inspector of tobacco shall have control of the wharves in front of the warehouses, so far as relates to the landing or cording of wood or other materials to the exclusion of tobacco, and vessels having tobacco or other conveyances having tobacco to deliver to such warehouses shall have preference

over all others in the use of such wharves; no charge for wharfage shall be laid on any tobacco received at or delivered from any of the State warehouse wharves. (Id. § 44.)

226. Owner's Name to be Marked on Hogshead.—The name of the owner of every hogshead of tobacco delivered for inspection at any State warehouse in the city of Baltimore shall be legibly marked or stenciled thereon; and it shall be the duty of the inspector to retain for inspection every hogshead of tobacco not so marked or stenciled until the name of the owner thereof shall have been ascertained and placed thereon. (Id. § 45.)

227. Return of Tobacco to Hogsheads.—It shall be the duty of the several inspectors of tobacco to carefully return all bundles of tobacco, other than samples which may be drawn in sampling, and all bundles which may be displaced in uncasing tobacco to the hogshead from which the same were drawn or displaced; and any agent or employee of said inspector who shall knowingly violate the provisions of this section shall be deemed guilty of misconduct in office, and shall be liable to removal. (Id. § 46.)

228. Tobacco May be Sold Without Inspection.—It shall and may be lawful for any grower or any owner of tobacco grown in this State to sell the same either in the State or out of it, in hogsheads of any size or weight, or in boxes, or in any other kind of style of package, without being compelled to have the same inspected by the State inspectors and without being compelled to place the same in the State warehouses for any purpose whatsoever, or to pay any charge for outage, storage or any other charge thereon, to the State or any of its constituted officers. (Id. § 47.)

229. Storage on Same.—If any grower or owner of tobacco grown in this State shall desire to store such tobacco in any of the State tobacco warehouses, without having the same inspected by the State inspectors and without the same being subject to the laws relating to inspections of tobacco, he may do so upon paying storage therefor at the rate of twenty-five cents per hogshead per month, or fractional part of a month, for the first two months that said tobacco shall remain in said warehouses, and fifteen cents per month or fractional part of a month for every succeeding month that said tobacco shall remain in said warehouses; but no charge for outage shall be made upon said tobacco, and all money received from said storage shall be credited to the warehouse receipts of the warehouse in which said tobacco shall be stored but no tobacco stored in said warehouse under the provisions of this section shall be inspected in said warehouse by a private inspector; and the said tobacco may at any time be removed from said warehouse by the owner upon payment of the storage in the same manner as if said warehouse was a private warehouse. (Id. § 48.)

230. Copies of This Article, Relating to Inspection of Tobacco, to be Furnished for Inspector's Use.—The Comptroller, Librarian, or other proper officer, shall furnish the said inspector with a reasonable number of bound copies of so much of this article as relates to the inspection of tobacco, for the inspector's use, the cost of the same to be paid out of the tobacco fund. (Id. § 49.)

231. Arbitration for Disputes Over Sampling.—If any owner, or owners of tobacco, or his, her or their agent or agents, shall believe that any of their tobacco has been incorrectly sampled, and shall so notify the inspector before the sale thereof, and within ten days of the date of its inspection, the matter shall be referred to a committee of arbitration consisting of three persons, to be selected as follows: One thereof shall be selected by the inspector and approved by the Governor, one thereof shall be selected by the owners of the tobacco or their agent or agents, and the two thus selected shall select the remaining member of the committee, and said committee shall then have the power to require the said inspector in charge of said hogshead or hogsheads of tobacco to have the same reopened, and if it shall be found that the sample does not correctly represent said tobacco, the said committee or a majority of them, shall select a sample which shall correctly represent it, and the new sample shall be substituted in the place of the rejected sample, at no cost to the owner or owners; provided, that if said sample shall be found by said committee to properly represent said tobacco, then the cost of the reopening [of] said tobacco shall be paid by the owner or owners of the same and said costs shall be one dollar per hogshead. (Id. § 50.)

232. Reports of Leaf Tobacco Sales—Penalty for Not Making.—In every case where leaf tobacco shall be bought from a grower, country or transfer buyer, in the State of Maryland and the same shall thereafter be resold, transferred or disposed of otherwise than by sale upon or through the Baltimore market it shall be the duty of said buyer of said tobacco, within thirty days after any such resale, transfer or disposition of such tobacco, to report to the Maryland State Board of

Agriculture, upon a form prescribed by said board, the quantity (expressed in pounds and number of hogsheads) of each lot of said tobacco so purchased and so resold, transferred or disposed of as aforesaid. Any person, firm or corporation who shall fail to make said report as herein provided shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than \$25.00 or more than \$100.00. (Id. § 51.)

233. Marketing Leaf Tobacco.—Every person, firm or corporation, engaged regularly in the business of selling leaf tobacco on or through the Baltimore market, either for the account of the grower, owner or other principal, or for his, it or their own account, shall keep a correct account, upon a form to be prescribed by the Maryland State Board of Agriculture, of the number of hogsheads and total pounds of leaf tobacco sold daily by such person, firm or corporation, and that said account, verified by oath, shall on or before the fifth day of each succeeding month be returned or delivered to the Executive Officer of the Maryland State Board of Agriculture. The form of said account to be prepared by the said Maryland State Board of Agriculture, as aforesaid, shall be so arranged and classified as to show under three separate classifications or headings, entitled "Southern Maryland Tobacco," "Up Country Tobacco" and "Tobacco Produced Outside of Maryland"; first, the number of pounds of tobacco sold for the producers of tobacco first hand; second, the number of pounds sold for dealers, and third, the number of pounds bought for the account of the said person, firm or corporation making said report, or for the account of some other person, firm or corporation engaged in selling leaf tobacco. That each person, firm or corporation engaged in selling leaf tobacco as aforesaid, shall keep its books in such manner as to show the warehouse hogshead number, weight, tare and net, date of sale of each hogshead of tobacco, to whom the same was sold and at what price per pound, and the account or report required to be made as aforesaid to the Maryland State Board of Agriculture shall show clearly the average price received by such person, firm or corporation for tobacco sold during the month. When such information is received by the executive officer of the Maryland State Board of Agriculture, he shall immediately cause same to be copied in a book kept for that purpose, and shall in said book keep separate and apart the returns to him from each of said persons, firms or corporations, so as to show the number of pounds of tobacco sold by each for producers, the number of pounds resold for dealers or commission merchants, or any selling agency, and the number of pounds purchased for the person, firm or corporation for its own account, together with the average price received by such person, firm or corporation or agency upon total of all sales; the Maryland State Board of Agriculture shall so prepare the form of the account or report to be made by the said persons, firms or corporations engaged in the sale of leaf tobacco through the Baltimore market that when the same are returned to it as hereinbefore required, the said account or report shall contain the information hereinbefore specified, and it shall be the duty of said persons, firms and corporations engaged in the sale of leaf tobacco on or through the Baltimore market as aforesaid, to fully and correctly give the information called for by the said the Maryland State Board of Agriculture, in said form of account or report; provided, however, that this and the two succeeding sections of this article shall not apply to any person, firm or corporation engaged solely in the buying of leaf tobacco, either for his, their or its own account, or for resale or for the account of a principal. (Id. § 52.)

234. Penalty for Failure to Keep Books as Described in Preceding Section.—Any person, firm or corporation engaged in the sale of leaf tobacco on or through the Baltimore market, who shall fail to keep his, their or its books as prescribed in the foregoing section, or who shall fail to make the report required therein, or who shall willfully make any false report or make a false statement in said report to the Maryland State Board of Agriculture, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than \$25.00 or more than \$1,000.00, or shall be imprisoned for not less than ten days or more than six months, or be subject to both fine and imprisonment in the discretion of the court. (Id. § 53.)

235. Books Open for Inspection—Publication of Reports.—The executive officer of the Maryland State Board of Agriculture shall keep the books mentioned in section 52 open to inspection of the public, and shall on or before the tenth day of each month after the receipt of the accounts or reports required in section 52 to be made to the said the Maryland State Board of Agriculture, cause a summary of said reports to be published in the monthly bulletin issued by the Maryland State College of Agriculture, and in one or more journals published in the interest of the growth, sale and manufacture of tobacco in the State, or of a large circulation therein, and further, that this summary shall also be transmitted by the said

executive officer to each of the daily papers published in Baltimore, and to each of the county papers published in the tobacco growing counties of the State, and to any farm papers published within the State. (Id. § 54.)

236. Maryland Tobacco Growers' Association Authorized to Occupy Space, Without Charge, in the State Tobacco Warehouse—Proviso.—The Maryland Tobacco Growers' Association, a corporation incorporated by an Act of the General Assembly of Maryland, the same being Chapter 223 of the Acts of 1906, be and they are hereby authorized to occupy, without charge, such space in the State Tobacco Warehouse, for the purpose of its salesrooms and headquarters, as in the judgment of the said Maryland Tobacco Growers' Association and the Inspector of the State Tobacco Warehouse may be deemed necessary, provided that no other tobacco is there sold by it except that belonging to the members of the association. (Id. § 55.)

236a. Destroying Tobacco—Penalty.—If any person shall cut or destroy any tobacco plants belonging to any other person, or shall cause the same to be done, or shall by any means cause or excite any person to cut or destroy any tobacco or tobacco plants belonging to any other person, on conviction thereof he shall pay to the party grieved five hundred dollars, and suffer six months' imprisonment, and shall also remain in prison till the said sum be satisfied. And if the offender shall not be able to pay the said sum of money, then he shall remain in prison twelve months. (Annotated Code 1924, Art. 27, § 94.)

NOTE: See also Nos. 243-246.

Trade-Marks, Etc.

237. Unlawful to Counterfeit Labels, Etc.—Penalty.—Whenever any person, association or union of workmen have adopted, or shall hereafter adopt for their protection any label, trade-mark or form of advertisement announcing and denoting that goods to which such label, trade-mark or form of advertisement shall or may be attached, were manufactured by such person or by a member or members of such association or union, it shall not be lawful for any person or corporation to counterfeit or imitate such label, trade-mark or form of advertisement; every person violating this section shall be deemed guilty of a misdemeanor and shall upon conviction by any court having criminal jurisdiction be punished by imprisonment in the city or county jail for not less than three months nor more than one year or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both, in the discretion of the court. (Annotated Code 1924, Art. 27, § 53.)

238. Use of Counterfeit or Imitation Labels, Etc.—Penalty.—Every person, corporation or association who shall use any counterfeit or imitation of any label, trade-mark or form of advertisement of any such person, union or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor and shall upon conviction by any court having criminal jurisdiction, be punished by imprisonment in the city or county jail for a term of not less than one month nor more than one year, or by a fine of not less than one hundred dollars nor more than two hundred dollars, or both, in the discretion of the court, and the burden of proving that the defendant did not know the true character of the said label, trade-mark or form of advertisement, and that he used the same in good faith shall be on the defendant. (Id. § 54.)

239. Records of Trade-Marks, Labels, Etc.—Every such person, association or union that has heretofore adopted or shall hereafter adopt a label, trade-mark or form of advertisement as aforesaid may file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof with the Secretary of State, and said secretary shall deliver to such person, association or union so filing the same duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate of record shall be in all suits and prosecutions under sections 53 to 58 sufficient proof of the adoption of such label, trade-mark or form of advertisement, and of the right of said person, association or union to adopt the same. No label shall be recorded that probably would be mistaken for a label already of record, of which question the said secretary shall be the judge. (Id. § 55.)

240. Manufacture, Etc., of Counterfeit or Imitations, May be Enjoined—Damages, Etc.—Every such person, association or union adopting a label, trade-mark or form of advertisement as aforesaid may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeit or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such suit such damage

resulting from such wrongful manufacture, use, display or sale as may by said court be deemed just and reasonable, according to the evidence in the case, and shall require the defendants to pay such persons, associations or unions the profits derived from such wrongful manufacture, use, display or sale, and in addition to court costs such reasonable attorney's fees as the court may allow; and said court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. (Id. § 56.)

241. Penalty for Unauthorized Use of Genuine Label, Etc.—Every person who shall use or display the genuine label, trade-mark or form of advertisement, of any such person, association or union, in any manner not authorized by such person, union or association, shall be deemed guilty of a misdemeanor, and shall on conviction be punished by imprisonment in the city or county jail not less than one month nor more than one year, or by a fine of not less than fifty dollars nor more than two hundred dollars, or both, in the discretion of the court. (Id. § 57.)

242. Use of Name or Seal Unless Authorized, Misdemeanor—Penalty.—Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and be punished on conviction by imprisonment in the city or county jail for a term of not less than three months nor more than one year, or by a fine of not less than fifty dollars nor more than three hundred dollars, or both, in the discretion of the court. (Id. § 58.)

243. Counterfeiting Inspector's Manifest—Altering Quantity or Quality of Tobacco—Penalty.—If any person shall forge or counterfeit any manifest or note of any inspector of tobacco, or alter the quantity or quality of tobacco expressed in such manifest or note, or shall offer or cause to be offered, in payment, any such forged, counterfeited or altered manifest or note, knowing the same to be forged, counterfeited or altered, and shall be thereof convicted, he shall be fined in any sum not exceeding three hundred dollars, or sentenced to the penitentiary for any term not less than eighteen months nor more than seven years, or both, in the discretion of the court. (Id. § 59.)

244. Exporting Tobacco with Forged Mark—Tampering with Contents of Hogsheads, Etc.—Penalties.—If any person shall export, or cause to be exported, any hogshead of tobacco marked with a forged or counterfeited mark, or demand tobacco of any inspector upon any forged, counterfeited or altered manifest or note, knowing such manifest or note, or such mark to be forged, counterfeited or altered, he shall be sentenced to the penitentiary not exceeding seven years nor less than eighteen months, or be fined not exceeding three hundred dollars, or both of them, in the discretion of the court; and if any person shall put or pack any tobacco into any hogshead marked by any inspector, in lieu of tobacco inspected, or shall draw or take out any stave, plank or heading board of any hogshead of tobacco, after it shall be delivered out from any public warehouse, unless it be for the purpose of examining the quality of tobacco by a person intending to purchase the same, upon conviction thereof he shall be fined in a sum not exceeding one hundred dollars. (Id. § 60.)

245. Erasing or Defacing Inspector's Brand—Penalty.—The inspectors of tobacco in this State shall brand with a hobiron on every hogshead of tobacco inspected by them the name of the State wherein the tobacco was raised; and if any person shall rub out or deface any such brand on any hogshead of tobacco, with a view of changing the same, or shall falsely mark or brand any hogshead contrary to the provisions of this section, upon conviction thereof, he shall suffer a confinement in the penitentiary for not less than six months nor more than two years. (Id. § 61.)

246. Intention to Evade Laws Relating to Maryland Tobacco Inspection, a Felony—Penalty.—Any person breaking any hogshead of tobacco with the word Maryland on the bilge, or any other part of a hogshead, with intent to evade the provisions of the laws relating to the inspection of tobacco shall be deemed guilty of a felony and upon conviction thereof shall undergo a confinement in the penitentiary for not less than two nor more than four years. (Id. § 62.)

247. Registry of Returnable Containers—Description of Mark, Etc.,—Publication.—Any and all persons, partnerships or bodies corporate owning returnable containers, or dealing in any commodities handled or delivered in returnable containers, which said containers bear securely affixed or attached thereto, or impressed or imprinted thereon, in any manner whatsoever, a name, mark or device whereby such container can be readily identified, may register the same, and thereby

procure all of the benefits of such registration, guaranteed under the provision of this sub-title, as to all like containers similarly marked, whether such containers were actually in existence or not at the time of such registration. Any such owner or dealer desiring to register such returnable container shall cause to be prepared a clear statement of the character of such container, with a comprehensive description of such distinguishing name, mark or device, so affixed, attached, impressed or imprinted thereto or thereon, the same to be subscribed and acknowledged by the said owner or dealer, or by an officer thereof, should such owner or dealer be a body corporate; such subscription and acknowledgement to be made before any officer qualified to take acknowledgments to deeds in the State of Maryland. After such description shall have been so made, subscribed and acknowledged, it shall be published in two successive issues not in the same week, in some newspaper published in the county where the principal office, place of business or agency of the said owner or dealer is located; or, if the same be located in the city of Baltimore, then by causing such description to be printed twice a week for two successive weeks in some daily paper published therein. Thereupon the said description, together with the certificate of publication, certified to by the owner or manager of the newspaper in which the same shall have been published, shall be recorded in the clerk's office of the Circuit Court of the county in which the principal office, place of business or agency of the said owner or dealer is located, or with the clerk of the Superior Court of Baltimore city, should such principal office, place of business or agency be located in the said city. (Id. § 366.)

248. Assignment and Transfer of Registration.—After such container shall have been so registered as hereinbefore provided, the said owner or dealer may assign and transfer the said registration, provided a copy of said assignment or transfer shall be recorded at the place of original recordation, and if that be not the place at which the principal office, place of business or agency of such assignee or transferee is located, then such assignment or transfer shall also be registered in the same manner as is hereinbefore provided for original registration, and when so made and recorded such transfer or assignment shall secure to the assignee or transferee all the benefits of this sub-title. (Id. § 367.)

249. Records of Descriptions to be Kept, Etc.—The said several clerks mentioned in section 366 shall record in some book of record in their respective custody all such descriptions in the preceding section authorized to be filed with them, together with the certificates of the publishers of said newspapers in which the same have been published; and also all assignments and transfers thereof as hereinbefore provided; and said respective clerks shall furnish copies of such records duly certified by them in the usual manner to all persons who may apply therefor, and shall receive for such recording and such copies the fees paid with respect to bills of sale; and a certified copy of said descriptions and of the said advertisements and certificates of the said publishers of the said newspaper, or of said assignments or transfers when certified to under the hand of the clerk with whom the same are of record, with the seal of his office attached, shall be evidence that the provisions of the preceding sections have been complied with, and shall be prima facie evidence of title to or right to deliver in the said returnable container. (Id. § 368.)

250. Unlawful Use of Containers—Destroying Identification Marks, Etc.—Penalties.—After a description of such returnable containers shall have been registered, as in the foregoing section provided, it is hereby declared to be unlawful for any or all other persons, partnerships or bodies corporate to use or fill any such registered returnable container (whether actually in existence at the time of such registration or not) with any contents of a nature different from that delivered therein; or to willfully deface, erase, obliterate, cover up or otherwise remove, conceal or destroy any such name, mark or device of identification affixed, attached, impressed or imprinted thereto or thereon; or to willfully break, destroy or otherwise injure any such returnable container; or to have on sale, offer for sale, buy, sell, use, take, give, receive, handle in the course of business, hire, rent, lend, transport, convey in any vehicle of any kind or character, collect from ash or garbage receptacles, public or private dumps or premises, or to otherwise keep in stock or store, or to otherwise dispose of, deal in, or traffic in any of the said returnable containers, or parts or pieces of the same, without an assignment from or the written consent of the one causing the same to be registered; and all such unlawful acts are declared to be misdemeanors, and upon conviction thereof the offender for the first offense shall be punished by an imprisonment of not more than one year, or by a fine of not more than fifty dollars, and for the second offense and subsequent offenses, by imprisonment for not more than one year, or by a fine of not more than fifty dollars or by both fine and imprisonment, in the dis-

cretion of the court or justice of the peace before whom such offender is tried; the said fines and all costs incurred to be collected in the same manner as other fines and costs are collected. In any prosecution under this section the possession by the one so accused of any registered returnable container or of any part or parts thereof other than by a garbage man collecting the same in the regular course of his business, and other than the possession of any such container by the one who received the same with its contents shall be prima facie evidence that such person is guilty of the offenses so charged. (Id. § 369.)

251. Returnable Containers for Dairy Products—Regulations.—It shall be the duty of those receiving any such returnable containers in which milk or cream or any dairy products comes into immediate contact, to thoroughly cleanse the inside of such containers immediately upon emptying the contents; and it is further declared to be the duty of every one receiving any registered returnable containers within the scope of this sub-title, to promptly surrender such containers upon demand to the dealers from whom the same were received; and a violation of any of the provisions hereof is declared to be a misdemeanor punishable by a fine of one dollar. (Id. § 370.)

252. Evidence—Search Warrants, Etc.—If any such owner or dealer so registering any returnable container or his or its officer, agent or employee, or the assignee of any such, or his, or its officer, agent or employee, shall make an affidavit before any justice of the peace, averring that he has reason to believe and does believe that the provisions of section 369 hereof have been violated, and that evidence of such violation may be obtained by a search of premises specified by him, the said justice of the peace shall issue his search warrant to any sheriff, deputy sheriff, constable or other officer of the law to whom such warrant may be properly directed, and thereby cause the premises so to be designated in the warrant to be searched; and if any one or more of any such registered returnable containers, or any parts of the same, shall be found in, upon or about the premises so designated, the officer executing such search warrant shall thereupon report the same under his oath to the said justice of the peace, who shall upon the said report, and upon charging a violation of such section 369 issue his warrant for the arrest of such person against whom such charge or charges shall be so made, and cause him to be brought before him for trial. (Id. § 371.)

253. Jurisdiction in Cases of Violations of Section 369; Trial, Etc.—The several justices of the peace in the respective counties of this State shall have concurrent jurisdiction with the Circuit Courts for their respective counties; and the justices of the peace selected to sit at the respective station houses in the city of Baltimore shall have concurrent jurisdiction with the Criminal Court of Baltimore in the case of persons arrested for the violation of the provisions of section 369 hereof, and such respective justices of the peace shall proceed to hear and determine such cases when the parties arrested upon charges of such violation are respectively brought before them, and to acquit such persons, or to sentence such persons for the offense if convicted thereof, unless such respective persons so charged, when so brought before any such justice of the peace and before they are respectively tried, as aforesaid, shall pray a jury trial. If any person charged with the commission of any one or more of the several offenses mentioned in Section 369 hereof, and brought before any justice of the peace, shall pray a jury trial as aforesaid, it shall be the duty of the said justice of the peace to commit such person for trial, or to hold him in bail to appear before the Criminal Court of Baltimore or the Circuit Court for the county as the case may be; and to return the commitment or the recognizance in such case immediately to the clerk of said court, and if such person or persons shall be found to be guilty of a violation of any of the provisions of section 369 hereof, the court or justice of the peace imposing the punishment therein prescribed shall also award to the rightful owner or dealer possession of all of the property involved in such violation. (Id. § 372.)

254. "Returnable Container," Defined.—A returnable container as used in this sub-title is hereby defined to be any device made of any material whatsoever, used for the purpose of holding, containing or converting into a package, goods, wares or merchandise, or packages thereof, either of necessity or for convenience of delivery or sale, and which container is, by its very nature susceptible of repeated use for such purpose, and the title to which container the vendor does not intend to pass with the sale of the container; and for the purpose of this sub-title the requiring, taking or accepting of any deposit for any purpose upon any registered returnable container shall not be deemed to constitute a sale of such container, whether optional, conditional or otherwise, in any proceedings had under this sub-title. (Id. § 373.)

255. When Re-registration of Returnable Containers Not Necessary.—Any person, partnership or body corporate that has heretofore registered returnable containers under the provisions of the law, as the same stood at the time of such registration, shall not be required to again register the same, but shall be entitled to all the benefits of this sub-title as if the same had been registered hereunder; provided, however, that it shall be unlawful for any person or corporation to adopt and register under the provisions of this sub-title any returnable container or description, name, mark or device that has been previously registered by any other person, or is at such time used or in use by any other person in good faith, whether under the provisions of this article or otherwise. (Id. § 374.)

256. What Information Necessary in Prosecutions.—In any prosecution under any of the provisions of the preceding sections, it shall not be necessary to set forth or describe the name, mark or device affixed or attached to or impressed or imprinted upon any returnable container, nor to set forth the particulars of the registration of same or of the assignment or transfer of such registration, but it shall be sufficient to describe the container, so as to permit of its identification, averring that the same is distinctively marked, and is registered according to law, giving the name of the owner of such returnable container, or of the dealer using the same by virtue of such registration, or the name of the assignee or transferee thereof as the case may be. (Id. § 375.)

256a. Costs.—All costs incurred in prosecutions under sections 369 and 370 hereof, shall be assessed and collected in the same manner as in criminal cases, and be accounted for in the same manner as fines in cases of assault and battery are now by law disposed of. (Id. § 376.)

256b. Unlawful Imitation of Trade Names.—It shall be unlawful for any person to wear the insignia, badge, distinctive ribbons or membership rosette or button of a military or patriotic organization or of any lodge or fraternal society chartered or having grand or subordinate lodges in this State, or to use the same to obtain aid or assistance, personal or social recognition thereby, from any person, within this State, unless he shall be entitled to use or wear the same under the constitution and by-laws, rules and regulations of such military or patriotic organizations or of such lodge, lodges, society or societies, and anyone violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than twenty dollars and not more than two hundred dollars. Provided, that nothing in this section shall prohibit the wearing of the badge or insignia of any lodge or society by the mother, sister, wife or daughter of any member of such lodge or society entitled under this and the preceding section* to wear such badge or insignia. (Id. § 174.)

NOTE: See also No. 56a and the dairy law, No. 87 et seq.

Trading Stamps—Gift-Enterprise.

257. Gift Enterprise.—No person or body corporate shall be permitted, either directly or indirectly, by agent or otherwise, to barter, sell or trade, or to offer for barter, sale or trade, by any publication, or in any way, any wares, goods or merchandise of any description, in package or bulk, holding out as an inducement for any such barter, sale or trade, or the offer of the same, any scheme or device by way of gift enterprise of any kind or character whatsoever. (Annotated Code 1924, Art. 27, § 349.)

258. Penalty.—Any person or body corporate violating the provisions of the preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace or court of competent jurisdiction in this State, shall be fined not less than fifty dollars for any such offense. (Id. § 350.)

259. Use of Trading Stamps, Etc.—No person or association of persons shall, either directly or indirectly, by agent or otherwise, use or hold for use in any way, or sell any stamp commonly called a trading stamp, or any ticket, or check, or any written or printed promise or assurance, express or implied, or any other scheme or device for the sale, barter or trade of any goods, wares or merchandise, holding out as an inducement for any such sale, barter or trade the giving or issuing of any such stamp, ticket, check, promise, assurance, scheme or device, which stamp, ticket, check, promise, assurance, scheme or device is to be or may be presented to or redeemed by some person or association of persons other than those making the sale, barter, or trade aforesaid, the holder of said stamp, ticket, check, promise,

*Section 173. Relates to falsely impersonating an officer or a member of an organization.

assurance, scheme or device for presentment or redemption getting or receiving in exchange therefor any gift, prize or gratuity, or anything uncertain, undetermined or unknown to the purchaser of said goods, wares or merchandise at the time of the purchase thereof. (Id. § 504.)

260. Same—Gift, Etc., from Manufacturer to Purchaser of Products Excepted.—No person or association of persons shall, either directly or indirectly, by agent or otherwise, use or hold for use, or sell any stamp commonly called a trading stamp, or any ticket, check, promise or assurance, expressed or implied, or any other scheme or device of the kind or character described in the preceding section, and thereby prohibited to be used or held for use, or to be sold when the same, instead of or in addition to the manner of redemption therein described, is to be or may be presented to or redeemed by the person or association of persons selling, bartering or trading the goods, wares or merchandise as in said section set forth, at any other place than that where said sale, barter or trade was made, or in any manner than by something certain and known to the purchaser at the time of said sale, barter or purchase; provided, however, that nothing contained in this or the preceding section is intended to prevent any manufacturer from offering any gift or present to any purchaser of his products. (Id. § 505.)

261. Penalties for Violations of Two Preceding Sections.—Any person or association of persons violating any of the provisions of the two preceding sections, or aiding, abetting or assisting in said violation, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace of this State or court of competent jurisdiction therein, shall be fined not less than fifty dollars nor more than one hundred dollars for each offense, and for a second or repeated violation of said sections may, in addition to said fines, be imprisoned in the house of correction or in the city or county jail, as the case may be, for not less than one month nor more than six months. (Id. § 506.)

262. Trading Stamps, Etc., Must Show Redeemable Value in Cents.—No person, firm or corporation shall sell or issue any stamps, trading stamps, cash discount stamps, check, ticket, coupon or other similar device, which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive either directly from the vendor or indirectly through any other person, money or goods, wares or merchandise, unless each of said stamps, trading stamps, cash discount stamps, checks, tickets, coupons or other similar devices shall have legally printed or written upon the face thereof the redeemable value thereof in cents. (Id. § 507.)

263. Redemption of Trading Stamps, Etc.—Any person who shall sell or issue to any person engaged in any trade, business or profession, any stamps, trading stamps, cash discount stamps, check, ticket, coupon or other similar device, which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive, either directly from the vendor or indirectly through any other person, money or goods, wares or merchandise, shall, upon presentation, redeem the same either in goods, wares or merchandise, or in cash, good and lawful money of the United States, at the option of the holder thereof, and any number of such stamps, trading stamps, cash discount stamps, checks, coupons or other similar devices shall be redeemed as hereinbefore set forth at the value in cents printed upon the face thereof, and it shall not be necessary for the holder thereof to have any stipulated number of the same before demand for redemption may be made, but they shall be redeemed in any number, when presented, at the face value in cents printed upon the face thereof as hereinbefore provided. (Id. § 508.)

264. Liability for Face Value.—Any person engaged in any trade, business or profession who shall distribute, deliver or present to any person dealing with him, in consideration of any article or thing purchased, any stamps, trading stamps, cash discount stamps, check, ticket, coupon or other similar device which will entitle the holder thereof on presentation thereof, either singly or in definite number, to receive either directly from the person issuing or selling the same as set forth in the preceding section, or indirectly through any other person, shall, upon the refusal or failure of the said person issuing or selling the same to redeem the same, as set forth in the preceding section, be liable to the holder thereof for the face value thereof, and shall, upon presentation, redeem the same either in goods, wares or merchandise, or in cash, good and lawful money of the United States of America, at the option of the holder thereof, and in such case, any number of such stamps, trading stamps, cash discount stamps, checks, tickets, coupons or other similar devices, shall be redeemed as hereinbefore set forth at the value in cents printed upon the face thereof, and it shall not be necessary for the holder thereof to have any stipulated number of the same before demand for redemption may be made,

but they shall be redeemed in any manner, when presented, at their value in cents printed upon the face thereof, as hereinbefore provided. (Id. § 509.)

265. Manufacturer May Place Own Tickets, Etc., in Package Goods—Handling Same by Retailers Lawful.—It shall not be unlawful for any manufacturer to place his own tickets, coupons or other vouchers in or upon packages of goods manufactured by him, such tickets, coupons or other vouchers to be redeemed by such manufacturer, either in money or merchandise, whether said packages are sold directly to the consumer or through retail merchants; nor shall it be unlawful for any person to issue with such packages, tickets, coupons or other vouchers so issued by said manufacturer. (Id. § 510.)

266. Trading Stamps Must Have Same Redeemable Value in Merchandise or Money.—No person shall sell or issue any stamps, trading stamps, cash discount stamp, check, ticket, coupon or other similar device, which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive, either directly from the vendor or indirectly through any other person, money or goods, wares and merchandise, in which there shall be printed or written upon the face of each of said stamps, trading stamps, cash discount stamps, checks, tickets, coupons or other similar devices, a different redeemable value in merchandise from the redeemable value in money. (Id. § 511.)

267. Bond—Record—Action for Loss by Holder of Trading Stamps, Etc.—It shall be unlawful for any person, firm or corporation to engage in or carry on the business of issuing or selling to merchants or other dealers any stamp, trading stamp, cash discount stamp, ticket, check, coupon or other similar device as provided in sections 504, 505, 507, 508, 509 and 511 of this article, unless prior to doing so, said person, firm or corporation issuing or selling the same, shall have entered into a bond to the State of Maryland, in the penalty of twenty-five thousand dollars, with security to be approved by and said bond to be filed with the Clerk of the Superior Court of Baltimore City or with the Clerk of the Circuit Court for the county in which such stamp, trading stamp, cash discount stamp, ticket, check, coupon or other similar device shall be issued, sold or given, and to be recorded by said clerk at the cost of the person, firm or corporation giving such bond, conditioned for the faithful performance by the person, firm or corporation executing such bond, of each and all the obligations incurred in connection with the issue of such stamp, trading stamp, cash discount stamp, ticket, check, coupon or other similar device; and in the event of failure at any time to comply with any of the obligations of said stamp, trading stamp, cash discount stamp, ticket, check, coupon or other similar device, by the person, firm or corporation executing said bond, the holder of such stamp, trading stamp, cash discount stamp, ticket, check, coupon or other similar device shall be entitled to maintain a suit on such bond to recover the amount of the loss sustained by him by reason of such default. (Id. § 512.)

268. Penalty for Violation of Certain Sections.—Any person, firm or corporation violating any of the provisions of Sections 507, 508, 509, 511 or 512 of this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars for each and every offense, and in default of payment of the fine shall be committed to jail for a period of not less than thirty days, and one-half of the fine so paid shall go to the informer. (Id. § 513.)

269. Licensee—Fees.—Every person, firm, association and corporation of this State or carrying on business therein, who shall sell or deliver any stamps, coupons, tickets, certificates or other similar devices which are or may be redeemable for merchandise, other than a manufacturer or packer issuing such stamps, coupons, tickets, certificates, labels or other similar devices around or in connection with his, their or its own products, to any other person, firm, association or corporation, in connection with any sale by such other person, firm, association or corporation, of any goods, wares or merchandise, shall before so doing take out an annual license therefor and shall pay an annual license fee of fifteen hundred dollars; and every manufacturer or packer who shall furnish, sell or deliver any such stamps, coupons, tickets, certificates, labels, or other similar devices with or in connection with the sale of his, her or its own manufactured or processed products to any other person, firm, association or corporation for use as above set out by such other person, firm, association or corporation, shall, before so doing, take out an annual license therefor and pay an annual license fee of fifty dollars. (Annotated Code 1924, Art. 56, § 235.)

Weights and Measures.

270. Standards.—The standards for weights and measures in this State, except as otherwise provided in this Article, shall be the same as the standards of weights and measures of the United States. (Annotated Code 1924, Art. 97, § 1.)

271. Appointment of Inspectors of Weights and Measures.—The county commissioners of each county, shall, on or before the first day of May in each year, appoint some person, or persons, as inspector or inspectors of standards of weights and measures, who shall safely keep and preserve the same, and, when required, deliver them to said county commissioners, or to such persons as they may appoint to receive the same; and who shall perform the duties as prescribed by this article in the territory for which they have been appointed. (Id. § 2.)

272. Same for Baltimore City.—The Comptroller of Baltimore City shall appoint such number of inspectors of standards of weights and measures as may be required for said city, said appointment to be made in the way and manner now, or that may hereafter be, adopted by the mayor and city council of Baltimore under and by virtue of the powers conferred by the charter of said city; and said inspectors shall safely keep and preserve said standards of weights and measures in and for the city of Baltimore, and, when required, deliver them to said Comptroller, or to such persons as he may appoint to receive the same; and they shall perform the several duties prescribed by this article in and for the territory for which they have been appointed. (Id. § 3.)

273. Inspector's Bonds.—Each person so appointed for the several counties and the city of Baltimore, before entering upon the duties of his office shall give bond to the county commissioners of the county for which he is appointed or to the Mayor and City Council of Baltimore City if appointed for said city, in the penal sum of five hundred dollars, conditioned for the faithful discharge of all the duties appertaining to his office. (Id. § 4.)

274. Inspection and Stamping of Weights and Measures—Penalties for Violations.—All weights and measures used within this State in the vending of articles shall be inspected and stamped or branded by said inspectors, and when adjusted shall be by said inspectors stamped or branded with letters "Md. S.," meaning thereby "Maryland Standard," together with the figures that will indicate the year of inspection, in such manner and on such parts of said weights and measures as shall be most lasting and effectual in preventing and detecting fraudulent practices or impositions in the use of such weights and measures; and the like inspection shall be repeated once in every year, and the year of inspection stamped or branded thereon; provided that such inspection and stamping or branding, as set out in this section, shall be done in the City of Baltimore at such times and in the manner as is now, or may hereafter be provided by the Mayor and City Council of said city. Such weights and measures so examined and stamped or branded as aforesaid, and no other, shall be used in this State in the vending of such articles as are directed by law to be, or are usually sold by weight or measure,* firm or corporation or agent, employee or officer of any person, firm or corporation; and any person violating any one of the provisions of this section shall be liable to indictment in any court in this State having criminal jurisdiction, and upon conviction thereof shall be fined not more than fifty dollars, in the discretion of the court, for the first offense, and if convicted a second time for a violation of this section, the person or persons so offending shall be fined not more than one hundred dollars, and be imprisoned for not more than thirty days, in the discretion of the court, and his, her or their license, if any was issued for the business he, she or they are engaged in, shall be declared null and void by the judge of said court; and it shall not be lawful for such person or persons to obtain another license for the period of twelve months from the time of such conviction, nor shall a license be obtained by any other person or persons to carry on said business on the premises or elsewhere, if the person, so as aforesaid convicted, has any interest whatever therein, or shall derive any profit whatever therefrom; and in case of being convicted more than twice for a violation of this section, such person or persons on each occasion shall be imprisoned for not more than sixty days, and fined not more than double that imposed on such person or persons on the last preceding conviction; and his, her or their license, if any was issued, may be declared null and void by the court, and no new license shall be issued to such person or persons for a period of two years from the time of such conviction, nor to any

*So in Code.

one else to carry on said business wherein he or she is in anywise interested, as before provided for the second violation of the provisions of this section. (Id. § 5.)

275. Duties of Inspectors.—The inspectors of weights and measures for the several counties of the State shall attend at the different markets, towns and villages, in the county for which they shall respectively be appointed at least once in each year, and at the different public inspecting warehouses in said counties at least twice in each year, on some certain days to be appointed by the county commissioners of which thirty days' public notice shall be given by advertisement inserted in some one or more newspapers in the counties in which there may be such paper printed, and also by advertisement set up at some conspicuous place in the said markets, warehouses, villages and towns, and shall inspect and adjust all beams and scales, weights and measures, used or intended to be used in said county; provided that such inspection and adjustment of all beams, scales, weights and measures in Baltimore City shall be made at the times and in the manner as is now or may hereafter be provided by the Mayor and City Council of said city. (Id. § 6.)

276. Record of Adjustments, Etc.—Examination of Sample Packages—Certificate for Sale of Same After Inspection.—Each inspector of weights and measures shall keep a record in book form, in which he shall register the names of the persons whose beams and scales, weights and measures he has adjusted, also the names of the manufacturers or persons for whom sample packages have been measured, together with the day of the month and year, and number and description of the same so adjusted or measured, which he shall submit to the inspection of the county commissioners of the county for which he is appointed, or the comptroller of Baltimore City if appointed for said city, once in each year or oftener if required. It shall also be the duty of the inspector or inspectors of standards of weights and measures to examine all sample packages submitted to them for measurement, and if the submitted package or packages are found to be in conformity with the standard of measurements as provided for by this article, the said inspector or inspectors are to issue a certificate to the party or parties submitting the sample package setting forth this fact, which certificate is to be sufficient authority for the manufacturer of such packages to manufacture and to sell the same. (Id. § 7.)

277. Penalty for Neglecting to Have Weights and Measures Inspected, Etc.—If any person, firm or corporation, or agent, employee or officer of any person, firm or corporation shall refuse or neglect to have his, her, their or its beams or scales, weights and measures inspected and adjusted as directed in this Article when required to do so by the proper officer, he, she, they or it shall be fined five dollars for every day during such delinquency. (Id. § 8.)

278. Family Scales—Penalty to Use for Commercial Purposes.—It shall be unlawful for any person, firm or corporation, or agent, employee or officer of any person, firm or corporation to have in his, their or its possession for commercial purposes, any scale designated or commonly known as family scales. Any person, firm or corporation, or any agent, employee or officer of any person, firm or corporation having in his, her, their or its possession for commercial purposes any such scale, shall on conviction be subject to a fine of not less than twenty dollars nor more than fifty dollars for each offense; provided, that this shall not apply to any county of which there is no inspector of weights and measures or other similar official. (Id. § 9.)

279. Seizure and Sale of Fraudulent Scales, Etc.—If any inspector shall be informed or has reason to suspect that any person, firm or corporation is using, or has in his, her, their or its possession with fraudulent intention any false beams or scales, or weights, or measures, he shall examine the same, and if he finds them, or any of them to be false he shall seize the same, as a forfeiture, and adjust, and sell them at public auction; and shall annually return a statement of the money received therefor under oath to the county commissioners of the county for which he is appointed, or the comptroller of Baltimore City, if appointed for said city. (Id. § 10.)

280. Stamped Weights, Etc., When Broken, Etc., and Found in Use—Exceptions—Penalty.—If any weight or measure which shall have been stamped or branded as required by provisions of this Article, shall be broken, injured, altered or changed, or condemned by any inspector, and shall be found thereafter in the use of any person, firm or corporation, or agent, employee, or officer of any person, firm or corporation, within this State, such person, firm or corporation, or agent, employee or officer of such person, firm or corporation, shall be fined twenty dollars for each and every offense; provided, that this section shall not apply to the

standard quart berry box or basket, nor to the standard barrel for the measurement in this State of green peas or beans in the hull. (Id. § 11.)

281. Unlawful Disposition of Condemned Scales, Etc.—It shall be unlawful for any person, firm or corporation, or for any agent, employee or officer of any person, firm or corporation to sell, destroy or dispose in any way of any scale, weight or measure which has been condemned by an inspector of weights and measures in the city of Baltimore without the knowledge and consent of said inspector, or to remove any tag placed on a scale, weight or measure by such inspector showing that it has been condemned until such scale, weight or measure has been re-inspected and approved, and the said tag shall be placed in a conspicuous place and shall only be removed by one of the inspectors of weights and measures. Any one violating the provisions of this section shall, upon conviction, be fined not less than twenty-five nor more than one hundred dollars for each and every offense. (Id. § 12.)

282. Compensation of Inspectors.—Each inspector for the several counties shall receive compensation for the discharge of his duties as the county commissioners of the county for which he is appointed shall think proper to allow, which shall be levied on the assessable property of said county, and collected as other county charges. And the inspectors appointed for Baltimore City shall receive compensation for the discharge of their duties as is now, or may hereafter be, provided by the mayor and city council of said city. (Id. § 13.)

283. Additional Compensation.—Whenever any inspector shall be applied to adjust scales, weights and measures by adding to or diminishing the same, or to adjust scales and beams he shall be allowed an additional reasonable compensation therefor to be paid by the party so applying for his services. (Id. § 14.)

284. Liquid Measures.—The units or standards of measures of capacity for liquids designated in this Article shall be based on a liquid gallon, or two hundred and thirty-one cubic inches; thirty-one and one-half gallons equaling one barrel, and two barrels one hogshead, continual divisions of the gallon by two, equaling half-gallons, quarts, pints, half pints and gills. (Id. § 15.)

285. Dry Measures.—The units or standards of measures of capacity for dry measure designated in this Article shall be based on a dry bushel of two thousand one hundred and fifty and four-tenths cubic inches; continual divisions of the bushel by two, equaling half-bushels, pecks, half-pecks, quarter-pecks, quarts, pints and half-pints. (Id. § 16.)

286. Standard $\frac{5}{8}$ Bushel Basket.—The standard five-eighths ($\frac{5}{8}$) of a bushel basket shall contain not less than thirteen hundred and forty-four (1344) cubic inches. (Id. § 17.)

287. Standard Measures for Berries, Etc.—The standard of measure for shipping and selling strawberries, raspberries, blackberries, currants, gooseberries, cranberries, whortleberries, cherries, plums, peanuts, kernels of other nuts, and all other berries and small fruits, grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be the quart containing sixty-seven and two-tenths cubic inches, continual division of the quart by two, equaling pints and half-pints. (Id. § 18.)

288. Penalty for Violations of Preceding Section.—Any person, firm or corporation, or agent, employee or officer of any person, firm or corporation, having in his, her or its possession for use for the packing or repacking of the berries, fruits, nuts and other articles designated in the sixteenth [eighteenth] section of this Article, grown in this State or elsewhere, a berry box or basket of less capacity than that designated in section sixteen [18], shall on conviction be fined not less than twenty dollars, nor more than fifty dollars for each offense; and the possession for use, or use of each such berry box or basket shall constitute a separate offense. (Id. § 19.)

289. Standard Bushel Box or Basket for Fruits and Vegetables.—The standard bushel box or basket for the shipment or sale by the box or basket of peaches, pears, tomatoes and all other fruits and vegetables, grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be of the capacity of two thousand one hundred and fifty and four-tenths cubic inches when even full, a half-bushel box or basket for the same shall be of the capacity of one thousand and seventy-five and two-tenths cubic inches when even full. (Id. § 20.)

290. Standard Barrel for Green Peas, Etc.—Penalty for Use of Same Unless Properly Stamped.—The standard barrel for the measurement of all green peas, or beans in the hull for which a heaping measure is now given, shall be of the following dimensions, namely: diameter of said barrel at the top shall be eighteen and three-fourths inches inside the staves, the diameter at the bottom inside the staves shall be sixteen and one-fourth inches, and the depth of said barrel shall be

twenty-six inches inside, and to contain in all six thousand two hundred and fifty-three and three-fourths cubic inches, measurement by said barrel to be struck measure. The dimensions of any barrel so used shall be stamped by the inspector of weights and dry measures of the city of Baltimore upon the same in three conspicuous places, and any person using a barrel for the measurement of peas, beans and like farm products without being so stamped shall be fined not less than one hundred dollars nor more than five hundred dollars, said fines to be collected as other fines are now collected. (Id. § 21.)

291. Penalty for Use of Broken Barrels After Being Condemned by Inspector.—If any barrel for the measurement of green peas, or beans, in the hull when sold by the bushel in this State, which shall have been stamped as provided for in section 21 of this Article, shall be broken, injured, altered, or changed, or condemned by the inspector, and shall be found thereafter in the use of any person, firm or corporation, or agent, employee or officer of any person, firm or corporation, within the State, such person, firm or corporation, or agent, employee or officer of such person, firm or corporation, shall be fined not less than one hundred dollars for each offense. (Id. § 22.)

292. Standard Barrels for Fruits and Vegetables.—The standard barrel for the shipment or sale by the barrel of pears, quinces, Irish potatoes, sweet potatoes, turnips, green peas, beans, cabbage, beets, parsnips, carrots, kale, spinach, broccoli, onions, and all other fruits and vegetables grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be of not less than the following dimensions: Diameter of top and bottom, sixteen and one-half inches; diameter of bulge, eighteen and one-half inches—both inside measurements, length of stave twenty-seven and one-half inches. (Id. § 23.)

293. Standard Double-Head Apple Barrels.—The standard double-head barrel for the shipment or sale by the barrel of apples grown and packed in this State, or grown elsewhere and packed or repacked in this State, shall be of the following dimensions: Head diameter, seventeen and one-eighth inches ($17\frac{1}{8}$), regardless of the depth of the chine in the staves; distance between heads, twenty-six inches (26); inside measurement; circumference at the bulge, sixty-four inches (64), outside measurement. (Id. § 24.)

294. "Short" Barrels, Baskets or Boxes to be so Marked—Penalty.—Any person, firm or corporation in this State who manufactures, sells, offers for sale, or has in his, her, or its possession barrels, baskets, or boxes of the capacities defined in sections 20, 23 and 24 of this Article, and if of less capacities than are defined in said sections 20, 23 and 24, must plainly mark in three conspicuous places on the exterior sides of said barrels, baskets, or boxes, in letters not less than one and one-half inches high the word "Short." Any person, firm, or corporation, or agent, employee, or officer of any person, firm, or corporation, violating any of the provisions of this section shall be fined not less than one dollar, nor more than five dollars for each offense; and the use, sale, or manufacture of each barrel, basket, box, half-box, or half-basket, not marked as designated herein shall constitute a separate offense. (Id. § 25.)

295. Standard Weight per Bushel for Produce.—The standard weights for grain, hay, straw, produce, and mineral coal for this State shall be as follows: Apples (dried), 28 pounds, (green), 50 pounds per bushel; alsike clover seed, 60 pounds per bushel; alfalfa seed, 60 pounds per bushel; barley, 48 pounds per bushel; barley malt, 34 pounds per bushel; buckwheat, 48 pounds per bushel; blue grass seed, 14 pounds per bushel; dried beans, 60 pounds per bushel; bran, 20 pounds per bushel; carrots, 50 pounds per bushel; corn (shelled), 56 pounds per bushel; corn (on cob), 70 pounds per bushel; corn (on cob), 350 pounds per barrel; corn (shelled), 280 pounds per barrel; corn meal, 48 pounds per bushel; Clover seed, 60 pounds per bushel; castor beans or seed, 50 pounds per bushel; coal or culm, 80 pounds per bushel; coal, 2,240 pounds one ton; charcoal (commercially dry), 2,748 cubic inches per bushel; cow peas, 60 pounds per bushel; flour, 196 pounds per barrel; flax seed, 56 pounds per bushel; herd's grass seed, 45 pounds per bushel; Hungarian grass seed, 50 pounds per bushel; hemp seed, 44 pounds per bushel; hay, 2,000 pounds one ton; lime, 80 pounds per bushel; millet (German and American), 50 pounds per bushel; oats, 32 pounds per bushel; onions, 54 pounds per bushel; orchard grass seed, 14 pounds per bushel; peaches (peeled), 40 pounds per bushel; peaches (unpeeled), 32 pounds per bushel; dried peas, 60 pounds per bushel; potatoes (sweet and Irish), 60 pounds per bushel; peanuts, 22 pounds per bushel, rye, 56 pounds per bushel; red top grass seed (chaff), 14 pounds per bushel; red top grass seed (fancy), 32 pounds per bushel; rape, 50 pounds per bushel; straw, 2,000 pounds one ton; salt (coarse), 70 pounds

per bushel; salt (fine), 56 pounds per bushel; sorghum, 50 pounds per bushel; timothy grass seed, 45 pounds per bushel; turnips, 60 pounds per bushel; wheat, 60 pounds per bushel. (Id. § 26.)

296. Charges for Weighing, Etc., Grain—How Ascertained—Penalty.—All charges for freight, measurement, weighing, inspection, wharfage and commission on grain shall be made on the number of bushels as ascertained by weight, and not by running measurement. Any person, firm or corporation, or agent, employee, or officer of any person, firm or corporation, violating any of the provisions of this section, shall be fined not less than five dollars nor more than fifty dollars for each offense. (Id. § 27.)

297. Standard Weights for Tomatoes—Penalties for Misdemeanors in Weighing, Etc.—The standard of weights of tomatoes in the State of Maryland shall be sixty pounds to the bushel; and for the purpose of ascertaining the true weight thereof, there shall be appointed by the Governor a weigher, who shall be chargeable with the duty of weighing all tomatoes and other vegetables sold by weight brought to Center Market of Baltimore City for sale by the wagon-load on the scales now located at said market when applied to, to have said tomatoes or other vegetables weighed, and who shall receive therefor the sum of ten cents per wagonload for performing such services, two cents of which shall be paid by him quarterly to the comptroller to whom he shall give bond in the penalty of one thousand dollars, and the balance he shall retain as his own compensation for the services hereby imposed and performed; provided, that besides the two cents he shall pay all excess over one thousand dollars to the comptroller, it being the intent of this section that he shall only receive one thousand dollars per annum as his salary, to be paid entirely from his fees, at eight cents net per load. The said tomatoes and other vegetables shall be weighed in the wagons, and after delivery to the purchasers the wagons and empty boxes shall be returned to the said scales and the weight thereof shall be deducted from the gross weight as shown by the first weighing, and the said packers or purchasers shall be required to pay for said vegetables at the weight certified by said weigher. In case the boxes, in which the tomatoes or other vegetables are contained, shall not be returned, said weigher shall weigh ten empty boxes, and the average weight shall be established as the weight of all boxes contained in any wagon or wagons so weighed by him, and any packer or purchaser who shall refuse to pay for the same according to the certificate of said weigher shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars, nor more than fifty dollars for each offense; and any driver of any wagon who shall sell, dispose of, or barter any of the produce in his wagon which has been sold to a packer or other purchaser between the time of the weighing of the same and the delivery to said packer or purchaser, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined twenty-five dollars for each offense. (Id. § 29.)

298. Giving Short Weight, Etc.—Penalty.—Any person, firm or corporation, or agent, employee or officer of any person, firm or corporation who shall knowingly and willfully give short weight or short measure to any one purchasing any article or commodity shall be guilty of a misdemeanor and shall on conviction be fined not less than twenty-five dollars nor more than five hundred dollars. A warrant for the arrest of any person, or agent, employee or officer of any person, firm or corporation may be issued at the instance of the purchaser receiving the short weight or measure or at the instance of any inspector of weights and measures in the State of Maryland. (Id. § 30.)

299. Fines, Etc., How Recoverable.—All fines, forfeitures and penalties imposed by the several sections of this article, except as otherwise hereinbefore provided, shall be recoverable as now provided by the laws of the State of Maryland for the recovery of fines, forfeitures and penalties; one-half of said fines, forfeitures and penalties, except as otherwise hereinbefore provided, to be paid to the informer, and the other half to the city of Baltimore or the county in which the offense shall have been committed. (Id. § 31.)

300. Dimensions of Apple Barrels—Proviso.—An apple barrel shall be of the following dimensions: Head diameter, seventeen and one-eighth inches; length of stave, twenty-eight and one-half inches; bulge, not less than sixty-four inches, outside measurement; and every person, firm or corporation buying or selling apples in this State by the barrel shall be understood as referring to the quantity or size of the barrel specified in this section; provided, however, that nothing in this section shall prevent any shipment of apples in the regular flour barrel. (Annotated Code 1924, Art. 27, § 178.)

301. State Board of Agriculture.—In addition to the powers of inspection, regulation and adjustment of scales, beams, weights and measures conferred by

this article upon the inspectors appointed by the county commissioners of the several counties, and by the comptroller of Baltimore City, the State Board of Agriculture shall, through its officers, agents and employees, have the authority and power to inspect, regulate and adjust any or all scales, beams, weights and measures used in the several counties of the State and in the city of Baltimore in the vending or purchasing of agricultural products and farm supplies which are directed by law or are usually sold by weight or measure. The said State Board of Agriculture shall have and exercise, through its officers, agents and employees, all the authority and power conferred by this article upon the inspectors appointed by the county commissioners of the several counties, and by the comptroller of Baltimore City, including the power to condemn any scale, beam, weight or measure which it is impossible to repair, and to prohibit the use of and to remove and destroy or otherwise dispose of the same. The authority and power hereby conferred shall be exercised in such manner, by such method or methods and at such time or times as shall be determined upon by the said State Board of Agriculture, and the said board shall have power to make or cause to be made an inspection or inspections of such scales, beams, weights and measures as, in its discretion, the public interest shall require.

Any person, firm or corporation, or any officer, agent or employee of such person, firm or corporation refusing to have his, her, their or its scales, beams, weights or measures inspected, regulated or adjusted by the said State Board of Agriculture, or its officers, agents or employees as authorized by this article, or refusing to carry out the lawful orders of the said Board, its officers, agents or employees, or interfering in any way with the exercise of the authority conferred by this article, shall, upon conviction, be subject to the penalties provided therefor in this article. The provisions of this section shall be construed as additional and supplemental to, and not in substitution for or in conflict with, any of the other sections of this article. (Annotated Code 1924, Art. 97, § 47.)

NOTE: See also No. 13; the apple law, No. 24 et seq.; the oyster law, No. 112a et seq.; the tobacco law, No. 195 et seq.

PART V.

Cases.

1. Special Food Laws.

Beverages—Soft Drinks—License: *Kimmel et al. v. Mayor and Commissioners of Westernport et al., 140 Md. 506, 117 Atl. 748 (1922).

Fish—License: Arnreich v. State, 150 Md. 91 (1926).

Meat—License: See the case last cited.

Meat—Slaughtering—Inspection: *Mayor and City Council of Baltimore et al. v. Bloecher & Schaaf, Inc., et al., 149 Md. 648 (1926).

Milk—Adulteration: *Deems v. Mayor and City Council of Baltimore, 80 Md. 164, 30 Atl. 648, 26 L. R. A. 541, 45 Am. St. Rep. 339 (1894); *Creaghan & Imwold v. Mayor and City Council of Baltimore & Blake, 132 Md. 442, 104 Atl. 180 (1918).

Milk—Condensed Skimmed Milk: Reiter v. State, 109 Md. 235, 71 Atl. 975 (1909).

Milk—Dairymen—Cattle Registration—Inspection: *State v. Broadbelt, 89 Md. 565, 43 Atl. 771, 45 L. R. A. 433, 73 Am. St. Rep. 201 (1899); Mayor and City Council of Baltimore & Blake v. Gamble & Zaser, 132 Md. 473, 104 Atl. 186 (1918).

Oleomargarine: *Pierce v. State, 63 Md. 592 (1885); *McAllister v. State, 72 Md. 390, 20 Atl. 143 (1890); *Wright v. State, 88 Md. 436, 41 Atl. 795 (1898); *Fox v. State, 89 Md. 381, 43 Atl. 775, 73 Am. St. Rep. 193 (1899); Hancock v. State, 89 Md. 724, 43 Atl. 934 (1899); *Rasch v. State, 89 Md. 755, 43 Atl. 931 (1899); Fox v. State, 94 Md. 143, 50 Atl. 700, 89 Am. St. Rep. 419 (1901); *McAllister v. State, 94 Md. 290, 50 Atl. 1046 (1902); Hicken v. State, 146 Md. 251, 126 Atl. 123 (1924). *In re McAllister, 51 Fed. 282 (1892).

Oleomargarine—Civil Liability for Seizure: Medairy et al. v. McAllister, 97 Md. 488, 55 Atl. 461 (1903).

Oysters: *State v. Applegarth et al., 81 Md. 293, 31 Atl. 961, 28 L. R. A. 812 (1895); *Applegarth v. State, 89 Md. 140, 42 Atl. 941 (1899); Tyler v. State, 93 Md. 309, 48 Atl. 840, 52 L. R. A. 100 (1901); Dean v. State, 98 Md. 80, 56 Atl. 481 (1903); *Windsor v. State, 103 Md. 611, 64 Atl. 288, 12 L. R. A. (N. S.) 869 (1906); *D. E. Foote & Co. et al. v. Clagett & Jamart, 116 Md. 228, 81 Atl. 511 (1911); *D. E. Foote & Co. et al. v. Stanley, 117 Md. 335, 82 Atl. 380 (1911), reversed in *Same, 232 U. S. 494, 34 S. Ct. 377, 58 L. Ed. 698 (1914).

2. Special Drug Laws.

Abortifacients: Lamb v. State, 67 Md. 524, 10 Atl. 208 (1887); Jones v. State, 70 Md. 326, 17 Atl. 89, 14 Am. St. Rep. 362 (1889).

Narcotics: *Rossberg v. State, 111 Md. 394, 74 Atl. 581, 134 Am. St. Rep. 626 (1909).

Pharmacy: Henkel v. Millard et al., 97 Md. 24, 54 Atl. 657 (1903).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Food: Goldman & Freiman Bottling Co., Inc. v. Sindell, 140 Md. 488, 117 Atl. 866 (1922). See also: J. S. Farren & Co. v. Dameron & Bailey, 99 Md. 323, 58 Atl. 367, 105 Am. St. Rep. 297 (1904).

Liquor: Flaccomio & Sonneborn v. Eysink, 129 Md. 367, 100 Atl. 510 (1916).

4. Miscellaneous.

Gift Enterprise: Long v. State, 73 Md. 527, 21 Atl. 683, 12 L. R. A. 89, 25 Am. St. Rep. 606 (1891); *Long v. State, 74 Md. 565, 22 Atl. 4, 12 L. R. A. 425, 28 Am. St. Rep. 268 (1891).

Tobacco—Inspection: *Wm. H. Moore & Co. v. State, 47 Md. 467, 28 Am. Rep. 483 (1878); *Turner v. State, 55 Md. 240 (1881), affirmed in *Turner v. Maryland, 107 U. S. 38, 2 S. Ct. 44, 27 L. Ed. 370 (1882).

Trade-Marks: Stonebraker & Hoffman v. Stonebraker, 33 Md. 252 (1870); Same, 34 Md. 444 (1871); Witthaus v. Mattfeldt & Co. et al., 44 Md. 303, 22 Am. Rep. 44 (1876); Robertson v. Berry & Swingley et al., 50 Md. 591, 33 Am. Rep. 328 (1879); Siegert et al. v. Abbott & Abbott, 61 Md. 276, 48 Am. Rep. 101 (1884); Parlett & Co. v. Guggenheimer & Co., 67 Md. 542, 10 Atl. 81, 1 Am. St. Rep. 416 (1887); Kenny v. Gillet & Co., 70 Md. 574, 17 Atl. 499 (1889); Wilmer v. Thomas et al., 74 Md. 485, 22 Atl. 403, 13 L. R. A. 380 (1891); Houchens v. Houchens, 95 Md. 37, 51 Atl. 822 (1902); Smith Dixon Co. v. Stevens, 100 Md. 110, 59 Atl. 401 (1904); Corkran, Hill & Co., Inc. v. A. H. Kuhlemann Co., 136 Md. 525, 111 Atl. 471 (1920); Drive It Yourself Co. v. North et al., 148 Md. 609, 130 Atl. 57 (1925). See also: Bagby & Rivers Co. v. Rivers, 87 Md. 400, 40 Atl. 171, 40 L. R. A. 632, 67 Am. St. Rep. 357 (1898); Gruber Almanack Co. v. Swingley, 103 Md. 362, 63 Atl. 684 (1906); Seabrook et al., v. Grimes et al., 107 Md. 410, 68 Atl. 883, 16 L. R. A. (N. S.) 483, 126 Am. St. Rep. 400 (1908); Afro-American Order of Owls, Baltimore Nest Number One v. Talbot, Beroth & Crum-packer, 123 Md. 465, 91 Atl. 570 (1914); Mundon v. Taxicab Co., 135 Atl. 177 (1926).

Trading Stamps: *State v. Hawkins, 95 Md. 133, 51 Atl. 850, 93 Am. St. Rep. 328 (1902); *State v. Caspare & Caspare, *State v. Felzer, *State v. Breedon, 115 Md. 7, 80 Atl. 606 (1911); *State v. J. M. Seney Co., 134 Md. 437, 107 Atl. 189 (1919).

Weights and Measures: Frazier v. Warfield, 13 Md. 279 (1859).

MASSACHUSETTS.*

PART I.

General Food and Drug Law.

1. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings: . . .

“Drug,” in sections 186 to 196, inclusive, includes all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of man or animal. . . .

“Food,” in sections . . . 181, and 186 to 196, inclusive, includes all articles, whether simple, mixed or compound, used for food or drink, confectionery or condiment, by man or animal. . . . (G. L. 1921, c. 94, § 1.)

2. Adulteration of Drugs and Food Defined.—For the purposes of sections 186 to 195, inclusive, an article shall be deemed to be adulterated:

In the case of a drug: First, if a drug sold under or by a name recognized in the United States Pharmacopœia or National Formulary differs from the standards of strength, quality or purity, as determined by the test, if any, laid down in the United States Pharmacopœia or National Formulary official at the time of investigation; provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated hereunder if the standard of strength, quality or purity thereof is plainly stated upon the bottle, box or other container thereof delivered to the customer, although such standard may differ from that determined by the test, if any, laid down in the United States Pharmacopœia or National Formulary. Second, if its strength or purity falls below the professed standard or quality under which it is sold.

In the case of confectionery: If it contains terra alba, barytes, paraffine, talc, chrome yellow or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug.

In the case of food: First, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength. Second, if any substance has been substituted wholly or in part for the article. Third, if any valuable constituent of the article has been wholly or in part abstracted. Fourth, if it is mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed. Fifth, if it contains any added poisonous or other deleterious ingredient which may render such article injurious to health; provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative are printed on the covering of the package, sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be construed as applying only when said products are ready for consumption. Sixth, if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal which is unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. Seventh, if the carcass or parts of the carcass of any animal shall be inflated with gas or air. (Id. § 186, as amended L. 1923, c. 166.)

3. “Misbranded”—Term Defined When Applied to Drugs and Food—When Not to be Deemed Adulterated, Etc.—The term “misbranded” as used in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall apply to each drug, or article of food, or article which enters into the composition of food, the package or label of which bears any statement, design or device

*CITATIONS: “G. L. 1921” refers to the General Laws of the Commonwealth of Massachusetts enacted December 22, 1920. “L.” refers to the general acts of the year cited.

regarding such article or the ingredients or substance contained therein, which is false or misleading in any particular, and also to any food or drug product which is falsely branded as to the State or country where it was manufactured or produced.

For the purposes of said sections an article shall also be deemed to be misbranded:

In the case of a drug: First, if it is an imitation of or offered for sale under the name of another article. Second, if the contents of the package as originally put up have been removed, in whole or in part, and other contents placed therein, or if the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, codeine, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein. Third, if its package or label bears or contains any false and fraudulent statement, design or device regarding the curative or therapeutic effect of such article, or of any of the ingredients or substances contained therein.

In the case of food: First, if it is an imitation of or offered for sale under the distinctive name of another article. Second, if it is labeled or branded so as to deceive or mislead the purchaser, or purports to be a foreign product when not so, or if the contents of the package as originally put up have been removed in whole or in part, and other contents placed therein, or if it fails to bear a statement on the label of the quantity or proportion of any morphine, opium, codeine, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substance, contained therein; provided, that nothing in this paragraph shall apply to the repackaging of highly perishable foodstuffs, such as fresh fruit, fresh vegetables or eggs. Third, if the package containing it or its label bears any statement, design or device regarding the ingredients or the substances contained therein which is false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases: (1) In the case of articles which are mixtures or compounds which are now or hereafter may be known as articles of food under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article was manufactured or produced. (2) In the case of articles labeled, branded or tagged so as to indicate plainly that they are compounds, imitations, or blends, if the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; provided, that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purposes of coloring and flavoring only; and provided, that nothing in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as any provision of said sections may require in order to secure freedom from adulteration or misbranding. (G. L. 1921, c. 94, § 187.)

4. Collection of Samples of Foods, Etc.—The collection of samples under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, and three hundred and four* may be made by authorized agents of the Department of Public Health or of boards of health of towns. Samples may be purchased in the open market, and if in bulk and the sample is taken from the original package, carton, wrapper or other container in the presence of such authorized agent, the marks, brands or tags upon such container, and the accompanying printed or written matter shall be noted by such agent, who shall also note the name of the vendor by whom the sale was made, together with the date of the purchase. If practicable, samples shall be collected in duplicate, or divided into two substantially equal parts, and each part shall be labeled with identifying marks. One of such parts or samples shall be delivered to the person from whom they were taken, or, if a guaranty has been given, such part or sample shall be sent to the guarantor. The other part or sample shall be sent to the laboratory of the department or board taking the sample, if said board maintains a laboratory. Parts of samples divided as hereinbefore provided shall be sealed by said agent, at the time of the taking thereof, as provided by the regulations of the Department of Public Health, with a seal provided for that purpose. Whenever it is impracticable either to collect more than one sample or to divide the same, such sample shall be sent to the laboratory

*See No. 18.

of the department or board taking the sample, if said board maintains a laboratory. (Id. § 188.)

5. Examination of Samples, by Whom Made, Etc.—Complaints.—Examination of samples of food and drugs in order to determine by analysis or test whether such articles are adulterated or misbranded within the meaning of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be made under the direction and supervision of the department or board taking such samples as provided in the preceding section; and if it shall appear from such examination that any of the samples are so adulterated or misbranded, the Commissioner of Public Health or the local board of health need not cause formal complaint to be entered at once, but shall in the case of misbranding, and may in the case of adulteration, cause reasonable notice thereof, together with a copy of the results of such analysis or test, to be given to the party from whom the sample was obtained, to the guarantor, if any, and to the party, if any, whose name appears upon the label as manufacturer, packer, producer, wholesaler, retailer or other dealer. Before any formal complaint is entered, any person so notified shall be given an opportunity to be heard before any person designated by the Commissioner of Public Health or local board of health taking the sample, under such rules and regulations as the Department of Public Health prescribes. Such notice shall specify the date, hour and place of hearing, and the parties interested therein may appear in person or by attorney. If it is decided that the party whose name appears upon the label, or the guarantor, shall be notified, and such party or guarantor resides without the Commonwealth, the notice shall be sent by mail to such address as, with due diligence, may be obtained. If after such opportunity to be heard it appears that any provision of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, has been violated, the Department of Public Health or local board of health may make or authorize to be made a formal complaint to a court or justice having jurisdiction in such cases, but no evidence of the result of such analysis or test shall be received if the agent described in the preceding section has refused or neglected to seal and deliver the sample, or part thereof, if and as required in the preceding section. (Id. § 189, as amended L. 1925, c. 42.)

6. Penalty on Manufacturer, Etc.—Whoever manufactures any article of food or any drug which is adulterated or misbranded within the meaning of sections one hundred and eighty-six and one hundred and eighty-seven, or which does not comply with the rules, regulations and standards provided in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be punished by a fine of not less than fifteen nor more than five hundred dollars or by imprisonment for not more than six months. (G. L. 1921, c. 94, § 190.)

7. Penalty for Delivery, Etc., of Food or Drugs Adulterated, Misbranded or Not Complying With Rules, Regulations and Standards, Etc.—Except as otherwise provided in sections one hundred and eighty-six to one hundred and ninety-six, inclusive, whoever for pay or otherwise delivers or offers to deliver to any person any article of food or drug adulterated or misbranded, or which does not comply with the rules, regulations and standards provided for in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall in the case of misbranding or non-compliance with said rules, regulations and standards be punished by a fine of not more than two hundred dollars, and shall in the case of adulteration be punished by a fine of not less than twenty-five nor more than two hundred dollars; but no article shall be deemed misbranded or adulterated under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, or not to comply with the rules, regulations and standards provided for in said sections, if it is intended for export to any foreign country and is prepared or packed according to the specifications or directions of the foreign purchaser; provided, that no substance is used in the preparation or packing thereof in violation of the laws of the foreign country to which the article is intended to be shipped; but if the article is sold or offered for sale for domestic use or consumption then it shall not be exempt from said sections. (Id. § 191, as amended L. 1924, c. 228.)

8. Rules and Regulations to be Adopted, Etc.—The Department of Public Health and local boards of health shall enforce sections one hundred and eighty-six to one hundred and ninety-five, inclusive, and, except as to standards fixed by law, the said department shall adopt rules and regulations, consistent with said sections, standards, tolerances and definitions of purity or quality, conforming to the rules and regulations, standards, tolerances and definitions of purity or quality adopted or that may hereafter be adopted for the enforcement of the act of Congress approved June thirtieth, nineteen hundred and six, and the amendments thereof, the said act being entitled "An act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs,

medicines, and liquors, and for regulating traffic therein and for other purposes," or now or hereafter adopted by the United States Department of Agriculture under any other Federal law. (G. L. 1921, c. 94, § 192.)

9. Prosecutions in Certain Cases Forbidden—Guaranty for Protection—Rules and Regulations.—Except as provided in the following section, no dealer shall be prosecuted under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, for selling or offering for sale any article of food or drug in the original unbroken package in which it was received by him, if he can establish a guaranty by the wholesaler, jobber, manufacturer or other person residing in the United States, from whom he purchased the article, to the effect that the same is not adulterated or misbranded within the meaning of the laws of this Commonwealth. Such guaranty, to afford protection, shall contain the name and address of the person making the sale of this article to the dealer, and in that case such person shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under sections one hundred and eighty-six to one hundred and ninety-five, inclusive. If it shall appear that any provision of said sections has been violated, and the party giving said guaranty is without the Commonwealth, no action shall be brought except as is provided therein, but the Department of Public Health or the local board taking the sample shall present the facts to the proper national authorities for their action.

Under the authority given by section one hundred and ninety-two the Department of Public Health shall adopt rules and regulations which shall be observed by the said department and by local boards of health in ascertaining whether there is such a guaranty which may be relied upon by the dealer. (Id. § 193.)

10. Dealer Establishing Guaranty May be Prosecuted, When.—After a sample of an article of food or drug which is adulterated or misbranded has been taken from a person who establishes a guaranty, as provided in the preceding section, and the guarantor resides without the Commonwealth, the dealer may nevertheless be prosecuted for a subsequent sale of such adulterated or misbranded article; provided, that the Department of Public Health or local board which took the sample has presented the facts to the proper national authorities for their action, that the person from whom the sample was taken has been notified by said department or board, that the facts have so been presented, and that such person continues to sell such articles after he has been notified by said department or board as to the particulars of the adulteration or misbranding and warned to desist from further sales or distribution of the article. Upon conviction in any such case the penalties provided in section one hundred and ninety-one may be imposed.

In case of adulteration, if the Department of Public Health or a board of health in a city having a population exceeding one hundred thousand, finds that the same when analyzed is plainly a gross violation of any of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, or that the article is distinctly injurious to the health of the community, even though the case has not as yet been adjudicated, said department may cause notice of these facts to be published in its monthly bulletin and in such other ways as it establishes by rules and regulations; provided, that the guarantor has been notified and has been afforded an opportunity to be heard as provided in section one hundred and eighty-nine. Said notice shall contain a warning to all dealers to desist from further sale or distribution of such article. Whoever sells such article after said notice and warning shall be amenable, for each subsequent sale, to the penalties provided in section one hundred and ninety-one. (Id. § 194.)

11. Construction of Certain Sections.—When construing and enforcing sections one hundred and eighty-six to one hundred and ninety-five, inclusive, the act, omission or failure of any officer, agent or other individual acting for or employed by any individual, corporation, company, society or association within the scope of his employment or office, shall in each case be also deemed to be the act, omission or failure of such corporation, company, society or association as well as that of the individual. (Id. § 195.)

12. Prosecutions as to Drugs Limited.—If the standard of strength or purity of any drug has been raised since the issue of the last edition of the United States Pharmacopœia or National Formulary, no prosecution relative to it shall be maintained until after such change of standard has been published throughout the Commonwealth. (Id. § 196.)

13. Net Quantity Contained in Food Packages to be Marked Thereon.—Subject to the variations, tolerances and exemptions provided for by the following section, no person shall himself or by his agent or servant sell or offer for sale food in package form unless the net quantity of the contents is plainly and conspicuously marked on the outside of the package in terms of weight, measure or

numerical count. This section shall not apply to retail sales of food made from bulk if the quantity is weighed, measured or counted at the time of such sale by the retailer, nor to the sale of milk, cream or buttermilk in glass jars, as provided by section fifteen of chapter ninety-eight.* The Director of Standards shall enforce this and the three following sections. (Id. § 181.)

14. Tolerances and Exemptions.—The Director of Standards shall adopt the variations, tolerances and exemptions established or hereafter established, by rules and regulations provided for by section three of the act of Congress mentioned in section one hundred and ninety-two,† with such further reasonable variations, tolerances and exemptions not covered by the rules and regulations of said section as he deems expedient. (Id. § 182.)

15. Penalty.—Whoever violates any provision of section one hundred and eighty-one shall for the first offense be punished by a fine of not less than ten nor more than fifty dollars, and for a subsequent offense by a fine of not less than twenty-five nor more than one hundred dollars. (Id. § 183.)

16. Hearing Before Prosecution—Prosecution of Guarantor.—Prosecutions under the preceding section shall not be commenced until the party concerned is notified and given an opportunity to be heard before the Director of Standards. No dealer shall be prosecuted thereunder if he establishes a guaranty, signed by the wholesaler, jobber, manufacturer, dealer or other person residing in the United States, from whom he purchased such articles, that they are correctly marked or labeled under section one hundred and eighty-one, designating it, and containing the name and address of such vendor, but in that case such guarantor shall be liable to prosecution and to the penalties provided by section one hundred and eighty-three. If section one hundred and eighty-one has been violated and the guarantor is without the Commonwealth, no action shall be brought but the director of standards shall report the facts to the proper national authorities. (Id. § 184.)

17. Quantity of Certain Substances to be Marked on Packages Containing Certain Patent Medicines, Drugs, Etc.—Proviso—Penalty—When Dealer is Not Liable to Penalty.—Upon each package, bottle or other receptacle holding any proprietary or patent medicine, or proprietary or patent food preparation, containing alcohol, morphine, codeine, opium, heroin, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substance, there shall be a label upon which shall be printed, in type not smaller than eight point (brevier) capitals, a correct statement of the quantity or proportion of each of said substances therein contained; provided, that if the size of the package, bottle or other receptacle will not permit the use of such type, the size thereof may be reduced proportionately. Whoever manufactures, sells, or offers for sale any medicine or food preparation in violation of this section shall be punished by a fine of not less than five nor more than one hundred dollars; but no dealer shall be prosecuted hereunder if the article is marked as it was when purchased by him and he can establish a guaranty signed by the wholesaler, jobber or manufacturer, residing in this Commonwealth, from whom he purchases such article, to the effect that the same is correctly marked as required by this section, designating it. Such guaranty, to afford protection, shall contain the names and addresses of the parties making the sale of such articles to such dealer. (Id. § 184A, as added L. 1921, c. 486, § 25.)

18. Vendor to Furnish Samples for Analysis, When—Penalty.—Whoever offers or exposes for sale or delivers to a purchaser any drug or article of food, shall, upon application of an inspector, analyst or other officer or agent of the Department of Public Health and upon tender of the value thereof furnish a sample sufficient for the analysis of any such drug or article of food which is in his possession.

Violation of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars. (G. L. 1921, c. 94, § 304, as amended L. 1921, c. 486, § 27.)

19. General Penalty.—Unless another penalty is provided in this chapter, whoever counterfeits any brand required by this chapter or whoever without authority marks or brands any article required to be inspected, or marks or brands such article with a counterfeited brand, shall be punished by a fine of not more than two hundred dollars; and whoever alters or defaces any marks or brands made by an inspector of milk or collector of samples of milk under this chapter, unless another penalty is provided, shall be punished by a fine of not more than twenty-five dollars. (G. L. 1921, c. 94, § 306.)

*See No. 422.

†See No. 8.

20. May Appoint Analysts, Inspectors, Etc., to Make Investigations.—In the performance of the duties relative to the sale of drugs and food the commissioner may appoint and remove inspectors, analysts and chemists. Such inspectors shall, in addition to the powers given by sections one hundred and twenty-one to one hundred and twenty-three, inclusive, of chapter ninety-four,* have the same power and authority relative to drugs, food and milk as is given inspectors of milk by sections thirty-five and sixty of said chapter.† Whoever hinders, obstructs or in any way interferes with any such inspector, analyst or chemist in the performance of his official duty shall for the first offense be punished by a fine of not more than fifty dollars, and for a subsequent offense by a fine of not more than one hundred dollars. (G. L. 1921, c. 111, § 9.)

Miscellaneous General Provisions.

21. Sale, Etc., of Unwholesome Food Prohibited—Penalty.—Whoever, himself or by his agent, sells or offers for sale for food or drink any diseased animal or product thereof or any tainted, diseased, corrupt, decayed or unwholesome carcass, meat, fish, vegetable, produce, fruit or provisions of any kind, except when packed in such a container that upon reasonable inspection the condition of the contents thereof cannot be ascertained, without making the condition of the thing sold or offered for sale fully known to the buyer, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months or both. (G. L. 1921, c. 94, § 150, as amended L. 1927, c. 46.)‡

22. Penalty for Sale of Certain Unwholesome Food or Drink, Etc.—Whoever knowingly exposes for sale or has in possession with intent to sell, for food or drink, anything described in the preceding section shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than sixty days, or both. This section shall not apply to a wholesale dealer who has in his possession fruit or vegetables in the original package with intent to disclose fully to the purchaser the partly decayed condition thereof. (G. L. 1921, c. 94, § 150A, as added L. 1921, c. 486, § 24.)

23. Search Warrant May Issue—Unwholesome Meat or Provisions.—A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the property or articles hereinafter named are concealed in a particular house or place, if satisfied that there is reasonable cause for such belief, issue a warrant to search for the following property or articles: . . .

Sixth, diseased animals or carcasses thereof, or any tainted, diseased, corrupted, decayed or unwholesome meat, fish, vegetables, produce, fruit or provisions of any kind, or the meat of any calf killed when less than four weeks old or any product thereof, if kept or concealed with intent to kill, sell or offer the same for sale for food. . . . (G. L. 1921, c. 276, § 1.)

24. Powers and Duties of Department of Public Health.—The department shall take cognizance of the interests of health and life among the citizens of the Commonwealth, make sanitary investigations and inquiries relative to the causes of disease, and especially of epidemics, the sources of mortality and the effects of localities, employments, conditions and circumstances on the public health, and relative to the sale of drugs and food and adulterations thereof; and shall gather such information relating thereto as it considers proper for diffusion among the people. It shall advise the government concerning the location and other sanitary condition of any public institution; and shall have oversight of inland waters, sources of water supply and vaccine institutions; and may, for the use of the people of the Commonwealth, produce and distribute anti-toxin and vaccine lymph and such specific material for protective inoculation, diagnosis or treatment against typhoid fever and other diseases as said department may from time to time deem it advisable to produce and distribute; and may sell, under such rules, regulations or restrictions as the council may establish, such amounts of the various biologic products prepared or manufactured in the laboratories of the department, as constitute an excess over the amounts required for the diagnosis, prevention and treatment of infectious diseases within the Commonwealth. It shall annually examine all main outlets of sewers and drainage of towns of the Commonwealth, and the effect of sewage disposal. (G. L. 1921, c. 111, § 5, as amended L. 1921, c. 322.)

*See Nos. 232-234.

†See Nos. 124 and 150.

‡See No. 223.

25. Having With Intent to Sell and Selling, Etc., Food or Drink Containing Wood Alcohol, Etc.—Whoever, himself, or by his servant or agent, or as the servant or agent of another, sells, exchanges, delivers, or has in his possession with intent to sell, exchange or deliver, any article of food or drink, or any drug intended for internal use, containing any wood alcohol, otherwise known as methyl alcohol, either crude or refined, under or by whatever name or trade-mark the same may be called or known, shall be punished by a fine of not less than two hundred dollars or by imprisonment for not more than one month, or both. (G. L. 1921, c. 270, § 4.)

26. Nature and Scope of Experimental Work.—The trustees [of Massachusetts Agricultural College] shall cause experiments and investigations to be made at said station in the following subjects:

First, the causes, prevention and remedies of diseases of domestic animals, plants and trees;

Second, the history and habits of insects destructive to vegetation, and the means of abating them;

Third, the manufacture and composition of both foreign and domestic fertilizers, their values and adaptability to different crops and soils;

Fourth, the values, under all conditions, of forage, grain and root crops, as food for farm animals, for various purposes;

Fifth, the comparative value of green and dry forage, and the cost of producing and preserving them in the best condition;

Sixth, the adulteration of any article of food intended for the use of men or animals;

Seventh, testing poultry to eliminate disease;

Eighth, other subjects deemed advantageous to agriculture and horticulture in the Commonwealth. (G. L. 1921, c. 75, § 17.)

NOTE: See also Nos. 79, 220, 301-302, and 328.

PART II.

Special Food Laws.

Apples.

27. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings: . . .

"Closed package," in sections one hundred to one hundred and seven, inclusive, one hundred and nine, one hundred and ten, one hundred and twelve and one hundred and thirteen, a barrel, box or other container, the contents whereof cannot be sufficiently inspected without opening it. . . . (G. L. 1921, c. 94, § 1.)

28. Standard Barrel and Box for Apples.—The standard barrel for apples shall be of the following dimensions when measured without distention of its parts; length of stave, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch; provided, that any barrel of a different form having a capacity of seven thousand and fifty-six cubic inches shall be a standard barrel.

The standard box for apples shall be of the following dimensions by inside measurement: Eighteen inches by eleven and one-half inches by ten and one-half inches, without distention of its parts; and shall have a capacity of not less than two thousand one hundred and seventy-three and one-half cubic inches. (Id. § 100.)

29. Standard Grades of Apples.—The standard grades of apples when packed or repacked in closed packages within the Commonwealth shall be as follows: "Massachusetts Standard Fancy" shall include only apples of one variety which are well matured specimens, hand picked, above medium color for the variety, normal shape, of good and reasonably uniform size, sound, free from dirt, disease, insect and fungous injury, bruises and any other defects except such as are necessarily caused in the operation of packing, and shall be packed properly in clean, strong packages; provided, that apples of one variety not more than three per cent of which are below the foregoing specifications may be graded as "Massachusetts Standard Fancy."

"Massachusetts Standard A" shall include only apples of one variety which are well matured specimens, hand picked except as to any variety which may from time to time be exempted by order of the Commissioner of Agriculture, properly packed, of medium color for the variety, normal shape, sound, practically free from dirt, disease, insect and fungous injury, bruises and other defects, except such as are necessarily caused in the operation of packing; provided, that apples of one variety not more than five per cent of which are below the foregoing specifications may be graded as "Massachusetts Standard A."

"Massachusetts Standard B" shall include only apples of one variety, which are well matured, properly packed, practically normal shape, practically free from dirt, disease, insect and fungous injury or any other defect which materially injures the appearance or useful quality of the apples, but they may be less than medium color for the variety; provided, that apples of one variety not more than ten per cent of which are below the foregoing specifications may be graded as "Massachusetts Standard B."

Apples not conforming to the foregoing specifications of grade, or, if conforming, not branded in accordance therewith, shall be classed as unclassified, and branded "Massachusetts Unclassified." (Id. § 101, as amended L. 1926, c. 264, § 1.)

30. Grading and Packing of Apples—Certain Designations Forbidden.—The marks indicating the grade, as described in the preceding section, shall not be accompanied by any other designation of grade or brand which is inconsistent with the marks required by section one hundred and four. (G. L. 1921, c. 94, § 102, as amended L. 1924, c. 119, § 1.)

31. Minimum Size—Term Defined, Etc.—The minimum size of all apples in all grades, including unclassified apples as defined in section one hundred and one, shall be marked upon the package, and shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end. Minimum sizes shall be stated in variations of one quarter of an inch, such as two inches, two and one-quarter inches, and so forth, in accordance with the facts. Minimum sizes may be designated by figures instead of words. The word "minimum" may be designated by using the abbreviation "min." (G. L. 1921, c. 94, § 103, as amended L. 1926, c. 264, § 2.)

32. Certain Information to be Marked on Closed Packages of Apples.—Each closed package of apples packed or repacked within the Commonwealth and intended for sale within or without the Commonwealth shall be marked or branded at the time of packing, repacking or closing with a statement of the quantity of the contents and, except as hereinafter provided, the name and address of the person by whose authority the apples were packed, the true name of the variety, and the grade and minimum size of the apples contained therein, in accordance with sections one hundred and one and one hundred and three, and the name of the State where they were grown. If the true name of the variety is not known to the packer or other person by whose authority the apples are packed, the statement shall include the words "variety unknown," and if the name of the State where the apples were grown is not known, this fact shall also be set forth in the statement. If apples are repacked, the package shall be marked "repacked," and shall bear the name and address of the person by whose authority it is repacked, in place of that of the person by whose authority it was originally packed. (G. L. 1921, c. 94, § 104, as amended L. 1924, c. 119, § 2.)

33. Marking, Branding, Etc., of Open Packages of Apples.—No open package of apples shall be marked or branded or have affixed thereto any brand, label, mark or stencil which purports to state or describe the grade or classification of the apples contained therein, except in accordance with the preceding section, and any such open package which is marked or branded in accordance with the preceding section shall be subject to sections one hundred and one to one hundred and thirteen, inclusive. (G. L. 1921, c. 94, § 104A, as added L. 1924, c. 119, § 3.)

34. Marking and Branding of Barrels of Apples—Of Other Packages.—The branding or marking of barrels under sections one hundred and one to one hundred and seven, inclusive, and one hundred and twelve shall be in block letters and figures not less than one-half inch in height. The Commissioner of Agriculture shall prescribe rules and regulations as to the lettering to be used in branding or marking other packages. (G. L. 1921, c. 94, § 105, as amended L. 1926, c. 264, § 3.)

35. Misbranded Apples—Term Defined.—For the purposes of sections one hundred to one hundred and seven, inclusive, one hundred and nine, one hundred and ten, one hundred and twelve and one hundred and thirteen, apples packed in a closed package shall be deemed to be misbranded:

First. If the package is packed or repacked in the Commonwealth and fails to bear all statements required by sections one hundred and one, one hundred and three and one hundred and four, made as required in section one hundred and five.

Second. If the package, whether packed or repacked within or without the Commonwealth, is falsely branded or bears any statement, design or device, regarding the apples contained therein, which is false or misleading, or if the package bears any statement, design or device indicating that the apples contained therein are of a specified Massachusetts standard grade, and said apples, when packed or repacked, do not conform to the requirements prescribed for such grade. (G. L. 1921, c. 94, § 107.)

36. Sale of Cold Storage Apples Regulated.—Apples which have been in cold storage shall not be sold or distributed, or offered or exposed for sale or distribution, in closed packages until they have been inspected in accordance with rules and regulations prescribed by the Commissioner of Agriculture. (Id. § 109.)

37. Commissioner of Agriculture to Make Rules and May Enter Certain Places.—The Commissioner of Agriculture shall make and may modify rules and regulations for enforcing sections one hundred to one hundred and seven, inclusive, one hundred and nine and one hundred and twelve, and shall, either in person or by his assistant, have free access at all reasonable hours to each building or other place where apples are packed, stored, sold, or offered or exposed for sale. He may also, in person or by his assistant, open each box, barrel or other container and upon tendering the market price may take samples therefrom. (Id. § 110.)

38. Hearings to Precede Prosecutions for Certain Violations.—Before any prosecution is begun by the Commissioner of Agriculture or any of his duly authorized assistants the parties concerned shall be given an opportunity to be heard before the said commissioner or a person designated by him for such purpose. The parties concerned shall be given reasonable notice of the hearing, specifying the day, hour and place thereof and accompanied by a description of the alleged violation. Such hearing shall be governed by rules and regulations prescribed by said commissioner. (Id. § 111, as amended L. 1926, c. 264, § 5.)

39. Penalty for Violations in Connection With Branding, Packing, Etc., of Apples—Penalty for Obstructing, Etc., Commissioner of Agriculture, Etc.—Whoever, himself or by his servant or agent, misbrands apples within the meaning of section one hundred and seven, or packs, repacks, sells, distributes or offers or exposes for sale or distribution, apples which are misbranded, or apples in closed or open packages so packed or repacked that the faced or shown surface gives a false representation of the contents of the package, or packs, repacks, sells, distributes, offers or exposes for sale or distribution apples otherwise in violation of any provision of sections one hundred and one to one hundred and twelve, inclusive, or willfully alters, effaces or removes, or causes to be altered, effaced or removed, wholly or partly, any brands or marks put upon any package of apples under authority of said sections, shall be punished for the first offense by a fine of not more than fifty dollars, and for a subsequent offense by a fine of not more than two hundred dollars. Whoever obstructs or hinders the Commissioner of Agriculture or any of his assistants in the performance of his duties under sections one hundred and one to one hundred and seven, inclusive, and one hundred and nine to one hundred and eleven, inclusive, shall be punished by a fine of not less than ten nor more than one hundred dollars. (G. L. 1921, c. 94, § 112, as amended L. 1926, c. 264, § 6.)

40. Certain Exemptions From Penalties.—No person who sells or distributes or offers or exposes for sale or distribution, apples misbranded within the meaning of section one hundred and seven, or apples in closed or open packages so packed or repacked that the faced or shown surface gives a false representation of the contents of the package, shall be deemed to have violated the provisions of sections one hundred and one to one hundred and twelve, inclusive, relative thereto, if it appears that he acted in good faith solely as a distributor and that he was not a party to the packing and grading of the apples in question, or if he furnishes a guaranty signed by the person from whom he receives the apples, together with the address of such person, that the apples are not misbranded within the meaning of said section one hundred and seven and that they are not so packed or repacked that the faced or shown surface gives a false representation of the contents of the package. In such case, the person from whom the distributor received the apples shall be liable for the acts of the distributor, if he relied upon the guaranty, to the same extent that the distributor would have been liable under said sections one hundred and one to one hundred and thirteen, inclusive. (G. L. 1921, c. 94, § 113, as amended L. 1926, c. 264, § 7.)

41. Apples in Interstate Commerce Exempted.—Apples shipped in the course of interstate commerce and packed and branded in accordance with the act of Congress approved August third, nineteen hundred and twelve, and known as "The United States Apple Grading Law," shall be exempt from sections one hundred and one to one hundred and seven, inclusive, one hundred and nine, one hundred and ten, one hundred and twelve and one hundred and thirteen. (G. L. 1921, c. 94, § 114.)

42. Commissioner of Agriculture May Enforce Certain Laws, Etc.—The commissioner may enforce sections one hundred to one hundred and seven, inclusive, one hundred and nine, one hundred and twelve and one hundred and seventeen C* of chapter ninety-four, and prosecute all violations thereof. (G. L. 1921, c. 128, § 8, as amended L. 1922, c. 438, § 2.)

NOTE: See also Nos. 94, 207a et seq., and 465.

Bakeries—Bakery Products.

43. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

"Bakery," in sections two to eight, inclusive, a building or part of a building wherein is carried on the production, preparation, packing, storing, display or sale of bread, cake, pies or other bakery products, including any separate room used for the convenience or accommodation of workers. . . . (G. L. 1921, c. 94, § 1.)

44. Floors, Etc., to be Kept Clean, Etc.—Use of Shipping Baskets, Etc., Regulated.—The floors, walls and ceilings of each bakery, the equipment used in the handling or preparation of bakery products or the ingredients thereof, and the wagons, boxes, baskets and other receptacles in which such products are transported, shall at all times be kept by the owner or operator of the bakery or by the distributor of such products in a clean and sanitary condition and free from dirt and dust, flies, insects and other contaminating matter. All show cases, shelves and other places where bakery products are sold shall at all times be kept by the dealer well covered, properly ventilated, adequately protected from dirt and dust, flies, insects and other contaminating matter, and in a sweet, clean and sanitary condition. Shipping baskets and other containers for transporting bakery products shall be kept clean and, whenever the property of a distributor or dealer, shall not be used for the shipment of other products to any person or concern. (Id. § 2.)

45. Storage, Etc., of Bakery Products, Etc., Regulated.—All bakery products and ingredients thereof shall be stored, handled, transported and kept so as to protect them from spoilage, contamination, disease and unwholesomeness. Boxes and other permanent receptacles or containers for the storing, receiving or handling of bakery products shall be so placed and constructed as to be beyond the reach of contamination from streets, alleys and sidewalks and from animals, and shall be kept clean and sanitary by the dealer. No other articles shall be placed therein in addition to said products. No person shall tamper with, injure or contaminate said boxes, receptacles or containers, nor shall any person other than the baker or dealer or his employees remove anything therefrom or place anything therein. (Id. § 3.)

46. Preparation of Bakery Products, Etc., Regulated.—There shall not be used in bakery products or in the ingredients thereof any ingredient or material, including water, which is spoiled or contaminated or which may render the product unwholesome, unfit for food or injurious to health, nor shall there be used in any bakery product any ingredient likely to deceive the consumer or which lessens the nutritive value of such product unless the product is plainly so labeled, branded or tagged, or has thereon a sign making plain to the purchaser or consumer the actual ingredients thereof; provided, that in the case of unwrapped bread to be sold by the loaf such labeling, branding or tagging shall be placed upon the label required under section eight, showing the name of the manufacturer and the net weight of the loaf. Said ingredients and the sale and offering for sale of said products shall otherwise comply with sections one hundred and eighty-six to one hundred and ninety-five, inclusive.† (Id. § 4.)

47. Return, Etc., of Bakery Products Regulated—Certain Exemptions.—Except as provided in section six, no bakery products shall be returned from any consumer or other purchaser to the dealer or baker, nor from any dealer to the baker, nor shall any dealer or baker directly or indirectly accept any returns from or make any exchange of bakery products with any person. All such products shall

*For section 117C, see No. 207c.

†See Nos. 2-11

be kept moving to the consumer without unreasonable delay and without any practice whatsoever which may disseminate contagion or disease among or inflict fraud upon consumers, or disseminate "rope," so-called, or other infection in bakeries, or cause waste in the food supply; provided, that this section, except in so far as may be necessary to prevent such waste, shall not apply to crackers or other bakery products which are packed at the place of production in cartons, cans, boxes, or similar permanent containers, except paper or parchment wrappers used in wrapping loaves of bread, and which are so packed and sealed at such place as fully to insure the freshness and wholesomeness of such products and to protect them from contamination, adulteration and deterioration in the course of trade, and which remain in the original unbroken package as packed. (Id. § 5.)

48. Establishment and Enforcement of Rules, Etc., Relative to Exemptions, Standards, Etc.—The Department of Public Health may, by rule, establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bakery products, and in other cases consistent with sections two to six, inclusive, and section forty-two of chapter one hundred and eleven.* The standards and requirements prescribed by sections two to six, inclusive, shall conform to rules and regulations adopted by the Department of Public Health, and said sections and rules and regulations shall be enforced by said department and by local boards of health acting under the supervision of said department. (Id. 6.)

49. Weight of Loaves.—Except as provided in the following section, bread shall not be manufactured for sale, sold, or offered or exposed for sale otherwise than by weight, and shall be manufactured for sale, sold, or offered or exposed for sale only in units of one pound, one and one half pounds, or multiples of one pound. When multiple loaves are baked, each unit of the loaf shall conform to the weight required by this section. The weights herein specified shall mean net weights not more than twelve hours after baking, or not more than twelve hours after the sale and delivery of such loaves by the manufacturer or by his servant or agent. Such weights shall be determined by the average weight of not less than six loaves; provided, that such average weights shall be determined by the weight of at least twelve loaves whenever such number of loaves is available at the time and place of such weighing; and provided, further, that bread found upon any premises occupied for the manufacture of bread for sale, or any bread found in the wagons, trucks, baskets, boxes, or other delivery vehicles or receptacles owned or controlled by the manufacturer of such bread, and being transported or delivered for sale, shall for the purposes of this section be deemed to have been baked within twelve hours unless such bread is marked, designated or segregated as stale bread, under regulations prescribed by the Director of Standards. (Id. § 7, as amended L. 1922, c. 186, § 1.)

50. Special Provisions as to Rolls, Etc., and Certain Bread.—Unit weights, as defined in the preceding section, shall not apply to rolls or to fancy bread weighing less than four ounces nor to loaves bearing in plain position a plain statement of the weight of the loaf and the name of the manufacturer thereof. Such information shall be stated in case of wrapped bread, upon the wrapper of each loaf, and in the case of unwrapped bread by means of a pan impression or other mechanical means or upon a label not larger than one by one and three quarters inches nor smaller than one by one and one-half inches. No label attached to an unwrapped loaf, shall be larger than provided herein, nor shall any such label be affixed in any manner or with any gum or paste which is unsanitary or unwholesome. When an inspection of bread is made at any bakery by the director or any inspector of standards or sealer of weights and measures, the manufacturer of such bread, or his servants or agents, shall, upon request of the official making such inspection, inform him whether such bread is manufactured for sale in any of the standard unit weights prescribed by the preceding section, and, if not so manufactured for sale in such standard unit weights, shall furnish such official with samples of the labels or wrappers intended to be used on all such loaves of other than standard unit weights. (G. L. 1921, c. 94, § 8, as amended L. 1922, c. 186, § 2.)

51. Establishment and Enforcement of Certain Rules, Etc., by Director of Standards, Etc.—Proviso—Seizure of Bread for Use as Evidence of Violation of Law—Parties Concerned to be Notified and Heard Before Prosecution—Appeal.—The Director of Standards shall prescribe such rules and regulations as are necessary to enforce the two preceding sections, including reasonable tolerances or variations within which all weights shall be kept; provided, that such tolerances or variations shall not exceed one ounce per pound under the standard unit or marked

*For section 42, see No. 61.

weight. The said director, and under his direction the local sealers of weights and measures, shall cause this section to be enforced. They may seize without warrant any bread which they may deem necessary to be used as evidence of violation of law, giving a receipt therefor, and such bread shall be returned to the owner or forfeited as the court may direct. Before any prosecution is begun under this section by any inspector of standards the parties concerned shall be notified and given an opportunity to be heard before the director. Before any prosecution is begun under this section by any sealer or deputy sealer of weights and measures, the parties concerned shall be notified and given an opportunity to be heard before the sealer and shall have the right of appeal to the director of standards; provided, that such appeal is filed with said director in writing within five days from the finding of the local sealer. When such appeal has been entered no prosecution shall be begun until the charges have been reviewed by said director. (G. L. 1921, c. 94, § 9, as amended L. 1922, c. 186, § 3.)

52. Penalty.—Whoever violates any provision of sections two to nine, inclusive, or of any rule or regulation adopted thereunder, or whoever fails or refuses to comply with any request for information made under authority of said sections shall be punished by a fine of not more than one hundred dollars. (G. L. 1921, c. 94, § 10, as amended L. 1922, c. 186, § 4.)

53. Construction of Bake Rooms.—Every room used for the manufacture of flour or meal food products shall, if required by the board of health, have an impermeable floor constructed of cement or tiles laid in cement and an additional floor of wood properly saturated with linseed oil. The walls and ceiling of such room shall be plastered or wainscoted, and, if required by the board of health, shall be whitewashed at least once in three months. The furniture and utensils therein shall be so arranged that they and the floor may at all times be kept clean and in good sanitary condition. (G. L. 1921, c. 111, § 34.)

54. Sleeping Places Regulated.—The sleeping places for persons employed in a bakery shall be separate from the rooms where flour or meal food products are manufactured or stored. (Id. § 35.)

55. Alteration of Premises.—The owner, agent or lessee of any property affected by section thirty-four shall, within sixty days after service of written notice requiring any alterations to be made in such property, comply therewith. Such notice may be served upon such owner, agent or lessee personally or by mail directed to his last known address. (Id. § 36.)

56. Regulations.—Except as provided in section thirty-nine, boards of health may make such further regulations as the public health may require, and shall cause such regulations, together with sections thirty-four to thirty-eight, inclusive, to be printed and posted in all such bakeries and places of business. (Id. § 37.)

57. Penalty for Violation of Four Preceding Sections.—Whoever violates any provision of sections thirty-four to thirty-six, inclusive, or refuses to comply with any requirement of the board of health authorized therein or in the preceding section shall be punished for a first offense by a fine of not less than twenty nor more than fifty dollars; for the second offense by a fine of not less than fifty nor more than one hundred dollars or by imprisonment for not more than ten days; and for any subsequent offense by a fine of not less than two hundred and fifty dollars or by imprisonment for not more than one month, or both. (Id. § 38.)

58. Rules and Regulations for Bakeries—Enforcement—Proviso—Definition—Certain Bakery Product Stores Exempt from Penalty.—The department may make rules and regulations to carry out sections forty to forty-nine, inclusive. Said sections and the rules and regulations shall be enforced by the department and by the local boards of health acting under the supervision of the department; provided, that the provisions of sections forty and forty-one relating to the health of employees shall be enforced by the department of labor and industries in accordance with such rules and regulations as it may prescribe. The word "bakery," as used in sections forty to forty-eight, inclusive, shall mean a building or part thereof wherein is carried on the production, preparation, packing, storing, display or sale of bakery products, including any separate room used for the convenience or accommodation of the workers, except that sections forty, forty-one, forty-three, forty-four, forty-five and forty-eight shall not apply to retail stores where bakery products are sold but not produced. (Id. § 39, as amended L. 1921, c. 315, § 1.)

59. Construction of Bakeries.—Every bakery shall be constructed, drained, lighted, ventilated and maintained in a clean and sanitary condition, and when and where necessary screened against flies, shall have plumbing and drainage facilities,

together with suitable wash basins, wash sinks and toilets or water-closets, which shall be kept in a clean and sanitary condition. The said toilets or water closets shall be in rooms having no direct connection with any room in which bakery products or ingredients are prepared, stored, handled or displayed. (G. L. 1921, c. 111, § 40.)

60. Rooms for Employees to Change Clothes in.—In connection with every bakery suitable rooms shall be provided for the changing and hanging of the wearing apparel of the workers or employees, which shall be separate and apart from the work, storage and sales rooms, and shall be kept in a clean and sanitary condition. (Id. § 41.)

61. Regulations for Sale, Etc., of Bakery Products.—No person shall sit, lie or lounge or be permitted to sit, lie or lounge upon any of the tables, shelves, boxes or other equipment or accessories used in connection with the production, preparation, packing, storing, display or sale of bakery products. No animals or fowls shall be kept in or permitted to enter any building or part thereof used for such production, preparation, packing, storing, display, or sale. (Id. § 42.)

62. Cleanliness of Employees.—Before beginning the work of preparing mixing or handling any ingredients used in the production of bakery products, every person engaged in such work shall wash the hands and arms and after using toilets or water-closets, every person therein engaged shall wash the hands and arms thoroughly and then rinse in clean water; and for this purpose the owner or operator of the bakery shall provide sufficient facilities. (Id. § 43.)

63. Persons With Contagious Disease Not to be Employed.—No owner or operator of a bakery shall require or permit any person affected with any contagious, infectious or other disease or physical ailment which may render such employment detrimental to the public health, nor any person who refuses to submit to the examination required by the following section, to work therein. (Id. § 44.)

64. Physical Examination of Employees.—The Commissioner of Public Health or the Commissioner of Health or Chief Health Officer in the several towns may require any person intending to work, or working, in a bakery, to submit to thorough examination to ascertain whether he is afflicted with any contagious, infectious or other disease or physical ailment. All such examinations shall be made without charge to the person examined and at the expense of the department or local board making them. Any person so examined may have his physician present at the examination, which may be made by any competent physician duly registered and licensed in the Commonwealth. (Id. § 45.)

65. Changes in Bakeries.—If, after inspection, it is found that a bakery is not constructed, maintained, operated or the distribution of its products not conducted in accordance with sections thirty-nine to forty-five, inclusive, and sections two to six, inclusive, of chapter ninety-four,* written notice shall be given to the owner or manager, stating the delinquency, and fixing a reasonable time within which the same shall be remedied and for hearing any party in interest. (Id. § 46.)

66. Closing of Unfit Bakery.—If a bakery is unfit for the production or handling of food or dangerous to the health of its employees, the department or local board may order it closed; provided, that any person aggrieved may be heard before said department or board and may also appeal before or after the execution of the order, but within thirty days after its issue, to the Superior Court. (Id. § 47.)

67. Approval of New Bakeries.—No new bakeries shall be established unless the building plans and equipment proposed to be used have been approved by the local board of health. The board shall refuse a permit for such bakery if the building and equipment do not comply with sections thirty-nine to forty-five, inclusive, and sections two to six, inclusive, of chapter ninety-four* and rules and regulations made thereunder, provided that any party in interest may appeal to the department or to the Superior Court. Said department or court may affirm, reject or modify the findings of the board, and the said board shall thereupon proceed in accordance with the order of the court or department. (Id. § 48.)

68. Penalty.—Violation of any provision of sections thirty-nine to forty-eight, inclusive, or any rule and regulation adopted thereunder shall be punished by a fine of not more than one hundred dollars. (Id. § 49.)

Baking Powder.

69. Labeling of Baking Powder Regulated—Penalty.—Whoever manufactures for sale or offers or exposes for sale or sells any baking powder or mixture

*See Nos. 44-48.

or compound intended for use as a baking powder under any name or title whatsoever shall securely affix or cause to be securely affixed to the outside of each box, can or package containing such baking powder or like mixture or compound, a label, distinctly printed in brierley gothic capital letters in the English language, containing the name and residence of the manufacturer and the ingredients of the baking powder, mixture or compound. Whoever violates any provision of this section shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. (G. L. 1921, c. 94, § 11.)

Beverages.

70. Regulating the Manufacture or Bottling of Certain Non-alcoholic Beverages.—Boards of health of cities and towns may annually grant permits to engage in the business of the manufacture or bottling of carbonated non-alcoholic beverages, soda waters, mineral or spring waters and may fix fees for said permits not to exceed ten dollars. The provisions of this section and the following four sections shall not apply to persons registered under sections thirty-seven to forty, inclusive, of chapter one hundred and twelve.* (G. L. 1921, c. 94, § 10A, as added L. 1921, c. 303.)

71. Boards of Health of Cities, Towns, Duties.—The board of health shall, from time to time, examine the premises of any person granted a permit under the preceding section, and if such premises or the equipment used therein in connection with the business of such person is found to be in an unsanitary condition, the board may revoke such permit after a hearing, ten days' notice of which shall be given such person. (Id. § 10B.)

72. Contamination, Etc., of Materials.—All materials used in the manufacture of beverages specified in section ten A shall be stored, handled, transported and kept in such a manner as to protect them from spoilage, contamination and unwholesomeness. No ingredient or material, including water, shall be used in the manufacture or bottling of any such beverage which is spoiled or contaminated, or which may render the product unwholesome, unfit for food, or injurious to health. Persons granted permits under section ten A, shall comply with sections one hundred and eighty-six to one hundred and ninety-six, inclusive.† (Id. § 10C.)

73. Rules and Regulations.—The Department of Public Health and local boards of health may make rules and regulations to carry out the three preceding sections. (Id. § 10D.)

74. Penalty.—Any person who engages in the business of the manufacture or bottling of carbonated non-alcoholic beverages, soda waters, mineral or spring waters without the permit provided for in section ten A or who violates any provision of sections ten A to ten D, inclusive, or of any rule or regulation made thereunder, shall be punished for a first offense by a fine of not more than one hundred dollars and for a subsequent offense by a fine of not more than five hundred dollars. (Id. § 10E.)

75. Adulteration of Liquor Used for Drink.—Whoever, for the purpose of sale, adulterates any liquor used or intended for drink with Indian cockle, vitriol, grains of paradise, opium, alum, cochineal, capsicum, copperas, laurel water, logwood, Brazil wood, sugar of lead or any other substance poisonous or injurious to health, and whoever knowingly sells any such liquor so adulterated, shall be punished by imprisonment in the State Prison for not more than three years; and the articles so adulterated shall be forfeited. (G. L. 1921, c. 270, § 1.)

NOTE: See also Nos. 21-22, 92, 356 et seq., 382 et seq., and 394 et seq.

Canned Goods—Molasses.

76. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

"Food," in sections one hundred and fifty-four to one hundred and fifty-six, inclusive, . . . includes all articles, whether simple, mixed or compound, used for food or drink, confectionery or condiment, by man or animal. . . . (G. L. 1921, c. 94, § 1.)

77. Canned Goods to be Labeled.—Canned articles of food shall not be offered for sale unless marked to indicate the grade or quality thereof and the name and address of the person who packed or sells them. (Id. § 154.)

*See Nos. 289-292.

†See Nos. 2-12.

78. Marking of Canned Soaked Goods and Molasses.—All canned articles of food which have been prepared from dry products and have been soaked before canning shall be plainly marked by an adhesive label having on its face the word "soaked" in letters of legible type not smaller than two line pica. All cans, jugs and other packages containing molasses shall be plainly marked by an adhesive label having on its face in the English language in letters of the size and description aforesaid the name and address of the person who made and prepared the same together with the name and quality of the ingredients thereof. (Id. § 155.)

79. Penalty for Falsely Stamping, Etc., Cans.—Whoever falsely stamps or labels any can, jar or other package containing fruit or food of any kind, or permits such stamping or labeling, or violates either of the two preceding sections, or sells or exposes for sale any meat or meat preparation and falsely represents the same to be Kosher or as having been prepared in conformity with orthodox Hebrew requirements, or falsely represents any food product or the contents of any package or container to have been so prepared, by having or permitting to be inscribed thereon the word "Kosher" in any language, shall be punished by a fine of not less than twenty-five nor more than five hundred dollars; and whoever knowingly sells such goods so falsely stamped or labeled shall be punished by a fine of not less than ten nor more than one hundred dollars. (Id. § 156.)

Chocolate.

80. Chocolate to be Stamped.—Chocolate in cakes shall be made in pans into which shall be stamped the name of the manufacturer, the town where he resides, the quantity of the chocolate in letters and figures, No. 1, No. 2 or No. 3, as the case may be, and the letters MASS. (G. L. 1921, c. 94, § 93.)

81. Ingredients of Chocolate—Brands.—Number one chocolate shall be made of cocoa of the first quality, number two chocolate of cocoa of the second quality, and number three chocolate may be made of the inferior kinds and qualities of cocoa; but each shall be free from adulteration. Each box containing chocolate shall be branded on the end thereof with the word "chocolate," together with the name of the manufacturer of the chocolate, the town where it was manufactured, and its quality as described in this section. (Id. § 94.)

82. Seizure of Certain Chocolate.—If chocolate manufactured in the commonwealth is offered for sale or found therein and is not of one of the qualities described in the two preceding sections, or is not marked as therein directed, it may be seized and libelled. (Id. § 95.)

NOTE: See also Nos. 92-93.

Cold Storage.

83. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings: . . .

"Article of food," in sections sixty-six to seventy-three, inclusive, includes fresh meat, fresh meat products except in process of manufacture, fresh food fish, poultry, eggs and butter.

"Cold storage," in sections sixty-six to seventy-three, inclusive, and ninety-two,* the storage of articles of food at or below a temperature of forty-five degrees Fahrenheit for a period of thirty days or more.

"Cold storage or refrigerating warehouse," in sections sixty-six to seventy-three, inclusive, and ninety-two,* an establishment employing refrigerating machinery or ice for the purpose of refrigeration, or a place otherwise artificially cooled, where articles of food are stored for thirty days or more at or below a temperature of forty-five degrees Fahrenheit. . . . (G. L. 1921, c. 94, § 1.)

84. Licensing of Cold Storage Warehouses—Report of Articles in Cold Storage.—No person shall maintain a cold storage or refrigerating warehouse without a license issued by the department of public health. Any person desiring such a license may make written application to such department, stating the situation of his plant. Upon receipt of the application the said department shall cause an examination of the sanitary condition of the plant to be made, and if it is found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, said department upon receipt of a license fee of ten dollars shall cause a license to be issued authorizing the applicant to maintain therein

*See No. 167.

a cold storage or refrigerating warehouse for one year. If any warehouse or any part thereof, licensed under this section, is deemed by said department to be conducted in an unsanitary manner, it shall close such warehouse or part thereof, until it has been put in sanitary condition, and said department may also suspend the license if the required changes are not made within a reasonable time. Each such licensee shall submit to the department of public health on or before the fifteenth day of each month, a report on a printed form to be provided by said department, stating the quantities of articles of food placed in cold storage during the month preceding, and also the quantities of articles of food held on the first day of the month in which the report is filed or such other day as the Commissioner of Public Health may from time to time fix. (Id. § 66.)

85. Department and Local Boards of Health to Inspect—Rules, Etc.—Boards of health of towns within their towns shall inspect, and the department of public health shall inspect and supervise all cold storage or refrigerating warehouses and shall make such inspection of the entry of articles of food therein as they deem necessary to secure proper enforcement of the laws relative to cold storage. The department may make rules and regulations to secure a proper enforcement of sections sixty-six to seventy-two, inclusive, and ninety-two.* (Id. § 67.)

86. Department, Etc., to Have Access to Certain Places.—The Department of Public Health and local boards of health, their agents, inspectors or employees shall be permitted access to each establishment mentioned in the preceding section, and to all parts thereof at all reasonable times for the purpose of inspection and enforcement of any provision of law relative to food products. (Id. § 68.)

87. Regulation of Cold Storage.—No article of food intended for human consumption shall be placed or retained in cold storage if deemed by the Department of Public Health to be diseased, tainted or otherwise unwholesome, and no person shall return to cold storage any article of food that has once been released from such storage for the purpose of placing it on the market for sale, but this section shall not apply to the transfer of goods from one cold storage or refrigerating warehouse to another, provided that such transfer is not made for the purpose of evading any provision of sections sixty-six to seventy-two, inclusive, and ninety-two.* No person shall alter, deface or remove any marking on cold storage food which shows the date of its receipt in cold storage until after the food is finally withdrawn for the purpose of immediate sale for consumption, nor shall any person transfer the ownership of food in cold storage without previously making known to the purchaser the date on which it was originally placed in cold storage. (Id. § 69.)

88. Limit of Time Food May be Kept in Cold Storage.—No person shall hold any article of food in cold storage which has been in cold storage longer than twelve calendar months, except with the consent of the Department of Public Health. The said department, upon application, may extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found upon examination to be in proper condition for further storage at the end of such time. The length of time for which further storage is allowed shall be specified by the department. A report on each case in which such extension of storage is permitted, including information relating to the reason for the action of said department, the kind and amount of goods for which the storage period was extended, and the period of extension, shall be included in the annual report of the Commissioner of Public Health. (Id. § 70.)

89. Marking Date of Receipt of Food in Cold Storage.—The date of receipt into cold storage shall be plainly marked either upon the containers in which any articles of food deposited in such storage are packed, or, if not packed in containers, on or in connection with all such articles, except fish. When deposited in cold storage, all articles of food which have been previously stored in any other State or country shall be plainly marked, as above provided, with the date of their original deposit in cold storage. (Id. § 71.)

90. "Cold Storage Goods" Sign to be Displayed.—Except as provided in sections seventy-eight and ninety-one,† no person shall sell or offer or expose for sale articles of food which have been held in cold storage without notifying each person purchasing or intending to purchase the same that they have been so held by displaying in a conspicuous place a sign marked "Cold Storage Goods Sold Here." No person shall represent or advertise as fresh goods articles of food which have been held in cold storage. (Id. § 72.)

*See No. 167.

†See Nos. 166 and 185.

91. Penalty.—Whoever violates any provision of sections sixty-six to seventy-two, inclusive, ninety-two,* shall for the first offense be punished by a fine of not more than one hundred dollars, and for a subsequent offense by a fine of not more than five hundred dollars or by imprisonment for not more than one month, or both. (Id. § 73.)

NOTE: See also No. 36; the egg law, No. 166 et seq.; the fish law, No. 181 et seq.

Confectionery.

92. Penalty for Sale of Candy Containing Alcohol.—Whoever sells to a person any candy enclosing or containing liquid or syrup having more than one per cent of alcohol shall be punished by a fine of not more than one hundred dollars. (G. L. 1921, c. 270, § 8.)

93. Sale of Article Containing Arsenic.—Whoever, himself, or by his agent or servant, or as the agent or servant of another, manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, or exposes or offers for sale or exchange, any toys or confectionery, containing or coated wholly or in part with arsenic, shall be punished by a fine of not less than fifty nor more than one hundred dollars. (Id. § 10.)

NOTE: See also Nos. 2, 80-82, and 266.

Dairy Products—Substitutes for Dairy Products.

94. Department of Agriculture, Powers.—The Department [of Agriculture] through its proper divisions shall have power to—

(a) Execute and carry into effect the laws relative to dairy products, animal breeding, apple grading, plant pest control except the gypsy and brown tail moth, ornithology, apiary inspection, and the production, storage, marketing and distribution of agricultural products. . . . (G. L. 1921, c. 128, § 2.)

95. Duties of Division of Dairying and Animal Husbandry.—The division of dairying and animal husbandry, under the general direction of the commissioner [of agriculture] shall inquire into the methods of making butter and cheese in creameries or cheese factories, investigate all dairy products and imitation dairy products, bought or sold, enforce the laws for the manufacture, transfer and sale of such products, and take such action as will tend to produce a better quality thereof and to improve the dairy industry. It may co-operate with the Department of Public Health and with inspectors of milk, but it shall not interfere with the duties of such department or officers. (Id. § 12.)

96. Division of Dairying, Etc., to Report Unsanitary Condition.—The division shall report to the director of animal industry each case brought to its attention where any barn, stable or other enclosure, where neat cattle, other ruminants or swine are kept, is found in an unsanitary condition. (Id. § 13.)

97. Powers of Department of Agriculture in Enforcing Laws Relating to Dairy Products, Etc.—Penalty.—The department and its employees shall have access to each place or vehicle used in the manufacture, storage, transportation or sale of dairy products or imitations thereof, and to each vessel and can used in such manufacture, storage, transportation and sale, and shall have the authority given to the Department of Public Health or its officers, or to inspectors of milk, to enforce and prosecute violations of all laws relating to dairy products or imitations thereof. Whoever hinders, obstructs, or in any way interferes with an officer or duly authorized agent of the department in the performance of his duty shall be punished for a first offense by a fine of one hundred dollars and for a subsequent offense by a fine of two hundred dollars, to the use of the commonwealth. (Id. § 14, as amended L. 1924, c. 94, § 1.)

98. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings: . . .

"Butter" and "cheese," products usually known by these names which are manufactured exclusively from milk or cream with salt and rennet and with or without coloring matter. Butter shall contain not less than eighty per cent by weight of milk fat. Butter containing less than eighty per cent by weight of milk fat shall be deemed to be adulterated within the meaning of sections one hundred and eighty-six to one hundred and ninety-five, inclusive.† . . . (As amended L. 1925, c. 117.)

*See No. 167.

†See Nos. 2-11.

"Director," in sections twenty-five to thirty-one, inclusive,* . . . director of the Massachusetts agricultural experiment station. . . .

"Heated milk," milk which has been subjected to artificial heat greater than one hundred and sixty-seven degrees Fahrenheit. . . .

"Oleomargarine," includes butterine, imitation butter and any article, substance or compound made in imitation or semblance of or as a substitute for butter and not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced from milk or cream. . . .

"Pasteurized milk," natural cow's milk not more than seventy-two hours old, when pasteurized, subjected for a period of not less than thirty minutes to a temperature of not less than one hundred and forty, nor more than one hundred and forty-five degrees Fahrenheit, and immediately thereafter cooled to a temperature of fifty degrees Fahrenheit or lower. . . . (G. L. 1921, c. 94, § 1.)

99. Standard for Cream, Milk and Skimmed Milk.—The Massachusetts legal standard for milk shall be milk which upon analysis is shown to contain not less than twelve per cent of milk solids and not less than three and thirty-five hundredths per cent of milk fat. The Massachusetts legal standard for skimmed milk shall be skimmed milk containing not less than nine and three tenths per cent of milk solids, exclusive of milk fat. The Massachusetts legal standard for cream shall be cream which upon analysis is shown to contain not less than fifteen per cent of milk fat. (Id. § 12.)

100. Grade A, Etc., Milk Standard.—"Grade A Massachusetts Milk" shall consist exclusively of milk produced within the Commonwealth from healthy cows under cleanly and sanitary conditions, and so cooled and cared for that in its raw state the bacteria count shall not average more than one hundred thousand per cubic centimeter, upon examination of five samples taken one each day, and each from a different lot of milk, on five consecutive days. When sold, kept or offered for sale or exchange, such milk shall be designated and marked by a label, cap or tag bearing the words "Grade A, Massachusetts Milk" in plain, legible, bold-faced type. The percentage of milk fat may also be stated upon said label, cap or tag, but the amount of milk fat shall never be less than the standard fixed for milk by the preceding section. (Id. § 13.)

101. Grade A, Etc., Milk—Permits for Sale—Test.—The board of health of a town, upon application of a person desiring to sell or exchange milk therein as "Grade A, Massachusetts Milk," shall test, as provided in the preceding section, the milk produced or to be sold or exchanged by such applicant, and if upon such test the milk so produced or to be sold or exchanged by the applicant is found to comply with the requirements of "Grade A, Massachusetts Milk," such board shall issue without charge to the applicant a written permit to keep for sale, exchange or delivery, or to sell, exchange or deliver in such town, milk graded, designated and labeled under the preceding section, as "Grade A, Massachusetts Milk."

A permit so issued may be revoked at any time upon written notice to the holder by the board issuing it, if milk offered by the holder for sale or exchange as so graded does not comply with said section. (Id. § 14.)

102. Rules, Regulations and Standards for "Grade A Milk"—Proviso—Public Hearing, Notice, Etc.—Rules, Etc., to be Published—Objections to Rules, Etc., Petition to Governor and Council, Etc.—Penalty.—The Department of Public Health, subject to the approval of the Governor and council, shall make rules and regulations and establish standards for the production, processing and sale of "Grade A Milk," including fat standards, bacterial standards and sanitary standards, and may from time to time amend such rules, regulations and standards; provided, that such standards shall not fall below the standard for milk now or hereafter prescribed by law. Said department shall, before submitting such rules, regulations and standards to the Governor and council for approval, hold a public hearing thereon and shall give notice of the time and place of such hearing by publication for two successive weeks in a newspaper published in each county, the first publication to be at least fourteen days prior to the date of the hearing. Said department shall also publish its proposed rules, regulations and standards in a newspaper published in each county, at least fourteen days before submitting the same for the approval of the Governor and council. Any person objecting to said rules, regulations and standards may, within seven days after such publication, petition the Governor and council for a hearing before approval of the same, and the governor and council shall hear the petitioner, after giving due notice to said Department of Public Health and to all parties appearing at the hearing before the department whose attendance appears of record.

*See Nos. 114-120.

Whoever himself or by his servant or agent sells, exchanges or delivers or has in his custody or possession with intent to sell, exchange or deliver any milk designated as "Grade A Milk" and not conforming to the rules, regulations and standards made and established hereunder shall be punished for the first offense by a fine of not more than fifty dollars and for a subsequent offense within one year by a fine of not less than one hundred dollars. (Id. § 14A, as added L. 1924, c. 310, § 1.)

103. Permits for Sale of Other Graded Milk—Test—Name of Grade to Appear, Etc.—If any grade or classification of milk other than "Grade A, Massachusetts Milk" or "Grade A Milk" is established, permits for the sale of such other milk shall be granted and may be revoked in accordance with section fourteen with respect to "Grade A, Massachusetts Milk," but such permits shall not be granted until the milk to be sold thereunder has been tested in such manner as the local board of health to whom application for the permit is made shall determine. Milk sold or exchanged or kept or offered for sale or exchange under such a permit shall be marked with a label, cap or tag, bearing in the English language in plain, legible, bold-faced type, the name of the grade as it is determined by such board. (G. L. 1921, c. 94, § 15, as amended L. 1924, c. 310, § 2.)

104. Conditions of Production of Milk Subject to Inspection.—No milk shall be sold in the Commonwealth unless the conditions under which it is produced are subject to the inspection provided by law. (G. L. 1921, c. 94, § 16.)

105. Formula for Extending Evaporated, Etc., Milk to be Placed on Container.—Each container of evaporated, concentrated or condensed milk, and of evaporated, concentrated or condensed skimmed milk, sold or offered for sale or had by any person in possession or custody with intent to sell shall have plainly printed thereon or attached thereto on some firmly affixed tag or label, a formula in the English language for extending such milk or skimmed milk with water. The formula for the extension of said evaporated, concentrated or condensed milk shall be such that the resulting milk product shall not be below the Massachusetts standard of milk solids or fat for milk, and shall be in the following form: "By adding parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for milk." The formula for the extension of said evaporated, concentrated or condensed skimmed milk shall be such that the resulting milk product shall not be below the Massachusetts standard of milk solids for skimmed milk, and shall be in the following form: "By adding parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for skimmed milk." (Id. § 17.)

106. Combination of Certain Fats and Oils With Milk, Cream or Skimmed Milk Prohibited—Penalties.—No person himself or by his servant or agent shall, for the purposes of sale or exchange, add any fat or oil other than milk fat to, or blend or compound the same with, any milk, cream or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, so that the resulting product is in imitation or semblance of milk, cream or skimmed milk whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, nor shall any person himself or by his servant or agent, sell, exchange or deliver, or have in possession with intent to sell, exchange or deliver, or expose or offer for sale or exchange, any milk, cream or skimmed milk in any of the aforesaid forms to which has been so added or with which has been so blended or compounded any fat or oil other than milk fat. Whoever violates any provision of this section shall be punished by the penalties prescribed by section twenty-four. (Id. § 17A, as added L. 1923, c. 170; amended L. 1925, c. 120.)

107. Penalty for Selling, Etc., Certain Milk—Whoever himself or by his agent sells, exposes for sale, or has in his custody or possession with intent to sell milk purporting to be of a grade established under section thirteen or provided for by section fifteen without having a permit so to do, or milk labeled as to its fat content which upon analysis of three samples taken one each day, and each from a different lot of milk, on three consecutive days, is found to contain less milk fat than is stated upon the label, cap or tag, and whoever sells, exposes for sale or exchange, or delivers milk not wholly produced in the Commonwealth in containers bearing upon a label, cap, tag, or otherwise, the words "Grade A, Massachusetts Milk," or other words indicating that such milk was produced in the Commonwealth, and whoever in any manner represents that milk not wholly produced therein was wholly produced therein, or is of the grade designated as "Grade A, Massachusetts Milk," shall be punished for the first offense by a fine of not more than fifty dollars, for the second offense by a fine of not less than fifty nor more than one hundred dollars, and for a subsequent offense by a fine of

not less than one hundred nor more than two hundred dollars. (G. L. 1921, c. 94, § 18.)

108. Sale, Etc., of Adulterated, Etc., Milk—Penalty.—No person himself or by his servant or agent shall sell, exchange or deliver or have in his custody or possession with intent so to do, or expose or offer for sale or exchange, any adulterated milk or milk to which water or any foreign substance has been added, or milk produced from cows which have been fed on the refuse of distilleries, or from sick or diseased cows, or, as pure milk, milk from which the cream or a part thereof has been removed, and no person shall sell, exchange or deliver or have in his custody or possession with intent so to do any skimmed milk not conforming to the Massachusetts standard, or any heated milk or skimmed milk not having the words "heated milk" or "skimmed milk," as the case may be, distinctly marked upon a light ground in plain black uncondensed gothic letters at least one inch in length in a conspicuous place upon each vessel, can or package from or in which such milk is or is intended to be sold, exchanged or delivered. If such vessel, can or package is of the capacity of not more than two quarts, said words may be placed upon a detachable label or tag attached thereto and milk not having the words "heated milk," or "skimmed milk," as the case may be, said letters may be less than one inch in length, but not smaller than brier gothic capital letters. Whoever violates any provision of this section shall be punished for the first offense by a fine of not less than fifty nor more than two hundred dollars, for the second offense by a fine of not less than one hundred nor more than three hundred dollars, and for a subsequent offense by a fine of fifty dollars and by imprisonment for not less than two nor more than three months.

Nothing in this section referring to heated milk shall be construed as applying to condensed milk or to milk which has been concentrated to one-half its volume or less. (Id. § 19.)

109. Sale, Etc., of Milk Below Standard—Penalty.—Whoever himself or by his servant or agent sells, exchanges or delivers or has in his custody or possession with intent so to do, milk not conforming to the Massachusetts standard shall be punished for the first offense by a fine of not more than fifty dollars, for the second offense by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offense by a fine of not more than two hundred dollars or by imprisonment for not more than three months. (Id. § 20.)

110. Sale, Etc., of Cream Below Standard—Penalty.—Whoever himself or by his agent sells, exposes for sale or has in his custody or possession with intent to sell, cream not conforming to the Massachusetts standard as defined in section twelve, shall for the first offense be punished by a fine of not more than fifty dollars, for the second offense by a fine of not less than fifty nor more than one hundred dollars, and for a subsequent offense by a fine of not less than one hundred nor more than two hundred dollars. (Id. § 21.)

111. Sale, Etc., of Pasteurized Milk Below Standard—Penalty.—Whoever sells, exchanges, delivers, advertises, represents or describes, or offers or exposes for sale or has in his possession with intent to sell as pasteurized milk, milk not pasteurized as defined in section one, shall for the first offense be punished by a fine of not less than ten dollars, and for a subsequent offense by a fine of not more than one hundred dollars. (Id. § 22.)

112. Sale, Etc., of Condensed Milk Regulated—Penalty.—Whoever sells, or offers for sale or exchange, condensed milk or condensed skimmed milk in hermetically sealed cans without having such cans distinctly labeled with the name of the manufacturer of such milk, the brand under which it is made and the contents of the can; and whoever sells condensed milk from cans or packages not hermetically sealed without having such cans or packages branded or labeled with the name of the manufacturer, shall be punished as provided in section nineteen. (Id. § 23.)

113. Penalty for Sale of Condensed, Etc., Milk Not Labeled.—Whoever himself or by his servant or agent sells, exchanges or delivers, or has in his custody or possession with intent so to do, any container of evaporated, concentrated or condensed milk or skimmed milk not marked or labeled in compliance with section seventeen, shall for the first offense be punished by a fine of not more than one hundred dollars, for the second offense by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offense by a fine of five hundred dollars or by imprisonment for not less than three nor more than six months. (Id. § 24.)

114. Testing of Utensils for Determining Value of Milk, Etc.—No bottle, pipette, or other measuring glass or utensil shall be used by any inspector of milk, or by any person in any milk inspection laboratory, in determining, by the

Babcock or other centrifugal machine, the composition of milk or cream for the purposes of inspection or by any person in any place in determining, by the Babcock or other centrifugal machine, the composition or value of milk or cream as a basis for payment in buying or selling, until such measuring glass or utensil has been tested for accuracy and verified by the director, or by his duly designated deputy. Each such bottle, pipette or other measuring glass or utensil shall be submitted to the said director by the owner or user thereof, to be tested for accuracy, before the same is used for such purposes. As a fee for making the test, the owner or user shall pay to the said director a sum not exceeding five cents for each bottle, pipette, or other measuring glass or utensil tested. Each measuring glass or utensil so tested and verified or found inaccurate shall be marked accordingly by the director or by his said deputy. No such measuring glass or utensil so marked inaccurate shall be used in determining the composition or value of milk or cream. (Id. § 25.)

115. Inspection of Testing Machines.—Each Babcock or other centrifugal machine used by an inspector of milk or by a person in a milk inspection laboratory for determining the composition of milk or cream for purposes of inspection, or by a person in any place for determining the composition or value of milk or cream as a basis for payment in buying or selling, shall be inspected at least once in each year by the director or by his inspector or deputy. The owner or user of any such centrifugal machine shall pay to the director as a fee for making each such annual inspection the actual cost thereof.

Each Babcock or other centrifugal machine, used as aforesaid which, in the opinion of the director, his inspector or deputy is not in condition to give accurate results, may be condemned by him. No Babcock or other centrifugal machine so condemned shall be used for determining the composition or value of milk or cream as aforesaid, unless such machine is corrected to the satisfaction of the director, his inspector or deputy, and approved by him. (Id. § 26.)

116. Certificate for Use of Babcock, Etc., Machine Required—Fee, Etc.—No inspector of milk and no person in a milk inspection laboratory, shall manipulate the Babcock or other centrifugal machine to determine the composition of milk or cream for purposes of inspection, and no person in any place shall manipulate such a centrifugal machine to determine the composition or value of milk or cream as a basis for payment in buying or selling, without first obtaining a certificate from the director or his duly designated deputy that he is competent to do such work. The fee therefor shall be two dollars, and shall be paid to the director.

If a holder of a certificate is notified by the director, or by his duly designated deputy, to correct his use of such a centrifugal machine, the actual cost of an inspection to ascertain if such person has corrected his use of the said machine shall be paid by him or by his employer to the director. (Id. § 27.)

117. Certificates; Issue, Revocation, and Effect.—The director or his duly designated deputy may issue certificates of competency to persons desiring to manipulate the Babcock or other centrifugal machine who in his opinion are competent. The director or his deputy may make and enforce rules governing applications for such certificates and the granting thereof and may revoke the authority of any holder of a certificate who, in the opinion of the director, his deputy or inspector, is not correctly manipulating a machine as aforesaid, or is using dirty or otherwise unsatisfactory glassware or utensils in connection therewith. No holder of such certificate whose authority has been so revoked shall thereafter manipulate any such machine for the purposes mentioned in the preceding section. (Id. § 28.)

118. Testing and Inspection of Measuring Devices.—The director shall test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him under section twenty-five, and shall inspect or cause to be inspected at least once each year each Babcock or other centrifugal machine used by an inspector of milk, or by a person in any milk inspection laboratory, for purposes of inspection, or by any person in any place to determine the composition or value of milk or cream as a basis for payment in buying or selling, and shall collect the fees or actual cost of tests and inspections under the four preceding sections. The director, his inspectors and deputies, may enter upon premises where any centrifugal machine is so used to inspect it and to ascertain if said last mentioned sections are complied with. (Id. § 29.)

119. Director to Enforce Certain Sections—Certain Persons Not Subject to Prosecution, When.—The director shall enforce sections twenty-five to thirty-one, inclusive, and may prosecute or cause to be prosecuted any person violating any provision of said sections. Sections twenty-five to thirty-one, inclusive, shall not affect any person using any centrifugal or other machine or test to determine

the composition or value of milk or cream if such use or test is made for the information of such person only, and not for purposes of inspection, or as a basis for payment in buying or selling. (Id. § 30.)

120. Penalty for Interfering With Officer, Etc., and for Wrongful Use of Utensils, Etc.—Whoever hinders or obstructs the director, his inspector or deputy, in the discharge of any authority or duty imposed upon him by any provision of sections twenty-five to thirty, inclusive, and whoever violates any provision of said sections shall be punished by a fine of not less than fifteen nor more than fifty dollars. (Id. § 31.)

121. Milk Stations.—The board of health of a city, and of a town of ten thousand or more inhabitants, when it deems it advisable for the public health, may establish one or more stations for the distribution of milk, either free of charge in cases of necessity, or at such charge and under such conditions, rules and regulations as it establishes; but this section shall not permit any such board to engage in a general milk business. (Id. § 32.)

122. Inspectors of Milk and Collectors of Samples of Milk.—The board of health of a city shall, and the board of health or the selectmen acting as such board of a town may, appoint one or more inspectors of milk and one or more collectors of samples of milk, who shall have the powers, and perform the duties, conferred and imposed by law upon such inspectors and collectors, who shall be under the control of, and whose compensation shall be fixed by the board appointing him or them; but no person whose business, in whole or in part, is the buying or selling of milk, or who is an officer, agent or employee of any person engaged in the sale thereof, shall be appointed as such inspector. Each person so appointed shall be sworn before entering upon his official duties and each such inspector shall publish a notice of his appointment for two successive weeks in a newspaper published in his town, if any; otherwise he shall post such notice in two or more public places therein. Such inspectors may be removed in cities in the manner provided in sections forty-three and forty-five of chapter thirty-one,* and in towns at any time, by the appointing board. (Id. § 33.)

123. Boards May Designate One of Their Members.—Any board mentioned in the preceding section may designate and employ any member of the board or any agent or employee thereof, as a collector of samples of milk. (Id. § 34.)

124. Certain Powers, Etc., of Inspectors and Collectors.—Each inspector of milk shall enforce in his town the laws as to the milk supply, and shall make complaint for a violation of any provision of sections nineteen to twenty-eight, inclusive, thirty-three, thirty-eight to forty, inclusive, and forty-three, upon the information of any person laying before him satisfactory evidence whereby to sustain such complaint. He shall keep an office and shall record, in books kept for the purpose, the name and place of business of each person engaged in the sale of milk within such town. Each inspector of milk or collector of samples of milk may enter each place where milk is produced, stored or kept for sale and each vehicle used for its conveyance, and take therefrom samples for analysis. Upon request made when any sample is taken, he shall seal and deliver to the owner or person from whose possession the milk is taken a portion of each sample, and a receipt therefor shall be given to him. Each inspector of milk shall cause each sample to be analyzed or otherwise satisfactorily tested, and shall record and preserve as evidence the results thereof; but no evidence of the result of such analysis or test shall be received if such inspector or collector refuses or neglects to seal and deliver upon request as above provided a portion of such sample to the owner or person from whose possession it is taken. This section shall not apply to milk in the course of interstate commerce. (Id. § 35.)

125. Officer, Inspector, Etc., to Send Results of Analysis to Owner.—An officer of the Department of Public Health or of the division of Dairying and Animal Husbandry of the Department of Agriculture, an inspector of milk or collector of samples of milk, or other officer of the Commonwealth or of a city or town who obtains a sample of milk for analysis shall, within ten days after obtaining the result of the analysis, send it to the person from whom the sample was taken or to the person responsible for the condition of such milk. (Id. § 36.)

126. Liability of Producer of Milk Regulated.—No producer of milk shall be liable to prosecution for the reason that the milk produced by him is not of good standard quality unless such milk was taken upon his premises or while in his possession or under his control by an inspector of milk, collector of samples of milk or agent of the Division of Dairying and Animal Husbandry of the Department of Agriculture or of the Department of Public Health, and a sealed

*Omitted herein. Relates to civil service.

sample thereof was given to such producer upon demand, nor unless he shall fail to bring the milk produced by him to the legal standard for milk solids and milk fat within twenty days after written notice that it is below said standard has been sent to him by the officer taking said sample. At any time after such period of twenty days has elapsed, any such officer may take a second sample, and if it is found to be below the legal standard for milk solids and milk fat prosecution may follow. (Id. § 37.)

127. Penalty for Connivance by or Interference With Inspector, Etc.—An inspector of milk or a collector of samples of milk who wilfully connives at or assists in a violation of sections nineteen, twenty, twenty-three, thirty-nine, forty and one hundred and forty-six,* or any person who hinders, obstructs or interferes with such an inspector or collector in the performance of his duty, shall, except as provided in section sixty, be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment for not less than one nor more than two months. (Id. § 38.)

128. Penalty for Using Counterfeit Seal, Etc.—Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector of milk, collector of samples of milk or other officer engaged in the inspection of milk, and whoever changes or tampers with a sample taken or sealed as provided in section thirty-five, shall be punished by a fine of one hundred dollars and by imprisonment for not less than three nor more than six months. (Id. § 39.)

129. License to Sell Milk, Etc.—No person, except a producer selling milk to other than consumers or selling not more than twenty quarts per day to consumers, shall deliver, exchange, expose for sale or sell or have in his custody or possession with intent so to do any milk, skimmed milk or cream in any town where an inspector of milk is appointed, without obtaining from such inspector a license which shall contain the number thereof, the name, place of business, residence, number of vehicles used by the licensee and the name of each driver or other person employed by him in carrying or selling milk. A license issued to a partnership or corporation shall be issued in the business name of said partnership or corporation and shall contain the names in full of the partners and managers of said partnership or officers of said corporation. The license shall, for the purposes of sections forty to forty-two, inclusive, be conclusive evidence of ownership and shall not be sold, assigned or transferred. Whoever in such a town, engages in the business of selling milk, skimmed milk or cream from any vehicle shall display conspicuously on the outer side of each vehicle so used, his license number in figures not less than one and one-half inches in height, and the name and place of business of the licensee in gothic letters not less than one and one-half inches in height. Whoever in such town engages in the business of selling milk, skimmed milk or cream in a store, booth, stand, or market place shall have his license conspicuously posted therein. (Id. § 40.)

130. License May be Revoked, Etc.—An inspector of milk in any town, for the purposes mentioned in the preceding section and subject to the regulations established by the board of health of such town, may grant licenses to suitable persons, and shall receive for each license so granted a fee of fifty cents for the use of such town, and all license fees collected by him shall be paid over monthly to the town treasurer. Such licenses shall remain in force until June first following, unless previously suspended or revoked. An inspector of milk may declare any license granted by him suspended or forfeited upon a conviction of the licensee in any court of the Commonwealth for violation of his license. If the applicant for a license fails to comply with any regulation of the board of health of the town where the application is made, a license may be refused until he has complied with such regulations; and a license granted under this section may be revoked at any time for failure to comply with any such regulation. If a license is so refused or revoked, an appeal may be taken to the Department of Public Health, whose decision shall be final. (Id. § 41.)

131. Penalty for Selling Milk, Etc., Without a License.—Whoever violates any provision of section forty shall be punished for the first offense by a fine of not less than ten nor more than one hundred dollars, for the second offense by a fine of not less than fifty nor more than three hundred dollars, and for a subsequent offense by a fine of fifty dollars and by imprisonment for not less than one nor more than two months. (Id. § 42.)

132. Permits for Sale, Etc., of Milk—Appeal to Department of Public Health Upon Refusal to Issue Permit, Etc.—No producer of or dealer in milk shall sell or deliver for sale in any town any milk produced or dealt in by him

*For section 146, see No. 220.

without first obtaining from the board of health of such town a permit authorizing such sale or delivery. Said board of health may issue such permit after an inspection of the milk, and of the place where and the circumstances under which it is produced and handled, has been made by it or its authorized agent. Any permit so granted may contain such reasonable conditions as said board deems suitable for protecting the public health and may be revoked for failure to comply with any of such conditions. No charge shall be made to the producer for such permit. After a permit has been revoked, it may be reissued in the same manner in which the original permit was issued. The board revoking or reissuing said permit shall immediately send notice thereof to the Department of Public Health, which may enforce this provision. The department shall at once inform the board of health of any other town where, in its judgment, milk produced by the person to whom the permit relates would be likely to be sold or delivered for sale, and it shall also give notice of such revocation or reissue to any dealer in milk who in its judgment would be likely to purchase milk from such person; and after receipt of notice of revocation no dealer so notified shall sell or offer for sale such milk. If the board of health of any town refuses to issue a permit under this section or a permit previously issued is revoked by it, an appeal may be taken to the said department, whose decision shall be final. Violation of any provision of this section shall be punished by a fine of not more than one hundred dollars. (Id. § 43, as amended L. 1924, c. 122.)

133. Charges for Inspection, Etc., of Dairies, Etc., Prohibited—Penalty.—No fee for making any inspection or test of live stock, or any inspection of any dairy, barn or stable, under authority of law, for the purpose of protecting the milk supply of any town, shall be requested or accepted by any official or other person making or assisting to make such test or inspection. Whoever violates this section shall be punished by a fine of not more than fifty dollars. (G. L. 1921, c. 94, § 44.)

134. Use of Certain Containers Prohibited—Penalty.—No licensed milk dealer shall sell, or have in his possession with intent to sell, milk not contained in clean vessels bearing his own name, or the name under which his business is conducted, and bearing no other name; but this section shall not apply to a person using clean vessels bearing the name of another person whose written permission for such use has been obtained previously and registered in the office of the inspector of milk, in towns having such officer, and in other towns registered in the office of the town clerk. Whoever violates this section shall be punished by a fine of ten dollars. (Id. § 45.)

135. Containers, Etc., to be Clean, Etc.—Each vessel used as a container in the holding, handling or sale of milk intended for sale, and each appliance, implement, utensil, strainer or material used in milking and in the treatment or mixing of such milk shall be clean and free from foreign deposits. (Id. § 46.)

136. Penalty for Use of Unclean Utensils, Etc.—Whoever himself or by his servant or agent sells, exchanges or delivers or has in his custody or possession, with intent to sell, exchange or deliver, milk in vessels used as containers which are unclean and upon the inside, or have foreign deposits therein, or milk obtained, treated or mixed by the use of appliances, implements, utensils, strainers or materials unclean or not free from foreign deposits, shall be punished by a fine of not more than fifty dollars. (Id. § 47.)

137. Placing of Offal, Etc., in Milk Cans, Etc., Prohibited—Penalty.—Whoever himself or by his servant or agent having custody of any vessel used as a container for milk intended for sale, places or causes or permits to be placed therein offal, swill, kerosene, vegetable matter or any article other than milk, skimmed milk, buttermilk, cream, or water or other agent used for cleansing said vessel, or sends, ships, returns, or delivers, or causes or permits to be sent, shipped, returned or delivered to any producer of milk any vessel used as a container for milk and containing any offal, swill, kerosene, vegetable matter or other offensive material, shall be punished by a fine of not more than ten dollars for each such vessel. (Id. § 48.)

137a. Establishments for the Pasteurization of Milk; Licensing.—No person shall maintain an establishment for the pasteurization of milk without a license from the board of health of the town where the establishment is to be located. Any person desiring such a license may make written application to such board, stating the location of the establishment and such other information as may be required by rules and regulations for the enforcement of this section, which the Department of Public Health is hereby authorized to make. Upon receipt of the application the said board shall cause an examination of the sanitary condition of the establishment to be made, and if it is found to be in a sanitary condition, and in accordance with

the requirements of said rules and regulations, and otherwise properly equipped for the business of pasteurizing milk, said board, upon receipt of a license fee of ten dollars, shall issue a license authorizing the applicant to carry on such establishment for the pasteurization of milk for one year. If any such establishment licensed hereunder is deemed by the board issuing such license or by the Department of Public Health to be operated or maintained in an unsanitary manner, or in violation of any of said rules and regulations, or not properly equipped for the business of pasteurizing milk, the board or the department shall close such establishment until such time as it has been put in a condition to conform with the requirements of this section, and said board or department may also suspend the license if the required changes are not made within a reasonable time.

Whoever, himself or by his servant or agent, violates any provision of this section, or of the rules and regulations made hereunder, shall be punished for the first offense by a fine of not more than one hundred dollars, and for a subsequent offense by a fine of not less than fifty nor more than three hundred dollars.

This section shall not be construed to interfere with the powers and duties conferred or imposed upon boards of health of cities and towns by sections forty-one and forty-three. (Id. § 48A, as added L. 1927, c. 259.)

138. Defacing Milk Cans.—Whoever, without the consent of the owner thereof, knowingly and willfully effaces, alters or covers over, or procures to be effaced, altered or covered over, the name, initial or device of any dealer in milk, marked or stamped upon a milk can, or whoever, with intent to defraud and without such consent, detains or uses in his business any such can having the name, initial or device of any dealer in milk so marked or stamped thereon, shall be punished by a fine of not more than ten dollars. (G. L. 1921, c. 266, § 128.)

139. Oleomargarine to be Marked.—Whoever himself or by his agent sells, exposes for sale or has in his possession with intent to sell oleomargarine shall have the word "oleomargarine" or "butterine" so stamped, labeled or marked that said word cannot be easily defaced, upon the top, side and bottom of each tub, firkin, box or package containing any of said oleomargarine. Whoever, himself or by his agent, exposes or offers for sale oleomargarine not in the original package shall attach thereto in a conspicuous place a label bearing the words "imitation butter," or the word "oleomargarine" or "butterine." In retail sales of oleomargarine not in the original package the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "imitation butter," or the word "oleomargarine" or "butterine." Each such stamp, label or mark shall be in printed letters in a straight line of plain, uncondensed gothic type, not less than one-half inch in length. (G. L. 1921, c. 94, § 49.)

140. Imitation Cheese to be Marked.—Whoever himself or by his agent, sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound, made in imitation or semblance of cheese or as a substitute therefor, and either not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced therefrom, shall have the words "imitation cheese" stamped, labeled or marked in printed letters of plain, uncondensed gothic type, not less than one inch in length, so that said words cannot be easily defaced, upon the side of each cheese cloth or brand around the same, and upon the top and side of each tub, firkin, box or package containing any of said article, substance or compound. In retail sales of said article, substance or compound not in the original packages, the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "imitation cheese," in printed letters of plain uncondensed gothic type, not less than one-half inch in length. (Id. § 50.)

141. Unlawful Sale, Etc., of Imitation Butter and Cheese, Etc.—Advertisement of Substitutes for Butter Regulated.—Whoever sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound made in imitation or semblance of butter or cheese or as a substitute therefor, except as provided in the two preceding sections, and whoever with intent to deceive defaces, erases, cancels or removes any mark, stamp, brand, or label or wrapper provided for in said sections, or in any manner falsely labels, stamps or marks any box, tub, article or package marked, stamped or labeled as provided in said sections, or whoever himself or by his agent sells, exposes for sale, or has in his possession with intent to sell, oleomargarine, contained in any box, tub, article or package, marked or labeled with the word "dairy," or the word "creamery," or the name of any breed of dairy cattle, or whoever uses in any way in connection or association with an advertisement of margarine, oleomargarine or of any substance designed

to be used as a substitute for butter, the name or representation of any dairy animal or breed of dairy cattle, or, with intent to deceive, uses in any way in such connection or association the word "butter," "creamery" or "dairy," or any other words or symbols commonly used only in advertisements of butter, shall for the first offense forfeit one hundred dollars, and for each subsequent offense two hundred dollars, to the use of the town where the offense was committed. (Id. § 51, as amended L. 1923, c. 84.)

142. Conveyance of Oleomargarine for Sale Regulated—Penalty.—Each person who conveys oleomargarine in a vehicle or otherwise, for the purpose of selling the same in any town, shall annually, in May, be licensed by an inspector of milk of such town to sell the same within the limits thereof, and shall pay therefor to such inspector fifty cents, to the use of the town. The inspector shall pay monthly to the town treasurer all such moneys collected by him. In towns where there is no inspector of milk, such license shall be issued by the town clerk. Any such license shall be issued only in the name of the owner of the vehicle, and for the purposes of sections forty-nine to sixty, inclusive, shall be conclusive evidence of ownership. No such license shall be sold, assigned or transferred. Each license shall be numbered and shall state the name, residence, place of business, number of vehicles used, and the name and residence of each driver or other person engaging in carrying oleomargarine. Each licensee before engaging in the sale of oleomargarine shall cause his name, the number of his license and his place of business to be legibly placed, in gothic letters not less than one inch in length, in the English language, on each outer side of each vehicle used by him in the conveyance and sale thereof, and shall report to the said inspector or town clerk any change of driver or other person engaged in carrying oleomargarine occurring during the term of his license. Whoever without being licensed sells oleomargarine, or exposes or offers it for sale from vehicles or has in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall for the first offense be punished by a fine of not less than thirty nor more than one hundred dollars, and for a subsequent offense by a fine of not less than fifty nor more than three hundred dollars. (G. L. 1921, c. 94, § 52.)

143. Registration of Sellers of Oleomargarine—Penalty.—Each person before selling or offering for sale oleomargarine in a store, booth, stand or market place shall register his name and proposed place of sale in the books of the inspectors of milk of the town, or, if there is no such inspector, in the books of the town clerk, and annually in May thereafter shall so register, and shall pay fifty cents for each registering to the use of such town. Whoever neglects so to register shall be punished by a fine of not more than twenty dollars. (Id. § 53.)

144. Manufacture, Etc., of Certain Imitations of Butter Prohibited—Penalty.—Whoever himself or by his agent or servant renders, manufactures, sells, offers for sale, exposes for sale, takes orders for the future delivery of, has in his possession, keeps in storage, distributes, delivers, transfers or conveys with intent to sell within the Commonwealth any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which is in imitation of yellow butter produced from unadulterated milk or cream from the same, shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year; but this section shall not prohibit the manufacture or sale of oleomargarine in a separate and distinct form, free from any coloration or ingredient which causes it to look like butter, and in such manner as will inform the consumer of its real character. (Id. § 54.)

145. Fraud in Sale of Oleomargarine—Penalty.—Whoever exposes for sale oleomargarine which is not marked and distinguished by all the marks, words and stamps required by section forty-nine, and does not have upon the exposed contents of each opened tub, package or parcel thereof a conspicuous placard with the word "oleomargarine" printed thereon in plain, uncondensed gothic letters, not less than one inch long, and whoever himself or by his agent sells or offers for sale any oleomargarine to any person who asks or sends for butter, shall be punished by a fine of one hundred dollars. (Id. § 55.)

146. Sale of Oleomargarine Regulated—Placard Required in Store—Penalty.—Whoever sells oleomargarine from any dwelling, store, office or public market which does not have conspicuously posted thereon a placard or sign approved by the Division of Dairying and Animal Husbandry of the Department of Agriculture, bearing in letters not less than four inches in length, "oleomargarine sold here" or "butterine sold here," shall be punished by a fine of one hundred dollars for the

first offense and one hundred dollars for each day's neglect after conviction for the first offense. (Id. § 56.)

147. Same Subject—Placard Required on Vehicles—Penalty.—Whoever himself or by his agent peddles, sells, solicits orders for the future delivery of or delivers oleomargarine from any vehicle not having on both sides of said vehicle a placard bearing the words "licensed to sell oleomargarine" in uncondensed gothic letters not less than three inches in length, shall be punished by a fine of one hundred dollars or by imprisonment for one month. (Id. § 57.)

148. Serving Oleomargarine at Hotels, Etc., Regulated—Penalty.—Whoever furnishes oleomargarine or causes it to be furnished, instead of butter, in any hotel, restaurant or boarding house or at any lunch counter, to a guest or patron thereof, without notifying said guest or patron that the substance so furnished is not butter shall be punished by a fine of not less than ten nor more than fifty dollars. (Id. § 58.)

149. Sale of Process Butter or Renovated Butter Regulated—Penalty.—Whoever himself or by his agents sells, exposes for sale or has in his custody or possession with intent to sell, an article or compound commonly known as process butter, and produced by taking original packing stock or other butter, or both, melting the same, so that the butter fat can be drawn off, mixing the fat with skimmed milk, or milk, cream, or other milk product and recharging the mixture or by any similar process, shall have "renovated butter" conspicuously stamped, labeled, or marked so that the words cannot be easily defaced, in a straight line in printed letters not less than one-half inch in length, of plain, uncondensed gothic type, upon the top, side and bottom of each tub, firkin, box or package containing said article or compound. The seller at retail of said article or compound which is not in the original package shall himself or by his agent attach to each package so sold and deliver therewith to the purchaser a label or wrapper bearing conspicuously upon the outside thereof the words "renovated butter" in printed letters not less than one-half inches in length, in a straight line of plain, uncondensed gothic type. Whoever violates any provision of this section shall for the first offense be punished by a fine of not less than twenty-five nor more than one hundred dollars, for the second offense by a fine of not less than one hundred nor more than three hundred dollars, for a subsequent offense by a fine of five hundred dollars or by imprisonment for not less than two nor more than three months. (Id. § 59.)

150. Complaints for Violation of Sections Relative to Oleomargarine, Butter, Cheese, Etc.—Each inspector of milk shall institute complaints for the violation of any provision of sections forty-nine to fifty-eight, inclusive, sixty-two and sixty-four on the information of any person who lays before him satisfactory evidence to sustain such complaint, if he has reasonable cause to believe that said provision has been violated. He may enter each place where butter, cheese or imitations thereof, or ice cream are stored or kept for sale, and shall take samples of suspected butter, cheese, or imitations thereof, or ice cream, and cause them to be analyzed or otherwise satisfactorily tested, and shall record and preserve as evidence the result of such analysis or test. Before commencing the analysis of any samples in any proceeding for violation of any provision of sections forty-nine to fifty-one, inclusive, and sixty-four, the analyst shall reserve and seal a portion of the sample, and, upon complaint made against the person from whom such sample was taken, such reserved portion of the sample alleged to be adulterated shall, upon application, be delivered to such person or to his attorney. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be included in the expense of such prosecution. (Id. § 60.)

151. Penalty for Interfering With Inspector, Etc.—Whoever hinders, obstructs or in any interferes with an inspector of milk or collector of samples of milk in the performance of his duties under section sixty, shall for the first offense be punished by a fine of fifty dollars and for a subsequent offense by a fine of one hundred dollars. (Id. § 62.)

152. Disposition of Fines.—All fines recovered under sections fifty-five to fifty-eight, inclusive, shall be paid to the Commonwealth. (Id. § 63.)

153. Issuance of Search Warrant for Oleomargarine, Etc.—A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the property or articles hereinafter named are concealed in a particular house or place, if satisfied that there is reasonable cause for such belief, issue a warrant to search for the following property or articles:

Fifteenth, Oleomargarine colored in imitation of yellow butter, and uncolored oleomargarine, coloring matter and utensils used or intended to be used in making such colored oleomargarine, which the complainant has reasonable cause to believe

are intended for unlawful sale or use. (G. L. 1921, c. 276, § 1 as amended L. 1924, c. 94, § 2.)

154. Medical Milk Commission, Incorporation, Etc.—For the purpose of supervising the production of milk, any five or more registered physicians may form a corporation under this chapter. The members of the board of health of any town where such corporation is formed shall be ex officio members of the corporation. At least one member of said board of health shall be a member of the board of directors thereof. (G. L. 1921, c. 180, § 20, as amended L. 1923, c. 252, § 1.)

155. Name.—The name of any such corporation shall be "Medical Milk Commission of," designating the name of the town where such corporation is established, and if more than one such corporation shall be organized in any town, the subsequent corporations shall use the name designated herein, but shall indicate in such name its proper sequence in incorporation by adding thereto the words "Number Two" or "Number Three" and so forth. (G. L. 1921, c. 180, § 21.)

156. Compensation to Members Forbidden.—No member of any such corporation shall receive directly or indirectly therefrom, or from any dairymen producing milk under agreement with the corporation, any salary or emolument or any compensation of any kind for any services rendered as a member of such corporation, or for any services rendered under sections twenty to twenty-five, inclusive. Whoever violates this section shall be punished by a fine of one hundred dollars, and shall be removed from his office as a member of said corporation and thereafter be disqualified from becoming a member of any such corporation. (Id. § 22.)

157. May Contract for Production of Milk, Etc.—Every such corporation may enter into written agreements with any dairymen for the production of milk under the supervision of such corporation and prescribe in such agreements the conditions under which such milk shall be produced, which, however, shall be approved by the Department of Public Health and shall not fall below the standards of purity and quality for certified milk as fixed by the American Association of Medical Milk Commissions and the standards for milk fixed by law. (Id. § 23, as amended L. 1923, c. 252, § 2.)

158. Power of Department of Public Health.—The working methods of any such corporation and the dairies in which milk is produced under contract with it shall at all times be subject to investigation by the Department of Public Health. (G. L. 1921, c. 180, § 24.)

159. Penalty for Breach of Five Preceding Sections.—Whoever sells or exchanges, or offers or exposes for sale or exchange as and for certified milk any milk not conforming to the regulations prescribed by and bearing the certification of a corporation organized under sections twenty to twenty-five, inclusive, shall be punished by a fine of not more than one hundred dollars. (Id. § 25.)

160. Importation of Cattle Without Inspection.—Whoever ships, drives or transports into the Commonwealth cattle to be used for dairy purposes, unless they have been inspected and passed as healthy by a veterinary inspector of the United States Bureau of Animal Industry or a veterinarian of the State of origin authorized by the State and approved by said bureau, shall be punished by a fine of not more than two hundred dollars. (G. L. 1921, c. 129, § 26A, as added L. 1924, c. 495.)

161. Feeding Garbage to Animals.—Whoever knowingly feeds or has in his possession with intent to feed to a milch cow any garbage, refuse or offal collected by a town, or by any person having authority therefrom, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months; and whoever knowingly feeds or has in his possession with intent to feed to any food animal, except swine, any garbage, refuse or offal collected by a city of more than thirty thousand inhabitants shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month. (G. L. 1921, c. 270, § 9.)

162. Ice Cream, Defined.—For the purposes of sections sixty-four to sixty-five F, inclusive, ice cream is hereby defined to be the frozen product of cream, milk or skimmed milk, or any combination thereof, or of milk products, with sugar, and with or without the addition of pure gelatine or vegetable gums. Such product shall contain not less than ten per cent of milk fat and not less than eighteen and five-tenths per cent of total milk solids; provided, that if eggs, fruit, fruit juices, cocoa, chocolate or nuts are added thereto, such product shall contain not less than eight per cent of milk fat and not less than sixteen and five-tenths per cent of total milk solids. (G. L. 1921, c. 94, § 64, as amended L. 1927, c. 278.)

163. Adulteration, Defined.—Ice cream shall be deemed to be adulterated:

First, if it contains saccharin or any preservative, mineral or other substance or compound deleterious to health; provided, that this clause shall not be construed to prohibit the use of harmless coloring matter when not used for fraudulent purposes;

Second, if it contains any fats, other than milk fat or egg fat, or any oils or paraffin added to, blended with or compounded with it; provided, that chocolate ice cream and the coating of coated ice cream may contain cocoa butter;

Third, if it is made in whole or in part from, or contains, ice cream which for any reason is unfit for food. (Id. § 65.)

163a. Prohibitions.—No person, himself or by his servant or agent, shall

(a) Manufacture, sell or offer or expose for sale, or have in possession with intent to sell or offer or expose for sale, under the name of "ice cream" any substance not conforming to the provisions of the two preceding sections or adulterated within the meaning of the preceding section;

(b) Sell or offer or expose for sale, or have in possession with intent to sell or offer or expose for sale, ice cream in a container which is falsely labeled or branded as to the name or address of the manufacturer of such ice cream, or an imitation of or substitute for ice cream under a coined or trade name which does not identify its true character;

(c) Sell ice cream from a container or a compartment of a cabinet or fountain, which contains any article of food, other than ice cream or an imitation or substitute for ice cream offered for sale under a coined or trade name which plainly identifies its true character;

(d) Handle ice cream or coated ice cream in unclean, unsanitary or unhealthful premises or in an unclean, unsanitary or unhealthful manner;

(e) Use or lend, borrow, hire or lease for use any ice cream can, tub, jacket or other container for any other purpose than the handling, storing or shipping therein of ice cream;

(f) Engage in the business of manufacturing ice cream without a license so to do from the board of health of the town where such business is or is to be located. (G. L. 1921, c. 94, § 65A, as added L. 1927, c. 278.)

163b. License.—Local boards of health may grant to suitable applicants therefor licenses to manufacture ice cream. Applications for such licenses shall be made upon forms prescribed by the Department of Public Health. No license shall be granted hereunder until after inspection and approval by such local board of the premises wherein the business so licensed is to be carried on. Each license so granted shall, unless sooner revoked, expire on April thirtieth following its issue, and the fee therefor shall be one dollar. Any such license may be revoked at any time, for cause and after a hearing, by the local board which granted it. (Id. § 65B.)

163c. Sanitation.—No person engaged in the business of manufacturing or selling ice cream shall knowingly employ therein any person affected with any contagious, infectious or other disease or physical ailment which may render such employment detrimental to the public health, or any person who refuses to submit to the examination referred to in section sixty-five D. (Id. § 65C.)

163d. Physical Examination.—The Commissioner of Public Health, or local boards of health, within their respective jurisdictions, may require any person intending to work, or working, in an establishment engaged wholly or in part in the business of manufacturing or selling ice cream and whose duties actually pertain to such manufacture or sale, to submit to thorough physical examination to ascertain whether he is afflicted with any contagious, infectious or other disease or physical ailment which might render such employment detrimental to the public health. Such examination shall be made by a physician duly registered and licensed to practice in the Commonwealth, and shall be made without charge to the person examined and at the expense of the Department of Public Health or local board making it. Any person so examined may have his physician present at the examination. (Id. § 65D.)

163e. Enforcement.—The Department of Public Health, and local boards of health within their respective jurisdictions, shall enforce the provisions of sections sixty-four to sixty-five F, inclusive, and may make rules and regulations consistent with said provisions. (Id. § 65E.)

163f. Penalty.—Whoever violates any provision of sections sixty-four to sixty-five E, inclusive, or of any rule or regulation made thereunder, shall be punished by a fine of not less than fifteen nor more than five hundred dollars, or by imprisonment for not more than six months. (Id. § 65F.)

163g. Exempt From Food Law.—Sections one hundred and eighty-six to one hundred and ninety-five, inclusive,* shall not apply to ice cream. (G. L. 1921, c. 94, § 185A, as added L. 1927, c. 278, § 2.)

NOTE: See also Nos. 13, 19-20, 83 et seq., 207a et seq., 382 et seq., 398 et seq., 422 et seq., and 458.

Eggs.

164. License to Can, Etc., Eggs.—Application for the carrying on of an establishment for the breaking and canning of eggs shall be made by the proprietor thereof to, and may be granted by, the aldermen or selectmen, or, in a town having a population of more than five thousand, the board of health. The application shall be written, signed and sworn to by one or more of the owners or persons carrying on the business, or if a corporation by some authorized officer thereof, and shall state the name and address of all such owners or persons, the location of the establishment and the nature of the products thereof which are to be sold or used for food. The board of health of a town may make and enforce such rules and regulations as it deems necessary for the conduct of such establishments, and any license therefor may be revoked for any violation of such rules and regulations, after notice to the licensee and a hearing before said board. This section shall also apply to licenses for establishments mentioned in section one hundred and forty-four.† (G. L. 1921, c. 94, § 89.)

165. Penalty—For Canning, Etc., Eggs Without a License.—Whoever carries on an establishment for the breaking or canning of eggs without a license as provided in the preceding section shall be punished by a fine of not less than ten nor more than one hundred dollars or by imprisonment for not more than three months, or both. (Id. § 90.)

166. Sale of Eggs Taken From Cold Storage‡ Regulated—Penalty.—Whenever eggs which have been in cold storage are sold at wholesale or retail, or offered for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words "cold storage eggs," or there shall be attached to such container a placard or sign having on it the said words. If eggs which have been in cold storage are sold at retail or offered or exposed for sale without a container, or placed upon a counter or elsewhere, a sign or placard, having the words "cold storage eggs" plainly and conspicuously marked upon it, shall be displayed among, upon or immediately above the said eggs. The display of the words "cold storage eggs," shall be in letters not less than one inch in height except that the container in which eggs sold at retail are delivered to the customer may be marked in letters less than one inch in height if uncondensed gothic type is used, but such letters shall in no case be less than one-half inch in height. All markings required by this section shall be done in a manner approved by the Commissioner of Public Health. Whoever violates this section shall be punished by a fine of not less than ten nor more than five hundred dollars. (Id. § 91.)

167. Broken Eggs in Cold Storage, Denaturing and Marking.—Broken eggs packed in cans, if not intended for food, shall be denatured when deposited in cold storage, and shall be marked by the owner, in accordance with forms prescribed by the Department of Public Health, so as plainly to indicate that they are not to be sold for food. (Id. § 92.)¶

168. Sale of Decayed Eggs for Food Purposes, Regulated—Penalty.—No person shall sell or offer or expose for sale for food purposes, or have in possession with intent to sell for such purposes, eggs which, either before or after removal from the shell, are wholly or partly decayed or decomposed, eggs in the fluid state, any part of which is wholly or partly decayed or decomposed, eggs, in the fluid state or otherwise, which are mixed with parts of eggs derived from eggs which are wholly or partly decayed or decomposed, or frozen masses of broken eggs, if the mass contains eggs wholly or partly decayed or decomposed, or which are mixed with parts of eggs taken from eggs which were wholly or partly decayed or decomposed; nor shall any person use in the preparation of food products eggs which are wholly or partly decayed or decomposed, or deliver or sell such eggs in or at any establishment where food products are prepared or manufactured, or purchase or accept the same in or at any such establishment for use in the preparation of food products; but nothing in this section shall prohibit

*See Nos. 2-11.

†See No. 218.

‡See No. 83.

¶See No. 83 et seq.

the purchase, sale or possession for other than food purposes of such eggs. The Department of Public Health shall enforce this section. Violation of any provision of this section shall be punished by a fine of not less than ten nor more than one thousand dollars, or by imprisonment for not less than three months, or both. (Id. § 92A, as added L. 1921, c. 486, § 23.)

NOTE: See also No. 3; the cold storage law, No. 83 et seq.; the farm products law, No. 207a et seq.

Feeding Stuffs.

169. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

"Brand," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, . . . any commercial feeding stuff or cattle feed, . . . distinctive by reason of name, trade-mark or guaranteed analysis, or by any method of marking.

"Cattle feed," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, includes all materials used for feeding live stock and poultry.

"Commercial feeding stuff," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, includes all feeding stuff used for feeding live stock and poultry and containing not more than sixty per cent of water, except whole seeds or grains, and also unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, and milo, whole hays, whole straws, unground cotton seed hulls and unground corn stover when unmixed with other materials.

"Copy," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, . . . any certified copy.

"Crude protein," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, the percentage of nitrogen multiplied by the factor six and twenty-five one-hundredths.

"Director," in sections . . . two hundred and twenty-seven to two hundred and thirty-five, inclusive, . . . director of the Massachusetts Agricultural Experiment Station.

"Feeding stuff," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, commercial feeding stuff.

"Importer," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, . . . a person procuring for sale or distribution in the Commonwealth commercial feeding stuff or cattle feed, . . . from another State or country.

"Label," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, a printed label required by section two hundred and twenty-five, . . .

"Package," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, . . . includes sack, bag, tin, box, jar, and any similar receptacle.

"Tag," in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, a printed tag required by section two hundred and twenty-five. (G. L. 1921, c. 94, § 1.)

170. Tag or Label Affixed to Commercial Feeding Stuff—Form and Contents.

—Each package, lot or parcel of commercial feeding stuff sold or offered, exposed or kept for sale or distributed shall have affixed thereto in a conspicuous place, as provided in the following section, a tag or label containing a legible and plainly printed statement in the English language clearly and truly certifying:

- (a) The weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum per cent of crued protein;
- (e) The minimum per cent of crude fat;
- (f) The maximum per cent of crude fibre;
- (g) The specific name of each ingredient used in its manufacture. (Id. § 225.)

171. Tag or Label to be Affixed to Package, Etc.—When any feeding stuff is sold or offered, exposed or kept for sale or distributed in packages, the tag or label shall be affixed in a conspicuous place on the outside thereof. When any feeding stuff is offered, exposed or kept for sale in bulk, the tag or label shall be affixed in a conspicuous place on the bin or other enclosure where the feeding stuff is contained, but need not state the number of pounds thereof. When any

feeding stuff is sold or distributed in bulk the tag or label shall be affixed in a conspicuous place on the vehicle in which the feeding stuff is shipped, delivered or distributed and shall state the number of pounds thereof. When any feeding stuff is sold in packages furnished by the purchaser the seller shall furnish the tags or labels therefor. The provisions required by the preceding section to be printed on the tag or label relating to the constituents contained in any commercial feeding stuff shall be known and recognized as the guaranteed analysis of such feeding stuff. (Id. § 226.)

172. Copy of Tag or Label on Commercial Feeding Stuff to be Filed for Registration, Etc.—Registration Fee.—No manufacturer, importer or other person shall sell or offer, expose or keep for sale or distribute any commercial feeding stuff, until he has filed with the director or his authorized deputy for registration, a copy certified by him to be a true copy of the tag or label required by the two preceding sections, excepting the item as to the number of pounds, for each brand of feeding stuff to be sold or offered, exposed or kept for sale or distributed and has paid to said director or his authorized deputy a registration fee of twenty dollars for each such brand. No agent or other person shall be obliged to file a copy of the tag or label of, or pay a registration fee for, any brand of feeding stuff, for which a copy of the tag or label has been filed and the registration fee paid by the manufacturer or importer of such brand and for which a certificate of registration has been issued. (Id. § 227, as amended L. 1922, c. 400, § 1.)

173. Certified Copy of Tag, Etc., to be Filed, Etc.—A certified copy of the tag or label required by any provision of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, shall be filed for registration with the director or his authorized deputy, and said registration fee paid to him, prior to January first in each year for each brand of commercial feeding stuff to be sold or offered, exposed or kept for sale or distributed during the year beginning with said January first. The director or his authorized deputy may thereafter permit a manufacturer, importer or other person to file a copy of the tag, or label of a brand of feeding stuff, and, upon payment to him of said registration fee, may register the same for said year in accordance with the rules and regulations which are prescribed by the director. (G. L. 1921, c. 94, § 228, as amended L. 1922, c. 400, § 2.)

174. Tag, Etc., to be Registered and Certificate Issued—Registration Fees to be Paid to Commonwealth.—When the certified copy of the tag or label of any brand of commercial feeding stuff has been filed as provided in the two preceding sections and said registration fee has been paid, the director or his authorized deputy shall register such tag or label if he finds the same to be in accordance with the requirements of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, and shall issue, or cause to be issued, a certificate of such registration. The certificate shall authorize the sale of the brand of feeding stuff for which it is issued, up to and including December thirty-first of the year for which it is issued. All registration fees received under this and the preceding section by the director or his authorized deputy shall be paid to the Commonwealth. (G. L. 1921, c. 94, § 229, as amended L. 1922, c. 400, § 3.)

175. Misleading Name, Brand, Tag, Etc., Prohibited.—The director or his authorized deputy may refuse to register any commercial feeding stuff under a name, brand or trade-mark which, in his opinion, would be misleading or deceptive or which would tend to mislead or deceive as to the materials of which the feeding stuff is composed. He may refuse to register more than one feeding stuff under the same name or brand, or to register any feeding stuff under a name or brand to the use of which the applicant for registration is not lawfully entitled. If any feeding stuff is registered and it is afterward discovered that any provision of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, was violated in obtaining such registration or that such registration is in any respect in violation of any provision thereof, the director or his authorized deputy may cancel such registration and the certificate issued therefor. No person shall sell or offer or expose or keep for sale or distribute any commercial feeding stuff, registration whereof has been canceled by the director or by his authorized deputy. (G. L. 1921, c. 94, § 230.)

176. Analysis, Etc.—Each commercial feeding stuff and cattle feed, or brand thereof, sold or offered, exposed or kept for sale or distributed shall be subject to analysis by the director or by his duly authorized deputy, and the said director shall make or cause to be made in each year one or more analyses of each brand of feeding stuff sold or offered, exposed or kept for sale or distributed, and he or his deputy shall have free access to each place of business, mill, building, vehicle, vessel and other receptacle used in the manufacture, sale, storage or delivery of any feeding stuff or cattle feed, or in the importation or transportation of any feed-

ing stuff or cattle feed for sale or distribution in the Commonwealth. He or his deputy may open any receptacle containing or supposed to contain any feeding stuff or cattle feed for sale or distribution as aforesaid and may take samples for analysis. The methods of making analyses of all feeding stuffs and cattle feeds shall be those in force by the Association of Official Agricultural Chemists of North America. (Id. § 231.)

177. Results of Analysis, Publication of—Free Analysis, When.—The director may publish or cause to be published in reports, bulletins, special circulars or otherwise the results obtained by such analyses, and said reports, bulletins, circulars or other publications may contain such additional information in relation to the character, composition, value and use of the feeding stuffs or cattle feed analyzed as he may include. The said director may at any time make or cause to be made for consumers a free analysis of any brand of feeding stuff or cattle feed sold or offered or exposed or kept for sale or distributed in the Commonwealth; but all samples for such free analysis shall be taken and submitted in accordance with the rules and regulations which are prescribed by him. The results of any analysis of a commercial feeding stuff made in accordance with the preceding section, except a free analysis, as above provided, shall be sent by the director, at least fifteen days before any publication thereof, to the person named on the tag or label of the feeding stuff analyzed. (Id. § 232.)

178. Samples for Analysis, How Taken, Etc.—All samples for analysis of any commercial feeding stuff or cattle feed shall be taken, whenever the circumstances conveniently permit, in the presence of at least one witness, and no action shall be maintained for any violation of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, based upon an analysis of a sample; parts of which are taken from less than five separate original packages, unless there are less than five separate original packages in the lot, in which case parts of the official sample shall be taken from each original package. If the feeding stuff or cattle feed is in bulk, parts of the sample shall be taken from not less than five different places in the lot; provided, that this shall not exclude sampling from bulk when the feeding stuff or cattle feed is not exposed sufficiently to take parts from five different places, in which case parts shall be taken from as many places as practicable. All samples thus taken shall be placed in suitable vessels, marked and sealed. A part of each sample shall be held by the director or his deputy, at the disposal of the person named on the tag or label of the feeding stuff sampled, for fifteen days after the results of the analysis have been reported as provided in the preceding section. (Id. § 233.)

179. Penalty for Certain Sales, Etc., and for Hindering, Etc., Director, Etc.—Whoever sells, offers, exposes or keeps for sale or distributes any commercial feeding stuff without the tag or label required, or with a tag or label that has not been registered or the registration of which has been canceled by the director or by his authorized deputy, or whoever files with the said director or with his authorized deputy for registration a false copy of the tag or label of any feeding stuff or brand of feeding stuff, or whoever impedes, obstructs or hinders the director or any of his deputies in the discharge of the authority or duty conferred or imposed by any provision of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, or whoever sells, offers, exposes or keeps for sale or distributes any feeding stuff which contains a smaller per cent of crude protein or crude fat, or a larger per cent of crude fibre, than is certified in the tag or label of such feeding stuff to be contained therein, or whoever fails properly to state the specific name of each ingredient used in its manufacture, or whoever sells, offers, exposes or keeps for sale or distributes any feeding stuff or cattle feed or brand thereof which has been mixed or adulterated with any substance injurious to the health of live stock or poultry shall for the first offense be punished by a fine of not more than one hundred dollars and for a subsequent offense shall be punished by a fine of not less than one hundred dollars. (Id. § 234.)

180. Enforcement of Rules and Regulations.—The director shall enforce sections two hundred and twenty-five to two hundred and thirty-four, inclusive, and may prescribe and enforce such rules and regulations relative to the sale of commercial feeding stuff or cattle feed as he deems necessary to enforce said sections. He may prosecute or cause to be prosecuted any person violating any provision of said sections, and no complaint shall be made or prosecuted for any such violation except with his authorization or approval. (Id. § 235.)

NOTE: See also No. 481.

Fish.

181. Fish to be Graded—Grades Established.—All fresh food fish before being offered for sale or placed in cold storage shall be graded as follows:

First grade fish. Only fish known in the trade as "new fish."

Second grade fish. All other fish in suitable condition to be offered for sale as fresh fish.

Third grade fish. Fish suitable only for splitting and salting or otherwise preserving, but not suitable for sale as fresh fish.

First grade fish shall be sold as "number one fish," "shore fish," or under any other truthful designation. Second grade fish shall be sold as "number two fish" or "off shore fish." Third grade fish shall be sold as "number three fish."

No person shall represent, sell, offer for sale or advertise fresh or frozen fish of any grade under any but the truthful and correct name and grade or corresponding term for such fish. (G. L. 1921, c. 94, § 74, as amended L. 1922, c. 17, § 1.)

182. "Number Two Fish" to be so Designated, Etc.—No person shall sell or offer or expose for sale fish graded as "number two fish," unless at the time of such sale, offering or exposing for sale, it is clearly stated or made to appear by suitable designation that they are "number two" or "off shore" fish. (G. L. 1921, c. 94, § 75.)

183. Sale of "Number Three Fish."—No person shall sell or offer or expose for sale at retail, for food, "number three fish." "Number three fish" shall be offered, exposed for sale or sold only at wholesale and then only for splitting and salting or otherwise preserving. (Id. § 76, as amended L. 1922, c. 17, § 2.)

184. "Number One Fish" and "Number Two Fish" May be Placed in Cold Storage.—No person shall place in cold storage any fresh fish not previously graded as "number one fish" or "number two fish." Food fish, unless deposited in bulk, when deposited in cold storage except in private freezing plants, shall be plainly marked with the date of receipt on the containers in which they are packed; and if deposited in bulk, shall at the time of removal from cold storage be plainly marked on such containers with the month and year of receipt. (G. L. 1921, c. 94, § 77.)

185. Notice to Purchasers of Cold Storage Fish.—No person shall sell, offer or expose for sale fish which have been held in cold storage, without notice to purchasers that such fish have been so held, nor without the conspicuous display of a sign marked "Cold Storage Fish"; nor shall any person represent or advertise or sell cold storage fish as fresh fish. (Id. § 78.)

186. Restrictions on Sale of Cold Storage Fish.—No person shall sell, offer or expose for sale cold storage fish at retail more than forty-eight hours after their receipt from cold storage by the retailer, unless received by him in the frozen state and sold frozen to the consumer; except that from November first in each year, to March thirty-first in the year following, halibut, salmon, swordfish, steak cod and pollock may be sold and offered or exposed for sale at retail during a period of one week after their receipt from cold storage by the retailer, provided that they remain in the frozen state until within forty-eight hours of the time of sale. (Id. § 79.)

187. Restriction on Sale of Cold Storage Fish Previously in Cold Storage.—No person shall deposit or cause to be deposited in cold storage for a period exceeding six months fish received from any other state or country which have been previously in cold storage either within or without this Commonwealth, unless at the time of deposit such fish are plainly marked with the date of their original deposit in cold storage, whether within or without this Commonwealth. (Id. § 80.)

188. Certain Duties of State Inspector of Fish—Rules and Regulations.—The State Inspector of Fish shall enforce sections seventy-four to eighty, inclusive, and may inspect all fish offered or exposed for sale or kept with intent to sell and for such purpose may enter any place where fish is stored, kept, offered, or exposed for sale. If on inspection it is found that such fish is tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, the inspector or his deputy shall seize and cause the same to be destroyed forthwith or disposed of otherwise than for food. All money received by the inspector or his deputy for fish disposed of as aforesaid, after deducting the expense of said seizure and disposal, shall be paid to the owner of such fish. The Director of the Division of Fisheries and Game of the Department of Conservation shall from time to time make rules and regulations necessary for the enforcement of sections seventy-four to eighty, inclusive. (Id. § 81, as amended L. 1922, c. 338, § 1.)

189. Penalty.—Whoever violates any provision of sections seventy-four to eighty, inclusive, or prevents, obstructs or interferes with the State Inspector of Fish or his deputy in the performance of his duties under said sections, or hinders, obstructs or interferes with any inspection or examination by him or secretes or removes any fish for the purpose of preventing the inspection or examination of the same under the preceding section, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both. (G. L. 1921, c. 94, § 82, as amended L. 1922, c. 338, § 2.)

190. Sale of Fresh Fish at Wholesale Regulated—Penalty.—All fresh food fish sold at wholesale shall be sold by the weight at the time of delivery. Whoever violates this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars. (G. L. 1921, c. 94, § 83.)

191. Quintal Weight of Fish.—If fish are sold by the quintal, it shall mean a quintal of one hundred pounds avoirdupois, and all contracts relative to fish thus sold shall be so construed. (Id. § 84.)

192. Clam Bait; Contents of Barrel, Etc.—If clam bait is sold by the barrel, "barrel" shall mean a fish barrel of not less than twenty-eight nor more than twenty-nine gallons, and containing twenty-six gallons of clams and not more than three gallons of pickle. If the purchaser and seller disagree as to the quantity in a barrel, either party may have it measured by the Director of Standards or a sealer of weights and measures. If such barrel does not contain the said number of gallons of clams, the seller shall receive payment for the number of gallons of clams it does contain, but shall pay the expense of measuring and coopering; otherwise the purchaser shall pay such expense. (Id. § 85.)

193. Fish to be Weighed on Request or Demand.—All fish when landed from a vessel or boat shall be weighed by a public weigher of fish or his deputy, when so requested or demanded by the buyer or seller of such fish or by the master, agent or a majority of the crew of such vessel or boat; and said weigher shall issue a certificate of weight to the seller and a duplicate to the buyer. (Id. § 86.)

194. Record of Weight, Etc., to be Kept.—Each deputy shall report to such weigher the weight of fish weighed by him, and the weigher shall keep a complete record of such weight with the date of weighing, the name of the vessel from which the fish were taken and the person for whom they were weighed. (Id. § 87.)

195. Fees for Weighing.—The fees for weighing fish shall be twenty cents per one thousand pounds, but in no case less than one dollar, and shall be paid by the person applying to have the fish weighed. Each deputy shall pay to the weigher two cents per one thousand pounds for all fish weighed by him. (Id. § 88.)

196. Sale of Lobsters, Etc., Regulated.—All lobsters or parts of lobsters sold for use in or export from the Commonwealth shall be sold and delivered in the shell, except as provided in section ninety-eight. (G. L. 1921, c. 130, § 94.)

197. Penalty for Unlawfully Selling, Etc., Lobster Meat.—No person shall sell, give away, ship or buy lobster meat after the same has been taken from the shell, except as provided in section ninety-eight. Whoever violates this section shall be punished by a fine of not more than twenty-five dollars. (Id. § 95.)

198. Penalty for Unlawful Transportation of Lobster Meat.—No common carrier shall carry from one place to another any lobster meat unless the same has been legally taken from the shell; and whoever knowingly violates this section shall be punished by a fine of not more than fifty dollars. (Id. § 96.)

199. Lobster Meat Unlawfully Sold, Etc., May be Confiscated.—Any lobster meat unlawfully sold, given away, shipped, bought or transported shall be liable to seizure and may be confiscated. (Id. § 97.)

200. Not to Affect Sale of Certain Lobsters, Etc.—Sections ninety-four and ninety-five shall not prohibit the sale of lobsters legally canned, or of lobsters sold for food by licensed victuallers, or of lobsters removed from the shell on the premises where they are eaten. Said sections shall not prohibit the sale of lobster meat by wholesale or retail dealers in lobsters; provided, that the meat is removed from the shell at their regular place of business where lobsters are bought and sold, and that said dealers have a written permit for such sale from the director, and that the lobster meat is so removed and sold under such conditions and regulations as he prescribes; and provided, that the premises where the meat is so removed or sold are at all times open to the inspection of the director, wardens and deputies. (Id. § 98.)

201. Penalty for Selling, Etc., Small Lobsters.—Whoever sells or offers for sale or has in possession an uncooked lobster less than nine inches in length, or a cooked lobster less than eight and three-quarters inches in length, measuring

from the end of the bone protruding from the head to the end of the bone of the middle flipper of the tail of the lobster, extended on its back its natural length, shall be punished by a fine of not less than two nor more than five dollars for every such lobster, one-half to the use of the town where the offense is committed and one-half to the Commonwealth; and in all prosecutions under this section any mutilation of a lobster, cooked or uncooked, which affects its measurement shall be prima facie evidence that the lobster is less than the required length and the possession of any lobster, cooked or uncooked, not of the required length shall be prima facie evidence of violation of this section. This section shall not apply to common carriers having lobsters in possession for the purpose of transportation. (Id. § 99.)

202. Penalty for Mutilation.—Whoever, before a lobster is cooked, mutilates it by severing the tail from the body, or has such tail in possession, shall be punished by a fine of five dollars; and in all prosecutions under this section the possession, by any person, of the tail of any uncooked lobster so severed from the body shall be prima facie evidence of violation of this section. (Id. § 100.)

203. State Police to Enforce.—The Commissioner of Public Safety, upon written request of the director, may detail one or more of the State Police to enforce section ninety-nine. (Id. § 101.)

203a. Right of Search.—To enforce section ninety-nine, the director, a warden, deputy, or member of the State Police may search in suspected places for, seize and remove lobsters unlawfully taken, held or offered for sale. (Id. § 102.)

204. Transportation of Lobsters Regulated.—All barrels, boxes or other packages in transit containing lobsters shall be marked with the word "LOBSTERS" in capital letters at least one-inch in length, together with the full name of the shipper. Said marking shall be placed in a plain and legible manner on the outside of such barrels, boxes or other packages, and in case of seizure by any duly authorized officer of any barrels, boxes or other packages in transit, containing lobsters, which are not so marked, or in case of seizure by any such officer of barrels, boxes or other packages in transit containing lobsters less than the prescribed length, such lobsters as are alive and less than the prescribed length shall be liberated, and all such lobsters as are of the prescribed length found in such barrels, boxes, or packages shall be held and disposed of as provided in section one hundred and thirteen. (Id. § 110.)

205. Penalties.—Whoever shops lobsters without having the barrels, boxes or other packages in which the same are contained marked or prescribed in the preceding section shall for a first offense be punished by a fine of not more than twenty-five dollars, and for a subsequent offense by a fine of not more than fifty dollars; and any common carrier who knowingly carries from place to place lobsters in barrels, boxes or other packages not so marked shall be punished by a fine of not more than fifty dollars, and lobsters shipped in violation of this or the preceding section shall be forfeited to the Commonwealth. (Id. § 111.)

206. Enforcement of Sections 110 and 111.—In order to enforce the two preceding sections, the director, a warden, deputy, or State Police officer may, without a warrant, search any boat, car, box, locker, crate or package and any building where he has reason to believe any lobsters are being transported or held for transportation in violation of law, and may seize and hold any lobsters illegally transported; provided, that this section shall not authorize the entering of a dwelling house, and shall not apply to lobsters passing through this Commonwealth under authority of the laws of the United States. (Id. § 112.)

207. Proceedings in Case of Seizure of Lobsters.—When any lobsters are seized by virtue of the three preceding sections the officer making the seizure shall immediately notify the shipper thereof, if known, and shall forthwith proceed to enforce, in accordance with chapter two hundred and fifty-seven,* the forfeiture of such lobsters, so seized, as he is not required to liberate. He shall cause the appraisal required by section thirteen of said chapter* to be made within twenty-four hours after the time of such seizure, and after said appraisal may sell the said lobsters at such time or in such manner as he deems proper. He shall pay the proceeds thereof into the court before which the libel for forfeiture is pending, and the court may decree a forfeiture of said proceeds, or payment thereof to a claimant, or any other appropriate disposition thereof. (Id. § 113.)

NOTE: See also Nos. 21-23, 83 et seq., and 220.

*Entitled "Seizure and Libelling of Forfeited Property." Omitted herein.

Flour.

See No. 474.

Fruits, Vegetables, Etc.

207a. Commissioner of Agriculture May Establish Grades or Standards for Farm Products.—The Commissioner of Agriculture, in this and the five following sections called the commissioner, may establish and promulgate official grades and standards for farm products, except apples and milk, produced within the Commonwealth for the purposes of sale, and may from time to time amend or modify such grades and standards. Before establishing, amending or modifying any such grades or standards the commissioner shall hold public hearings in such places within the Commonwealth as he shall deem proper. Notice of such hearings shall be advertised in a newspaper or newspapers of general circulation within the county where the hearing is to be held for three successive weeks prior thereto, and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for such farm products, if deemed advisable. The commissioner may determine or design brands or labels for identifying such farm products packed in accordance with official grades and standards established as aforesaid, and may cause to be printed said brands or labels and may dispose of the same at reasonable prices. A written application to the commissioner requesting permission to use said brands or labels and a written authorization thereof by the commissioner or a duly authorized assistant shall be a condition precedent to the use of such brands or labels. The commissioner may revoke or suspend the right to use such brands or labels determined as aforesaid whenever it appears on investigation and after a subsequent hearing before said commissioner or authorized assistant that such brands or labels have been used to identify such farm products not in fact conforming to the grade or standard indicated. (G. L. 1921, c. 94, § 117A, as added L. 1922, c. 438; amended L. 1927, c. 270.)

207b. Publication.—Upon the establishment of such grades or standards and upon the proper determination of brands or labels, all in accordance with the provisions of section one hundred and seventeen A, notice thereof shall be published for three successive weeks in three newspapers stating the grades and standards so established and the brands or labels so determined, and the date on which such establishment or determination is to take effect. The commissioner shall distribute information relative to the grades and standards so established and the brands or labels so determined. (Id. § 117B.)

207c. Use of Brands to Identify Farm Products Not Conforming to Grade Prohibited; Penalty.—After notice of the establishment of grades or standards and the determination of brands or labels as provided in section one hundred and seventeen B, it shall be unlawful to use a brand or label determined as aforesaid to identify such farm products as being of a grade or standard established as aforesaid unless such products are in fact of the grade or standard so established or before the authorization of the use of, or after the revocation or during suspension of the right to use, such brand or label, by the commissioner. Any violation of this section shall be punished for a first offense by a fine of not more than fifty dollars and for a subsequent offense by a fine of not more than two hundred dollars. Whoever obstructs or hinders the commissioner or any of his assistants in the performance of his duties under sections one hundred and seventeen A to one hundred and seventeen F, inclusive, shall be punished by a fine of not less than ten nor more than one hundred dollars. (Id. § 117C.)

207d. Inspection.—The commissioner may employ inspectors to inspect such farm products marked, branded or labelled in accordance with official grades or standards established and promulgated by the commissioner, for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, standard, condition, and approximate quality of the farm products inspected and any other pertinent facts that the commissioner may require. Such a certificate and all Federal certificates relative to the condition or quality of said farm products shall be prima facie evidence in all courts of the commonwealth of the facts required as aforesaid to be stated therein. (Id. § 117D.)

207e. Rules and Regulations.—The commissioner may prescribe rules and regulations for carrying out the purposes of sections one hundred and seventeen A to one hundred and seventeen F, inclusive, including the fixing of fees for inspections. (Id. § 117E.)

207f. Powers of Commissioner.—The commissioner, in person or by deputy, shall have free access at all reasonable hours to any building or other place wherein it is reasonably believed that farm products marked, branded or labeled in ac-

cordance with official grades or standards established and promulgated by the commissioner are being marketed or held for commercial purposes. He shall also have power in person or by deputy to open any bags, crates, or other containers containing said farm products and examine the contents thereof, and may upon tendering the market price, take samples therefrom. (Id. § 117F.)

NOTE: See also Nos. 3, 21, 23, 26, 27 et seq., 76 et seq., 94, 220, and 465 et seq.

Grain.

See Nos. 207a et seq., 465 and 479 et seq.

Ice.

208. Sale of Ice at Retail Regulated—Penalty.—Whoever, being engaged in the business of selling ice at retail, and not engaged in the delivery of the same under a contract, refuses to sell from any place or vehicle engaged in the regular distribution of ice at retail a piece of ice at the fair value thereof to any person other than an ice dealer, shall, if such person tenders in payment therefor the amount of five cents or any multiple thereof not more than fifty cents in legal money of the United States, be punished by a fine of not more than one hundred dollars. (G. L. 1921, c. 94, § 157.)

209. Ice Dealers to Provide Scales, to Furnish Price Lists, Etc.—Penalty.—A dealer in ice, who refuses or neglects to provide scales for each vehicle used by him for the retail delivery of ice, or who neglects to furnish to the sealer of weights and measures of each city or town in which he conducts business a list of the current prices of ice sold by him at retail, shall be punished by a fine of not more than fifty dollars. (Id. § 158, as amended L. 1926, c. 122, § 1.)

210. Posting of Prices on Ice Delivery Vehicles—Sale of Ice by Weight—Penalty.—Whoever having charge of the retail delivery of ice from a vehicle neglects to keep conspicuously posted upon each side of the vehicle the current retail prices of ice sold by him, or refuses or neglects to sell the same by weight, or refuses to weigh the same upon request of the purchaser, shall be punished by a fine of not more than fifty dollars. (G. L. 1921, c. 94, § 159, as amended L. 1926, c. 122, § 2.)

211. Impure Ice.—The Department of Public Health, upon written complaint of not less than twenty-five consumers of ice cut from any pond or stream and sold or held for sale, alleging that said ice is impure and injurious to health, after notice to the parties interested of the time and place appointed for the hearing, and after hearing said parties, may make such orders relative to the sale of said ice as in its judgment the public health requires. (G. L. 1921, c. 94, § 160.)

212. Enforcement of Orders of Department of Public Health.—Orders made under the preceding section shall be served upon any person selling or offering for sale impure ice, and may be enforced in equity by the Supreme Judicial or Superior Court. (Id. § 161.)

213. Appeal From Such Order.—Whoever is aggrieved by any order made under section one hundred and sixty may appeal therefrom in the manner prescribed by section one hundred and forty-seven of chapter one hundred and eleven,* and shall be subject to sections one hundred and forty-eight and one hundred and forty-nine of said chapter,* and the court may award costs in its discretion. (Id. § 162.)

Meal.

See No. 481.

Meat—Meat Products.

214. Definitions.—The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

“Sausage” or “sausage meat,” in sections one hundred and forty-two to one hundred and forty-five, inclusive, a comminuted meat from neat cattle, swine or veal, or a mixture of such meats, either fresh, salted, pickled or smoked, with or without added salt, spices, cereal and the like, and with or without the addition of edible animal fats, blood and sugar or subsequent smoking. . . . (G. L. 1921, c. 94, § 1.)

215. Adulteration of Sausages, Etc.—For the purposes of this and the following section, sausage or sausage meat shall be deemed to be adulterated:

First. If it contains any cereal or vegetable flour or any product thereof in excess of two per cent, except as authorized by section one hundred and forty-three A;

Second. If it contains any coloring matter, or any substance injurious or deleterious to health;

*Entitled “Public Health.” Omitted herein.

Third. If it contains water in excess of an amount sufficient to make the products palatable and to facilitate mixing and placing in casings;

Fourth. If it contains, except as casing, the organs of the thoracic and abdominal cavities or any part thereof, except hearts, tripe and liver;

Fifth. If it contains any diseased, contaminated, filthy or decomposed substance; or if it is manufactured, in whole or in part from, or contains a substance produced, stored, transported or kept in a way or manner that would render the article diseased, contaminated or unwholesome; or if it is the product of a diseased animal or the product of any animal which has died otherwise than by slaughter. (Id. § 142, as amended L. 1923, c. 425, § 1.)

216. Sale, Etc., of Sausages Regulated—Penalty.—No person shall sell, offer or expose for sale sausages manufactured contrary to the preceding section or adulterated within the meaning thereof.

Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars. (G. L. 1921, c. 94, § 143.)

217. Sale of Vegetable Sausages—Proviso.—Nothing in this chapter shall prevent the sale or the offering or exposing for sale of vegetable sausages as such, if such sausages contain not less than twenty per cent of vegetables or vegetable products and are otherwise made in conformity with the provisions of this chapter; provided, that such sausages are sold, offered or exposed for sale under their own distinctive name. (Id. § 143 A, as added L. 1923, c. 425, § 2.)

218. License to Manufacture Sausage.—Each application for a license for carrying on an establishment for the manufacture of sausages and chopped meat of any kind shall be made, and any license granted therefor shall be granted, under section eighty-nine.* The board of health of a town may make and enforce such rules and regulations as it deems necessary for the conduct of such establishments, and any license therefor may be revoked for any violation of such rules and regulations, after notice to the licensee and a hearing before said board. (G. L. 1921, c. 94, § 144.)

219. Penalty for Making Sausages, Etc., Without a License.—Whoever carries on an establishment for the manufacture of sausages or chopped meat of any kind without a license as provided in the preceding section shall be punished by a fine of not less than ten nor more than one hundred dollars or by imprisonment for not more than three months, or both.

This section shall not apply to retail dealers in chopped meats and unsmoked sausages who manufacture the same for their retail trade. (Id. § 145.)

220. Inspection of Meat, Etc.—Regulations as to Exposure of Food for Sale.—Each local board of health by themselves, their officers or agents, may inspect the carcasses of all slaughtered animals and all meat, fish, vegetables, produce, fruit or provisions of any kind found in their town, and all veal found, offered or exposed for sale or kept with intent to sell therein, and for such purpose may enter any place where such carcasses or articles are stored, kept or exposed for sale. If, in its opinion, said veal is that of a calf less than four weeks old when killed, or if on inspection it is found that said carcasses or articles are tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, the said board shall seize and cause the same to be destroyed forthwith or disposed of otherwise than for food. All money received by said board for property disposed of as aforesaid, after deducting the expenses of said seizure and disposal, shall be paid to the owner of such property. If said board seizes or condemns any such carcass or meat because affected with a contagious disease, it shall immediately give notice to the Director of Animal Industry stating the name of the owner or person in whose possession it was found, the nature of the disease and the disposition made of said meat or carcass.

Local boards of health, subject to the approval of the Department of Public Health, may make and enforce reasonable rules and regulations as to the conditions under which all articles of food may be kept or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before such a board of health submits such rules and regulations to said department for approval, said board shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing, in a newspaper published in such town. Any person affected by such rules and regulations, in the form in which they are presented to said department for approval, may appeal to said department for a further hearing, and said department shall not grant its approval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing

*See No. 164.

thereon, advertised in the manner above set forth. No regulation adopted in accordance with this section shall be construed as preventing the exposure of food articles for sale at retail in the Boston "market limits," as defined in the ordinances of Boston, on Saturdays or on the day immediately preceding any holiday observed in Boston, but no area in said "market limits," where food articles on June sixth, nineteen hundred and fourteen, were not allowed to be exposed for sale at retail on these days, shall be occupied for the exposure of food articles without a permit from the board of health. (Id. § 146.)

221. Regulations for Inspection of Meat.—The Department of Public Health may make regulations for the inspection of meat, which shall conform to the regulations of the United States Bureau of Animal Industry for the inspection of meat for export and for interstate commerce. (Id. § 147.)

222. Penalties.—Whoever violates any rule or regulation of a local board of health which is approved by the Department of Public Health shall be punished by a fine of not more than one hundred dollars.

Failure to give a notice required by section one hundred and forty-six to be given by a board of health to the Director of Animal Industry shall be punished as provided in section twenty-eight of chapter one hundred and twenty-nine. (Id. § 148.)

223. Interference With Certain Officers Prohibited—Penalty.—Whoever prevents, obstructs or interferes with a local board of health, its officers or agents, in the performance of its duties as provided in section one hundred and forty-six, or hinders, obstructs or interferes with any inspection or examination by it or them, or secretes or removes any carcass, meat, fish, vegetables, fruit or provisions of any kind, for the purpose of preventing the inspection or examination of the same under sections one hundred and forty-six, one hundred and fifty* to one hundred and fifty-three, inclusive, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both. (Id. § 149.)

224. Sale, Etc., of Certain Veal Prohibited—Penalty.—Whoever kills or causes to be killed or knowingly sells, offers or exposes for sale or has in his possession with intent to sell for food the veal of a calf killed when less than four week old shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both. (Id. § 151.)

225. Boards of Health May Cause Publication of Certain Facts.—The board of health of the town where any animal or property has been condemned under section one hundred and forty-six may cause a description of the place in which such condemned property was found, the name of each person in whose possession it was found and the name of each person convicted of an offense under the two preceding sections† to be published in two newspapers published in the county where such property was found. (Id. § 152.)

226. Sale, Etc., of Poultry Regulated—Penalty.—Whoever knowingly sells or exposes for sale dead poultry, before it has been properly dressed by the removal of the crop and entrails if they contain food shall be punished by a fine of not less than five nor more than fifty dollars. Each local board of health shall cause this section to be enforced in its town. (Id. § 153.)

227. Wrappers of Certain Lard to be Marked—Penalty.—No person shall sell, deliver, prepare, or put up, expose or offer for sale any lard, or any article intended for use as lard, which contains any ingredient except the pure fat of swine, in any tierce, bucket, pail or other vessel or wrapper, or under any label bearing the words "pure," "refined," "family," or either of them, alone or in combination with other words; but each vessel, wrapper or label in or under which such article is prepared, put up or exposed for sale, sold or delivered by him shall bear on the top or outer side thereof, in letters not less than one-half inch in length and plainly exposed to view, the words "compound lard." Whoever violates any provision of this section shall for the first offense be punished by a fine of not more than fifty dollars and for a subsequent offense by a fine of not more than one hundred dollars. (Id. § 61.)

228. Slaughterhouses to be Licensed.—The proprietor of each slaughterhouse, canning, salting, smoking or rendering establishment, and of each establishment used for the manufacture of sausages or chopped meat of any kind, who is engaged in the slaughter of neat cattle, sheep or swine, the meat or product of which is to be sold or used for food, shall annually in April apply for a license to the aldermen of the city or to the selectmen or, in a town having a population of more than five thousand to the board of health, if any, of the town where such

*See No. 21.

†The sections referred to are 150 and 151. See Nos. 21 and 224.

slaughterhouse or establishment is located. The application shall be in writing signed and sworn to by one or more of the owners or persons carrying on such business, or, if a corporation, by some authorized officer thereof, shall state the name and address of all the owners or persons carrying on said business, the location of the slaughterhouse or establishment, the estimated number of neat cattle, sheep or swine to be slaughtered per week, the days of the week upon which they are to be slaughtered and the nature of the products thereof to be sold or used for food. (Id. § 118.)

229. Licenses for Slaughterhouses, Issue, Fee, Etc.—Record to be Kept, Etc.—Copies of Applications, Etc., to Department of Public Health.—The aldermen, selectmen, or such other officers as they shall designate, or, in a town having a population of more than five thousand, the board of health, if any, may annually issue licenses to carry on the business of slaughtering neat cattle, sheep or swine to applicants therefor. Except as provided in the two following sections, the fee for each license shall be one dollar. The license shall name the persons licensed to conduct such business, and the building or establishment where it is to be carried on, and it shall continue in force until May first of the year next ensuing, unless sooner forfeited or rendered void. A record shall be kept by the board or officers authorized to issue such licenses of all applications for licenses under the preceding section and of all licenses issued, which shall be evidence of the issue of any such license. Such board or officers shall annually on or before June first, send to the Department of Public Health a copy of each application made to them under the preceding section and of their action thereon, together with a list of the names and addresses of all persons who, although engaged in the business named in said section on the preceding April thirtieth, failed to make application for a license. (Id. § 119, as amended L. 1924, c. 496, § 1.)

230. License Fee for Small Towns.—In towns having less than ten thousand inhabitants which accept this section or have accepted corresponding provisions of earlier laws at any annual town meeting, the annual license fee for carrying on the business of slaughtering neat cattle, sheep or swine shall be such sum not exceeding one hundred dollars as the selectmen fix. (G. L. 1921, c. 94, § 120.)

231. Payment of Additional Fees by Slaughterhouse Licenses—Exemption—Not Applicable to Cities.—A town which accepts this section may, in addition to the annual fee under section one hundred and nineteen or one hundred and twenty for a license to carry on the business of slaughtering neat cattle, sheep or swine, require the payment by the licensee of a further fee of not exceeding one dollar for each animal slaughtered under such license, but such further fee shall not be required for any animal slaughtered under federal inspection. Additional fees provided for under this section shall be paid to the town treasurer at such times and in such manner as the selectmen by vote determine. This section shall not apply to cities. (Id. § 120 A, as added L. 1924, c. 496, § 2.)

232. General Powers and Duties of District Health Officers, Etc.—The district health officers in their respective districts, and the inspectors appointed by the Department of Public Health for duties relative to the sale of food and drugs, shall have the same rights, powers and authority for and in respect of the inspection, seizure and disposition of all carcasses, meats and provisions which are tainted, diseased, corrupted, decayed, unwholesome, or from any cause unfit for food, or the sale of which for food is unlawful, as are conferred by sections one hundred and twenty-six and one hundred and forty-six,* or otherwise by law, upon boards of health of towns or their inspectors in respect of the articles specified in said sections, together with power to prosecute all offenses relating thereto. (G. L. 1921, c. 94, § 121.)

233. Certain Powers and Duties of Certain Inspectors, Etc.—The Department of Public Health and its inspectors, the district health officers and all local boards of health and their inspectors, officers, agents and assistants in their respective districts, shall have and exercise the same power and duties in and for the enforcement of sections one hundred and twenty-one to one hundred and twenty-four, inclusive, one hundred and thirty-three and one hundred and thirty-eight as are conferred or imposed by law upon any local board of health, inspector, officer, agent or assistant in respect of any other article or substance the sale or use of which for food is unlawful or prohibited; and they shall seize any carcass or part or product thereof described in section one hundred and thirty-eight, and cause the same to be destroyed forthwith or disposed of otherwise than for food; and all moneys received by the said department or by any local board of health for any

*For section 146, see No. 220.

property so disposed of, after deducting the expenses of such seizure and disposal, shall be paid to the owner of such property, if known. (Id. § 122.)

234. Inspectors, Etc., to Visit Certain Places.—Inspectors, officers, agents and assistants mentioned in the preceding section shall visit and keep under observation each place within their respective districts where neat cattle, sheep, swine or other animals intended for slaughter or for sale or use as food are delivered from transportation, and shall have at all times free access to each such place and to each railroad train or car or other vehicle in which such animals are transported, to prevent, detect and punish violations of said sections. (Id. § 123.)

235. Control of Department of Public Health Over Slaughterhouses.—All slaughterhouses shall be under the supervision of the Department of Public Health and subject to inspection by district health officers in their respective districts. (Id. § 124.)

236. Slaughtering of Cattle.—No licensee under section one hundred and nineteen shall slaughter or cause to be slaughtered at his slaughterhouse or establishment animals on any days other than those specified in the application for such license, or except in the presence of a member of the local board of health or of an inspector appointed therefor by said board; but he may at any time change the days for slaughtering animals, by giving at least seven days' written notice thereof to the board or officer authorized to issue such licenses, who shall immediately give written notice of the change to such inspector. (Id. § 125.)

237. Inspection of Carcasses.—An inspector appointed by the local board of health, or member of such board of health acting as such inspector, shall be present at each licensed slaughterhouse or establishment upon each day when slaughtering is allowed by law to be carried on therein and shall carefully examine the carcasses of all animals at the time of slaughter. Such inspection shall be made in such manner and under such rules and regulations as the Department of Public Health may determine and direct. If, in the opinion of such inspector or member, any carcass, or any meat or product thereof is diseased, corrupted, unwholesome or unfit for food, he shall seize it and cause it to be destroyed, as provided in section one hundred and forty-six.* (Id. § 126.)

238. Certain Carcasses to Be Stamped or Branded.—In a slaughtering establishment wherein inspection and branding are not carried on under the rules and regulations for the inspection of live stock and other products, established by the United States Department of Agriculture in accordance with acts of Congress, the carcasses of animals slaughtered under sections one hundred and eighteen, one hundred and nineteen, one hundred and twenty-five and one hundred and twenty-six shall at the time of slaughter, if not condemned, be stamped or branded by the inspector thereof in like manner as those inspected by the United States Bureau of Animal Industry for interstate commerce by a stamp or brand designed for the purpose by the Department of Public Health, which shall be furnished by it to the board of health of a town applying therefor. Each package containing meats so stamped or branded by the inspector as aforesaid, before it has been shipped from the slaughtering establishment, shall have properly secured to it a tag bearing the words "Massachusetts, Inspected, Passed," which tag may be so attached by the licensee. Such stamps and tags shall be uniform in design throughout the Commonwealth, but shall contain the name of the town where used. (Id. § 127.)

239. Appointment, Compensation, Etc., of Certain Inspectors.—For the purposes of sections one hundred and nineteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, and one hundred and forty-seven, said inspectors shall be appointed and compensated, and may be removed, in the manner provided for inspectors of animals, under sections fifteen to seventeen, inclusive, of chapter one hundred and twenty-nine, except that in respect to such first named inspectors, local boards of health and the Department of Public Health shall perform the duties and exercise the authority imposed by said sections upon the aldermen or selectmen and upon the Director of Animal Industry, respectively, as to inspectors of animals. (Id. § 128.)

240. Carcasses of Certain Animals Deemed Unfit for Food.—Carcasses of animals slaughtered under sections one hundred and eighteen, one hundred and nineteen and one hundred and twenty-five to one hundred and twenty-seven, inclusive, and not stamped or branded as provided in section one hundred and twenty-seven, shall be deemed unfit for human food and shall not be sold or offered for sale. (Id. § 129.)

241. Penalty for Sale, Etc., of Unstamped or Falsely Stamped Carcasses.—Whoever sells, or offers for sale, or has in his possession with intent to sell, a

*See No. 220.

carcass or any part thereof required by section one hundred and twenty-seven to be stamped or branded, and which has not been stamped or branded as therein provided, or whoever, not being a member of a local board of health or a duly appointed inspector, stamps or brands a carcass or any part thereof required by said section to be stamped or branded, or whoever being a member of a board of health or a duly appointed inspector permits or allows the use of his stamp or brand by one not a member of a board of health or a duly appointed inspector, or whoever counterfeits any stamp or brand required by section one hundred and twenty-seven, or whoever stamps or brands any carcass or any part thereof with any counterfeit stamp or brand, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both. (Id. § 130.)

242. Branding, Etc., of Carcasses of Neat Cattle, Etc., Slaughtered Without the Commonwealth—"Official Inspector" Defined.—Carcasses of neat cattle, sheep or swine slaughtered without the Commonwealth shall be deemed unfit for human food and shall not be sold or offered for sale unless they have been inspected at the time of slaughter by an official inspector, and unless, if not condemned, they have been stamped or branded by said inspector in like manner as those inspected by the United States Bureau of Animal Industry for interstate commerce. By "official inspector" is meant one appointed or approved either (a) by the Bureau of Animal Industry of the United States Department of Agriculture, or (b) by the Department of Health or similar body of the State where the animals are slaughtered; or (c) by the local board of health of the town where the animals are slaughtered. The stamp used by inspectors other than those of the Bureau of Animal Industry of the United States Department of Agriculture shall indicate in letters not less than one-fourth of an inch high the name of the town where the animals are slaughtered. (Id. § 131.)

243. Penalty for Sale, Etc., of Certain Unbranded Carcasses.—Whoever sells or offers for sale, or has in his possession with intent to sell, a carcass, or any part thereof, required by the preceding section to be stamped or branded and which has not been stamped or branded as therein provided, shall be punished by a fine of not more than one hundred dollars or by imprisonment, for not more than two months, or both. (Id. § 132.)

244. Private Slaughterhouses.—Sections one hundred and eighteen, one hundred and nineteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, one hundred and twenty-nine and one hundred and thirty, shall not apply to a person not engaged in the slaughtering business, who, upon his own premises and not in a slaughterhouse, slaughters his own neat cattle, sheep or swine, but the carcass of any such animal, intended for sale, shall be inspected, and, unless condemned, shall be stamped or branded under section one hundred and twenty-seven, by an inspector at the time of slaughter. (Id. § 133.)

245. Penalty.—Whoever violates any provision of sections one hundred and nineteen, and one hundred and twenty-five, one hundred and twenty-six and one hundred and thirty-three shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two months, or both. (Id. § 134.)

246. Penalty for Slaughtering, Etc., Without License.—Whoever, being engaged in the business of slaughtering neat cattle, sheep or swine, without a license slaughters the same or knowingly authorizes or causes the same to be slaughtered with intent to sell the meat or product thereof for food, or, having such license, slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, sheep or swine without causing the carcass thereof to be inspected as provided in section one hundred and twenty-six, or sells or authorizes or causes to be sold any carcass or the meat or product thereof knowing that such carcass has not been inspected according to sections one hundred and twenty-six and one hundred and thirty-three, or except as provided in section one hundred and thirty-three, slaughters or knowingly authorizes or causes to be slaughtered any neat cattle, sheep or swine upon his own premises, being other than a slaughterhouse or establishment mentioned in section one hundred and eighteen, without causing the carcass of such animal to be inspected, or sells or authorizes or causes to be sold the carcass or any meat or product thereof of any such animal slaughtered upon his own premises, knowing that the same has not been inspected as provided in section one hundred and thirty-three, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two months, or both. (Id. § 135.)

247. Possession of Certain Carcasses Prohibited—Penalty.—Whoever, being authorized or licensed to slaughter in a town, has in possession either himself or by his agent the dressed or plucked carcass, or any part thereof, of a bird or animal which has died a natural death shall be punished by a fine of not more than one hundred dollars. (Id. § 136.)

248. Conviction Renders License Void.—A conviction under section one hundred and thirty-four or one hundred and thirty-five of any person licensed under section one hundred and nineteen shall render his license void, and no new license shall be granted to him for the balance of the term of the license so rendered void. (Id. § 137.)

249. Sale, Etc., of Certain Carcasses Prohibited.—Whoever sells, offers or exposes for sale or delivers or causes or authorizes to be sold, offered or exposed for sale or delivered for use as food the carcass, or any part or product thereof, of any animal which has come to its death in any manner or by any means other than by slaughter or killing while in a healthy condition, or which at the time of its death was unfit for use as food, by reason of disease, exhaustion, abuse, neglect or otherwise, or the carcass, or any part or product thereof, of any calf weighing less than forty pounds when dressed, with head, feet, hide and entrails removed shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months. (Id. § 138.)

250. Certain Provisions of Law Not Affected.—Sections one hundred and twenty-one to one hundred and twenty-four, inclusive, one hundred and thirty-three and one hundred and thirty-eight shall not affect section one hundred and forty-seven;* provided, that said first mentioned sections shall not permit the sale, offering for sale, or keeping with intent to sell, for food, of meat infected in any degree with tuberculosis or other disease. (Id. § 139.)

251. Appointment.—In each town where beef cattle are sold for the purpose of marketing or barreling, the mayor or selectmen shall appoint one or more persons, conveniently situated in such town and not dealers in cattle, as weighers of beef. Each such weigher shall be sworn to the faithful performance of his duties. (Id. § 140.)

252. Fees.—Fees for weighing cattle shall be paid by the vendor and shall be twenty cents for each of the first five cattle, fifteen cents for each of the second five, ten cents each from the eleventh to the twentieth, inclusive, and five cents for each above twenty; also twelve and one-half cents for each certificate, which shall contain the weight of each of the cattle weighed for one person unless the vendor requests a division thereof. (Id. § 141.)

253. Slaughterhouses, Etc.—No person shall occupy or use a building for carrying on the business of slaughtering cattle, sheep or other animals, or for a melting or rendering establishment, or for other noxious or offensive trade and occupation, or permit or allow said trade or occupation to be carried on upon premises owned or occupied by him, without first obtaining the written consent and permission of the mayor and city council, or of the selectmen, or, in any town having a population of more than five thousand, of the board of health, if any, of the town where the building or premises are situated. This section shall not apply to any building or premises occupied or used for said trade or occupation on May eighth, eighteen hundred and seventy-one; but no person who used or occupied any building or premises on said date for said trades or occupations shall enlarge or extend the same without first obtaining the written consent and permission of the mayor and city council or the selectmen, or, in any town having a population of more than five thousand, of the board of health, if any. (G. L. 1921, c. 111, § 151.)

254. Prohibition of Offensive Trades.—If any buildings or premises are so occupied or used, the department shall, upon application, appoint a time and place for hearing the parties, and, after due notice thereof to the party against whom the application is made and a hearing may, if in its judgment the public health, comfort or convenience so require, order any person to desist from further carrying on said trade or occupation in such buildings or premises; and no person shall thereafter continue so to occupy or use such buildings or premises. Whoever occupies or uses any building or premises in violation of this or the preceding section shall forfeit not more than two hundred dollars for every month of such occupancy or use and in like proportion for a shorter time. (Id. § 152.)

255. Restraint of Offensive Trades.—The Superior Court may restrain the unauthorized occupancy, use or extension of any building or premises occupied or used for the trades or occupations aforesaid, and enforce the orders of the department issued under the preceding section; but this and the two preceding sections shall not impair any other remedies against nuisances. (Id. § 153.)

256. Killing and Rendering of Horses, Etc.—A person engaged in or desiring to engage in the business of killing horses, or in the rendering of horses or other animals, shall annually in March apply for a license to the board of health of the town where such business is to be carried on. The application shall be in writing

*For section 147, see No. 221.

and signed by the persons desiring to carry on such business, or, if the applicant is a corporation, by a duly authorized officer thereof. It shall state the names in full and the addresses of all persons desiring to carry on such business, or, if a corporation is the applicant, the names of all its officers, and the street or other place where the business is to be conducted. The board of health of a town may grant such licenses after it is satisfied that the applicants have a suitable building and plant in a situation approved by said board, and that they have suitable trucks or wagons for the removal of dead animals. The license shall state the name of the licensee, the situation of the building or establishment where the business is to be carried on, and shall continue in force until April first of the year next ensuing unless sooner revoked. The board of health shall keep a record of such licenses granted by it, and shall notify the Director of Animal Industry of the granting of any such license, giving the name and address of the licensee. The fee for a license shall not exceed one dollar, and a license may be revoked at any time by the board of health. Licensees shall report to the Director of Animal Industry, in such form and at such times as he may order, every animal received by them which is infected with a contagious disease. No unlicensed person shall carry on the business of killing horses or of rendering horses or other animals. So much of section thirty of chapter one hundred and twenty-nine as provides that no person shall knowingly sell an animal with a contagious disease shall not apply to any person who sells such animal to a licensee under this section, if such animal is to be killed or rendered at the establishment of such licensee. Whoever violates this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than three months, or both. (Id. § 154.)

NOTE: See also Nos. 2, 21-23, 26, 79, 83 et seq., and 207a et seq.

Molasses.

See No. 78.

Nuts.

See No. 465.

Syrup.

See No. 92.

Vinegar.

257. Adulteration of Vinegar Defined.—Vinegar is hereby defined as being the result of alcoholic and subsequent acetous fermentation of natural fruit juices or vegetable products. Vinegar shall contain no added or artificial coloring matter, and shall contain not less than four grams of acetic acid in each one hundred cubic centimeters. If vinegar contains any added or artificial coloring matter, or less than the required amount of acidity, or if it is other than the product of alcoholic and subsequent acetous fermentation of natural fruit juices or vegetable products, it shall be deemed to be adulterated. (G. L. 1921, c. 94, § 163, as amended L. 1922, c. 524.)

258. Methods of Analysis, How Determined and Published.—The methods for the examination of vinegar shall be those adopted by the Association of Official Agricultural Chemists. When no such methods are applicable, such additional methods as are approved by the Department of Public Health and published in its bulletin shall be employed. (G. L. 1921, c. 94, § 164, as amended L. 1922, c. 206.)

259. Cider Vinegar, Compound Vinegar, Etc.—Containers to be Marked—Penalty.—Each cask, barrel or other container used by a manufacturer or producer of or wholesale dealer in vinegar, to contain vinegar sold or offered for sale, shall be plainly marked with the name and place of business of such manufacturer, producer or wholesale dealer, the kind of vinegar contained therein, and the substances from which it is made; and cider vinegar, if diluted with water, shall be distinctly and conspicuously labeled "Diluted to Legal Strength," or by other like words to indicate this fact. Each compound, mixture or blend of vinegar shall be marked with the word "compound" or "mixture," together with a statement of its constituents and the percentage of each constituent. The principal label, including the word "compound" or "mixture," if used on vinegar in wooden packages, shall be in Roman letters not less than one inch high, properly spaced and in straight parallel lines with no more than two inches of space between each line. The marking of vinegar in other containers than wooden packages shall be governed by sections one hundred and eighty-six and one hundred and eighty-seven.* Whoever himself or by his agent or servant violates any provision of this section shall be punished by a fine of not more than one hundred dollars. (G. L. 1921, c. 94, § 165.)

*See Nos. 2 and 3.

260. Collection of Samples of Vinegar, Etc., for Analysis.—The collection of samples of vinegar, as authorized by section three hundred and four,* shall be made under the direction and supervision of the Department of Public Health or by local boards of health. Samples may be purchased in the open market, and the stenciling, tags, brands or other marking upon the container shall be noted. Samples shall be divided into two substantially equal parts of at least sufficient volume to permit of a proper analysis as required by law, and at the time of the taking of the samples there shall be delivered to the owner or other person from whom the vinegar is taken one of the two above mentioned parts properly labeled identifying marks and sealed with a seal, provided for that purpose, and a receipt therefor shall be given to the inspector or collector. (Id. § 166.)

261. Examination of Samples, Etc.—Samples of vinegar taken under authority of law shall be examined by the Department of Public Health or by boards of health of towns. If it then appears that any sample is misbranded or adulterated, the Department of Public Health, or the board of health of a town, as the case may be, need not cause formal complaint to be entered at once, but shall grant the opportunity for a hearing under section one hundred and eighty-nine.** (Id. § 167.)

262. Penalty for Possession of Imitation, Etc., Seal.—Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector or other officer engaged in the inspection of vinegar, and whoever changes or tampers with a sample taken or sealed, as provided in section one hundred and sixty-six, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both. (Id. § 168.)

263. Enforcement of Penalties.—Each officer or person whose duty it is to enforce the laws relating to food and milk, shall enforce the laws relating to vinegar, and all laws relating to food shall apply to vinegar so far as they are applicable. (Id. § 169.)

264. Penalty for Manufacturing, Selling, Etc., Deleterious Vinegar.—Each person who manufactures, offers or exposes for sale any vinegar found upon proper tests to contain any preparation of lead, copper, sulphuric acid or other ingredient injurious to health, shall be punished by a fine of not less than one hundred dollars. (Id. § 170.)

265. Penalty for Selling, Etc., Adulterated Vinegar.—Whoever himself or by his servant or agent sells, exchanges or delivers or has in his custody or possession with intent so to do, or expose or offers for sale or exchange adulterated vinegar, or whoever labels, brands or sells as cider vinegar or as apple vinegar, any vinegar not the exclusive product of the alcoholic and subsequent acetous fermentation of the pure juice of fresh apples, shall be punished by a fine of not more than one hundred dollars. (Id. § 171.)

Sanitation.

266. Penalty for Manufacturing, Etc., Food in Unsanitary Establishments, Etc.—Certain Provisions Not Applicable to Certain Cities and Towns—“Food,” Defined.—Unless another penalty is provided under this chapter or sections thirty-four to forty-nine, inclusive, of chapter one hundred and eleven,† whoever for the purpose of sale manufactures, prepares, packs, cans, bottles, keeps, exposes, stores, handles, serves, or distributes in any manner, food in or from an unclean, unsanitary or unhealthful establishment, place or vehicle or under unclean, unsanitary or unhealthful conditions shall be punished for the first offense by a fine of not more than one hundred dollars and for a subsequent offense by a fine of not more than five hundred dollars. The provisions of this section relative to the keeping or exposing for sale of food shall not apply in any city or town where rules and regulations made by its board of health under section one hundred and forty-six,‡ or corresponding provisions of earlier laws, are in force. For the purposes of this section, the word “food” shall mean and include all articles, whether simple, mixed or compound, used or intended to be used for food or drink, confectionery or condiment, by human beings, except milk and cream. (G. L. 1921, c. 94, § 305A, as added L. 1924, c. 50.)

NOTE: See also No. 24; the bakery products law, No. 43 et seq.; the beverage law, No. 70 et seq.; the cold storage law, No. 83 et seq.; the dairy law, No. 94 et seq.; the egg law, No. 164 et seq.; the fish law, No. 188 et seq.; the meat law, No. 214 et seq.

*See No. 18.

**See No. 5.

†See Nos. 53-68.

‡See No. 220.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

267. Penalty for Advertising, Etc., Notice, Etc., of Means to Procure Abortion.—Whoever knowingly advertises, prints, publishes, distributes or circulates, or knowingly causes to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper, notice, advertisement or reference, containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom or to any place, house, shop or office where, any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, or any advice, direction, information or knowledge, may be obtained for the purpose of causing or procuring the miscarriage of a woman pregnant with child or of preventing, or which is represented as intended to prevent pregnancy, shall be punished by imprisonment in the State Prison for not more than three years or in jail for not more than two and one-half years or by a fine of not more than one thousand dollars. (G. L. 1921, c. 272, § 20.)

268. Other Offenses Against Decency.—Whoever sells, lends, gives away, exhibits, or offers to sell, lend or give away an instrument or other article intended to be used for self-abuse, or any drug, medicine, instrument or article whatever for the prevention of conception or for causing unlawful abortion, or advertises the same, or writes, prints or causes to be written or printed a card, circular, book, pamphlet, advertisement or notice of any kind stating when, where, how, of whom or by what means such article can be purchased or obtained, or manufactures or makes any such article, shall be punished by imprisonment in the State Prison for not more than five years or in jail or the House of Correction for not more than two and one-half years or by a fine of not less than one hundred nor more than one thousand dollars. (Id. § 21.)

269. Search Warrant May Issue—Drugs, Medicines, Etc.—A court of justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the property or articles hereinafter named are concealed in a particular house or place, if satisfied that there is reasonable cause for such belief, issue a warrant to search for the following property or articles: . . .

Ninth, drugs, medicines, instruments and other articles intended to be used for self-abuse, or for the prevention of conception, or for causing unlawful abortion, and the raw materials, tools, machinery, implements, instruments and personal property used or intended to be used in the manufacture of such drugs, medicines, instruments or other articles. . . . (G. L. 1921, c. 276, §1.)

Antitoxin, Vaccine, Etc.

See No. 24.

Dangerous Caustic or Corrosive Substances.

269a. Sale of Dangerous Caustic or Corrosive Substances Regulated; Definitions; Penalty.—No person shall sell, exchange, deliver or have in his possession with intent to sell, exchange or deliver any dangerous caustic or corrosive substance designed for household use unless there is affixed to the bottle, box, wrapper or other container containing such substance a conspicuous and easily legible label conforming to the provisions of Federal law regulating the distribution and sale thereof in interstate and foreign commerce.

In this section, unless the context or subject matter otherwise requires, the term "dangerous caustic or corrosive substance" means: hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid in a concentration of ten per centum or more; sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid in a concentration of ten per centum or more; nitric acid or any preparation containing free or chemically unneutralized nitric acid in a concentration of five per centum or more; carbolic acid, otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five per

centum or more; oxalic acid and any preparation containing free or chemically unneutralized oxalic acid in a concentration of ten per centum or more; any salt of oxalic acid and any preparation containing any such salt in a concentration of ten per centum or more; acetic acid or any preparation containing free or chemically unneutralized acetic acid in a concentration of twenty per centum or more; hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide, including caustic potash and Vienna paste, in a concentration of ten per centum or more; sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide, including caustic soda and lye, in a concentration of ten per centum or more; silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate in a concentration of five per centum or more; and ammonia water and any preparation yielding free or chemically uncombined ammonia including ammonium hydroxide in a concentration of five per centum or more.

Any person violating any provision of this section shall be punished by a fine of not more than fifty dollars; but no person shall be prosecuted hereunder if the substance is marked as it was when purchased by him and he can establish a guaranty signed by the wholesaler, jobber or manufacturer from whom he purchased such substance, to the effect that the same is correctly marked as required by this section, designating it. Such guaranty, to afford protection, shall contain the names and addresses of the parties making the sale of such substances to such person.

Products for household cleaning and washing purposes subject to this section, if labeled in accordance therewith, may be sold, offered for sale, held for sale and distributed in this Commonwealth by any dealer, wholesale or retail. (G. L. 1921, c. 270, § 2A, as added L. 1927, c. 224, § 1.)

269b. Act Effective, When.—This act shall take effect January first, nineteen hundred and twenty-eight. (L. 1927, c. 224, § 2.)

Distribution of Samples.

270. Distribution, Etc., of Harmful or Injurious Medicines, Etc., Prohibited.—Whoever distributes, delivers or gives away in any public way or from house to house or place to place, any bottle, box, envelope or package containing any liquid, medicine, pill, powder, tablet or other article composed of any drug, poison or other ingredient or substance which may be in any way injurious or harmful to any person who may taste, eat, drink or otherwise use the same, shall be punished by a fine of not less than fifty nor more than one hundred dollars. (G. L. 1921, c. 270, § 3.)

Pharmacy, Poisons and Narcotics.

271. Board of Registration in Pharmacy—Appointment.—There shall be a Board of Registration in Pharmacy, in the three following sections called the board, consisting of five persons, residents of the Commonwealth, who shall be skilled pharmacists, and shall have had ten consecutive years of a practical experience in the compounding and dispensing of physicians' prescriptions, and shall actually be engaged in the drug business. Not more than one member shall have any financial interest in the sale of drugs, medicines and chemicals and the compounding and dispensing of physicians' prescriptions in the same councillor district. One member shall annually in November be appointed by the Governor, with the advice and consent of the council, for five years from December first following. (G. L. 1921, c. 13, § 22, as amended L. 1927, c. 81.)

272. Meetings, Organization.—The board shall meet on the first Tuesday of December in each year at such time and place as it may determine, and shall organize by electing a president and secretary, who shall be members of the board, and shall hold their offices for one year. The secretary shall give to the State Treasurer a bond, with sufficient sureties to be approved by the Governor and council, for the faithful performance of his official duties. The board shall annually hold regular meetings on the first Tuesdays of January, May and October, and additional meetings at such times and places as it shall determine. (G. L. 1921, c. 13, § 23.)

273. Salaries and Expenses.—There shall be paid by the Commonwealth, to the secretary of the board a salary of one thousand dollars, to each of the other members thereof a salary of seven hundred dollars, and to each member thereof

his necessary traveling expenses actually incurred in attending the meetings of the board. (Id. § 24.)

274. Board of Registration in Pharmacy, Agent, Appointment, Compensation, Duties, Etc.—The board shall appoint and fix the compensation, with the approval of the Governor and council, of an agent who shall be allowed his necessary traveling expenses. He shall inspect drug stores and make a daily report of his doings pertaining thereto, and report all violations of the laws relating to pharmacy. (Id. § 25, as amended L. 1922, c. 441.)

275. Duties of the Director of Registration.—The Director of Registration shall supervise the work of the several boards of registration and examination included in the division of registration of the Department of Civil Service and Registration. He shall recommend changes in the methods of conducting examination and transacting business, and shall make such reports to the Governor and council as they may require or he may deem expedient. (G. L. 1921, c. 112, § 1.)

276. Examination of Pharmacists for Registration—Registration as Assistants—Reciprocity Certificates—Proviso—Granting of Certificates Limited to Citizens of United States.—A person who desires to do business as a pharmacist shall, upon payment of five dollars to the Board of Registration in Pharmacy, herein and in sections twenty-five to forty-two, inclusive, called the board, be entitled to examination, and, if found qualified, shall be registered as a pharmacy, and shall receive a certificate signed by the president and secretary of the board. Any person failing to pass such examination shall upon request be re-examined, after the expiration of three months, at any regular meeting of the board, upon payment of three dollars. The board may grant certificates of registration as assistants after examination upon the terms above named, but such certificates shall not allow the holder thereof to carry on the business of pharmacy. The board may grant certificates of registration to such persons as shall furnish with their applications satisfactory proof that they have been registered by examination in some other State; provided, that such other State shall require a degree of competency equal to that required of applicants in this Commonwealth. Every such applicant for registration as a registered pharmacist shall pay to the secretary of the board ten dollars at the time of filing his application. No such certificate shall be granted until the person applying therefor shall have signified his intention of acting under the same in this Commonwealth. No certificate shall be granted under this section unless the applicant shall have submitted evidence satisfactory to the board that he is a citizen of the United States. (Id. § 24, as amended L. 1924, c. 53.)

277. Records and Annual Report.—The board shall keep a record of the names of all persons examined and registered by it, of all persons to whom permits are issued under section thirty-nine, and of all money received and disbursed by it, and a duplicate thereof shall be open to public inspection in the office of the State Secretary. The board shall make an annual report of the condition of pharmacy in the Commonwealth. (G. L. 1921, c. 112, § 25.)

278. Exhibit of Certificate.—Every person receiving a certificate of registration from the board shall conspicuously display the same in his place of business. (Id. § 26.)

279. Hearing on Applications and Complaints.—The board shall hear all applications by registered pharmacists for the granting of third-class licenses, if a hearing is requested by the applicant, and all complaints made to it against any person registered as a pharmacist charging him in his business as a pharmacist with violating any laws of the Commonwealth, and especially the laws relating to the sale of intoxicating liquors; or with engaging with, or aiding or abetting, another in the violation of said laws; or, if he himself is not the owner and actively engaged in such business, with suffering or permitting the use of his name or certificate of registration by others in the conduct of the business of pharmacy. Such complaint shall set out the offense alleged and be made within fifteen days after the date of the act complained of, or within thirty days after a conviction by a court of competent jurisdiction. The board shall notify the person complained against of the charge against him and of the time and place of the hearing at which he may appear with his witnesses and be heard by counsel. It may summon witnesses and compel their attendance at said hearings. Witnesses shall testify on oath and may be sworn by a member of the board. Three members of the board shall be a quorum for any such hearing. (Id. § 27.)

280. Effect of Decision.—If the full board sitting at such hearing finds the person guilty, the board may suspend the effect of his certificate of registration as a pharmacist for such term as it fixes. The board may at any time reconsider its action in cases where it has suspended or revoked the license or certificate of regis-

tration of a pharmacist, and may change its determination as justice shall require. (Id. § 28.)

281. Suspension.—It may, by a majority vote of all its members, after hearing, suspend the certificate of registration of a registered pharmacist, who, in its judgment, is a menace to the public by reason of the improper use of intoxicating liquor or drugs. (Id. § 29.)

282. Penalty for Unlawful Sale of Drugs, Etc.—Except as provided in section sixty-five,* whoever, not being registered under section twenty-four or corresponding provisions of earlier laws, sells, or offers for sale at retail, compounds for sale or dispenses for medicinal purposes drugs, medicines, chemicals or poisons, except as provided in sections thirty-five and thirty-six, shall be punished by a fine of not more than fifty dollars. This section shall not prohibit the employment of apprentices or assistants and the sale by them of any drugs, medicines, chemicals or poisons, provided a registered pharmacist is in charge of the store and present therein; nor shall it apply to any unregistered co-partner or unregistered stockholder in a corporation doing a retail drug business who was actively engaged in the drug business on May twenty-eighth, nineteen hundred and thirteen. (Id. § 30.)

283. Proprietor, Etc., to Put His Name on Signs and Labels.—Every registered pharmacist carrying on the drug business as proprietor or manager shall cause his name to appear on every sign indicating or advertising his place of business and on every label used for medicinal preparations compounded in his place of business. (Id. § 31.)

284. Investigation of Complaints.—The board shall investigate all complaints of the violation of any provision of sections twenty-four to forty-two, inclusive, or of section sixty-five,† so far as it relates to pharmacy, and report the same to the proper prosecuting officers, and especially investigate and cause to be prosecuted all violations of sections twenty-five to thirty-three, inclusive, and eighty-eight of chapter one hundred and thirty-eight.‡ (Id. § 32.)

285. Access to Documents.—A registered pharmacist against whom a complaint or charge is pending before the board, or his counsel, shall have the same right of access to documents in the possession of said board as a person charged with crime in the courts of the Commonwealth would have to documents in the possession of the clerk of the court or the prosecuting officer. (Id. § 33.)

286. Certificate of Conviction of Pharmacist to be Sent to Board of Registration in Pharmacy.—The court or magistrate before whom a person is convicted of a violation of section thirty of this chapter, or of section thirty-two of chapter one hundred and thirty-eight,§ or of section two of chapter two hundred and seventy¹ shall send to the board a certificate under seal showing the time, cause and place of conviction. (Id. § 34, as amended L. 1923, c. 233, § 8.)

287. Application Restricted.—Sections thirty and thirty-seven to forty-one, inclusive of this chapter, sections twenty-five to thirty-three, inclusive, and eighty-eight, of chapter one hundred and thirty-eight² and section two of chapter two hundred and seventy¹ shall not apply to physicians who put up their own prescriptions or dispense medicines to their patients; nor to the sale of drugs, medicines, chemicals, or poisons by wholesale dealers or manufacturing chemists to retail dealers; nor to the manufacture or sale of patent and proprietary medicines; nor to the sale by merchants at retail of the following drugs and chemicals used in the arts, or as household remedies; alum, ammonia, bicarbonate of soda, borax, camphor, castor oil, chlorinated lime, citric acid, cod liver oil, copperas, cottonseed oil, cream of tartar, dye-stuffs, Epsom salt, flaxseed, flaxseed meal, gelatine, ginger, Glauber's salt, glycerine, gum arabic, gum tragacanth, hops, hyposulphite of soda, licorice, lime water, linseed oil, litharge, magnesium, olive oil, peroxide of hydrogen, petrolatum, phosphate of soda, rhubarb, Rochelle salt, rosin, sal ammoniac, saltpeter, senna, slippery elm bark, spices for seasoning, sugar of milk, sulphate of copper, sulphur, tartaric acid, turpentine, extract of witch hazel and zinc oxide; nor to the sale in the original packages of the following, if put up by registered pharmacists, manufacturers or wholesale dealers in conformity with law: Flavoring essences or extracts, essence of Jamaica ginger, insecticides, rat exterminators, aromatic spirits of ammonia, spirits of camphor, sweet spirits of niter, syrup of rhubarb, tincture of arnica and tincture of rhubarb; nor to the sale of the following poisons used in the arts, if properly

*See No. 299.

†See Nos. 276-294 and 299.

‡See Nos. 361-367 and 372.

§See Nos. 282 and 366.

¹See No. 327.

²See Nos. 282, 289-293, 361-367 and 372.

labeled and recorded as provided by section two of chapter two hundred and seventy: * Muriatic acid, oxalic acid, nitric acid, sulphuric acid, arsenic, cyanide of potassium, mercury, phosphorus and sulphate of zinc. (G. L. 1921, c. 112, § 35.)

288. Business of Deceased or Incapacitated Registered Pharmacist May be Continued, Etc.—The widow, executor or administrator of a registered pharmacist who has died or the wife of one who has become incapacitated may continue his business under a registered pharmacist, who may also be considered qualified to receive a third-class license to be exercised upon said premises of said deceased or incapacitated pharmacist: Provided, that the registered licensee is in charge of the premises and present therein. (Id. § 36.)

289. "Drug Business" Defined.—"Drug business," as used in the two following sections, shall mean the sale, or the keeping or exposing for sale of drugs, medicines, chemicals, or poisons, except as otherwise provided in section thirty-five, also the sale or the keeping or exposing for sale of opium, morphine, heroin, codeine or other narcotics, or any salt or compound thereof, or any preparation containing the same, or cocaine, alpha or beta eucaine, or any synthetic substitute therefor, or any salt or compound thereof, or any preparation containing the same, and the said term shall also mean the compounding and dispensing of physicians' prescriptions. (Id. § 37.)

290. Transaction of Retail Drug Business Regulated.—No store shall be kept open for the transaction of the retail drug business, or be advertised or represented, by means of any sign, or otherwise, as transacting such business, unless it is registered with, and a permit therefor has been issued by, the board, as provided in the following section. The permit shall be exposed in a conspicuous place in the store for which it is issued. (Id. § 38, as amended L. 1921, c. 318.)

291. Registration, Permits, Fee, Etc.—The board shall, upon application made in such manner and form as it shall determine, register a store for the transaction of the retail drug business and issue to such person as it deems qualified to conduct such store, a permit to keep it open; but no such registration shall be made or permit issued in the case of a corporation unless it shall appear to the satisfaction of the board that the management of the drug business in such store is in the hands of a registered pharmacist. Such permit shall expire on January first following the date of its issue, and the fee therefor shall be five dollars. (G. L. 1921, c. 112, § 39.)

292. Registration and Permit May be Suspended or Revoked, Etc.—The board may suspend or revoke any registration made under the preceding section and any permit issued thereunder for any violation of the law pertaining to the drug business or the sale of intoxicating liquors or for aiding or abetting in a violation of any such law; but before such suspension or revocation the board shall give a hearing to the holder of the permit, after due notice to him of the charges against him and of the time and place of the hearing. Such holder may appear at the hearing with witnesses and be heard by counsel. Witnesses shall testify on oath and any member of the board may administer oaths to them. The board may require the attendance of persons and compel the production of books and documents. Three members of the board shall be a quorum for such a hearing, but no registration or permit shall be suspended or revoked unless upon the affirmative vote of three or more members thereof. (Id. § 40.)

293. Penalty.—Whoever violates any provision of section thirty-eight shall be punished by a fine of not less than five nor more than one hundred dollars or by imprisonment for not more than one month, or both. (Id. § 41.)

294. Expenses.—For the purpose of carrying out the five preceding sections the board may expend annually a sum not exceeding one thousand dollars. (Id. § 42.)

295. Suspension or Revocation of License, Etc.—Except as otherwise provided by law, each board of registration in the Division of Registration of the Department of Civil Service and Registration, after a hearing, may, by a majority vote of the whole board, suspend, revoke, or cancel any certificate, registration, license or authority issued by it, if it appears to the board that the holder of such certificate, registration, license or authority, is insane, or is guilty of deceit, malpractice, gross misconduct, in the practice of his profession, or of any offense against the laws of the Commonwealth relating thereto. Any person whose certificate, registration, license or authority is suspended or revoked hereunder shall also be liable to such other punishment as may be provided by law. The said boards may make such rules and regulations as they deem proper for the filing of charges and the conduct of hearings. (Id. § 61, as amended L. 1921, c. 478, § 1.)

*See No. 327.

296. Hearings.—Any person against whom charges are filed shall be notified of the hearing thereof, and may appear with witnesses and be heard by counsel. If such person has left the Commonwealth, or cannot be found by reasonable search, notice may be dispensed with. Said boards shall have the same powers to summon witnesses to attend such hearings, and to swear them as are conferred upon city councils and other bodies by section eight of chapter two hundred and thirty-three,* and said section and sections nine and ten of said chapter* shall apply to witnesses summoned as aforesaid. (G. L. 1921, c. 112, § 62.)

297. Action Not to be Deferred, Etc.—Said boards shall not defer action upon any charge before them until the conviction of the person accused, nor shall the pendency of any charge before any of said boards act as a continuance or ground for delay in a criminal action. (Id. § 63.)

298. Revision of Suspension, Etc., of Certificates, Etc., by Supreme Judicial Court.—The Supreme Judicial Court, upon petition of a person whose certificate, registration, license or authority has been suspended, revoked or canceled, may enter a decree revising or reversing the decision of the board, if it appears that the decision was clearly wrong; but prior to the entry of such decree no order shall be made or entered by the court to stay or supersede any suspension, revocation or cancellation of any such certificate, registration, license or authority. (Id. § 64.)

299. Penalty for Practicing During Continuance of Suspension, Etc.—Whoever continues to practice any profession or calling after his certificate, registration, license or authority authorizing him so to do has been suspended, revoked, or canceled under authority of section sixty-one, and while such disability continues, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months, or both. (Id. § 65, as amended L. 1921, c. 478, § 2.)

300. Issue of Certified Statements and Duplicate Certificates.—Except as otherwise provided in section thirty-three of chapter ninety,† every Board of Registration or Examination established by the Commonwealth shall:

(1) Establish rules and regulations stipulating what information is to be furnished in a certified statement of registration for the fee of one dollar, and stipulating that, in case any additional information is furnished, the fee shall be two dollars.

(2) Furnish to any applicant the certified statement of registration applied for, provided that the application therefor is accompanied by the fee prescribed by its rules and regulations established as provided above.

(3) Issue a duplicate certificate of registration upon satisfactory evidence that the original certificate has been lost or destroyed, and the fee therefor shall be five dollars. (G. L. 1921, c. 112, § 88.)

301. Analysis of Drugs and Poisons.—It‡ shall make free of charge, a chemical analysis of cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salt or compound thereof, and of any poison, drug, medicine or chemical, when submitted to it by police authorities or by such incorporated charitable organizations in the Commonwealth, as the department shall approve for this purpose; provided, that it is satisfied that the analysis is to be used for the enforcement of law. (G. L. 1921, c. 111, § 12.)

302. To Furnish Certificates of Results of Analyses.—The analyst or an assistant analyst of the department shall upon request furnish a signed certificate, on oath, of the result of the analysis provided for in the preceding section to any police officer or any agent of such incorporated charitable organization, and the presentation of such certificate to the court by any police officer or agent of any such organization shall be prima facie evidence that all the requirements and provisions of the preceding section have been complied with. This certificate shall be sworn to before a justice of the peace or notary public, and the jurat shall contain a statement that the subscriber is the analyst or an assistant analyst of the department. When properly executed it shall be prima facie evidence of the composition and quality of the drugs analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he is such. (Id. § 13.)

303. To Furnish Remedies for Ophthalmia Neonatorum.—It shall furnish free of cost, to registered physicians such prophylactic remedies as it may deem best for the prevention of ophthalmia neonatorum. (Id. § 14.)

304. Definitions.—The following words as used in sections one hundred and ninety-seven to two hundred and thirteen, inclusive,¶ and in section thirty-eight of

*Entitled, "Witnesses and Evidence." Omitted herein.

†Relates to the registration of motor vehicles. Omitted herein.

‡The Department of Public Health.

¶See Nos. 304-321.

chapter two hundred and seventy-seven,* and schedule of forms at end of said chapter,† unless the context otherwise requires, shall have the following meanings:

"Druggist," "apothecary" or "pharmacist," a person duly registered under chapter one hundred and twelve,‡ and actively engaged as a practitioner, or employed in an established and fixed place of business for the sale, compounding and dispensing of drugs.

"Narcotic drug," coca leaves, cocaine, alpha or beta eucaine, or any synthetic substitute for them or any salts, compound or derivative thereof except decocainized coca leaves and preparations thereof, opium, morphine, heroin, codeine, or any preparation thereof or any salt, compound or derivative of the same; and, subject to section two hundred and six,¶ cannabis indica and cannabis sativa.

"Opium," "morphine," "heroin," "codeine" and "cocaine," as used in statutes or in complaints or indictments include any synthetic substitute for such drugs or any salts, compounds, derivatives or preparations thereof, except decocainized coca leaves and preparations thereof.

"Physician" or "practitioner of medicine," "veterinarian" and "dentist," a person duly registered and authorized to practice medicine, veterinary medicine and dentistry, respectively. (G. L. 1921, c. 94, § 197.)

305. Sale and Distribution of Certain Narcotic Drugs Regulated—Prescriptions of Physicians, Dentists, Etc.—Provisos—Section Not to Apply to Certain Persons, Etc.—Except as otherwise provided in sections one hundred and ninety-nine and two hundred, no person shall sell, furnish, give or deliver any narcotic drug except upon the written order of a manufacturer or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, physician, dentist or veterinarian registered under the laws of the State where he resides, or an incorporated hospital, college or scientific institution through its superintendent or official in immediate charge, or upon the written prescription of a physician, dentist or veterinarian registered as above provided, such order bearing his legal signature, the date of the signature, his office address, the registry number given him under the Act of Congress approved December seventeenth, nineteen hundred and fourteen, and the name, age and address of the patient for whom it is prescribed. The prescription, when filled, shall show the date of filling and the legal signature of the person filling it, written across the face of the prescription, and the prescription shall be retained on file for at least two years by the druggist filling it. No prescription shall be filled except in the manner indicated therein and at the time when it is received, and the full quantity of each substance prescribed shall be given. No order or prescription shall be either received for filling or filled more than five days after its date of issue as indicated thereon. Each pharmacist who fills a prescription for a narcotic drug shall securely attach to the container thereof a label giving the name and address of the store where the prescription is filled, the date of filling, the name of the person for whom it is prescribed, the name of the physician, dentist or veterinarian who issued it; and the narcotic drug so delivered shall always be kept in its container until used. No prescription shall be refilled, nor shall a copy of the same be made except for the purpose of record by the druggist filling the same, such record to be open at all times to inspection by the officers of the Department of Public Health, the Board of Registration in Pharmacy, the Board of Registration in Medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns; provided, that sections one hundred and ninety-seven to two hundred and thirteen, inclusive, shall not apply to prescriptions, nor to the sale, distribution, giving, dispensing or possession of preparations or remedies, if such prescriptions do not call for, or such preparations and remedies do not contain, more than two grains of opium or more than one-quarter of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce; nor shall they apply to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations containing cocaine or alpha or beta eucaine; provided, that such preparations, remedies or prescriptions are sold, distributed, given, dispensed or held in possession in good faith as medicines and not for the purpose of evading any provision of the last named sections, and provided that the possession of any narcotic drug, except in the form of prescriptions and preparations or remedies especially exempted in this section, by any one not

*See No. 326.

†See No. 349.

‡See No. 275 et seq.

¶See No. 313.

being a manufacturer or jobber of drugs, or wholesale druggist, registered pharmacist actively engaged in business as such, or a physician, dentist or veterinarian registered as above provided, or superintendent or official in charge of an incorporated hospital, college or scientific institution shall, except as provided in section two hundred and five, be presumptive evidence of an intent to violate sections one hundred and ninety-eight to two hundred and ten, inclusive. This section shall not apply to a person having in his possession any of the above mentioned articles by virtue of a legal prescription legally issued under any provision of sections one hundred and ninety-eight to two hundred and ten, inclusive, and not obtained by any false representation made to the physician, dentist or veterinarian issuing it, or to the pharmacist who filled it; nor shall such sections apply to decocainized coca leaves or preparations made therefrom or to other preparations of coca leaves which do not contain cocaine. (Id. § 198, as amended L. 1924, c. 208.)

306. Veterinarians, Etc., to Prescribe Only in Certain Cases.—No practitioner of veterinary medicine shall prescribe any narcotic drug for the use of a human being or in such manner that it may be used subcutaneously by such person, nor shall any physician or dentist prescribe, dispense, administer, sell, give or deliver any narcotic drug to any person except when the drug is obviously and in good faith then and there needed for the treatment and cure of a disease or ailment, and not needed for any condition or disease directly due to any drug habit or resulting solely from the failure of an habitual user of narcotic drugs to procure the particular narcotic drug to the use of which he is addicted. (G. L. 1921, c. 94, § 199.)

307. Physician May Personally Administer Narcotic Drugs, When.—A physician may personally administer any narcotic drug at such time and under such circumstances as he, in good faith and in the legitimate practice of medicine, believes to be necessary for the alleviation of pain and suffering or for the treatment or alleviation of disease. (Id. § 200.)

308. Sales to Certain Persons and Institutions Regulated.—Subject to section two hundred and sixteen, any manufacturer or jobber of drugs, wholesale druggist, registered pharmacist actively engaged in business as such and any physician, dentist or veterinarian registered under the laws of the State where he resides may sell a narcotic drug to any of the persons aforesaid or to any incorporated hospital, college or scientific institution, but such substances or preparations, excepting such preparations, as are included within the exemptions set forth in section one hundred and ninety-eight, shall be sold only upon the written order of such hospital, college or institution, duly signed by its superintendent or official in immediate charge, or upon a written order duly signed by any manufacturer or jobber in drugs, wholesale druggist, registered pharmacist actively engaged in business as such, or physician, dentist or veterinarian registered as above provided, and the order shall state the articles ordered, the quantity ordered and the date. Said order shall be kept on file in the laboratory, warehouse, pharmacy or store in which they are filled, by the proprietor thereof or his successor, for not less than two years after delivery, and shall at all times be open to inspection by the Department of Public Health, the Board of Registration in Pharmacy, the Board of Registration in Medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns. (Id. § 201.)

309. Duplicate Orders to be Preserved, Etc.—Any person or institution mentioned in the preceding section giving an order for any narcotic drug in accordance therewith shall preserve a duplicate thereof for two years after giving the same. The duplicate shall at all times be open to inspection by the Department of Public Health, the Board of Registration in Pharmacy, the Board of Registration in Medicine, authorized agents of said department and boards, and by the police authorities and police officers of towns. The order required by the Commissioner of Internal Revenue under and by virtue of the Act of Congress approved December seventeenth, nineteen hundred and fourteen shall be deemed to be a sufficient order to comply with this and the preceding section. (Id. § 202.)

310. False Representations Deemed Violations.—Whoever, for the purpose of evading or assisting in the evasion of any provision of sections one hundred and ninety-eight to two hundred and ten, inclusive, falsely represents that he is a physician, dentist or veterinarian, or that he is a manufacturer of or jobber in drugs or wholesale druggist or pharmacist actively engaged in business as such, or that he is superintendent, or official in immediate charge, of an incorporated hospital, college or scientific institution, or a person registered under the Act of Congress mentioned in the preceding section, or whoever, not being an authorized physician, dentist or veterinarian, makes or alters a prescription or written order

for a narcotic drug, or knowingly issues or utters a prescription or written order falsely made or altered, or whoever makes any false representation or statement as to his name, age, address, or any other matter, either in writing or orally, to any physician, dentist, pharmacist, or veterinarian for the purpose of procuring a prescription for, or the delivery of, a narcotic drug, shall be punished as provided in section two hundred and thirteen. Each prescription or order which is altered, or is obtained by a false representation, shall be void and of no effect. (Id. § 203.)

311. Possession of Federal Certificate to Be Evidence of Intent.—The possession by any person of a Federal certificate issued under and by virtue of the Act of Congress mentioned in section two hundred and two, shall be prima facie evidence of an intent to sell, furnish, give or deliver a narcotic drug. (Id. § 204.)

312. Common Carriers and Certain Officials, Etc., Exempt.—Sections one hundred and ninety-eight to two hundred and thirteen, inclusive, shall not apply to common carriers engaged in transporting narcotic drugs or to any employee, acting within the scope of his employment, or any person who is lawfully in possession, for the purpose of delivery, of any such drug, or to any person who delivers any such drug, which has been prescribed or dispensed by a physician, dentist or veterinarian registered under the laws of the State where he resides who has been employed to prescribe for the particular patient receiving such drug or to a nurse under the supervision of a physician, dentist or veterinarian having possession or control by virtue of his employment or occupation and not on his own account, or to the possession of any of the aforesaid drugs, which have been prescribed in good faith by a physician, dentist, or veterinarian, or to any United States, State, county, municipal, district, territorial or insular officer or official who has possession of any of said drugs by reason of his official duties, or to a person who, as an officer or duly appointed agent of any incorporated society for the suppression of vice, has the same in his possession for the purpose of assisting in the prosecution of violations of sections one hundred and ninety-eight to two hundred and thirteen, inclusive. (Id. § 205.)

313. Cannabis Indica and Cannabis Sativa.—The provisions of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, except such as require the ordering of narcotic drugs on an official order blank and the keeping of the same on file, and the keeping of the record relative thereto, shall apply to cannabis indica and cannabis sativa, except that such provisions shall not apply to prescriptions, preparations or remedies which do not contain more than one-half grain of extract of cannabis indica or more than one-half grain of extract of cannabis sativa in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce, nor to liniments, ointments or other preparations containing cannabis indica and cannabis sativa which are prepared for external use only. (Id. § 206.)

314. Liability of Manufacturer, Etc., Limited.—No manufacturer or jobber in drugs, wholesale druggist or registered pharmacist shall be liable to prosecution if he fills any prescription or written order for a narcotic drug in good faith unless he knows or has reasonable cause to suspect that the prescription or order was issued in violation of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, in which event any such sale or delivery of a narcotic drug shall constitute an unlawful sale or delivery of such drug. (Id. § 207.)

315. Physicians, Dentists, Etc., Prohibited from Certain Advertising.—No physician, dentist or veterinarian, and no druggist or pharmacist, either wholesale or retail, shall solicit by public advertisement or otherwise the application to him for prescriptions for, or sales of, narcotic drugs, nor shall he publicly advertise any treatment the principal element of which consists in the administering, dispensing, furnishing, giving or delivering of a narcotic drug, except that a wholesale druggist or manufacturing pharmacist may advertise in journals and publications intended for circulation among the medical profession and drug trade generally. (Id. § 208.)

316. Narcotic Drugs—Possession of Certain Instruments Regulated—Sales Etc., Regulated—Record of Sales to be Kept, Etc.—Penalty.—No person, not being a physician, dentist, nurse or veterinarian registered under the laws of this Commonwealth or of the State where he resides, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, official of any government having possession of the articles hereinafter mentioned by reason of his official duties, nurse acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of such articles, or the holder of a permit issued under section two hundred and nine A,

shall have in his possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection. No such syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, a nurse upon the written order of a physician or dentist, the holder of a permit issued under section two hundred and nine A, or an employee of an incorporated hospital upon the written order of its superintendent or officer in immediate charge. A record shall be kept by the person selling such syringe, needle or instrument, which shall give the date of the sale, the name and address of the purchaser and a description of the instrument. This record shall at all times be open to inspection by the Department of Public Health, the Boards of Registration in Medicine, Veterinary Medicine, and Pharmacy and the Board of Dental Examiners, authorized agents of said department and boards, and police authorities and police officers of towns. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment in a jail or house of correction for not more than two years, or both. (Id. § 209, as amended L. 1924, c. 239, § 1.)

317. Permits for Possession of Hypodermic Instruments by Physicians' Patients.—A registered physician may, subject to the rules and regulations of the Board of Registration in Medicine, issue to a patient under his immediate charge a permit to have in possession any of the instruments specified in the preceding section. Such permits shall be issued upon blanks to be furnished by said board and any permit so issued may be revoked at any time by it. (G. L. 1921, c. 94, § 209A, as added L. 1924, c. 239, § 2.)

318. Buildings, Etc., Illegally Used, Deemed Common Nuisances—Penalty.—Each building, place or tenement which is resorted to by habitual users of narcotic drugs for the purpose of using such drugs or which is used for the illegal keeping or sale of the same, shall be deemed a common nuisance. Whoever keeps or maintains such a common nuisance shall be punished by imprisonment for not less than three months nor more than two years. (G. L. 1921, c. 94, § 210, as amended L. 1922, c. 535, § 2.)

319. Penalty for Unlawful Possession of Narcotic Drugs.—Whoever, not being a manufacturer or jobber of drugs, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, nurse acting under the direction of a physician, or employee of an incorporated hospital acting under the direction of its superintendent or official in immediate charge, or a common carrier or messenger when transporting any narcotic drugs between persons mentioned in this section in the same package in which the drug was delivered to him for transportation, is found in possession thereof except by reason of a physician's prescription lawfully and properly issued shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than two and one-half years in the house of correction. (G. L. 1921, c. 94, § 211.)

320. Penalty for Illegal Sale, Exchange, Etc., of Narcotic Drugs.—Whoever has in his possession a narcotic drug with intent, unlawfully, to sell and deliver or to exchange such drug, or any part thereof, or whoever unlawfully sells, furnishes, gives, delivers or exchanges any narcotic drug in violation of any provision of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, shall be punished by imprisonment in the State Prison for not more than five years, or in a jail or house of correction for not less than one year nor more than two and one-half years. (Id. § 212, as amended L. 1922, c. 535, § 3.)

321. General Penalty.—Whoever violates any provision of sections one hundred and ninety-eight to two hundred and two, inclusive, and two hundred and four to two hundred and thirteen, inclusive, the penalty whereof is not specified therein, or of section two hundred and three, shall be punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both. (G. L. 1921, c. 94, § 213.)

322. Issue of Search Warrants—Penalty for Being Present, Etc.—If a person makes complaint under oath to a District Court, or to a trial justice or justice of the peace authorized to issue warrants in criminal cases, that he has reason to believe that opium, morphine, heroin, codeine, cannabis indica, cannabis sativa, peyote or any other hypnotic drug, or any salt, compound or preparation of said substances, or any cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, is kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel, or any place whatever, such person being other than a manufacturer or jobber of drugs, wholesale druggist, registered pharmacist, reg-

istered physician, registered veterinarian, registered dentist, registered nurse, employee of an incorporated hospital, or a common carrier or messenger when transporting any drug mentioned herein between parties hereinbefore mentioned, such court or justice, if it appears that there is probable cause to believe that said complaint is true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy marshal, police officer or constable, commanding him to search the premises where it is alleged that any of the above mentioned drugs is [are] kept or deposited and to seize and securely keep the same until final action, and to arrest the person in whose possession such drug is found, together with all persons present where such drug is found, and to return forthwith the warrant with his doings thereon, to a court or trial justice having jurisdiction in the town where said drug is alleged to be kept or deposited. Whoever is so present where any of the aforesaid drugs is found shall be punished by a fine of not more than fifty dollars or by imprisonment in the house of correction for three months. (Id. § 214.)

323. Articles Seized to Be Forfeited.—If after such notice as the court or trial justice orders it appears that any drug seized under the preceding section was, at the time of the making of the complaint, unlawfully in the possession of the person alleged therein, the court or trial justice shall order that such article or drug so seized be forfeited to the Commonwealth and shall order such article or drug sent to the Department of Public Health. Possession of such drug shall be prima facie evidence that such possession was in violation of law. Said department may destroy such article or drug or cause it to be destroyed or to be disposed of in any way not prohibited by law, and, after paying the cost of the transportation and disposition of the same, it shall pay over the net proceeds to the Commonwealth. Section eight of chapter two hundred and seventy-six* shall apply to all judgments rendered and orders made under this and the preceding section. (Id. § 215.)

324. Manufacture of Certain Preparations Forbidden.—No person shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them. (Id. § 216.)

325. Prosecution for Certain Violations Regulated.—The Department of Public Health shall cause the prosecution of all persons violating any provision of sections one hundred and ninety-eight, one hundred and ninety-nine and two hundred and one, but no prosecution shall be brought for the sale at retail or for the gift or exchange of any patent or proprietary medicine or food preparation containing any drug or preparation the sale of which is prohibited by sections one hundred and ninety-eight and two hundred and one, or against any wholesale or retail druggist for the sale, gift or exchange of any patent or proprietary preparation containing cocaine or alpha or beta eucaine, or any synthetic substitute for them unless said department, prior to such sale, gift or exchange, has given public notice in some trade journal that the gift, exchange or sale at retail of such medicine or food preparation, or the gift, sale or exchange of such patent or proprietary preparation, as the case may be, naming it in each instance, would be contrary to law. (Id. § 217.)

326. Allegations, Presumptions and Proof in Prosecutions Under Certain Sections of Chapter 94.—In a prosecution under any provision of sections one hundred and ninety-seven to two hundred and thirteen, inclusive, of chapter ninety-four,† for unlawfully prescribing, selling, furnishing, giving away or delivering a narcotic drug in violation of any provision of said sections, it shall be sufficient to allege that the defendant did unlawfully prescribe, sell, furnish, give away or deliver, as the case may be, the alleged narcotic drug, without any further allegations, and without naming the person prescribed for, or the amount or quantity of the drug, or the person to whom such sale, furnishing, giving away or delivery was made; but the defendant shall be entitled to a bill of particulars under section forty.‡ In such a prosecution, a defendant relying upon a prescription, written order, registration, appointment or authority as a defense or justification shall prove the same, and until he has proved it the presumption shall be that he is not so justified or authorized. (G. L. 1921, c 277, § 38.)¶

327. Sale of Poison.—Whoever sells arsenic (arsenious acid), atropia or any of its salts, chloral hydrate, chloroform, cotton root or its fluid extract, corrosive

*Relates to appeals to Superior Court. Omitted herein.

†See Nos. 304-321.

‡Refers to the granting of a bill of particulars. Omitted herein.

¶See No. 304.

sublimate, cyanide of potassium, Donovan's solution, ergot or its fluid extract, Fowler's solution, oil of pennyroyal, oil of savin, oil of tansy, Paris green, Parson's vermin exterminator, phosphorus, prussic acid, "rough on rats," strychnia or any of its salts, tartar emetic, tincture of aconite, tincture of belladonna, tincture of digitalis, tincture of nux vomica, tincture of veratrum viride, compounds of fluorine, or carbolic acid, without the written prescription of a physician, shall affix to the bottle, box or wrapper containing the article sold a label of red paper upon which shall be printed in large black letters the name and place of business of the vendor and the words "POISON" and "ANTIDOTE," and the label shall also contain the name of an antidote, if any, for the poison sold. He shall also keep a record of the name and quantity of the article sold and of the name and residence of the person or persons to whom it was delivered, which shall be made before the article is delivered, and shall be open to inspection by the officers of the State Police and by the police authorities and officers of towns. Whoever neglects to affix such label to such bottle, box or wrapper before delivery thereof to the purchaser, or whoever neglects to keep or refuses to show to said officers such record, or whoever purchases any of said poisons and gives a false or fictitious name to the vendor shall be punished by a fine of not more than fifty dollars. This section shall not apply to sales made by wholesale dealers or manufacturing chemists to retail dealers; or to a general merchant who sells Paris green, London purple or other arsenical poisons in unbroken packages containing not less than one-quarter of a pound, for the sole purpose of destroying potato bugs or other insects upon plants, vines or trees, except that he shall record each sale and label each package sold as above provided; or to sales of compounds containing not more than fifty per cent of sodium fluoride intended solely for the destruction of roaches, ants or other household insects, when sold in sealed metal packages containing not less than one-fourth of a pound, plainly labeled in such a manner as to show the purposes for which the preparation was intended. (G. L. 1921, c. 270, § 2.)

328. Samples for Analysis.—Whoever offers or exposes for sale or exchange any paper, fabric or other article shall furnish a sample thereof sufficient to ascertain by analysis the existence of arsenic therein, if such sample can be obtained without damage to the remaining portion, to any inspector, chemist or other agent or officer of the Department of Public Health who applies therefor and tenders the value thereof; and for a violation of this section shall be punished as provided in the preceding section.* (Id. § 11.)

329. Sale of Textiles Containing Arsenic.—Whoever, himself, or by his agent or servant, manufactures, sells or exchanges, or has in his custody or possession with intent to sell or exchange, any woven fabric or paper containing arsenic in any form, or any article of dress or household use composed wholly or in part of such woven fabric or paper, shall be punished by a fine of not less than fifty nor more than two hundred dollars; but this section shall not apply to articles intended for the destruction of insects, having the word "POISON" plainly printed in uncondensed gothic letters not less than one inch long on both sides of each sheet and square foot of the fabric, or to dress goods or articles of dress containing not more than one one-hundredth grain, or to other materials or articles containing not more than one-tenth grain of arsenic for each square yard of the material. The Department of Public Health shall make all necessary investigations as to the existence of arsenic in the aforesaid articles and materials, employ inspectors and chemists, and adopt such measures as are necessary to enforce this section. (Id. § 12.)

330. Opium Resorts.—Whoever opens a place to be resorted to by other persons, in which opium or any of its derivatives or compounds is sold or given away to be smoked at such place, and whoever visits or resorts to any such place for the purpose of smoking opium or any of its derivatives or compounds shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both. (G. L. 1921, c. 272, § 51.)

331. Search of Suspected Opium Resorts.—If a person makes oath before a District Court or trial justice that he believes or has probable cause to believe that any place, house, building or tenement within the jurisdiction of such court or justice is used or resorted to for the purpose of smoking opium or any of its derivatives or compounds, or for the purpose of selling or giving away opium or any of its derivatives or compounds to be smoked at such place, house, building or tenement, and that persons resort thereto for such purposes, such court or justice, whether the names of the persons last mentioned are known or unknown to the complainant, shall, if satisfied that there is probable cause therefor, issue a warrant commanding the sheriff or his deputy or any constable or police officer to enter such

*See No. 93

place, house, building or tenement and there to arrest the keepers thereof, and all persons there present, whether smoking or not, if the implements for smoking opium or any of its derivatives or compounds are there found, and seize all the opium and derivatives or compounds thereof and all the implements for smoking the same and all the furniture, fixtures and other personal property there found, and to keep said persons, opium, derivatives or compounds thereof, implements, furniture, fixtures and property so that they may be produced before a court or magistrate, to be dealt with according to law: Whoever is found so present or so smoking shall be punished by a fine of not more than one hundred dollars. The provisions of chapter two hundred and seventy-six relative to disposal of gaming articles seized upon search warrants shall apply to all articles seized as herein provided for. (Id. § 52.)

332. Penalty for Giving Articles to Prisoners Without Permission.—Whoever gives or delivers to a prisoner in the State Farm, in the prison camp and hospital, or in any jail or house of correction, any drug or article whatever, or has in his possession within the precincts of any prison herein named with intent to give or to deliver to any prisoner any such drug or article without the permission of the superintendent, master or keeper, shall be punished by a fine of not more than fifty dollars or by imprisonment in a jail or house of correction for not more than two months. (G. L. 1921, c. 268, § 28.)

333. Sale or Delivery of Liquor, Etc., to Patients in Certain Hospitals, Forbidden, Etc.—Whoever, except under the direction of a physician, gives, sells or delivers spirituous or intoxicating liquor or a narcotic drug to a patient in any hospital who is suffering from inebriety or from the effect of inebriety, or from excessive use of narcotic drugs or from the effect of such use, and whoever has in his possession within the precincts of any hospital any such liquor or drug with intent to convey or deliver it to any such patient, except under direction as aforesaid, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than two months. (G. L. 1921, c. 270, § 5.)

334. Care of the Insane, Feeble-Minded, Epileptic, Etc.—The Commonwealth shall have the care, control and treatment of all insane, feeble-minded and epileptic persons, and of persons addicted to the intemperate use of narcotics or stimulants, the care of whom is vested in it by law, and of each person who shall hereafter be received into any State hospital. No county, city or town shall establish or maintain any institution for the care, control and treatment of insane, feeble-minded or epileptic persons, or of persons addicted to the intemperate use of narcotics or stimulants, or be liable for the board, care, treatment or act of any inmate thereof. (G. L. 1921, c. 123, § 2.)

335. Department Scope of Supervisory Authority.—The department* shall have general supervision of all public and private institutions for insane, feeble-minded or epileptic persons, or for persons addicted to the intemperate use of narcotics or stimulants, and shall have charge of all such persons the care of whom is vested in the Commonwealth by law, and supervision of all other persons received into any of said institutions. It shall supervise and control any institution placed under it by the Governor with the advice and consent of the council, and when so directed by the Governor it shall assume and exercise the powers of the trustees of any State hospital in any matter relative to the conduct or management thereof. It shall have the same powers relative to State charges in institutions under its supervision, and to their property, as is vested in towns and overseers of the poor in the matter of the support and relief of paupers. (Id. § 3.)

335a. Investigation, Etc., by Department.—The department shall take cognizance of all matters affecting the mental health of the citizens of the Commonwealth, and shall make investigations and inquiries relative to all causes and conditions that tend to jeopardize said health, and the causes of mental disease, feeble-mindedness and epilepsy, and the effects of employments, conditions and circumstances on mental health, including the effect thereon of the use of drugs, liquors and stimulants. It shall collect and disseminate such information relating thereto as it considers proper for diffusion among the people, and shall define what physical ailments, habits and conditions surrounding employment are to be deemed dangerous to mental health. (Id. § 3 A, as added L. 1922, c. 519, § 2.)

336. Department of Mental Diseases to Establish Hospital Districts, Etc.—Commitments to Designated State Hospitals, Except, Etc.—The department shall divide the Commonwealth into districts, may change the districts from time to time, and shall designate the State hospitals to which insane, epileptic and feeble-minded persons and persons addicted to the intemperate use of narcotics and stimulants from each district shall be committed. All such persons within each

*Department of Mental Diseases.

district shall be committed to the State hospitals designated for the district; except that persons from any district may be committed to the Westborough State Hospital under section fifty-six, or to any State hospital when the expense of their support is paid by themselves or friends or upon the written approval of the department, to the McLean Hospital, to any private institution the person having charge of which is licensed under section thirty-three or to an institution established and maintained by the United States Government the person having charge of which is licensed under section thirty-four A. (Id. § 10, as amended L. 1924, c. 287, § 1.)

337. Licensing of Private Institutions.—The department may annually license any suitable person to establish or have charge of an institution or private house for the care and treatment of the insane, epileptic, feeble-minded, and persons addicted to the intemperate use of narcotics or stimulants, and may at any time revoke the license. No such license shall be granted for the care and treatment of insane or epileptic persons unless the said department is satisfied, after investigation, that the person applying therefor is a duly qualified physician, as provided in section fifty-three, and has had practical experience in the care and treatment of such patients. No such license shall be granted for the care and treatment of persons addicted to the intemperate use of narcotics or stimulants unless the department is satisfied, after investigation, that the person applying therefor is a physician who is a graduate of a legally chartered medical school or college, and that he has been in the actual practice of medicine for the three years next preceding his application for a license; nor unless his standing, character and professional knowledge of inebriety are satisfactory to the department. Licenses granted hereunder shall expire with the last day of the year in which they are issued, but may be renewed. The department may fix reasonable fees for said licenses and renewals thereof. All places required by this and the following section to be in charge and under the direct personal supervision of a licensee of the department shall be subject to supervision and visitation by said department, in so far as they are not already subject thereto under any other provision of this chapter. (G. L. 1921, c. 123, § 33, as amended L. 1926, c. 229.)

338. Penalty for Unlicensed Private Institutions.—Whoever keeps or maintains an institution or private house for the care or treatment of persons mentioned in the preceding section, unless the same is in charge of, and under the direct personal supervision of, a person duly licensed as provided therein, shall be punished by a fine of not more than five hundred dollars. (Id. § 34.)

339. Commitments of Dipsomaniacs, Etc.—Any of the judges named in section fifty, or a judge of the municipal court of the city of Boston, may commit to the State Farm, or to any other institution under the Department of Correction that may be designated by the Governor, to the McLean Hospital, or to a private licensed institution, by an order of commitment, directed to the trustees, superintendent, or manager thereof, as the case may be, made in accordance with section fifty-one, and accompanied by a certificate, in accordance with section fifty-three, by two physicians qualified as therein provided, any male or female person, who is subject to dipsomania or inebriety either in public or private, or who is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control. The judge receiving the application for such commitment shall examine on oath the applicant and all other witnesses, and shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and copy of the application to be served upon such person in the manner provided by section twenty-five of chapter two hundred and seventy-six. Such person shall be entitled to a hearing unless after receiving said summons he shall in writing waive a hearing, in which case the judge may issue an order for his immediate commitment as aforesaid, without a hearing, if he is of opinion that the person is a proper subject for custody and treatment in the institution to which he is committed. The commitment may be made forthwith, if the examining physicians certify the case to be one of emergency. A person committed as aforesaid may be detained for two years after the date of his commitment, and no longer. (G. L. 1921, c. 123, § 62, as amended L. 1922, c. 535, § 4.)

340. Appeal from Order of Commitment as Dipsomaniac, Etc.—A person may appeal from the order of commitment as a dipsomaniac or inebriate, or as addicted to the intemperate use of narcotics or stimulants, to the Superior Court sitting for criminal business in the county from which he is committed, in the manner provided by section twenty-two of chapter two hundred and twelve, but he shall be held in such institution to abide the final order of the court until he recognizes in the manner provided in section eighteen of chapter two hundred and seventy-eight. Upon such appeal the judge who ordered the commitment may bind the wit-

nesses by recognizance as provided in chapter two hundred and seventy-six, and shall make a copy of the order of commitment and other proceedings in the case and transmit the same with the recognizance, if any, to the clerk of the Superior Court. If the appellant so requests, an issue or issues shall be framed and submitted to a jury in the Superior Court. (G. L. 1921, c. 123, § 63.)

341. Default for Non-prosecution of Appeal.—If the appellant fails to enter and prosecute his appeal he shall be defaulted on his recognizance, and the Superior Court may enter an order in like manner as if he had been ordered to be committed by that court; and process may issue, if necessary, to bring him into court to be recommitted. (Id. § 64.)

342. Withdrawal of Appeal.—At any time before the copy of the proceedings has been transmitted to the Superior Court, the appellant may be brought or may appear personally before the judge from whose order the appeal was taken, who may in his discretion, at the appellant's request, permit him to withdraw his appeal and abide by the order of said judge. Thereupon the judge shall order that the appellant comply with the order appealed from in the same manner as if it were then imposed. (Id. § 65.)

343. General Provisions Relative to Commitment Applicable, When.—The provisions relative to the commitment of insane persons to an institution for the insane shall, unless it is otherwise expressly provided in this chapter, apply to and govern commitments under sections sixty-two to sixty-five, inclusive, or any of them, except that when an allegation of mental condition is required it shall be specifically alleged that a person who is committed under said sections is a dipsomaniac or inebriate or is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self-control. (Id. § 68.)

344. Service of Warrants, Etc.—Warrants and all other processes issued by a judge for the apprehension or commitment of insane persons, or of dipsomaniacs, inebriates, or persons addicted to the intemperate use of narcotics or stimulants, or of feeble-minded persons, or of those subject to epilepsy, may be directed to and served by a court officer, by any sheriff, deputy sheriff, constable or police officer or by any private person whom the judge may designate; and such warrants and processes may run into any county where any person to be apprehended or committed may be found, and any of the officers or persons to whom such warrants and processes are directed may serve the same in any part of the Commonwealth. (Id. § 71.)

345. Expenses of Commitment—How Paid.—All necessary expenses attending the apprehension, examination, trial, commitment or delivery of an alleged insane, epileptic or feeble-minded person, dipsomaniac, inebriate or one addicted to the intemperate use of narcotics or stimulants, committed to a State hospital, shall be allowed and certified by the judge and presented as often as once a year to the county commissioners of the county in which such person was committed, who shall examine and audit the same. Necessary expenses attending the apprehension, examination or trial of any person sought to be committed to a State hospital but not so committed, shall be so presented, examined and audited if they have been allowed in the discretion of the judge and certified by him. All necessary expenses of examination and delivery of persons mentioned in section eighty-seven, and of examination of an alleged insane, epileptic or feeble-minded person, dipsomaniac, inebriate or one addicted to the intemperate use of narcotics or stimulants in any other case where there is no application for commitment, when allowed in the discretion of a judge authorized to make commitments of such persons if their condition is found to be as alleged and certified by him, shall be presented as often as once a year to the county commissioners of the county, where the judge certifying the expenses was authorized by law to make commitments, who shall examine and audit the same. All expenses certified, examined and audited as provided in this section shall be paid by the proper county. Such expenses shall be repaid to the county paying them by the county, if any, of which the person committed, the person for whose commitment application was made and refused, the person mentioned in section eighty-seven or the person examined for whose commitment no application was made, as the case may be, is an inhabitant; but if the person committed or for whose commitment application was made but refused, or examined as aforesaid, is an inmate of an institution of any department of the Commonwealth at the time of his commitment or of the denial of the application for commitment or of his examination as aforesaid, such expenses shall be repaid to the county paying them by the county of which such inmate was an inhabitant at the time of his admission or commitment to such institution, or, if he was not an inhabitant of any county, by the county from which he was sent to such institution. The necessary expenses of returning to a State hospital a person temporarily

absent therefrom, under section eighty-eight, shall be paid by such person or his guardian, relative or friend if of sufficient ability, or may be paid by the county where he is found, if the condition of the person returned is such that a new commitment would be necessary if he were not returned; such expenses shall be certified and audited as in the case of a commitment, and shall be repaid as herein-before provided by the county of the person's residence. If application is made for the commitment of a person whose expenses and support are not to be paid by the Commonwealth, the said expenses shall be paid by the applicant or by a person in his behalf. (Id. § 74, as amended L. 1926, c. 104.)

346. Temporary Care of Persons Addicted to Intemperate Use of Narcotics, Etc.—The superintendent or manager of any institution to which commitments may be made under section sixty-two may, when requested by a physician, by a member of the board of health or a police officer of a town, by an agent of the institutions registration department of Boston, by a member of the State Police, or by the wife, husband, guardian or, in the case of an unmarried person having no guardian, by the next of kin, receive and care for in such institution, as a patient for a period not exceeding fifteen days, any person needing immediate care and treatment because he has become so addicted to the intemperate use of narcotics or stimulants that he has lost the power of self-control. Such request for the admission of a patient shall be made in writing and filed at the institution at the time of his reception, or within twenty-four hours thereafter, together with a statement, in a form prescribed by the department having supervision of the institution, giving such information as it deems appropriate. The trustees, superintendent or manager of such institutions shall cause to be kept a record, in such form as the department having supervision of the institution requires of each case treated therein, which shall at all times be open to the inspection of such department and its agents. Such record shall not be a public record, nor shall the same be received as evidence in any legal proceeding. The superintendent or manager of such an institution shall not detain any person received as above for more than fifteen days, unless, before the expiration of that period, such person has been committed under section sixty-two, or has signed a request to remain at said institution under section eighty-six. (G. L. 1921, c. 123, § 80, as amended L. 1922, c. 535, § 5.)

347. Temporary Care of Insane, Notice to Department.—Whenever a patient is received into any institution the superintendent or manager thereof shall give immediate notice of such reception to the department, stating all the particulars of the case, except where such information is contained in copies required to be sent to the department by section fifty-three. (G. L. 1921, c. 123, § 81.)

348. Voluntary Admission.—The trustees, superintendent or manager of any institution to which an insane person, a dipsomaniac, an inebriate, or one addicted to the intemperate use of narcotics or stimulants may be committed, in the case of Gardner State Colony when so authorized by the department, may receive and detain therein as a boarder and patient any person who is desirous of submitting himself to treatment, and who makes written application therefor and is mentally competent to make the application; and any such person who desires so to submit himself for treatment may make such written application. No such person shall be detained more than three days after having given written notice of his intention or desire to leave the institution. (Id. § 86, as amended L. 1926, c. 132.)

349. Effect of Annexed Forms.—The provisions of this chapter, and the forms hereto annexed, shall apply as well to complaints as to indictments, and such forms shall be sufficient in cases to which they are applicable. In other cases, forms as nearly like the forms hereto annexed as the nature of the cases and the provisions of law will allow may be used; but any other form of indictment or complaint authorized by law may be used.* . . .

(Under Chapter 94, Sections 197-213.)†

Common Nuisance.—That A. B., during the three months next before the finding of this indictment, at said (Boston), did keep and maintain a certain tenement resorted to by habitual users of narcotic drugs for the purpose of using narcotic drugs.

Unlawful Possession.—That A. B. did have in his possession unlawfully certain narcotic drugs, to wit: morphine (or cocaine or heroin or the name of the drug as it is commonly known).

*See No. 304.

†See Nos. 304-321.

Unlawful Possession With Intent to Sell.—That A. B. did have in his possession, with intent unlawfully to sell and deliver, a certain narcotic drug (naming the drug).

Conspiracy.—That A. B. and C. D. conspired together to engage in unlawful traffic in narcotic drugs.

Sale and Delivery.—That A. B. did unlawfully sell (or give away or deliver) a narcotic drug, to wit: morphine (or name drug is commonly known by).

Unlawful Prescribing and Delivery, Etc., by Physician, Etc.—That A. B. a physician (or pharmacist or dentist or veterinarian, etc), did unlawfully prescribe (or sell, give away, furnish or deliver) a certain narcotic drug, to wit: (naming it).

Possession of Hypodermic Instrument.—That A. B. did have in his possession unlawfully a hypodermic syringe and needle.

Sale and Delivery of Hypodermic Instrument.—That A. B. did unlawfully sell (or deliver) a hypodermic syringe (or needle).

False Making of Prescription.—That A. B. did falsely make (or alter) a prescription for a narcotic drug.

Uttering a False Prescription.—That A. B. did utter and publish as true a certain false prescription for a narcotic drug, well knowing the same to be falsely made (or altered).

Misrepresentation.—That A. B. did falsely represent to C. D. (a physician, or dentist, veterinarian, pharmacist, etc.), for the purpose of obtaining a narcotic drug, that (state the substance of the statements claimed to be representations). (G. L. 1921, c. 277, § 79.)

NOTE: See also Nos. 17, 439, 445, and 454-455.

Tuberculin.

349a. Use of Tuberculin Regulated; Penalty.—Every person who, himself or by his servant or agent, ships from a place within the Commonwealth or otherwise delivers any tuberculin to a person within the Commonwealth shall forthwith file with the director* a written statement containing the name and address of the person to whom the same was shipped or delivered as aforesaid and the quantity thereof. Every person receiving tuberculin for use in connection with domestic animals shall forthwith after such use file with the director a written statement containing the name and address of the person whose cattle have been tested with such tuberculin and of the person from whom the same was received, together with records of said test upon blanks furnished by the director. Whoever violates any provision of this section shall be punished for the first offense by a fine of not less than twenty-five nor more than one hundred dollars and for a subsequent offense by a fine of not less than fifty nor more than five hundred dollars. This section shall not apply to common carriers, their servants or agents. (G. L. 1921, c. 129, § 31A, as added L. 1927, c. 215.)

Venereal Disease Drugs.

350. Dissemination by Advertisement, Etc., of Information Concerning Certain Diseases Prohibited.—Whoever publishes, delivers, distributes, or causes to be published, delivered or distributed, an advertisement, statement or notice, other than a label which is attached to a bottle or package of medicine, or which is contained in a sealed package of medicine, describing the causes, symptoms, details or effects of a venereal disease, or of a disease, infirmity or condition of the sexual organs, for the purpose of calling attention to or advertising a person from whom, or an office or place at which, information, treatment or advice may be obtained concerning such diseases or conditions, shall be punished by imprisonment for not more than six months or by a fine of not less than fifty nor more than five hundred dollars, or both. This section shall not apply to the printing or delivering in sealed packages outside this Commonwealth of books, pamphlets or circulars containing such advertisements, nor to newspapers printed outside this Commonwealth, nor to the printing, publishing or distribution of any matter pertaining to venereal diseases by State or municipal health authorities. (G. L. 1921, c. 272, § 29.)

Wood Alcohol.

351. Manufacture, Sale, Etc., of Wood Alcohol, Etc., Without License by Other Than Registered Druggist Forbidden.—No person other than a registered druggist shall engage in the business of manufacturing, buying, selling or dealing

*Director of Animal Industry

in methyl alcohol, or wood alcohol, so-called, or denatured alcohol, or any preparation used for manufacturing or commercial purposes which contains more than three per cent of any of the said alcohols and is intended for use other than as a beverage, without being licensed so to do by the board of health of the town where the business is conducted. (G. L. 1921, c. 138, § 34.)

352. Licenses to Manufacture, Sell, Etc., Wood Alcohol, Etc.—The Board of health of each town may issue licenses under the preceding section, upon the payment of a fee of one dollar, to such persons as it shall find to be properly qualified to carry on the said business. The licenses shall expire on April thirtieth of each year, and may at any time be suspended or revoked, for cause, by the board. The board shall keep a record of all such licenses. (Id. § 35.)

353. Form of Label on Containers of Wood Alcohol, Etc.—Penalty.—Every barrel or keg containing methyl alcohol or wood alcohol, so called, or denatured alcohol containing methyl alcohol, or any drug or medicine intended for external use containing methyl alcohol, shall bear in capital letters not less than three-fourths nor more than one and one-half inches in height, stenciled thereon or printed upon a label affixed thereto, the words "POISON, NOT FOR INTERNAL USE." Every other container of any such alcohol, drug or medicine shall bear a label of white paper on which shall be printed in red capital letters not less than one-fourth of an inch in height, the words "DEADLY POISON," the name and place of business of the vendor, and the statement that he is a registered druggist or the number of his license under the two preceding sections, and, in legible type, the words "NOT FOR INTERNAL USE, CAUSES BLINDNESS. KEEP FROM THE EYES." Whoever, himself or by his servant or agent, sells, exchanges or delivers any such alcohol, drug or medicine in any container not conforming to this section shall be punished by a fine of not less than fifty nor more than two hundred dollars. (Id. § 36.)

354. Offense of Unlawful Sale of Wood Alcohol, Etc.—The sale of methyl alcohol, wood alcohol, so called, denatured alcohol, or any preparation containing alcohol as described in section thirty-four, by a person not licensed as required by sections thirty-four and thirty-five, or by a licensee to a person under sixteen years of age or to any person without reasonable investigation and inquiry to determine that the same is not to be used for drinking purposes, shall constitute the offense of unlawful sale of alcohol and may be described as such in any complaint or indictment without more; but a person so charged shall be entitled to a bill of particulars in accordance with section forty of chapter two hundred and seventy-seven. (Id. § 37, as amended L. 1927, c. 169.)

355. Penalty.—Except as otherwise provided in section thirty-six, violation of any provision of sections thirty-four to thirty-seven, inclusive, shall be punished by a fine of not more than one hundred dollars or by imprisonment in the house of correction for a term not exceeding six months, or both. (G. L. 1921, c. 138, § 38.)

NOTE: See also No. 25.

Intoxicating Liquors.

356. Definitions.—The following words as used in this chapter, unless a contrary meaning is required by the context, shall have the following meanings:

"Certain non-intoxicating beverages," all beverages containing not less than one-half of one per cent and not more than two and three-fourths per cent of alcohol by weight at sixty degrees Fahrenheit. Such beverages shall be deemed not to be intoxicating liquor.

"Licensing board," the board appointed under section four . . .

"Licensing authorities," all boards or officers having power to grant licenses for the sale of intoxicating liquor or of certain non-intoxicating beverages. (G. L. 1921, c. 138, § 1.)

357. Regulation of Sales.—No person shall sell, or expose or keep for sale, spirituous or intoxicating liquor or certain non-intoxicating beverages, except as authorized by this chapter. (Id. § 2.)

358. Manufacture, Transportation, Etc., of Intoxicating Liquors and Certain Non-intoxicating Beverages Regulated.—No person shall manufacture, transport by aircraft, water craft, or vehicle, import or export spirituous or intoxicating liquor as defined by section three, or certain non-intoxicating beverages as defined by section one, unless in each instance he shall have obtained the permit or other authority required therefor by the laws of the United States and the regulations made thereunder. (Id. § 2A, as added L. 1923, c. 370.)

359. Definition of Intoxicating Liquor.—Any beverage containing more than two and three-quarters per cent of alcohol by weight at sixty degrees Fahrenheit, and distilled spirits, shall be deemed to be intoxicating liquor within the meaning of this chapter. (G. L. 1921, c. 138, § 3.)

360. Intoxicating Liquors and Certain Non-intoxicating Beverages, Sale, Etc., Classes of Licenses.—Licenses shall be of the following classes:

First Class. To sell malt beverages, cider and light wines containing not more than two and seventy-five one-hundredths per cent of alcohol by weight at sixty degrees Fahrenheit, to be drunk on the premises.

Second Class. To sell, or manufacture and sell, malt beverages, cider and light wines containing not more than two and seventy-five one-hundredths per cent of alcohol by weight at sixty degrees Fahrenheit, not to be drunk on the premises.

Third Class. Licenses to retail druggists to sell liquors of any kind for medicinal purposes only.

Fourth Class. To sell, to any person holding a third or fifth class license, or a certificate of fitness under section twenty-seven, or to any person lawfully authorized by the laws of the United States and the regulations made thereunder to purchase intoxicating liquors, intoxicating liquors of any kind for other than beverage purposes, not to be used on the premises.

Fifth Class. Licenses to dealers in paints or in chemicals to sell alcohol for mechanical, manufacturing or chemical purposes only. (Id. § 18, as amended L. 1923, c. 233, § 1.)

361. Sale by Druggists Upon Prescription, Etc.—Proviso.—Druggists having a third class license may sell pure alcohol and intoxicating liquors or certain non-intoxicating beverages upon the prescription of a registered physician; provided, that the prescription is dated, contains the name of the person prescribed for and is signed by the physician. All such prescriptions shall be retained and kept on file in the manner provided by section twenty-eight. (G. L. 1921, c. 138, § 25, as amended L. 1923, c. 233, § 2.)

362. Licenses to Druggists.—No license for the sale of spirituous or intoxicating liquor, except of the third class, shall be granted to retail druggists. One or more licenses of the third class may be granted annually by the licensing authorities of a city or town to retail druggists who are registered pharmacists actively engaged in business on their own account, or on the account of the widow, executor or administrator of a deceased registered pharmacist, or of the wife of one who has become incapacitated, upon presentation to said authorities of the certificate prescribed by the following section, if it appears that the applicant is a proper person to receive such license, and is not disqualified to receive it under the provisions of section eighty-four. A registered pharmacist who owns stock of the actual value of at least five hundred dollars in a corporation which has been incorporated for the purpose of carrying on the drug business, and who conducts in person the business of a store of such corporation, shall be considered as actively engaged in business on his own account and as qualified to receive a license for such store. The licensing authorities may refuse to grant any and all such licenses. (G. L. 1921, c. 138, § 26.)

363. Certificate of Fitness for License.—The Board of Registration in Pharmacy may, upon the payment of a fee of not more than five dollars by an applicant for a license of the third class, issue to him a certificate of fitness, which shall not be valid after one year from its date, stating that in the judgment of said board he is a proper person to be intrusted with such license and that the public good will be promoted by the granting thereof. The board and the licensing authorities of the cities and towns mentioned in the following section may, after giving a hearing to the parties interested, revoke or suspend such certificate for any cause which they may deem proper, and such revocation or suspension shall revoke or suspend the third class license granted thereon. (Id. § 27.)

364. Sale by Pharmacists Upon Prescription, Etc.—Proviso.—In any city or town where licenses of the first two classes are not granted, registered pharmacists to whom a certificate of fitness has been issued as provided by the preceding section may sell pure alcohol and intoxicating liquors or certain non-intoxicating beverages upon the prescription of a registered physician practicing in such city or town, provided that the prescription is dated, contains the name of the person prescribed for, and is signed by the physician. All such prescriptions shall be retained and kept on file in a separate book by the pharmacists filling the same, and shall not be filled a second time. Such prescription book shall be open at all times to the inspection provided by section thirty-two. (Id. § 28, as amended L. 1923, c. 233, § 3.)

365. Druggist's License to Become Void in Certain Cases.—A license of the third class shall become null and void without any process or decree, if the registered pharmacist to whom it has been granted ceases to conduct his business in person and on his own account, or upon the revocation of his certificate of registration as a pharmacist, unless the registered pharmacist has been unable to so conduct his business or has died, and his business is continued by his wife, widow, executor or administrator under another registered pharmacist. (G. L. 1921, c. 138, § 29.)

366. Prescriptions, Etc., Open to Inspection, Etc.—All prescriptions referred to in sections twenty-five and twenty-eight . . . shall at all times be open to the inspection of the Board of Registration in Pharmacy, the licensing board in cities having such boards and in all other cities and towns, to the inspection of the aldermen, selectmen, overseers of the poor, sheriffs, constables, police officers and justices of the peace. (Id. § 32, as amended L. 1923, c. 233, § 5.)

367. Penalty for Sale of Liquor in Name of Pharmacist.—A person, not a registered pharmacist, who procures a third class license for the sale of intoxicating liquors in the name of a registered pharmacist who is dead, or in the name of a registered pharmacist by borrowing, hiring or purchasing the use of his certificate, and, being himself the owner or manager of the place, personally or by his servants sells intoxicating liquor, shall be punished by a fine of not less than fifty nor more than five hundred dollars and by imprisonment for not less than one nor more than six months. . . . (G. L. 1921, c. 138, § 33.)

367a. Refilling of Bottles.—All persons holding licenses to sell intoxicating liquors shall, immediately upon the emptying, within the limits of the licensed premises, of the original contents of a bottle containing liquors other than malt liquors, and before refilling the same, destroy all labels or printed marks thereon. There shall not thereafter be placed on such bottles any label or printed mark so similar to the original as to promote fraud or deceit, or as to be likely to be mistaken for the original label or mark. This section shall not be construed to prohibit the lawful refilling of such bottles with liquors true to label by the persons entitled to use the original label or mark or their agents. (Id. § 42.)

368. Penalty for Illegal Sale, Etc., of Certain Non-intoxicating Beverages.—Whoever, not being duly licensed as provided in this chapter, sells, exposes or keeps for sale certain non-intoxicating beverages as defined in section one shall be punished by a fine of not less than fifty nor more than five hundred dollars and by imprisonment for not less than one nor more than six months. (Id. § 83.)

369. Conviction of Licensee of Violation of Law or of Conditions of License Renders License Void.—Conviction of a licensee of the violation of any provision of a license of the first two classes or the fourth or fifth class or of any provision of this chapter shall render such license void.

Conviction of a holder of a third class license of a violation of any provision of sections thirty to thirty-two, inclusive, shall render such license void.

Such licensee shall be disqualified to hold a license for one year after his conviction, and if he is the owner of the licensed premises, no license shall be exercised on the premises described in the forfeited license during the residue of the term thereof. (Id. § 84.)

370. General Penalty.—A violation by any person of any provision of this chapter for which a specific penalty is not imposed or a violation by a licensee of any provision of his license shall be punished by a fine of not less than fifty nor more than five hundred dollars and by imprisonment for not less than one nor more than six months. (Id. § 86.)

371. Penalty for Certain Violations, Etc.—Except as provided in the following section, violation of any provisions of section twenty-eight, thirty-two, . . . shall be punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment for not less than one nor more than six months, or both. A licensee of the fifth class who violates section thirty-two shall be punished as above provided. (Id. § 87, as amended L. 1923, c. 233, § 6.)

372. Penalty for False Prescriptions.—Any person who makes or issues a false or fraudulent prescription referred to in section twenty-five or twenty-eight shall be punished by a fine of ten dollars. (G. L. 1921, c. 138, § 88, as amended L. 1923, c. 233, § 7.)

373. Penalty for Violation of Section 42.—Violations of section forty-two shall be punished by a fine of not less than fifty nor more than two hundred dollars. (G. L. 1921, c. 138, § 89.)

NOTE: See also Nos. 279-281 and 292-293.

PART IV.

Miscellaneous Laws.

False Advertising.

374. Untrue and Misleading Advertisements Prohibited.—Any person who, with intent to sell or in any way dispose of merchandise, securities, service, or anything offered by such person, directly or indirectly, to the public for sale or distribution, or who, with intent to increase the consumption of or demand for such merchandise, securities, service or other thing, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public within the Commonwealth, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, and which such person knew, or might on reasonable investigation have ascertained to be untrue, deceptive or misleading, shall be punished by a fine of not less than ten nor more than five hundred dollars; provided, that this section shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular, or to any agent of the advertiser who in good faith and without knowledge of the falsity or deceptive character thereof publishes, causes to be published, or participates in the publication of such advertisement. (G. L. 1921, c. 266, § 91.)

Flag Desecration.

375. Penalty for Misuse of Flag, Etc.—Whoever publicly mutilates, tramples upon, defaces or treats contemptuously the flag of the United States or of Massachusetts, whether such flag is public or private property, or whoever displays such flag or any representation thereof upon which are words, figures, advertisements or designs, or whoever exposes to public view, manufactures, sells, exposes for sale, gives away or has in possession for sale or to give away or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise or articles upon which is attached, through a wrapping or otherwise, engraved or printed in any manner, a representation of the United States flag, or whoever uses any representation of the arms or the great seal of the Commonwealth for any advertising or commercial purpose, shall be punished by a fine of not less than ten nor more than one hundred dollars or by imprisonment for not more than one year, or both; but a flag belonging to a grand army post, to a camp of the United Spanish War Veterans, to a post or department of the American Legion, or to a post or department of the Veterans of Foreign Wars of the United States, or belonging to or used in the service of the United States or the Commonwealth, may have the names of battles and the name and number of the organization to which such flag belongs inscribed thereon. Words, figures, advertisements or designs attached to, or directly or indirectly connected with, the flag or any representation thereof in such manner that the flag or its representation is used to attract attention to or advertise such words, figures, advertisements or designs, shall for the purposes of this section be deemed to be upon the flag. (G. L. 1921, c. 264, § 5, as amended L. 1922, c. 227.)

376. Exceptions to Section 5.—The preceding section shall not apply to publications issued solely for the purpose of giving information in relation to the flag, or of promoting patriotism or of encouraging the study of American history, or to any newspaper, periodical, book, pamphlet, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, article of jewelry, or stationery for use in correspondence, on which is printed, painted, or placed the flag of the United States not connected with any advertisement and not used for advertising purposes, but no words, figures, designs or other marks of any kind shall be placed upon the flag or representation thereof. (G. L. 1921, c. 264, § 6.)

377. Misuse of Foreign Flags, Etc.—Whoever publicly mutilates, tramples upon, defaces or treats contemptuously the flag or emblem of a foreign country at

peace with the United States, whether such flag or emblem is public or private property, or whoever displays such flag or emblem or any representation thereof upon which are words, figures, advertisements or designs, shall be punished by a fine of not less than five nor more than fifty dollars. (Id. § 7.)

Matches.

377a. Keeping for Sale—Receptacle.—Whoever keeps matches for sale or use in any store unless the same are in unbroken cases or in a metal or other fire-proof receptacle with the cover closed, except when it is necessary to obtain access thereto, shall be punished by a fine of not more than fifty dollars. (G. L. 1921, c. 148, § 65.)

Stove Polish.

378. Explosive Stove Polish.—No person shall manufacture, store, keep for sale, sell or transport any compound for use as a stove polish containing any liquid or compound whatsoever which will emit a gas that will flash at a temperature of less than one hundred degrees Fahrenheit, except that foundry paste which contains inflammable compound, if packed in metal containers, sealed by fusion and weighing in gross not less than five pounds, and if such container is labeled "Dangerous—Inflammable compound—Keep away from fire, heat and lights" may be manufactured, stored, kept for sale, sold or transported for use only by stove foundries, stove manufacturers and stove dealers on their own premises under regulations prescribed by the marshal. The flash point of said compound shall be ascertained by use of either Abel-Pensky's or Pensky-Martens' closed cup instrument, or by some other method approved by the marshal. (G. L. 1921, c. 148, § 58.)

379. Penalty.—Violation of any provision of section fifty-seven* or fifty-eight shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month, or both. (Id. § 59.)

Tobacco—Tobacco Products.

380. Sale of Cigarettes, Etc., to Certain Minors Prohibited.—Whoever sells a cigarette to a person under eighteen, or whoever sells snuff or tobacco in any of its forms to any person under sixteen, or, not being his parent or guardian, gives a cigarette to a person under eighteen, or gives snuff or tobacco in any of its forms to any person under sixteen shall be punished by a fine of not more than fifty dollars. A copy of this section printed in letters not less in size than eighteen point capitals, boldface, shall be prepared by the Department of Public Health and delivered without charge to towns applying therefor. (G. L. 1921, c. 270, § 6.)

381. Posting of Notice as to the Sale of Cigarettes, Etc., to Minors and Unlawful Removal Thereof.—A copy of the preceding section printed as therein specified shall be posted conspicuously by the owner or person in charge thereof in the shop or other place used to sell cigarettes at retail, and whoever violates this provision shall be punished by a fine of not more than fifty dollars. Any person unlawfully removing a copy so posted while said premises are used for the sale of cigarettes shall be punished by a fine of ten dollars. (Id. § 7.)

Trade-Marks, Etc.

382. Definitions.—The following words as used in this chapter, in addition to their ordinary meaning, shall, unless the context otherwise requires, have the meanings respectively given herein:

"Beverage," milk, cream, soda water, mineral or aerated water, ale, beer, ginger ale or similar beverages;

"Can," jug, bottle and jar;

"Label," trade-mark, stamp or form of advertisement;

"Name," letter, mark, device and figure;

"Vessel," can, jug, bottle, jar, siphon, fountain and box. (G. L. 1921, c. 110, § 1.)

383. Use of Trade-Marks Regulated.—When a person uses any peculiar name upon or connected with an article manufactured or sold by him to designate

*Relates to fireworks, etc. Omitted herein.

it as an article of a peculiar kind or quality, or as manufactured by him, no other person shall without his consent use the same or any similar name for the purpose of representing an article to have been manufactured by or to be of the same kind or quality as those manufactured or sold by the person rightfully using such name. (Id. § 2.)

384. Unlawful Use.—Whoever violates the preceding section, or knowingly sells or exposes for sale an article having a name upon or connected with it contrary thereto, shall be liable in tort to any party aggrieved thereby for all damages actually incurred. (Id. § 3.)

385. Restraining Use of Names or Labels.—The supreme judicial or superior Court shall have jurisdiction in equity to restrain the use of names or labels in violation of any provision of this chapter. (Id. § 7.)

386. Recording Labels.—A person may adopt a label, not previously owned or adopted by any other person, and file such label for record, by depositing two copies or facsimiles thereof in the office of the State Secretary, one of which copies or facsimiles shall be attached by the secretary to the certificate of record hereinafter referred to. The applicant shall file with the label a certificate specifying the name of the person filing it, his residence or place of business, the kind of merchandise to which such label has been or is intended to be appropriated, and the length of time, if any, during which it has been in use. If such label has not been and is not intended to be used in connection with merchandise, the particular purpose or use for which it has been or is intended shall be stated in the certificate. Such certificate shall be accompanied by a written declaration, sworn to by the person or by a member of the firm or by an officer of the association, union or corporation by which it is filed that the party so filing such label has a right to use the same, and that no other party has the right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the copies or facsimiles filed therewith are true. The secretary shall record the certificate in his office and issue to the party depositing it a certificate of record under the seal of the Commonwealth. Such certificate of record or a certified copy of its record shall in all suits and prosecutions under this section and sections ten to fifteen, inclusive, be sufficient proof of the recording of such label and of the existence of the person named in the certificate. The fee for filing the certificate and declaration and issuing the certificate of record shall be twenty-five dollars. No label shall be recorded which could reasonably be mistaken for a label already on record.

If a label duly recorded as aforesaid is assigned by an instrument in writing under seal, such assignment may be recorded. Upon the filing of an assignment the secretary shall issue to the assignee a certificate of its record. The fee for filing the assignment and issuing such certificate shall be twenty-five dollars. (Id. § 8.)

387. Regulations and Forms for Filing Labels.—The State Secretary may make regulations, and prescribe forms for the filing of labels, under the preceding section. . . . (Id. § 9.)

388. Restraining Use of Imitations of Labels.—The supreme judicial or Superior Court shall have jurisdiction in equity to restrain the manufacture, use or sale of counterfeits or imitations of a label, recorded as provided in section eight, shall award damages resulting from such wrongful manufacture, use or sale and shall require the defendant to pay the owner of such label the profits derived from such wrongful manufacture, use or sale; and may also order that all such counterfeits or imitations in his possession or control be delivered to an officer of the court or to the complainant, to be destroyed. If the complainant is not incorporated, suits under sections eight and ten to fourteen, inclusive, may be commenced and prosecuted by an officer thereof, on behalf of and for the use of the complainant. Every member of the complainant firm, association or union shall be liable for costs in any such proceeding. (Id. § 10.)

389. Use of Counterfeits Prohibited.—No person shall knowingly make or use any counterfeit or imitation of any lawful name or label or cause the same to be made or used, or sell, offer for sale, deal in or have in his possession with intent so to do, or affix, impress or use such counterfeit or imitation upon any goods. (Id. § 11.)

390. Use of False Dies, etc., Prohibited—Penalty.—No person shall knowingly, with intent to defraud, cast, engrave or manufacture, or have in his possession, or buy, sell, offer for sale or deal in, a die, plate, brand, mould, or engraving on wood, stone, metal or other substance, of a label recorded under section eight, or a printing press, or types or other tools, machines or materials provided or prepared for making a counterfeit or imitation of such label. (Id. § 12.)

391. Selling of Falsely Marked Goods Prohibited.—No person shall knowingly sell or expose for sale goods upon which any lawful name or label or any counterfeit or imitation thereof is unlawfully affixed, impressed or used. (Id. § 13.)

392. Aiding and Abetting.—No person shall knowingly, with intent to defraud, aid or abet in the violation of any of the provisions of the three preceding sections. (Id. § 14.)

393. Defense of Prior Ownership.—In any suit or prosecution under the five preceding sections, the defendant may show that he was the owner of such name or label prior to its being filed under section eight, and that it has been wrongfully filed by some other person. (Id. § 15.)

394. Registry of Bottles.—A person engaged in manufacturing, bottling or selling beverages in vessels, with his name and the word "registered" branded, engraved, blown or otherwise produced thereon, or on the boxes used by him, may have such vessel registered by filing in the office of the clerk of the town where his principal place of business is situated and in the office of the State Secretary, a description of the name so used by him, and shall publish such description once in each of four successive weeks in a newspaper published in the town where the description has been filed. (Id. § 17.)

395. Unlawful Use.—No person, without the written consent of the owner thereof, shall fill with a beverage with intent to sell the same any vessel registered under the preceding section, or change in any way, or conceal any name or the word "registered" thereon, or buy, sell, traffic in or dispose of any such vessel. This section shall not apply to vessels purchased from the owner. Violation of any provision of this section shall for the first offense be punished by a fine of not less than fifty cents for each vessel in respect to which the violation occurs or by imprisonment for not less than ten days nor more than one year, or both, and for each subsequent offense by a fine of not less than one nor more than five dollars for each such vessel or by imprisonment for not less than twenty days nor more than one year. (Id. § 18.)

396. Prima Facie Evidence of Unlawful Use, Etc.—The purchase, sale, traffic in, disposal or use of any such registered vessel by a person engaged in the manufacture, bottling or sale of beverages, without the written consent of the owner thereof, shall be prima facie evidence of a violation of the preceding section. Possession of any such registered vessel by a junk dealer or dealer in second-hand articles, without the written consent of the owner, shall be prima facie evidence of such violation. This section shall not apply to vessels purchased from the owner. (Id. § 19.)

397. Search Warrant.—Upon complaint of a person who has complied with section seventeen, or his agent, to a District Court or trial justice, that he has reason to believe and does believe that any of his registered vessels are being unlawfully used or filled by a person engaged in manufacturing, bottling or selling beverages, or that a junk dealer or dealer in second-hand articles or a vendor of cans or bottles has such vessels in his possession or secreted in any place, said court or justice may thereupon issue a search warrant; and may also cause the person in whose possession such vessels are found to be brought before him, and shall thereupon inquire into the circumstances of such possession; and shall award to the owner thereof possession of the property taken upon such search warrant. (Id. § 20.)

398. Registration of Milk Cans and Ice Cream Cans, Tubs and Cabinets.—A person engaged in buying, selling or dealing in milk or cream in cans, or who uses cans, tubs or cabinets in the sale, transportation or storage of ice cream, with his name and the word "registered" produced in a permanent manner in or upon such cans, tubs or cabinets, may register such articles by filing in the office of the clerk of the town where his principal place of business is situated, and also in the office of the State Secretary, a description of the name so used by him, and shall publish such description once in each of four successive weeks in a newspaper published in the town where the description has been filed. (Id. § 21, as amended L. 1924, c. 37, § 1.)

399. Illegal Use of Registered Cans, Etc.—No person shall without the consent of the owner take, detain, use, buy, sell, traffic in or otherwise dispose of any registered can, tub or cabinet. Possession of any such registered can, tub or cabinet by a person in the transaction of his business shall be prima facie evidence of violation of this section. (G. L. 1921, c. 110, § 22, as amended L. 1924, c. 37, § 2.)

400. Mutilation, Etc., of Registered Cans, Etc., Prohibited.—No person shall without the consent of an owner willfully destroy, mutilate or deface any registered can, tub or cabinet bearing such owner's name, or willfully erase, mar, cover or change any word or name branded, engraved, blown or otherwise produced in

a permanent manner in or upon such can, tub or cabinet. (G. L. 1921, c. 110, § 23, as amended L. 1924, c. 37, § 3.)

401. Defiling Registered Cans, etc.—Penalty.—Whoever puts an unclean or foul substance into any registered can, tub or cabinet shall for the first offense be punished by a fine of not less than fifty cents nor more than five dollars for each can, tub or cabinet with respect to which the violation occurs and for any subsequent offense by a fine of not less than two nor more than twenty dollars for each such can, tub, or cabinet. (G. L. 1921, c. 110, § 24, as amended L. 1924, c. 37, § 4.)

402. Search Warrant for Registered Cans, Etc., Wrongfully in Possession.—Upon complaint of a person who has complied with section twenty-one, or his agent, to a District Court or trial justice that he has reason to believe and does believe that a person has wrongfully in his possession or is secreting any of his registered cans, tubs, or cabinets said court or justice may issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person or his agent or employee in whose possession such cans, tubs or cabinets are found, and shall thereupon inquire into the circumstances of such possession; and, if said court or justice find that such person has been guilty of a willful violation of any of the provisions of the three preceding sections, he shall impose the penalty prescribed therefor and shall also order the property taken upon such search warrant to be delivered to the owner. (G. L. 1921, c. 110, § 25, as amended L. 1924, c. 37, § 5.)

403. Penalty for Making False Trade-Marks, Dies, Etc., and for Selling Falsely Marked Goods.—Violations of any provisions of sections eleven, twelve or thirteen shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or both. (G. L. 1921, c. 110, § 26.)

404. Penalty for Abetting Certain Offences and for Presenting Unpublished Composition.—Violations of any provision of section 14 . . . shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both. (Id. § 27.)

405. Penalty for Illegal Use or Mutilation of Registered Cans, Etc.—Violation of any provision of section twenty-two or twenty-three shall be punished for the first offense by a fine of not more than five dollars or by imprisonment for not more than two months for each can, tub or cabinet in respect to which the violation occurs and for any subsequent offense by a fine of not more than ten dollars or by imprisonment for not more than six months for each such can, tub or cabinet. (Id. § 28, as amended L. 1924, c. 37, § 6.)

406. Search Warrant May Issue—Counterfeit Trade-Marks, Etc.—A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the property or articles hereinafter named are concealed in a particular house or place, if satisfied that there is reasonable cause for such belief, issue a warrant to search for the following property or articles: . . .

Fifth, Counterfeits or imitations of a label, trade-mark, stamp or form of advertisement recorded pursuant to the statutes of the Commonwealth, goods upon which such counterfeit or imitation has been impressed, affixed or used, and any dies, plates, brands, moulds, engravings, printing presses, types or other tools, machines or materials prepared or provided for making such counterfeit or imitation. . . . (G. L. 1921, c. 276, § 1.)

NOTE: See also Nos. 134 and 138.

Trading Stamps—Gift Enterprise.

407. Gift Enterprises Prohibited.—Whoever sells, exchanges or disposes of any property, or offers or attempts so to do, upon a representation, advertisement, notice or inducement that anything other than what is specifically stated to be the subject of the sale or exchange is or is to be delivered or received, or is in any way connected with or is a part of the transaction, or whoever gives a stamp, coupon or other device which entitles a purchaser to demand or receive from a person or company other than the merchant dealing in the goods purchased or the manufacturer thereof, any other property than that actually sold or exchanged, or whoever delivers by any person or company other than the merchant dealing in the goods purchased, or the manufacturer thereof, goods, wares or merchandise upon the presentation of such stamp, coupon or other device, shall be punished by a fine of not less than ten nor more than five hundred dollars. (G. L. 1921, c. 271, § 29.)

408. Sale, Etc., of Trading Stamps, Etc., Prohibited.—Whoever, in connection with the sale of any article or any merchandise whatsoever, sells, gives or

delivers any trading stamps, checks, coupons or similar devices to be exchanged for, or to be redeemed by the giving of, any indefinite or undescribed article, the nature and value of which are not stated, or to be exchanged for, or to be redeemed by the giving of, any article not distinctly bargained for at the time when such trading stamps or other devices as aforesaid were sold, given or delivered, shall be punished by a fine of not less than ten nor more than fifty dollars. (Id. § 30.)

Weights and Measures.

409. Definitions.—In this chapter the following words, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

"Director," Director of Standards of the Department of Labor and Industries.

"Deputy," Deputy Sealer of Weights and Measures.

"Inspector," Inspector of Standards.

"Sealer," Sealer of Weights and Measures.

"Weighing or measuring device," all weights, measures, scales, balance beams, vibrating steelyards, and weighing or measuring devices used for weighing or measuring any commodity bought, sold or exchanged or for hire or reward, computing scales and other devices having a device for indicating or registering the price as well as the weight or measure of a commodity offered for sale, taxi meters and other forms of measuring devices used upon vehicles for determining the cost of transportation; and all machines and other forms of measuring devices used or intended to be used for determining the measurement of leather bought, sold or offered for sale. (G. L. 1921, c. 98, § 1.)

410. Relation of Avoirdupois to Troy Pound.—The avoirdupois pound shall bear to the troy pound the relation of seven thousand to five thousand seven hundred and sixty. The hundredweight shall contain one hundred avoirdupois pounds, and the ton twenty hundredweight. (Id. § 2.)

411. State Standards.—The following weighing and measuring devices now in the custody of the director shall be the sole authorized standards, except as provided in sections four, nine and ten of this chapter, and in section one of chapter ninety-nine,* and with the standards supplied under authority of said sections shall be called the State standards: A set of dry measures consisting of one half-bushel, eight, four, two and one quarts, one pint and one half-pint; a set of liquid measures consisting of one gallon, two and one quarts, one pint, two and one gills; a set of apothecaries' liquid measures consisting of one gallon, four, two and one pints, twelve, eight, six, four, three, two and one ounces, four, two and one drams, ten and five minims; a set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, three, two and one pounds, eight, six, four, three, two and one ounces, eight, six, four, three, two and one drams; a set of troy weights consisting of five thousand, three thousand, two thousand, one thousand, five hundred, three hundred, two hundred, one hundred, fifty, thirty, twenty, ten, five, three, two and one pennyweights, ten, six, five, four, three, two and one grains, one-half a grain, twelve, ten, six, five, four, three, two, and one ounces, five tenths, four tenths, three tenths, two tenths, one tenth, five one-hundredths, four one-hundredths, three one-hundredths, two one-hundredths, one one-hundredth, five one-thousandths, four one-thousandths, three one-thousandths, two one-thousandths, one one-thousandth, five ten-thousandths, four ten-thousandths, three ten-thousandths, two ten-thousandths, and one ten-thousandth of an ounce; a set of apothecaries' weights consisting of twelve, six, two and one ounces, four, two and one drams, two and one scruples, ten, five, four, three, two and one grains, one half, one quarter and one tenth grains; a yard measure and three sets of balances.

Such standards shall be kept by the director, and he shall, at least once in five years, cause them to be compared with the standards of the United States Government, and, if necessary, corrected to agree therewith. (Id. § 3.)

412. Weights, etc., to Be Replaced, When—Additional State Standards.—The State standards shall also include all weighing and measuring devices received from the United States under the resolution of Congress approved June fourteenth, eighteen hundred and thirty-six, and all other weighing and measuring devices received from the United States as standard weights and measures, and such as have been or shall be supplied by the Commonwealth and certified by the National Bureau of Standards. Weighing and measuring devices procured to replace the standards

*See No. 486.

shall be preserved in the same form and of the same dimensions as required of said standards, and the denominations thereof shall be marked thereon. (Id. § 4.)

413. Municipal Standards.—Towns shall keep the following standard weights, measures and balances: A set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, two and one pounds, and eight, four, two, one, one half, one quarter, one eighth and one sixteenth ounces; a set of dry measures consisting of one half-bushel, one eight-quart, one four-quart, one two-quart, one one-quart, one pint and one half-pint; a set of liquid measures consisting of one gallon, one half-gallon, one quart, one pint, one half-pint and one gill; one balance; one yard measure; and each town hereafter incorporated shall be furnished by the director with a complete set of the foregoing standards. Each city and each shire town shall keep the meter and kilogram and the standard troy weights designated by the director. (Id. § 5.)

414. Safe Keeping of Town Standards.—Town treasurers shall, at the expense of the towns, provide therein accessible places for the safe and suitable keeping and preservation of the standards furnished by the Commonwealth, which shall be used only as standards. The treasurer shall have the care and oversight thereof; shall see that they are kept in good order and repair; and if any are lost, destroyed or irreparably damaged, shall, at the expense of the town, replace them by similar standards. Towns may effect insurance on such standards for their own benefit. (Id. § 6.)

415. Penalty for Neglect of Town Treasurer.—Every such treasurer who neglects to provide a suitable place for keeping such standards, or to keep them in good order and repair, or who suffers any of them through his neglect to be lost, damaged or destroyed, shall forfeit two hundred dollars. (Id. § 7.)

415a. Vibrating Steelyards.—Vibrating steelyards may be used if each beam and the poises thereof are annually tried, proved and sealed by a sealer or deputy. (Id. § 8.)

416. State Clinical Standard Thermometer.—A clinical standard thermometer supplied by the Commonwealth and certified by the National Bureau of Standards for use by the Commonwealth, shall be the State clinical standard thermometer. Nothing in the five following sections shall be construed as adopting or authorizing the adoption of any particular scale as the thermometer standard for this Commonwealth. (Id. § 9.)

417. Office Clinical Standard Thermometer.—The Commonwealth shall also supply additional clinical standard thermometers necessary to carry out sections nine to fourteen, inclusive, to be known as office clinical standards. Such thermometers shall be verified by the director upon their receipt and at least once in each six months thereafter, by direct comparison with the State clinical standard thermometer. The office clinical standards may be used in making comparisons of clinical thermometers under test. (Id. § 10.)

418. Tolerances, Etc., for Clinical Thermometers.—The director shall promulgate tolerances and specifications for clinical thermometers. A correct clinical thermometer shall be one conforming to the standard established as provided in section nine and to specifications promulgated under this section, within such tolerances. (Id. § 11.)

419. Testing of Clinical Thermometers; Fees.—The director may at any time inspect and test any clinical thermometer in the possession of any manufacturer or dealer in this Commonwealth and for this purpose may remove the same to such place as he may deem most convenient. Whenever he inspects and tests such a thermometer and finds it to be correct he shall seal, mark or otherwise certify it as correct. Whenever he inspects and tests such a thermometer and finds it to be incorrect he may condemn, seize and destroy it; or he may return it to the owner upon a satisfactory guarantee that it will not be sold or used.

The following fees for testing clinical thermometers shall be paid to the director for the use of the Commonwealth: (a) One to eight thermometers, inclusive, twenty-five cents for the first and ten cents for each additional one; (b) any number from nine to eleven, inclusive, total fee one dollar; (c) one dozen to six dozen, inclusive, one dollar per dozen; (d) more than six dozen and not more than twelve dozen, seventy-five cents per dozen; (e) more than twelve dozen, sixty cents per dozen. (Id. § 12, as amended L. 1921, c. 263.)

420. Selling of Clinical Thermometers by Manufacturer.—The director shall prescribe rules and regulations governing the manufacture and sale of clinical thermometers and may authorize the sealing of such thermometers by any manufacturer thereof upon his agreement to conform to said rules and regulations and the filing of a surety bond in such sum and upon such terms as the director may require. When representative samples of any clinical thermometer have been submitted by

the manufacturer to the director and approved by him, he shall assign a designating mark which shall thereafter be permanently engraved by the manufacturer upon all clinical thermometers which are intended for sale and which conform to the samples which have been so approved. Clinical thermometers sealed by the manufacturer shall be marked with the name, initials, or trade-mark of the manufacturer, and with such other marks as the director may authorize or require. The director may revoke the authority given by him to any manufacturer under the provisions of this section upon proof that the authorized seal or designating mark has been affixed to a thermometer not conforming to the approved sample or that the prescribed rules and regulations have not been complied with. (Id. § 13.)

421. Sale of Unsealed Thermometers—Penalty.—Whoever, himself or by his servant or agent, or as the servant or agent of another person, keeps for the purpose of sale, offers or exposes for sale, or sells any clinical thermometer not sealed, marked or certified as correct by the director, or by the manufacturer as provided by the preceding section, shall be punished by a fine of not more than ten dollars for each thermometer so sold, or kept, offered or exposed for sale, and whoever violates any rule or regulation prescribed by the director under authority of said section shall be punished by a fine of not more than fifty dollars. (Id. § 14.)

422. Sealing of Glass Milk Bottles or Jars.—Glass bottles or jars used for the distribution of milk or cream to consumers, and holding, when filled to a level with the bottom of the cap or stopple or other definite filling point, not less than three ounces and seven drams and not over four ounces and two drams; not less than seven ounces and six drams and not over eight ounces and two drams; not less than fifteen ounces and five drams and not over sixteen ounces and four drams; not less than thirty-one ounces and four drams and not over thirty-two ounces and four drams; not less than forty-seven ounces and three drams and not over forty-eight ounces and five drams; not less than sixty-three ounces and two drams and not over sixty-four ounces and six drams, shall be sealed as measures under section forty-one or by the manufacturer. Dealers in milk or cream using glass bottles or jars for the distribution of milk or cream to consumers, not sealed by the manufacturer, shall bring them into the office of the sealer in their town, to be sealed; but no fee shall be charged or received for sealing them. If a bottle or jar has once been sealed by a sealer or manufacturer, it need not be sealed again while used for the distribution of milk or cream to consumers. Glass bottles or jars sealed hereunder shall be legal measures only for the distribution of milk or cream to consumers. Bottles or jars sealed by the manufacturer shall be marked with his name, initials, or trade-mark, and by any other mark required by the director. The sealing of such bottles or jars by the manufacturer shall not affect any law relating to the giving of false measure or the using, or having in possession, of false measures with intent to use the same. The director, on approval by the Commissioner of Labor and Industries may revoke the authority given by him to any manufacturer under this section, on proof that the authorized seal or designating mark has been affixed to any bottle or jar not conforming to the respective capacities provided for in this section. (G. L. 1921, c. 98, § 15.)

423. Sealing of Paper or Fibre Milk Bottles.—Paper or fibre bottles and jars used for the distribution of milk or cream to consumers, and holding, when filled to a level with the bottom of the cap or stopple, not less than eight, sixteen, thirty-two, forty-eight or sixty-four ounces, shall be sealed as measures under section forty-one or fifty-one, or by the manufacturer in the manner provided in the preceding section, and when so sealed may be used as provided by law for glass milk jars and bottles. Every such bottle or jar shall have plainly stamped upon it by the manufacturer the words: "Penalty for re-use, twenty-five dollars." (Id. § 16.)

424. Penalty for Re-Use of Such Bottles.—Whoever re-uses any such paper or fibre bottle or jar for distributing milk, cream or other liquid used for food after such bottle or jar has been once used therefor, shall be punished by a fine of not more than twenty-five dollars. (Id. § 17.)

425. Cans or Containers Used in Wholesale Distribution of Milk or Cream to Be Marked and Sealed—Sealing of Containers not to Exempt Users from Certain Laws—Inspection of Containers, Etc.—All cans or containers sold for use in the purchase or sale of milk or cream at wholesale shall have their capacity plainly, conspicuously and indelibly marked thereon in terms of liquid quarts. They shall be sealed by the manufacturer thereof, as hereinafter provided, or by a sealer of the town where the user resides or has a usual place of business. The director shall prescribe regulations governing the sealing of such cans or containers by the manufacturer and may authorize such sealing by any manufacturer upon his agreement to conform to said regulations. The director may at any time, for cause,

revoke the authority so given by him to any manufacturer. When sealed by the manufacturer, such cans or containers shall be marked with his name, initials or trade-mark and with any other designating marks which the director may require. The sealing of such containers by the manufacturer shall not exempt the user from the laws relative to giving a false or insufficient measure, using a false measure, or having the same in possession with intent to use. Sealers of the town where the user resides or has a usual place of business shall at least annually inspect all cans or containers marked and sealed in accordance with this section and shall make a record of such inspections. When once sealed as herein required, a can or container need not again be sealed while in the same condition as when first sealed. (Id. § 18, as amended L. 1921, c. 45.)

426. Penalty for Selling Containers not Marked and Sealed—Penalty for Using Containers not Marked and Sealed.—Whoever by himself or by his servant or agent, or as the servant or agent of another person, sells any can or container to be used in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding ten dollars for each can or container so sold. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, uses any can or container in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding ten dollars for each offense. The director, inspectors and sealers shall enforce the provisions of this and the preceding section. (Id. § 19.)

427. Containers for Sale of Ice Cream to Be Sealed by Manufacturer, Etc.—All cans, moulds or other containers used in the sale of ice cream by measure shall be of the capacity of Massachusetts standard liquid measure. Such cans, moulds or other containers shall be sealed, as hereinafter provided, by the manufacturer thereof, or by a sealer, and shall not be legal measures except for ice cream. When sealed by the manufacturer, such containers shall be marked with his name, initials or trade-mark. They may also be marked with any other designating mark assigned to him by the director; provided, that he has agreed to conform to the regulations made by the director relative thereto. When such containers have not been sealed by the manufacturer, they shall be sealed, before they are used, by a sealer, and the dealer who intends to use them shall bring such containers to the office of such sealer for that purpose, but no fee shall be charged for sealing them. The sealing of such containers by the manufacturer shall not be held to exempt the user from the laws relating to the giving of false or insufficient measure, or the using of a false measure, or having in his possession a false measure with intent to use. (G. L. 1921, c. 98, § 20.)

428. Sealers to Inspect Semi-annually.—Sealers shall inspect at least semi-annually all cans, moulds or other containers sealed in accordance with the preceding section, and shall make a record of such inspection. If a container has once been sealed as aforesaid, it shall not be necessary to have it sealed again while it is used for the sale of ice cream as long as it remains in the same condition as when first sealed. (Id. § 21.)

429. Sale of Certain Articles and Containers in Which Sold Regulated.—Paper or fibre cartons which are used for the sale by measures of viscous or semi-solid commodities or mixtures of solids and liquids shall contain and shall be sold as containing one quart, one pint, one half pint or one gill, Massachusetts standard liquid measure. Such cartons shall be of such shape and dimensions as may be approved by the director. Whenever the shape and dimensions of any such carton have been so approved, the director may authorize the manufacturer to have printed thereon a statement of its capacity in terms of Massachusetts standard liquid measure, with the words "Approved by the Director of Standards for Massachusetts," and with such other marking as the director may require. Such cartons shall be legal measure only for such commodities as may be designated by the director and shall be exempt from the laws requiring the sealing of measures. (Id. § 22, as amended L. 1921, c. 374.)

430. Test of Containers by the Director or a Sealer.—A sealer or deputy of any city or town or the director or an inspector may, if he so desires, and shall, upon complaint, test the capacity of any container which is used or intended to be used as a measure under sections twenty to twenty-four, inclusive; and if the same does not conform to the law, he shall seize it and enter complaint. The director may, at any time, for due cause, revoke any authority or permit granted by him to any manufacturer under said sections. (G. L. 1921, c. 98, § 23.)

431. Penalty for Unauthorized Marking.—Whoever violates any provision of sections twenty to twenty-three, inclusive, and whoever marks a container or other measure, or procures the same to be marked or has printed thereon or procures to

have marked or printed thereon, a mark, number or designation without the approval or authority of the director, except as provided in section twenty, shall be punished by a fine of not more than fifty dollars. (Id. § 24.)

432. Weighing or Measuring Devices to be Marked "Condemned," When.—All weighing or measuring devices which cannot be made to conform to the standard shall be stamped, marked or labeled "Condemned" or "CD" by the sealer. Weighing or measuring devices in possession of a merchant or vendor not used for buying or selling, or for weighing and measuring for hire or reward shall be plainly marked by the sealer with a notice that such articles have not been sealed under this chapter. Whoever removes said notice without the consent of the person affixing the same shall be punished by a fine of not more than fifty dollars. (Id. § 25.)

433. Penalty for Using, Etc., False Weights and Measures.—Whoever uses, or has in possession with intent to use, a false or condemned weighing or measuring device for weighing or measuring any commodity bought, sold or exchanged, or for hire or reward, shall be punished by a fine of not more than fifty dollars. The possession of such weighing or measuring device shall be prima facie evidence of intention to use it in violation of law. (Id. § 26.)

434. Penalty for Using Unsealed Weights.—Whoever sells or, if by the custom of trade such weighing or measuring devices are provided by the buyer, buys, by any weighing or measuring device which has not been sealed according to law shall forfeit not more than twenty dollars to the use of the person suing therefor. (Id. § 27.)

435. Value of Goods Sold by Unsealed Weights May Be Recovered.—A seller may recover the fair market value of goods, wares or merchandise sold, if they were, for the purpose of the sale, weighed or measured upon weighing or measuring devices not sealed according to law, or weighed or measured by a person not a sworn weigher, measurer or surveyor, or by a person not authorized by law to weigh or measure the same, if such sale is made in good faith and the purchaser is not injured thereby. (Id. § 28.)

436. Certain Duties of Director of Standards—Uniform Testing and Sealing of Weighing and Measuring Devices.—The director shall enforce the laws relating to the use of weighing and measuring devices and the giving of false or insufficient weight or measure and shall keep a detailed record of his work in connection therewith. He shall also from time to time establish units of measurement to be observed in the sale of wooden shingles in the Commonwealth. He may also, if he deems it desirable, and shall, upon request of the manufacturer of any weighing or measuring device or of any sealer of weights and measures, examine such device to determine whether or not its construction is such as to insure reasonably permanent accuracy and whether or not it may be used to facilitate the perpetration of fraud, approving or disapproving it accordingly. When any weighing or measuring device has been so approved or disapproved by him, he shall notify all sealers of weights and measures, who shall thereafter act in accordance with such approval or disapproval when devices of that type are submitted to them for test. (Id. § 29, as amended L. 1925, c. 72.)

437. Certain Powers of Inspectors.—The inspectors shall aid the director in the performance of his duties and shall have all necessary powers therefor. (G. L. 1921, c. 98, § 30.)

438. Director, Etc., to Have a Seal, Etc.—The director and town and district sealers shall keep seals for their use. The seal of the director shall bear the letters "C. M." and those of the sealers shall be of a type approved by the director. Any sealer neglecting to keep such a seal shall forfeit not more than twenty dollars, and whoever, without being duly authorized thereto, impersonates a sealer or deputy by the use of a seal or otherwise, or has in his possession an imitation or counterfeit of the seal used by a sealer or deputy shall be punished by a fine of not more than fifty dollars. (Id. § 31.)

439. Director to Test Local Standards, Etc.—At least once in three years, the standards of apothecaries' weights and of apothecaries' liquid measures in the custody of town treasurers and at least once in ten years, or oftener if the director deems it necessary, the other standard weights, measures and balances of each town shall be tested, adjusted and sealed or certified under his direction. He shall also see that such standards are kept in good order and condition, and may at any time, and shall on request of a town treasurer, cause an inspection of the standards to be made. The director and his inspectors may also inspect any weighing or measuring devices used for buying, selling or exchanging goods, wares, merchandise or other commodity, or for public weighing in a town, and, if found inaccurate, shall forthwith inform the mayor or selectmen, who shall cause the law relating thereto to be enforced. If the director or an inspector discovers a violation of law, he may

make and prosecute a complaint and shall have therefor the same statutory powers relative to the enforcement of laws pertaining to weights and measures as are vested in local sealers. Whoever hinders, obstructs or in any way interferes with him in the performance of duty hereunder shall be punished by a fine of not more than three hundred dollars, or by imprisonment for not more than two months. Every treasurer neglecting to have the standards in his care sealed as provided in this section shall forfeit not more than fifty dollars. (Id. § 32.)

440. Testing of Weighing and Measuring Devices Used in State Institutions, etc.—The director or his inspectors under his direction, shall at least once in each year test all weighing and measuring devices used in checking the receipt or disbursements of supplies in each State institution or department, and shall mark them in accordance with the results of such tests. He shall report in writing his findings to the executive officers of the institution or department; and at their request shall appoint in writing one or more employees, then in the actual service of such institution or department, as special deputies to check the receipt or disbursement of supplies. (Id. § 33.)

441. Appointment of Sealers and Deputy Sealers in Cities and Large Towns.—Subject to chapter 31,* the mayor of each city and the selectmen of each town of over ten thousand inhabitants shall appoint a sealer, and may appoint one or more deputies to act under the direction of the sealer. The sealer and deputies shall enforce the law pertaining to weighing and measuring devices and to the giving of false or insufficient weight or measure. Sealers and deputies appointed hereunder shall receive a salary to be determined by the board, officer or body authorized to determine salaries in their respective cities and towns, and shall also receive an additional allowance for transportation and other necessary expenses. They shall account for and pay into their city or town treasuries monthly all fees received and shall make an annual report to the appointing board or officer, and to the director as provided by section thirty-seven. (Id. § 34.)

442. Sealer to be Appointed Annually in Small Towns.—The selectmen of towns of less than ten thousand inhabitants shall annually appoint a sealer and may appoint one or more deputies to act under his direction. Such sealers and deputies shall have the same powers and duties as sealers and deputies appointed under the preceding section and shall receive such compensation as may be determined by the selectmen and an additional allowance for transportation and other necessary expenses. The selectmen may at any time remove such sealers or deputies and appoint others in their places. (Id. § 35.)

443. Appointment of District Sealers, Etc.—Two or more towns, or one city and one or more towns, may combine the whole or any part of their respective territories as may be agreed upon by the boards or officers having the appointing power in such cities or towns into a district with one district sealer and one set of standards. He shall have the powers of and perform the duties of sealers under the direction of the director within the district. Each such sealer shall forthwith on his appointment give bond, with sureties approved by the appointing power, for the faithful performance of his duties, for the safety of the standards, working equipment, records, and other things committed to him, and for their surrender to his successor or to any person duly appointed to receive them. He shall be paid a salary determined by the appointing power and shall be provided by them with necessary standards and working equipment, and shall be allowed necessary sums for transportation and other expenses. Each such sealer shall keep a complete record of all his official acts and shall make an annual report to the director as provided by the following section and to each city or town in his district. He shall account for and pay into the treasury of each city or town monthly all fees received by virtue of his office in such city or town. (Id. § 36.)

444. Sealers to Report to Director.—Each sealer shall annually, between the first and tenth days of December, report to the director the weighing and measuring devices tested, sealed or condemned by him, with an inventory of standards and working apparatus in possession of his town or district, and other information required by the director. (Id. § 37.)

445. Sealer to Be Provided with Duplicate Sets of Apothecaries' Weights, etc.—Sealers shall, upon request to the director, be provided, at the expense of their towns, with duplicate sets of apothecaries' weights and apothecaries' liquid measures described in section three, to be used as standards in the towns where they are kept. (Id. § 38.)

446. Sealers Accountable to Towns for Standards Received.—Except as otherwise provided in section thirty-six each sealer shall receive from his town

*Entitled "Civil Service." Omitted herein.

treasurer a set of standards and a seal, and shall give a receipt therefor, stating their condition when received; and shall be accountable to such town for the preservation thereof in like condition until returned to the treasurer. (Id. § 39.)

447. Sealer to Have Duplicate Sets of Weights.—A sealer or deputy visiting the place of business of a person to test and seal weighing or measuring devices may use therefor suitable weights, measures and balances; and each town and district shall furnish its sealer with one or more duplicate sets of weights, measures and balances, which shall at all times be kept to conform to the standards provided by the Commonwealth; and all weighing or measuring devices so sealed shall be deemed legally sealed, as if tested and sealed with the standards. (Id. § 40.)

448. Notice of Sealing to Be Given by Sealers.—Sealers shall annually give public notice, by advertisement or by posting notices in one or more public places in their towns or districts to all inhabitants, or persons having usual places of business therein, using weighing or measuring devices for the purpose of buying or selling goods, wares or merchandise, for public weighing or for hire or reward, to bring them in to be tested, adjusted and sealed. Such sealers shall attend in one or more convenient places, and shall adjust, seal or condemn such devices in accordance with the results of their tests, and shall make a record thereof. (Id. § 41, as amended L. 1923, c. 32.)

449. Testing, Etc., in Houses, Etc., After Notice of Sealing.—After giving said notice, said sealers shall go to the houses, stores, shops, and vehicles of persons not complying therewith, and shall test and adjust, seal or condemn in accordance with the results of their tests, the weighing or measuring devices of such persons; provided, that devices for determining the measurement of leather bought, sold or offered for sale shall be tested at least semi-annually, and provided, further, that when a vehicle tank used in the sale of commodities by liquid measure has once been sealed, it shall not be necessary to seal it again while it remains in the same condition as when first sealed. A person who neglects or refuses to exhibit his weighing or measuring devices to a sealer or deputy or who hinders, obstructs or in any way interferes with a sealer or deputy in the performance of duty, shall be punished by a fine of not more than fifty dollars. (G. L. 1921, c. 98, § 42, as amended, L. 1927, c. 95, § 1.)

450. Testing of Devices Registering Price.—A sealer or deputy shall test all weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity offered for sale as to the correctness of both weights or measures and values indicated by them. (G. L. 1921, c. 98, § 43.)

451. Testing of Mechanical Devices for Measuring Leather.—Devices used for determining the measurement of leather bought, sold, or offered for sale shall be tested as to the correctness of measures indicated by them by a sealer of the town where they are used, and the director may make such rules and regulations as he deems necessary to insure the greatest possible accuracy in the use of said devices. (Id. § 44.)

452. Testing of Taximeters.—All devices used upon vehicles for determining the cost of transportation shall be tested as to the correctness of measures and values indicated by them, and the director may make rules and regulations to insure accuracy in the use thereof. Any owner or operator of a taxicab or other vehicle who refuses or neglects to comply with any rule or regulation so made by the director shall be punished by a fine of ten dollars. (Id. § 45.)

453. Testing of Devices Used in Standardizing Production and in Determining Wages, Capacity of Tanks, Etc., and the Accuracy of Automatic Devices.—The director may, if he deems it desirable, and shall, upon request, test any weights, measures, instruments or mechanical devices of any kind used or intended to be used in standardizing the production of any manufactured article by controlling processes or by determining the dimensions, proportions or properties of materials or products, in determining wages or compensation for labor performed, in determining the dimensions or capacity of any tank, can or other container, or in determining the accuracy of any automatic weighing or measuring device. When any such weight, measure, instrument or mechanical device has been tested and found correct by the director, he may seal the same. If he finds it inaccurate, he may, in his discretion either condemn it or he may furnish the owner or user with a certificate indicating the amount and direction of any errors found by him. This section shall not give to the said director or to his inspectors the power to seal any of the devices which, on April twenty-ninth, nineteen hundred and twenty, were required by law to be sealed by the local sealers throughout the Commonwealth. (Id. § 46.)

454. Annual Testing of Apothecaries' Weights, Etc.—Exception.—Apothecaries and other persons dealing in or dispensing drugs, medicines or merchandise sold, dispensed or given away by apothecaries' weights or by apothecaries' liquid measure, shall, at least annually, cause the weights and measures so used to be tested and sealed by the sealer in the town where they do business; provided, that a graduated glass measure once sealed by a sealer, or by the manufacturer, need not be again sealed while remaining in the same condition as when first sealed. The director shall establish specifications for graduated glass measures. When a representative sample of a graduated glass measure has been submitted to the director and approved by him, as conforming to specifications, he shall assign a designating mark or number to be thereafter permanently affixed to such measures of the particular kind so approved. Graduated glass measures sealed by the manufacturer shall be marked with his name, initials or trade-mark and by other marks required by the director. The director may revoke the authority so given to any manufacturer under this section on proof that the authorized seal or designating mark has been affixed to a measure not conforming to the approved sample. (Id. § 47.)

455. Penalty.—Whoever sells or dispenses drugs, medicines or merchandise requiring the use of apothecaries' weights or apothecaries' liquid measures or in the sale which they are commonly used, and does not have such weights and measures tested under this chapter shall be punished by a fine of not less than five nor more than fifty dollars. (Id. § 48.)

456. Annual Test of Hay and Coal Scales.—Sealers shall go once a year, and oftener if necessary, to each hay and coal scale and other weighing or measuring device in their towns not easily or conveniently removed and shall test, adjust and seal or condemn them. (Id. § 49.)

457. Sealer to Test Upon Request, Etc.—Whoever uses any weighing or measuring devices may have them tested by the sealer at any time upon request and the sealer shall seal or condemn the same in accordance with the results of his tests. (Id. § 50.)

458. Sealing of Glass Milk Bottles, Etc.—When notified by a dealer in milk or cream using glass bottles or jars for the distribution thereof that he has in his possession not less than six gross of such bottles or jars not sealed, sealers shall forthwith seal them as provided in section fifteen, at a suitable place provided by the dealer. (Id. § 51.)

459. Sealer to Test Incorrect Weights Upon Complaint.—If a person informs a sealer that he has reasonable cause to believe, or if such sealer has reasonable cause to believe, that any weighing or measuring device used in the sale of a commodity in his town is incorrect, said sealer shall go where it is and shall test and mark it according to the result of the test; and if it is incorrect and cannot be adjusted, he shall attach thereto a notice of that fact forbidding its use until it conforms to the authorized standard. If a sealer has reasonable cause to believe that any weighing or measuring device has been altered since last adjusted and sealed, he shall enter the premises where it is kept or used and examine it. Whoever uses a weighing or measuring device after refusing permission to a sealer to test it shall be punished by a fine of not less than ten nor more than one hundred dollars. (Id. § 52.)

460. Devices to be Marked With Stencil—Notice—Penalty.—If a sealer cannot seal any weighing or measuring device in the usual manner, he may mark it with a stencil or by other suitable means, showing that it has been inspected; and if a weighing or measuring device is so small as to render it impracticable to seal it in the usual manner, he shall give a certificate in a form approved by the director, specifying each such weighing or measuring device so tested; but he shall in no case seal or mark as correct weighing or measuring devices not conforming to the standards. If such weighing or measuring device can be readily adjusted by means at hand, he may adjust and seal it; but if not, he shall affix thereto a notice forbidding its use until he is satisfied that it conforms to the standards; and whoever removes said notice without the consent of such officer shall forfeit not more than fifty dollars, to be equally divided between the town and the complainant. (Id. § 53.)

461. Sealer May Seize Measuring Devices for Evidence.—A sealer or deputy may seize without a warrant weighing or measuring devices necessary to be used as evidence in cases of violation of the laws relative to the sealing thereof; and they shall be returned to the owners or forfeited, as the court directs. (Id. § 54.)

462. Seizure of Illegal Devices, Etc.—A sealer or deputy may seize weighing or measuring devices not conforming to legal standards or not sealed as re-

quired by law; and a person having in his possession such weighing or measuring devices, with intent to use them in violation of law, shall be punished by a fine of not more than fifty dollars; and such devices, upon order of a court, shall be destroyed. Possession thereof shall be prima facie evidence of intention to use them in violation of law. (Id. § 55.)

463. Fees of Sealers.—Except as otherwise provided, sealers shall receive the following fees for sealing the following weighing or measuring devices:

(a) Each scale with a weighing capacity of more than five thousand pounds, one dollar.

(b) Each scale with a weighing capacity of one hundred to five thousand pounds, fifty cents.

(c) All other scales, balances, and measures on pumps, ten cents each.

(d) Each taximeter, or measuring device used upon vehicles for determining the cost of transportation, one dollar.

(e) Each machine or other device used for determining the measurement of leather, one dollar.

(f) Milk bottles or jars, fifty cents per gross.

(g) Vehicle tanks used in the sale of commodities by liquid measure and having a capacity of one hundred gallons or less, one dollar. For each additional one hundred gallons or fraction thereof, an additional fee of fifty cents shall be received. When a vehicle tank is subdivided into two or more compartments, each compartment shall, for the purposes of this section, be considered as a separate tank.

(h) All weights and other measures, three cents each.

They shall also receive reasonable compensation for necessary repairs, alterations and adjustments made by them. (Id. § 56, as amended L. 1927, c. 95, § 2.)

464. Report of Commissioner of Labor and Industries.—The Commissioner of Labor and Industries shall make an annual report of the acts of the director of standards and of all facts required to be reported to him under section six of chapter ninety-six.* (G. L. 1921, c. 98, § 57.)

465. Fruits, Nuts, Etc., to be Sold by Weight or Numerical Count, Except, Etc.—Section Not to Apply in Certain Cases—Penalty.—Except as otherwise provided in sections ninety-eight and ninety-nine and in chapter ninety-nine,† or except when sold in the original standard container, all fruits, nuts, vegetables and grain shall be sold at retail by avoirdupois weight or numerical count. The words "original standard container," as used in this section shall mean and include only barrels, boxes, baskets, hampers or similar containers, the dimensions or capacity of which is [are] established by law of this Commonwealth or by Act of Congress, the contents of which have not been removed or repacked by the retailer, and upon which is plainly and conspicuously marked the net quantity of the contents thereof in terms of weight, measure or numerical count. This section shall not apply to the sale of apples repacked under the provisions of section one hundred and four‡ nor to the sale, by the bunch of fresh beets, onions, turnips, rhubarb, and other similar vegetables usually and customarily sold by the bunch. Whoever violates any of the provisions of this section shall be punished by a fine of not more than ten dollars. (G. L. 1921, c. 94, § 96, as amended L. 1922, c. 355, § 1.)

466. Sale of Certain Berries Regulated—Penalty.—Baskets or other receptacles holding one quart or less which are used or intended to be used in the sale of strawberries, blackberries, cherries, currants, blue berries, raspberries or gooseberries shall be of the capacity of one quart, one pint or one-half pint, Massachusetts standard dry measure. Said baskets or other receptacles shall not be required to be tested and sealed as provided by chapter ninety-eight,|| but the sealer or deputy sealer of weights and measures of any town or the director of standards may, if he so desires, and shall, upon complaint, test the capacity of any basket or other receptacle in which any of the aforesaid fruit is sold or intended to be sold; and if the same is found to contain less than the standard measure he shall seize the same and make complaint against the vendor.

Whoever sells or offers for sale a basket or other receptacle holding one quart or less to be used in the sale of any of the aforesaid fruit which does not conform

*Relates to surveying of lumber. Omitted herein.

—†See Nos. 486-490.

‡See No. 32.

||See Nos. 409-464.

to said standard, and whoever sells or offers for sale any of the aforesaid fruit in any basket or other receptacle holding one quart or less which does not conform to said standard shall be punished by a fine of not less than five nor more than ten dollars. (G. L. 1921, c. 94, § 98.)

467. Berries, Etc., to be Measured by Strike or Level Measure.—Berries, except cranberries when sold shall, subject to the preceding section, be measured by the strike or level measure. (Id. § 99, as amended L. 1922, c. 355, § 2.)

468. Massachusetts Standard Box and Half Box for Farm Produce Sold at Wholesale—Marks on Boxes and Half Boxes—Penalty.—The Massachusetts standard box for farm produce sold at wholesale, except as otherwise provided, shall contain two thousand one hundred fifty and forty-two one-hundredths cubic inches and shall be of the following dimensions by inside measurements: seventeen and one-half inches in length by seventeen and one-half inches in width and seven and one-sixteenth inches in depth. The Massachusetts standard half-box for farm produce sold at wholesale shall contain one thousand seventy-five and twenty-one one-hundredths cubic inches and shall be of the following dimensions by inside measurements: twelve and three-eighths inches in length by twelve and three-eighths inches in width and seven and one-sixteenth inches in depth. When the above specified boxes are made of wood the ends shall be not less than five-eighths inches in thickness and the sides and bottom not less than three-eighths inches in thickness. All such boxes and half-boxes of the dimensions specified herein shall be marked on at least one outer side in bold, uncondensed capital letters, not less than one inch in height—Standard Box Farm Produce—and—Standard Half-box Farm Produce—respectively. Whoever marks or otherwise represents any box or half-box to be a standard box or half-box for the sale of farm produce at wholesale shall, unless such box or half-box complies with every specification and requirement of this section, be punished by a fine of not more than fifty dollars. The director of standards in the Department of Labor and Industries, his inspectors and the sealers and deputy sealers of weights and measures in cities and towns shall enforce the provisions of this section. (G. L. 1921, c. 94, § 99A, as added L. 1921, c. 248.)

469. Standard Barrel and Crate for Cranberries.—The legal and standard barrel for cranberries shall measure not less than twenty-five and one-fourth inches between the heads, inside; the length of the staves shall be twenty-eight and one-half inches; the diameter of the head shall be not less than sixteen and one-fourth inches, including the beveled edge; the outside bulge circumference shall measure not less than fifty-eight and one-half inches; the thickness of the staves shall be not greater than four-tenths of an inch. The legal and standard crate for cranberries shall measure seven and one-half inches, by twelve inches, by twenty-two inches, inside, exclusive of any interior partition or support, and shall have an interior capacity of one thousand nine hundred and eighty cubic inches; but any square or oblong crate or box of different form, but of as great interior capacity, shall be considered a legal and standard crate. (G. L. 1921, c. 94, § 115.)

470. Provisions as to Barrels and Crates—Penalty.—Each barrel, crate, one-half crate or one-quarter crate used for the sale or delivery of cranberries shall be of the standard measure prescribed in this or the preceding section, and shall be marked as therein required. No person shall use any barrel, crate, one-half crate or one-quarter crate for such sale or delivery, the capacity of which is less than that of the corresponding standard package prescribed in the preceding section. Sealers of weights and measures shall enforce this and the preceding section. Whoever violates any provision of this or the preceding section shall be punished by a fine of not more than one hundred dollars.

It shall be unlawful to use for the sale and delivery of cranberries, square or oblong packages which contain one-half crate or one-quarter crate, provided that such packages have an interior capacity, exclusive of any partition or support, of nine hundred and ninety and of four hundred and ninety-five cubic inches, respectively. No barrel, crate, one-half crate or one-quarter crate, intended to be used for the sale or delivery of cranberries, except of the standard measure specified in this section, and plainly marked with the words "Massachusetts Standard Measure," shall be manufactured or sold. No person shall so mark any barrel or other package so used, or intended to be used, unless its interior capacity is as great as the capacity herein specified for such package.

Nothing in this or the preceding section shall prohibit the use of third, half and three-quarter barrels, as provided by United States law. (Id. § 116.)

471. Sale of Cranberries in Packages.—It shall be lawful to use for the sale and delivery of cranberries packages containing one, two or four pounds of cran-

berries, net weight; provided, that said net weight is plainly stamped on the top or side of each package. (Id. § 117.)

472. Definition of Barrel and Hogshead.—The barrel shall contain thirty-one and one-half gallons and the hogshead two barrels, provided that in barrels and fractional parts thereof containing malt beverages a variation or tolerance of six per cent shall be permitted. (Id. § 172.)

473. Cental.—A cental or hundredweight shall be one hundred pounds. (Id. § 174.)

474. Barrel of Flour.—A barrel of flour, measured by weight, shall contain one hundred and ninety-six pounds. (Id. § 175.)

475. Definition of "Weight"—Penalty.—"Weight" in a sale of commodities by weight shall mean the net weight of all commodities so sold; and contracts concerning such sales shall be so construed; provided, that in respect to commodities not intended for food or fuel reasonable tolerances or variations shall be permitted in accordance with established trade customs. Violation hereof shall be punished by a fine of not more than one hundred dollars. (Id. § 176.)

476. Penalty for Giving False Measure or Weight.—Except as otherwise provided by section two hundred and forty-eight,* whoever himself or by his servant or agent gives or attempts to give false or insufficient weight or measure shall be punished for the first offense by a fine of not more than fifty dollars, for the second offense by a fine of not more than two hundred dollars, and for a subsequent offense by a fine of fifty dollars and by imprisonment for not less than one nor more than three months. (Id. § 177, as amended L. 1923, c. 155, § 3.)

477. Rules for Weighing—Who Are Public Weighers.—Each public weigher of goods or commodities shall weigh them according to section one hundred and seventy-six, and shall certify accordingly; and for each refusal or neglect he shall forfeit not more than ten dollars. Each weigher of goods appointed by a town, and each weigher for hire or reward, shall be a public weigher hereunder. (G. L. 1921, c. 94, § 178.)

478. Certain Courts to Have Jurisdiction Over Prosecutions Concerning False Weights and Measures.—Complaints and prosecutions for violations of law relating to the use or giving of false or insufficient weight or measure may be commenced and prosecuted in a court having jurisdiction of the place to which the goods are shipped. (Id. § 180.)

479. Appointment of Weighers of Grain.—Mayors and selectmen shall annually appoint one or more weighers of grain, who shall be sworn to the faithful performance of their duty; and if only one is appointed by them, they may authorize him to appoint deputy weighers. (Id. § 219, as amended L. 1922, c. 355, § 3.)

480. Fees of Weighers of Grain.—The fees of weighers of grain and their deputies, if any are authorized, shall be prescribed by the aldermen or selectmen of the several towns where they are appointed. One-half of such fee shall be paid by the seller and one-half by the purchaser. (G. L. 1921, c. 94, § 221, as amended L. 1922, c. 355, § 4.)

481. Certificate of Number of Centals, Etc., When Wheat, Corn, Etc., is Sold by Cental or Hundredweight—Penalty.—If any wheat, corn, rye, oats, barley, buckwheat, cracked corn, ground corn or corn meal, ground rye or rye meal, or feed, or any other meal, is sold by the cental or hundredweight, the weigher or his deputy, on request of either party to the contract, shall ascertain the weight thereof and shall give a certificate of the number of centals or hundredweight of the same; and whoever sells and delivers a quantity of either of said articles exceeding one cental or hundredweight, if it has not been weighed by such weigher or his deputy, shall forfeit to the purchaser ten dollars for each lot purporting to be a cental or hundredweight which contains less than one hundred pounds. (G. L. 1921, c. 94, § 222, as amended L. 1922, c. 355, § 5.)

482. Penalty for False Weights or Collusion by Weighers of Grain, Etc.—If a weigher or deputy weigher uses or has in his possession with intent to use, for the purposes provided in sections two hundred and nineteen to two hundred and twenty-two, inclusive,† any false weight, scale, balance or other instrument for weighing or colludes with the purchaser or seller with intent to defraud the other party, or makes and utters a false and fraudulent certificate under sections two

*Section 248 relates to penalty for violation of sections 238-247, inclusive, of chapter 94, which sections provide for the sale by weight of coal, coke, charcoal and kindling wood, omitted herein.

†Section 220 is repealed by L. 1922, c. 355, § 8.

hundred and nineteen to two hundred and twenty-two, inclusive,* he may be removed from office by the aldermen or selectmen, and shall also on conviction thereof be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months. (G. L. 1921, c. 94, § 224, as amended L. 1922, c. 355, § 6.)

483. Penalty for Fraud in Packing Certain Commodities.—Whoever, with intent to defraud or injure, in baling or in packing in any container any commodity sold by weight, including wool, leather, cotton, waste, rags and paper, places therein any substance foreign to the contents thereof shall be punished for the first offense by a fine of not more than one hundred dollars, for the second offense by a fine of not more than two hundred dollars, and for a subsequent offense by a fine of fifty dollars and imprisonment for not less than one nor more than three months. (G. L. 1921, c. 94, § 305.)

484. Slot Machines and Other Automatic Devices, Use Regulated.—No person shall maintain any slot machine or other automatic device, except gas meters, electric meters and telephones, which, upon the deposit therein of any coin or other article of value, furnishes music or other entertainment, exhibits pictures, provides facilities for weighing, supplies any merchandise or other thing, or renders any service, or is represented to do or perform any of the above mentioned things, unless such machine or device is of a type approved by the Director of Standards; but no person maintaining such machine or device with respect to which, or to the operation, service or supplies of which, there is any element of chance shall be protected or be entitled to immunity from prosecution because of such approval. (Id. § 283.)

485. Penalty.—Whoever installs or maintains a machine or device mentioned in the preceding section which is of a type not approved as therein provided shall, if such machine or device fails properly to respond to the insertion or deposit therein of a coin or other article of value, be punished by a fine of not more than twenty-five dollars. (Id. § 284.)

486. Metric System Authorized.—The weights and measures of the metric system may be employed and used in the Commonwealth, and no contract or dealing shall be deemed invalid and no pleading in any court shall be open to objection because the weights or measures as stated therein in terms of the metric system; provided, that the carat weight of two hundred milligrams, and its multiples and sub-divisions, shall be the sole legal standard for the buying and selling of diamonds and other precious stones. The metric weights and measures received from the United States and now in the custody of the Director of Standards may be used as authorized standards, and shall in no case be removed from his custody except when necessary for their preservation or repair. (G. L. 1921, c. 99, § 1.)

487. Tables of Measurements.—The following tables shall be recognized in the construction of contracts and in legal proceedings as establishing in terms of the metric system the equivalents of the other weights and measures expressed therein and may also be used for computing, determining and expressing in customary weights and measures, the weights and measures of the metric system. . . .

MEASURES OF CAPACITY.

Metric Denominations and Values.			Equivalents in Denominations in Use.	
Names.	No. of Liters.	Cubic Measure.	Dry Measure.	Liquid or Wine Measure.
Kiloliter or Stere	1,000	1 cubic meter	1.308 cubic yards	264.17 gallons
Hectoliter	100	1-10 of a cubic meter	2 bush. and 3.35 pecks	26.417 gallons
Dekaliter	10	10 cubic decimeters	9.08 quarts	2.6417 gallons
Liter	1	1 cubic decimeter	0.908 quart	1.0567 quarts
Deciliter	1-10	1-10 of a cubic decimeter	6.1022 cubic inches	0.845 gill
Centiliter	1-100	10 cubic centimeters	0.6102 cubic inch	0.338 fluid ounce
Milliliter	1-1000	1 cubic centimeter	0.061 cubic inch	0.27 fluid dram.

*Section 220 is repealed by L. 1922, c. 355, § 8.)

WEIGHTS.

Metric Denominations and Values.			Equivalents in Denominations in Use.
Names.	No. of Grams.	Weight of What Quantity of Water at Maximum Density.	Avoirdupois Weight.
Millier or Tonneau	1,000,000	1 cubic meter	2204.6 pounds
Quintal	100,000	1 hectoliter	220.46 pounds
Myriagram	10,000	10 liters	22.046 pounds
Kilogram or Kilo	1,000	1 liter	2.2046 pounds
Hectogram	100	1 deciliter	3.5274 ounces
Dekagram	10	10 cubic centimeters	0.3527 ounce
Gram	1	1 cubic centimeter	15.432 grains
Decigram	1/10	1/10 of a cubic centimeter	1.5432 grains
Centigram	1/100	10 cubic millimeters	0.1543 grain
Milligram	1/1000	1 cubic millimeter	0.0154 grain

(Id. § 2.)

488. Duties of Director of Standards and Town Treasurers.—The duties of the Director of Standards and the duties and responsibilities of the treasurer of each town, with respect to the keeping, care, verification and use of the standard weights and measures of the metric system, shall be the same as those established by law with respect to other standard weights and measures. (Id. § 3.)

489. Sealing of Metric Weights and Measures.—The director of standards may verify, adjust and seal all metric weights and measures brought to him for that purpose. The sealer of weights and measures in each town which has received the standard metric weights and measures shall verify, adjust and seal all metric weights and measures brought to him for that purpose from within the county where such town is situated, and he shall receive a reasonable compensation therefor; but he shall claim no fees for any sealing, verification or adjustment for the performance of which he may otherwise receive compensation by salary paid by the town. (Id. § 4.)

490. Duties of Persons Using Metric System.—Every person who uses weights or measures of the metric system for the purpose of selling any goods, wares, merchandise or other commodities shall have them adjusted, sealed and recorded by an authorized sealer of weights and measures, and shall thereafter be responsible for the correctness and exactness of the same; and every person who illegally or fraudulently uses the metric weights or measures shall be liable to the same penalty to which he would have been liable if he had used other weights and measures. (Id. § 5.)

NOTE: See also No. 13 et seq.; the apple law, No. 27 et seq.; the bread law, No. 49 et seq.; the dairy law, No. 94 et seq.; the fish law, No. 190 et seq.; the ice law, No. 208 et seq.; the meat law, Nos. 251-252.

PART V.

Cases.

1. General Food and Drug Law.

Adulteration—Definition Construed: Commonwealth v. New England Maple Syrup Co., 217 Mass. 432, 105 N. E. 453 (1914).

Cocoa—Adulteration: See Sullivan v. Crave & Martin Co., 193 Mass. 435, 79 N. E. 792 (1907).

Confectionery—Adulteration: Commonwealth v. Chase, 125 Mass. 202 (1878).
Federal Food and Drugs Act—Judgment In Rem Thereunder Binding Upon All:
 See Stein v. Almeder, 253 Mass. 200, 148 N. E. 441 (1925).
Meat—Unwholesome: Commonwealth v. Boynton, 66 Mass. 499 (1853).
Syrup—Made from Cane and Maple Sugars: Commonwealth v. New England
 Maple Syrup Co., 217 Mass. 432, 105 N. E. 453 (1914). See also: Adams et al.
 v. New England Maple Syrup Co., 210 Mass. 475, 97 N. E. 85 (1912).

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 296 (1922), certiorari denied in Dyer et al. v. Commonwealth of Massachusetts,
 262 U. S. 751, 43 S. Ct. 700, 67 L. Ed. 1214 (1923).

Cocoa: See ante.

Confectionery: See ante.

Eggs—Denaturing of "Rot" and "Spot" Eggs, Required: *Commonwealth v.
 E. E. Wilson Co., 241 Mass. 406, 135 N. E. 376 (1922).

Fish—Inspection—Inspector's Official Brand Not a Private Trade-Mark:
 Chase v. Mayo et al., 121 Mass. 343 (1876).

Fish—Inspection—Liability of Inspector General for Default of His Deputy:
 Pearson v. Purkett, 32 Mass. 264 (1834).

Fish—Monopoly: Commonwealth v. Dyer et al., 243 Mass. 472, 138 N. E. 296
 (1922), certiorari denied in Dyer et al. v. Commonwealth of Massachusetts, 262
 U. S. 751, 43 S. Ct. 700, 67 L. Ed. 1214 (1923).

Fish—Short Lobster: Commonwealth v. Barber, 143 Mass. 560 N. E. 330
 (1887); Commonwealth v. Savage, 155 Mass. 278, 29 N. E. 468 (1892); Common-
 wealth v. Young, 165 Mass. 396, 43 N. E. 118 (1896); Commonwealth v. Hodgkins,
 170 Mass. 197, 49 N. E. 97 (1898).

Ice—License: Commonwealth v. Reid, 175 Mass. 325, 56 N. E. 617 (1900);
 Greene v. Mayor of Fitchburg et al., 219 Mass. 121, 106 N. E. 573 (1914).

Ice—Monopoly: Commonwealth v. North Shore Ice Delivery Co. et al., 220
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Ice—Refusal to Sell Law—Application: Commonwealth v. Woods, 225 Mass.
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Meal—Unwholesome—Action for False Information: Hemmenway et al. v.
 Woods, 18 Mass. 524 (1823).

*Meat—Inspection—Sale of Carcass Approved by Local Inspectors After Being
 Condemned by State Inspector:* Commonwealth v. Prince, 203 Mass. 602, 89 N. E.
 1047 (1909).

Meat—Inspection Before Slaughter: *Commonwealth v. Moore, 214 Mass. 19,
 100 N. E. 1071 (1913).

Meat—Slaughterhouse: *Inhabitants of Watertown v. Mayo, 109 Mass. 315.
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 *City of Taunton v. Taylor, 116 Mass. 254 (1874).

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Meat—Unwholesome—Immature Calf—Killing for Sale: Commonwealth v.
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Milk & Skimmed Milk—Addition of Color (Annatto): Commonwealth v.
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Milk & Cream—Addition of Water: Commonwealth v. Flannelly, 81 Mass. 195 (1860); Commonwealth v. O'Donnell, 83 Mass. 593 (1861); Commonwealth v. McCarron, 84 Mass. 157 (1861); Commonwealth v. Murdock, 84 Mass. 158 (1861); Commonwealth v. McDevitt, 84 Mass. 158 (1861); Commonwealth v. Farren, 91 Mass. 489 (1864); Commonwealth v. Nichols, 92 Mass. 199 (1865); *Commonwealth v. Waite, 93 Mass. 264 (1865); Commonwealth v. Smith, 103 Mass. 444 (1869); Commonwealth v. Haynes, Haynes v. Commonwealth, 107 Mass. 194 (1871); Commonwealth v. Luscomb, 130 Mass. 42 (1880); Commonwealth v. Boston White Cross Milk Co., 209 Mass. 30, 95 N. E. 85, Ann. Cas. 1912 B, 386 (1911); Commonwealth v. Elm Farm Milk Co., 221 Mass. 68, 108 N. E. 911 (1915).

Milk—Complaint of Violation of Law—By Whom Made: Commonwealth v. Tobias, 141 Mass. 129, 6 N. E. 217 (1886).

Milk—"Concentrated Milk": Commonwealth v. Boston White Cross Milk Co., 209 Mass. 30, 95 N. E. 85, Ann. Cas. 1912 B, 386 (1911).

Milk—Empty Cans—Express Charges for Return: American Railway Express Co. v. Mohawk Dairy Co., 250 Mass. 1, 144 N. E. 721, 35 A. L. R. 14 (1924).

Milk—Filled Milk Law—Application: Mahoney et al. v. Carolene Products Co., 2 Fed. (2d) 366 (C. C. A.) (1924), affirming Carolene Products Co. v. Mahoney et al., 294 Fed. 901 (1923).

Milk—Inspector—Bribery: Commonwealth v. Lapham, 156 Mass. 480, 31 N. E. 638 (1892).

Milk—Maximum Watery Fluid and Minimum Milk Solids and Fat Standard: *Commonwealth v. Evans, 132 Mass. 11 (1882); Commonwealth v. Keenan, 139 Mass. 193, 29 N. E. 477 (1885); Commonwealth v. Bowers, 140 Mass. 483, 5 N. E. 469 (1886); Commonwealth v. Tobias, 141 Mass. 129, 6 N. E. 217 (1886); Commonwealth v. Smith, 143 Mass. 169, 9 N. E. 631 (1887); *Commonwealth v. Kenneson, 143 Mass. 418, 9 N. E. 761 (1887); Commonwealth v. Holt, 146 Mass. 38, 14 N. E. 930 (1888); Commonwealth v. Rowell, 146 Mass. 128, 15 N. E. 154 (1888); Commonwealth v. Smith, 149 Mass. 9, 20 N. E. 161 (1889); Commonwealth v. Vieth, 155 Mass. 442, 29 N. E. 577 (1892); Commonwealth v. Coleman, 157 Mass. 460, 32 N. E. 662 (1892); Commonwealth v. Warren, 160 Mass. 533, 36 N. E. 308 (1894); Commonwealth v. Proctor, 165 Mass. 38, 42 N. E. 335 (1895); Commonwealth v. McCance, 176 Mass. 292, 57 N. E. 603 (1900); *Commonwealth v. Wheeler, *Same v. Foss, *Same v. Walcott, 205 Mass. 384, 91 N. E. 415, 137 Am. St. Rep. 456, 18 Ann. Cas. 319 (1910); Commonwealth v. Phelps, 210 Mass. 109, 96 N. E. 69 (1911); *Commonwealth v. Titcomb, 229 Mass. 14, 118 N. E. 328 (1917). See also: Copeland v. Boston Dairy Co., 184 Mass. 207, 68 N. E. 218 (1903); Same, 189 Mass. 342, 75 N. E. 704 (1905); Whitcomb v. Boston Dairy Co., 218 Mass. 24, 105 N. E. 554 (1914).

Milk—Meaning of Term: Commonwealth v. Boston White Cross Milk Co., 209 Mass. 30, 95 N. E. 85, Ann. Cas. 1912, B, 386 (1911).

Milk—Producer Not Liable to Prosecution Under Certain Circumstances—Dealer Not Included: *Commonwealth v. Titcomb, 229 Mass. 14, 118 N. E. 328 (1917).

Milk—Registered Milk Jars—Sale to Milk Dealer: Commonwealth v. Brandon Farms Milk Co., 249 Mass. 531, 144 N. E. 381, 35 A. L. R. 780 (1924).

Milk & Cream—Sale by Hotel or Restaurant Keeper Subject to Adulteration Law: Commonwealth v. Vieth, 155 Mass. 442, 29 N. E. 577 (1892); Commonwealth v. Gordon, 159 Mass. 8, 33 N. E. 709 (1893); Commonwealth v. Warren, 160 Mass. 533, 36 N. E. 308 (1894).

Milk—Sale in Tightly Closed or Capped Bottles, Required: Commonwealth v. Drew, 208 Mass. 493, 94 N. E. 682, 33 L. R. A. (N. S.) 401 (1911).

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Milk—Sealing by Sealer of Weights and Measures: See Miller v. Post, 83 Mass. 434 (1861); Ritchie v. Boynton, 114 Mass. 431 (1874).

Milk—Skimmed Milk: Commonwealth v. Tobias, 141 Mass. 129, 6 N. E. 217 (1886); Commonwealth v. Kendall, 144 Mass. 357, 11 N. E. 425 (1887); Commonwealth v. Smith, 149 Mass. 9, 20 N. E. 161 (1889); Commonwealth v. Wetherbee, 153 Mass. 159, 26 N. E. 414 (1891); Commonwealth v. Phelps, 210 Mass. 109, 96 N. E. 69 (1911).

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Tea and Coffee—Hawkers and Peddlers—License: *Commonwealth v. Caldwell, 190 Mass. 355, 76 N. E. 955, 112 Am. St. Rep. 334, 5 Ann. Cas. 879 (1906).

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3. Special Drug Laws.

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4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

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Chemical—Explosion: Davidson v. Nichols et al., 93 Mass. 514 (1866).

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Dyed Cloths: Gould v. Slater Woolen Co., 147 Mass. 315, 17 N. E. 531 (1888).

Dyed Furs: Bradt v. Hollaway et al., 242 Mass. 446, 136 N. E. 254 (1922); Flynn v. Bedell Co. of Mass., 242 Mass. 450, 136 N. E. 252, 27 A. L. R. 1504 (1922).

Feeding Stuffs: Cutting v. Tower et al., 80 Mass. 183 (1859); French v. Vin- ing, 102 Mass. 132, 3 Am. Rep. 440 (1869); Provost v. Cook et al., 184 Mass. 315, 68 N. E. 336 (1903); Tompkins v. Quaker Oats Co., 239 Mass. 147, 131 N. E. 456 (1921).

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Paints—Walnut Oil Stain—Explosion: Thornhill v. Carpenter-Morton Co., 220 Mass. 593, 108 N. E. 474 (1915).

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Stove Polish: Gately v. Taylor et al., 211 Mass. 60, 97 N. E. 619, 39 L. R. A. (N. S.) 472 (1912).

5. Miscellaneous.

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False Advertising: *Commonwealth v. Reilly, 248 Mass. 1, 142 N. E. 915 (1924).

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Gift-Enterprise: Commonwealth v. Thatcher, 97 Mass. 583, 93 Am. Dec. 125 (1867); Commonwealth v. Emerson, 165 Mass. 146, 42 N. E. 559 (1896); *Opinion of the Justices to the House of Representatives, 208 Mass. 607, 94 N. E. 848 (1911); Whitman v. Fournier et al., 233 Mass. 154, 125 N. E. 303 (1919); Commonwealth v. McClintock, Adv. Sheets, p. 2129, 154 N. E. 264 (1926).

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Cas. 219 (1908); *Reading Stove Works, Orr, Painter & Co. v. S. M. Howes Co.*, 201 Mass. 437, 87 N. E. 751, 21 L. R. A. (N. S.) 979 (1909); *Nelson v. J. H. Winchell & Co. et al.*, 203 Mass. 75, 89 N. E. 180, 23 L. R. A. (N. S.) 1150 (1909); *Simoneau v. Landry et al.*, 242 Mass. 578, 136 N. E. 601 (1922); *Wallingford et al. v. International Manufacturing Co. et al.*, 244 Mass. 477, 138 N. E. 832 (1923); *Commonwealth v. Andler*, 247 Mass. 580, 142 N. E. 921 (1924); *Commonwealth v. Brandon Farms Milk Co.*, 249 Mass. 531, 144 N. E. 381, 35 A. L. R. 780 (1924). See also: *Thomson v. Winchester*, 36 Mass. 214, 31 Am. Dec. 135 (1837); *Marsh et al. v. Billings et al.*, 61 Mass. 322, 54 Am. Dec. 723 (1851); *Rogers et al. v. Taintor*, 97 Mass. 291 (1867); *Emerson v. Badger*, 101 Mass. 82 (1869); *Morse et al. v. Hall et al.*, 109 Mass. 409 (1872); *Boston Diatite Co. v. Florence Manufacturing Co. et al.*, 114 Mass. 69, 19 Am. Rep. 310 (1873); *Noera v. H. A. Williams Manufacturing Co. et al.*, 158 Mass. 110, 32 N. E. 1037 (1893); *Holbrook v. Nesbitt et al.*, 163 Mass. 120, 39 N. E. 794 (1895); *Messer v. The Fadettes et al.*, 168 Mass. 140, 46 N. E. 407, 37 L. R. A. 721, 60 Am. St. Rep. 371 (1897); *New England Awl & Needle Co. v. Marlborough Awl & Needle Co.*, 168 Mass. 154, 46 N. E. 386, 60 Am. St. Rep. 377 (1897); *Tracy v. Banker*, 170 Mass. 266, 49 N. E. 308, 39 L. R. A. 508 (1898); *American Waltham Watch Co. v. United States Watch Co.*, 173 Mass. 85, 53 N. E. 141, 43 L. R. A. 826, 73 Am. St. Rep. 263 (1899); *Flagg Manufacturing Co. v. Holway*, 178 Mass. 83, 59 N. E. 667 (1901); *Viano et al. v. Baccigalupo*, 183 Mass. 160, 66 N. E. 641 (1903); *Moore v. Rawson et al.*, 185 Mass. 264, 70 N. E. 64 (1904); *Regis et al. v. H. A. Jaynes & Co. et al.*, 185 Mass. 458, 70 N. E. 480 (1904); *Crossman et al. v. Griggs et al.*, 186 Mass. 275, 71 N. E. 560 (1904); **Commonwealth v. R. I. Sherman Manufacturing Co.*, 189 Mass. 76, 75 N. E. 71 (1905); *Cohen v. Nagle et al.*, 190 Mass. 4, 76 N. E. 276, 2 L. R. A. (N. S.) 964, 5 Ann. Cas. 553 (1906); *Regis et al. v. H. A. Jaynes & Co. et al.*, 191 Mass. 245, 77 N. E. 774 (1906); *George G. Fox Co. v. Glynn et al.*, 191 Mass. 344, 78 N. E. 89, 9 L. R. A. (N. S.) 1096, 114 Am. St. Rep. 619 (1906); *Lothrop Publishing Co. v. Lothrop, Lee & Shepard Co.*, 191 Mass. 353, 77 N. E. 841, 5 L. R. A. (N. S.) 1077 (1906); *Pennell et al. v. Lothrop et al.*, 191 Mass. 357, 77 N. E. 842 (1906); *Giragosian v. Chutjian*, 194 Mass. 504, 80 N. E. 647, 120 Am. St. Rep. 570 (1907); *George G. Fox Co. v. Hathaway et al.*, 199 Mass. 99, 85 N. E. 417, 24 L. R. A. (N. S.) 900 (1908); *Marshall Engine Co. v. New Marshall Engine Co. et al.*, 203 Mass. 410, 89 N. E. 548, affirmed in *New Marshall Engine Co. v. Marshall Engine Co.*, 223 U. S. 473, 32 S. Ct. 238, 56 L. Ed. 513 (1909); *George G. Fox Co. v. Best Baking Co. et al.*, *Same v. Friend et al.*, 209 Mass. 251, 95 N. E. 747 (1911); *Foster Manufacturing Co. v. Cutter-Tower Co.*, 211 Mass. 219, 97 N. E. 749 (1912); *E. W. Burt Co. v. Coes & Young Co.*, 212 Mass. 134, 98 N. E. 596 (1912); *C. A. Briggs Co. v. National Wafer Co.*, 215 Mass. 100, 102 N. E. 87, Ann. Cas. 1914C, 926 (1913); *Foster Manufacturing Co. v. Cutter-Tower Co.*, 215 Mass. 136, 101 N. E. 1083 (1913); *Crompton v. Williams, Charles Crompton & Sons, Inc., v. Same*, 216 Mass. 184, 103 N. E. 298 (1913); *Grocers' Supply Co. v. Dupuis, Same v. I. Renaud Co., Same v. Vadebroncoeur et al.*, 219 Mass. 576, 107 N. E. 389 (1914); *C. H. Batchelder Co., Inc., v. Batchelder*, 220 Mass. 42, 107 N. E. 455 (1914); *Kaufman v. Kaufman et al.*, 223 Mass. 104, 111 N. E. 691 (1916); *Carney Hospital et al. v. McDonald*, 227 Mass. 231, 116 N. E. 414 (1917); *Grocers Supply Co. v. I. Renaud Co.*, 234 Mass. 180, 125 N. E. 144 (1919); *Edwards v. Buffalo Specialty Co.*, 234 Mass. 521, 125 N. E. 624 (1920); *Burns v. Wm. J. Burns International Detective Agency, Inc.*, 235 Mass. 553, 127 N. E. 334 (1920); *W. B. Manufacturing Co. v. Rubenstein et al.*, 236 Mass. 215, 128 N. E. 21, 11 A. L. R. 1283 (1920); *Hub Dress Manufacturing Co. v. Rottenberg et al.*, 237 Mass. 281, 129 N. E. 442 (1921); *Page et al. v. Page & Shaw Chocolate Co. et al.*, 240 Mass. 505, 134 N. E. 377 (1922); *Libby, McNeill & Libby v. Libby*, 241 Mass. 239, 135 N. E. 120 (1922); *Summerfield Co. of Boston v. Prime Furniture Co.*, 242 Mass. 149, 136 N. E.

396 (1922); *Goyette v. C. V. Watson Co.*, 245 Mass. 577, 140 N. E. 285 (1923); *The Henry Perkins Co. v. Perkins et al.*, 246 Mass. 96, 140 N. E. 461 (1923); *Gaines v. Hake et al.*, 247 Mass. 88, 141 N. E. 509 (1923); *Caines v. Caines College of Physical Culture, Inc.*, 247 Mass. 402, 142 N. E. 99 (1924); *Loew's Boston Theatres Co. et al. v. Lowe et al.*, 248 Mass. 456, 143 N. E. 496, 36 A. L. R. 919 (1924); *Mitchell v. Gruener*, 251 Mass. 113, 146 N. E. 252 (1925); *New England Confectionery Co. v. C. A. Briggs Co., Adv. Sheets*, p. 1439 (1926).

Trading Stamps: *Commonwealth v. Sisson*, 178 Mass. 578, 60 N. E. 385 (1901); **O'Keeffe v. City of Somerville*, 190 Mass. 110, 76 N. E. 457, 112 Am. St. Rep. 316, 5 Ann. Cas. 684 (1906); *Gagnon v. Sperry & Hutchinson Co.*, 206 Mass. 547, 92 N. E. 761 (1910); *Merchants Legal Stamp Co. v. Murphy et al.*, 220 Mass. 281, 107 N. E. 968, L. R. A. 1915D, 520 (1915); *Merchants Legal Stamp Co. v. Scott*, 220 Mass. 389, 107 N. E. 969 (1915); **Opinion of the Justices to the Senate*, 226 Mass. 613, 115 N. E. 978 (1917); *Duane et al. v. Merchants Legal Stamp Co. et al.*, 227 Mass. 466, 116 N. E. 873 (1917); **Duane v. Merchants Legal Stamp Co. et al.*, 231 Mass. 113, 120 N. E. 370 (1918). See also: *Goyette v. C. V. Watson Co.*, 245 Mass. 577, 140 N. E. 285 (1923).

Weights and Measures: *Hewes v. Platts*, 78 Mass. 143 (1858); *Miller v. Post*, 83 Mass. 434 (1861); *Smith v. Arnold*, 106 Mass. 269 (1871); *Sawyer v. Smith*, 109 Mass. 220 (1872); *Palmer et al. v. Kelleher*, 111 Mass. 320 (1873); *Ritchie v. Boynton*, 114 Mass. 431 (1874); *Eaton v. Kegan*, 114 Mass. 433 (1874); *Prescott et al. v. Battersby et al.*, 119 Mass. 285 (1876); *Jones v. Hoey*, 128 Mass. 585 (1880); *Commonwealth v. McArthur*, 152 Mass. 522, 25 N. E. 836 (1890); *Eldridge et al. v. McDermott*, 178 Mass. 256, 59 N. E. 806 (1901); **Moneyweight Scale Co. v. McBride*, 199 Mass. 503, 85 N. E. 870 (1908), writ of error dismissed in Same, 223 U. S. 749, 32 S. Ct. 534, 56 L. Ed. 641 (1912); *Attorney-General v. Andrews*, 206 Mass. 46, 91 N. E. 892 (1910); *Commonwealth v. Sacks*, 214 Mass. 72, 100 N. E. 1019, 43 L. R. A. (N. S.) 1, Ann. Cas. 1914B, 1076 (1913); **Commonwealth v. Gussman*, 215 Mass. 349, 102 N. E. 342 (1913); *Commonwealth v. Hunt*, 216 Mass. 126, 103 N. E. 399 (1913); *Bates v. Selectmen of Westfield et al.*, 222 Mass. 296, 110 N. E. 303 (1915); *Commonwealth v. Adamian et al.*, 252 Mass. 105, 147 N. E. 344 (1925). See also: *Commonwealth v. Warren*, 6 Mass. 72 (1809); *Huntington v. Knox*, 61 Mass. 371 (1851); *Levy v. Gowdy et al.*, 84 Mass. 320 (1861); *Libby et al. v. Downey*, 87 Mass. 299 (1862); *Short Mountain Coal Co. et al. v. Hardy et al.*, 114 Mass. 197 (1873); *Goddard v. Rawson*, 130 Mass. 97 (1881). See further: *Fish—Short Lobster*, ante.

MICHIGAN.*

PART I.

General Food and Drug Law

General Food Law.

1. **Adulterated, Etc., Articles, Sale, Etc.**—No person, firm or corporation by themselves or their agents or servants shall within this State, have in their possession with intent to sell, or offer or expose for sale, or sell any article of food which is adulterated or misbranded within the meaning of this act.† (C. L. 1915, § 6473.)

2. **"Food," What Deemed.**—The term food as used herein shall include all articles used for food, drink, confectionery or condiment intended to be eaten or drank by man or other animals, whether simple, mixed or compound. (Id. § 6474.)

3. **When Deemed Adulterated.**—An article shall be deemed to be adulterated within the meaning of this act:

First, If any substance or substances have been mixed with it so as to lower or depreciate or injuriously affect its quality, strength or purity;

Second, If any inferior or cheaper substance or substances have been substituted wholly or in part for it;

Third, If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it;

Fourth, If it consists wholly or in part of a diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance or article, whether manufactured or not, or in the case of milk, if it is the product of a diseased animal;

Fifth, If it is colored, coated, polished, bleached or powdered whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is;

Sixth, If it contains any added substance or ingredient which is poisonous or injurious to health: Provided, that nothing in this act shall prevent the coloring of pure butter. (Id. § 6475.)

4. **When Article Misbranded.**—(a) An article shall be deemed to be misbranded within the meaning of this act:

First, If it is an imitation of or is offered for sale under the name of another article;

Second, If it is labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package;

Third, If in package form every package, box, bottle, basket, or other container does not bear the true net weight, excluding the wrapper or container, which shall be stated in terms of pounds, ounces and grains avoirdupois weight or the true net measure, which measure, in case of liquids, shall be in terms of gallons of two hundred and thirty-one cubic inches or fractions thereof, as quarts, pints and ounces or the true numerical count, as the case may be, expressed on the face of the principal label in plain English words or numerals, so that it can be plainly read: Provided, however, that reasonable variations shall be permitted and tolerances therefor and also exemptions as to small packages shall be established and promulgated by the Dairy and Food Commissioner:‡ Provided, however, that no

*CITATIONS: "C. L. 1915" refers to the Compiled Laws of Michigan, 1915, published by authority of Act 247 of 1913 and Act 232 of 1915. "Supp. 1922" refers to the 1922 supplement thereto. "P. A." refers to the Public Acts of the year cited.
†Act 193 of 1895.

‡The Michigan food laws are now enforced by the State Department of Agriculture and are to be corrected accordingly. That Department succeeded the Food and Drug Commissioner, who succeeded the Dairy and Food Commissioner. See No. 27 et seq.

penalty of fine, imprisonment or confiscation shall be enforced for any violation of sub-division third of this section prior to September first, nineteen hundred fourteen, as to goods in the hands of wholesalers or retailers when this act takes effect or received prior to January one, nineteen hundred fourteen. The provisions of this sub-division shall not apply to beverages in glass containers;

Fourth, If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular: Provided, that the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food, if each and every package sold or offered for sale bear the name and address of the manufacturer or jobber or retail merchant with an established business, and be distinctly labeled under its own distinctive name, and in a manner so as to plainly and correctly show that it is a mixture or compound and is not in violation of any of the foregoing provisions of this act. Every article of food as defined in the statutes of this State shall be sold by weight, measure or numerical count and as now generally recognized by trade custom, except where the parties otherwise agree, and shall be labeled in accordance with the provisions of the food and beverage laws of this State. Only those products shall be sold by numerical count which cannot well be sold by weight or measure. All foods not liquid, if sold by measure, shall be sold by standard dry measure, the quart of which contains sixty-seven twenty one-hundredths cubic inches, providing that the provisions of this section shall not apply to fresh fruit and vegetables. (Id. § 6476.)

5. What Shall be Deemed a Sale Within the Meaning of This Act.—The taking of orders or the making of agreements or contracts, by any person, firm or corporation, or by any agent or representative thereof, for the future delivery of any of the articles, products, goods, wares or merchandise embraced within the provisions of this act, shall be deemed a sale within the meaning of this act. (Id. § 6490.)

6. Who Shall be Deemed to be Guilty of a Misdemeanor.—Whoever shall falsely brand, mark, stencil or label any article or product required by this act to be branded, marked, stenciled or labeled, or shall remove, alter, deface, mutilate, obliterate, imitate or counterfeit any brand, mark, stencil or label so required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than one thousand dollars and the costs of prosecution, or by imprisonment in the county jail or State House of Correction and Reformatory at Ionia, for not less than six months nor more than three years, or by both such fine and imprisonment in the discretion of the court for each and every offense. (Id. § 6491.)

7. Evidence of Intent to Violate.—Whoever shall do any of the acts or things prohibited, or willfully neglect or refuse to do any of the acts or things enjoined by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and where no specific penalty is prescribed by this act shall be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 6492.)

8. Duty of the Dairy and Food Commissioner.—It shall be the duty of the Dairy and Food Commissioner* of the State to investigate all complaints of violations of this act, and take all steps necessary to its enforcement. It shall be the duty of all prosecuting officers of this State to prosecute to completion all suits brought under the provisions of this act upon the complaint of the commissioner or of any citizen. It shall be the duty of all food inspectors in cities to examine all complaints made to them of violation of this act, and to render assistance in enforcing its provisions. It shall also be the duty of all health boards in cities and health officers in townships to take cognizance of and report or prosecute all violations of this act that may be brought to their notice, or they may have cognizance of, within their jurisdiction. (Id. § 6493.)

General Drug Law.

9. Drugs Adulterated or Misbranded.—No person shall within this State manufacture for sale, have in his possession with intent to sell, offer or expose for

*See the preceding footnote.

sale, or sell, any drug or drug product which is adulterated or misbranded within the meaning of this act.* (C. L. 1915, § 6521.)

10. "Drug" Defined.—The term "drug" as used in this act shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances or device intended to be used for the cure, mitigation or prevention of disease of either man or other animals. (Id. § 6522.)

11. When Deemed Adulterated.—An article shall be deemed to be adulterated within the meaning of this act:

First, If, when it is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time of investigation: Provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the principal label of the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary;

Second, If the strength or purity fall below the professed standard or quality under which it is sold. (Id. § 6523.)

12. When Deemed Misbranded.—An article shall be deemed to be misbranded within the meaning of the act:

First, If it is an imitation of, or offered for sale under the name of another article;

Second, If the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, antipyrin, opium, morphine, codeine, heroin, cocaine, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substances, contained therein: Provided, that nothing herein shall be construed to apply to the dispensing of prescriptions written by regularly licensed practicing physicians, veterinary surgeons and dentists, and kept on file by the dispensing pharmacist, nor to such drugs as are recognized in the United States Pharmacopœia and National Formulary, and which are sold under the name by which they are so recognized;

Third, If the package containing it or its label shall bear any statement, design or device regarding the ingredients, or the substances contained therein, which statement, design or device shall be false or misleading in any particular, and to any drug or drug product which is falsely branded as to the State, Territory or country in which it is manufactured or produced;

Fourth, If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such articles or any of the ingredients or substances contained therein, which is false and fraudulent. (Id. § 6524.)

13. Rules and Regulations.—The Board of Pharmacy shall make such rules and regulations as may be necessary for the enforcement of this act. (Id. § 6525, as amended P. A. 1925, No. 48.)

14. To Investigate Complaints, Etc.—It shall be the duty of the Board of Pharmacy to investigate all complaints of violations of this act and take all steps necessary to its enforcement; it shall appoint drug inspectors who shall be registered pharmacists. Such inspectors shall hold office at the pleasure of said Board of Pharmacy and until others are appointed; and the said Board of Pharmacy or drug inspectors or any of them shall in a lawful manner inquire into the drug products which are manufactured or sold or exposed or offered for sale in this State, and may in a lawful manner procure samples of the same for analysis; and the said Board of Pharmacy, or said drug inspectors or any of them, shall have power to enter into any factory, store, salesroom, drug store or laboratory or place where he has reason to believe drug products are made, stored, sold or offered for sale, and open any cask, jar, bottle or package containing, or supposed to contain, any drug product, and take therefrom samples for analysis. The person making such inspection shall take such sample of such article or product in the presence of at least one witness, and he shall, in the presence of said witness, mark or seal such sample and shall tender at the time of taking to the manufacturer or vendor of such product, or to the person having the custody of the same, the value thereof, and a statement in writing for the taking of such sample. The said Board of

*Act 146 of 1909.

Pharmacy shall request the State analyst to make due and careful examination of such sample and report to it the result of such analysis, and if the same is found to be adulterated or misbranded within the provisions of this act it shall be the duty of said Board of Pharmacy, or any drug inspector assigned to such duty, to make complaint against the manufacturer or vendor thereof in the proper county and furnish all evidence thereof to obtain a conviction of the offense charged, and in no case shall any party connected with the Board of Pharmacy making such complaint be required to furnish security for costs in any action instituted by said party or parties having for their object the enforcement of this act: Provided, nothing herein contained shall be held to prohibit or prevent other inspectors or chemists connected with the Board of Pharmacy from performing any of the duties herein imposed upon the said drug inspectors or other parties, whenever in the opinion of said Board of Pharmacy the work of its office can be expedited thereby. (Id. § 6526.)

15. Liability of Officers, Etc.—In construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association within the scope of his employment or office, shall, in every case, be also deemed to be the act, omission or failure of such corporation, company, society or association, as well as that of the person: Provided, that no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty in accordance with the provisions of the National Food and Drugs Act, June thirtieth, nineteen hundred six, or a guaranty signed by the wholesaler, jobber, manufacturer or other parties residing in this State, from whom he purchased such article, to the effect that the same is not adulterated nor misbranded within the meaning of this act. Said guaranty to afford protection shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case, if such guaranty was given in this State, said party or parties shall be amenable to the prosecution, fines and other penalties which would attach in due course to the dealer under the provisions of this act: Provided, however, that said guaranty shall not afford protection to the vendor in any case if said product is adulterated or misbranded within the meaning of this act, and if said vendor shall have been previously notified in writing by the Board of Pharmacy to that effect: Provided, further, that in no case shall the Board of Pharmacy serve such notice upon any vendor of any such product until said Board of Pharmacy shall have notified the manufacturer or jobber of any such product of the findings of the State Analyst with reference to such product; such notification to such manufacturer or jobber shall be in writing and shall be mailed ten days previous to any notice sent to any vendor in accordance with this section. (Id. § 6527.)

16. Drug Products for Export.—Nothing in this act shall affect any drug product manufactured in this State for export to any foreign country or for sale in any other State, when such drug product is not adulterated or misbranded within the meaning of the laws of such foreign country or State; but if said article shall be in fact sold or offered for sale for use or consumption within this State, then such article shall not be exempt from the operation of any of the provisions of this act. (C. L. 1915, § 6528.)

17. Duty of Prosecuting Attorney.—It shall be the duty of each prosecuting attorney, when called upon by the said Board of Pharmacy, or by any person by it authorized as aforesaid, to render any legal assistance in its power in proceedings under the provisions of this act or any subsequent act relative to the adulteration or misbranding of drug products. (Id. § 6529, as amended P. A. 1925, No. 48.)

18. Violation of Act.—Whoever shall do any of the acts or things prohibited, or willfully neglect or refuse to do any of the acts or things enjoined by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both fine and imprisonment in the discretion of the court. (C. L. 1915, § 6530.)

19. Appropriation.—The sum of six thousand dollars is hereby appropriated for the fiscal year ending June thirtieth, nineteen hundred eleven, and for each fiscal year thereafter there is hereby appropriated the sum of six thousand dollars. Out of the amounts appropriated by this act shall be paid all salaries and expenses provided for herein. (Id. § 6531.)

NOTE: See also Nos. 325, 338 and 344.

Miscellaneous General Provisions.

20. Food Products, Etc., What Deemed Legal Standards of Purity.—In all prosecutions arising under the food and drug laws of this State for the manufacture or sale of an adulterated, misbranded or otherwise unlawful article of food, drink, condiment or drug, the latest standards of purity for food products, established by the United States Secretary of Agriculture, shall be accepted as the legal standards, except in cases where other standards are specifically prescribed by the laws of this State. (C. L. 1915, § 6535.)¹

21. How Package Labeled, Containing a Preservative.—No person, firm or corporation shall manufacture, sell, offer for sale, expose for sale, or have in his possession with intent to sell, any food product containing benzoic acid or benzoate of sodium, or any other harmless preservative, unless each and every package containing the same shall, in the condition in which it is exposed for sale, be distinctly, conspicuously, and legibly branded, labeled or marked, in plain English letters, with the words "Prepared with" followed by the proper English name of the preservative used: Provided, that nothing in this act shall be construed to prohibit or regulate, by branding or otherwise, the use as a preservative of common salt, syrup, sugar, salt petre, spices, alcohol, vinegar or wood smoke: And provided, further, that the provisions of this act shall not apply to dairy products. (Id. § 6517.)

22. Penalty for Violation.—Whoever shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things required by this act,² or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6518.)

23. Selling Unwholesome Provisions Without Notice.—If any person shall knowingly sell any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, he shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred dollars. (Id. § 15122.)³

24. Adulterating Food or Liquors.—If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine, spirits, malt liquor, or other liquor intended for drinking, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding three hundred dollars, and the article so adulterated shall be forfeited and destroyed. (Id. § 15123.)⁴

25. Adulterating Drugs or Medicines.—If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine, in such manner as to render the same injurious to health, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding four hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed. (Id. § 15124.)⁵

26. Discrimination Unlawful.—Any person, firm, co-partnership, corporation or association engaged in the business of buying potatoes, grain or beans, for the purpose of resale, who shall, with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, communities or cities of this State, by purchasing such potatoes, grain or beans at a higher rate or price in one locality than is paid for potatoes, grain or beans of like grade and quality by said person, firm, copartnership or corporation in any other locality, after making due allowance for the difference, if any, in the actual cost of transportation, shall be deemed guilty of unfair discrimination and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not to exceed six months. (P. A. 1923, No. 208.)

27. Creation; Commissioner; Salary; Assistants and Employees; Offices.—There is hereby created a State Department of Agriculture which shall possess the powers and perform the duties hereinafter granted and conferred. The chief

¹Act 64 of 1913.

²Act 7 of 1905, included in Nos. 21-22.

³R. S. '46, c. 159, § 1.

⁴R. S. '46, c. 159, § 2.

⁵R. S. '46, c. 159, § 3.

executive officer of said department shall be appointed by the Governor, with the advice and consent of the Senate, and shall be known as the Commissioner of Agriculture of the State of Michigan. Said commissioner shall receive an annual salary of five thousand dollars. He may appoint such assistants and employees as may be necessary to perform the duties hereby imposed, the number of such assistants and employees, and the compensation payable to all persons so appointed and employed, being subject to the approval of the State Administrative Board. The salaries of all officers and employees hereby authorized, and the necessary expenses thereof while traveling in performing any of their duties, shall be paid in the same manner as the salaries and expenses of other State officers and employees are paid. The Board of Auditors shall provide suitable offices at Lansing and proper office equipment for the use of said department. (Supp. 1922, § 169(1).)¹

28. Powers and Duties Transferred.—The State Department of Agriculture shall exercise the powers and perform the duties now vested by law in the Department of Animal Industry, the State Food and Drug Commissioner, the State Veterinary Board, the Immigration Commission, the Commissioner of Immigration, the Market Director, and shall also possess the powers and duties formerly vested by law in the Michigan Agricultural Fair Commission. The departments, boards, commissions and officers whose powers and duties are hereby transferred to the State Department of Agriculture shall be abolished as of the thirtieth day of June, nineteen hundred twenty-one. All records, files and papers of any nature whatsoever pertaining to the functions thereof shall be turned over to the department hereby created. Any hearing or other proceeding pending before any board or officer whose tenure is so terminated shall not be abated, but shall be deemed to be transferred to the State Department of Agriculture and shall be carried on and determined by the Commissioner of Agriculture in accordance with the provisions of the law governing such hearing or proceeding. (Id. § 169(2), as amended P. A. 1923, No. 34.)

29. Inspection and Regulation of Orchards, Vineyards, Nurseries, Apiaries, Seeds, Fertilizers, Insecticides, Commercial Stock Foods, Etc.; Certain Offices Abolished; Collection of Agricultural Statistics.—In addition to the foregoing powers and duties there is transferred to the State Department of Agriculture, and vested therein, the powers and duties of the State Board of Agriculture with reference to the inspection and regulation of orchards, vineyards and nurseries, the inspection and regulation of apiaries, the testing of agricultural seeds, the analysis of commercial fertilizers, the testing and examination of insecticides, and the analysis and testing of commercial stock foods, and the investigation and improvement of marketing conditions as now provided by law, and the said board is hereby relieved of each and all said powers and duties. The offices of State Inspector of Orchards and Nurseries, and Inspector of Apiaries are abolished, and the powers and duties pertaining thereto are likewise transferred to and vested in the State Department of Agriculture. All records and files pertaining to either of said offices, or to any other of the powers and duties hereby transferred, shall become a part of the records and files of the State Department of Agriculture and shall be preserved accordingly. All duties of the Secretary of State now imposed by law with reference to the collection and publication of statistics relating to agriculture and agricultural interests within the State, shall likewise be transferred to and vested in the State Department of Agriculture, and all records and data on file shall be delivered thereto by the Secretary of State, who is hereby relieved from further performance of said duties. (Supp. 1922, § 169(3).)

30. Office Created.—There is hereby created the office of Food and Drug Commissioner for the State of Michigan, with the powers and duties hereinafter prescribed. The person appointed to such office shall be a citizen of the State of Michigan. (Id. § 6379(1).)*

31. Powers; Transfer of; Deputy.—The Food and Drug Commissioner, on his appointment and qualification as such, shall have charge and supervision of the enforcement of all the laws of this State relating to the dairy and food, drug and liquor business, weights and measures, and such further powers and duties as may be imposed by law and as prescribed herein. All the powers and duties imposed by law upon the Dairy and Food Commissioner, at the time this act takes effect, are hereby transferred to and vested in the Food and Drug Commissioner. The Food and Drug Commissioner, his deputies and inspectors, shall have

¹Act 13 of 1921. See Nos. 27-29.

*Act 263 of 1917. See Nos. 30-35. By this act the Food and Drug Commissioner succeeds the Dairy and Food Commissioner. But by Act 13 of 1921 the Department of Agriculture succeeds the Food and Drug Commissioner. See No. 28.

the powers of a sheriff in making arrests and in enforcing the laws relating to the prohibition of the manufacture, sale, bartering, furnishing, giving away, receiving, possession and use of intoxicating liquors; and in enforcing the laws relating to dairy, foods, drugs and weights and measures in any place within this State. He shall appoint a deputy, who shall have the powers and duties of the Food and Drug Commissioner as may be deputized to him by the Food and Drug Commissioner. (Id. § 6379(2).)

32. When Office of Dairy and Food Commissioner Abolished.—On April first, nineteen hundred eighteen, the office of Dairy and Food Commissioner, created by act number two hundred eleven of the Public Acts of eighteen hundred and ninety-three, shall cease and be discontinued, and all offices incident to the department of the Dairy and Food Commissioner shall likewise cease and be discontinued; and all of the powers and duties devolving upon and vested in said Dairy and Food Commissioner, by any law of this State, at or after the time this act takes effect, shall be and the same are transferred to and vested in the Food and Drug Commissioner, as of April first, nineteen hundred eighteen. The Dairy and Food Commissioner shall on said date cause all of his office equipment, and other State property, records and books, to be transferred to the Food and Drug Commissioner; and all money accounts of the said Dairy and Food Commissioner shall be closed with the State Treasurer, and reopened with the Food and Drug Commissioner created by this act. All actions pending under the dairy and food laws or other laws administered by the Dairy and Food Commissioner; all matters pending investigation; all unfinished business of said Dairy and Food Department, shall be continued under the Food and Drug Commissioner, with like effect as if the office of Dairy and Food Commissioner had continued to exist. (Id. § 6379(5).)

33. State Analyst; Chief Clerk; Assistant Analyst; Inspectors, Clerks, Etc.; Salaries.—The Food and Drug Commissioner shall have authority to appoint a State Analyst, at a salary not to exceed two thousand five hundred dollars per annum, a chief clerk at a salary of not to exceed eighteen hundred dollars a year, and necessary assistant analysts, who shall be competent chemists, at a salary not to exceed eighteen hundred dollars each per annum; and to discharge such analysts at pleasure. He shall appoint and employ such inspectors, investigators, assistants, clerks and other help as may be deemed necessary, subject to the approval of the Governor, at a salary not to exceed fifteen hundred dollars each per annum. (Id. § 6379(6).)

34. Aid and Assistance from Public Officers.—The said Food and Drug Commissioner shall be entitled to the advice and assistance of the Attorney-General, and all prosecuting attorneys, sheriffs, police officers, and other peace officers within the State shall, when called upon for aid and assistance by such commissioner, render such service as may be requested by him, within the scope of his authority. And it shall be the duty of the Attorney-General to assign to the office of the Food and Drug Commissioner an assistant Attorney-General who shall have the authority of a deputy Attorney-General with relation to the enforcement of the laws administered by the Food and Drug Commissioner. (Id. § 6379(7).)

35. Refusal of Officer to Give Assistance.—Any officer required by this act to give assistance to the Food and Drug Commissioner who shall fail or refuse so to do shall be deemed guilty of a misfeasance in office and such failure or refusal shall be deemed a ground for removal from office. Nothing in this act contained shall in any way be construed as relieving any of the said officers from the performance of duties devolving upon them by virtue of the laws of this State. (Id. § 6379(9).)

36. Commissioner, Duties of.—It shall be the duty of the Dairy and Food Commissioner* to carefully inquire into the dairy and food and drink products and the several articles which are foods or drinks, or the necessary constituents of foods or drinks, which are manufactured or sold or exposed or offered for sale in this State, and he may, in a lawful manner, procure samples of the same and direct the State Analyst to make due and careful examination of the same, and report to the commissioner the result of the analysis of all and any of such food and drink products or dairy products as are adulterated, impure or unwholesome in contravention of the laws of this State; and it shall be the duty of the commissioner to make a complaint against the manufacturer or vendor thereof in the proper county and furnish all evidence thereof, to obtain a conviction of the offense

*But by Act 263 of 1917 the Food and Drug Commissioner succeeds the Dairy and Food Commissioner. See No. 31. And by Act 13 of 1921 the Department of Agriculture succeeds the Food and Drug Commissioner. See No. 28.

charged. The Dairy and Food Commissioner, or his deputy, or any person appointed by him for that purpose may make complaint and cause proceedings to be commenced against any person for the enforcement of any of the laws relative to adulterated, impure or unwholesome food or drink, and in such case he shall not be obliged to furnish security for costs and shall have power, in the performance of their duties, to enter into any creamery, factory, store, salesroom, drug store, or laboratory, or place where they have reason to believe food or drink are made, stored, sold or offered for sale and open any cask, tub, jar, bottle or package containing, or supposed to contain, any article of food or drink and examine or cause to be examined the contents thereof, and take therefrom samples for analysis. The person making such inspection shall take such sample of such article or product in the presence of at least one witness, and he shall in the presence of said witness, mark or seal such sample and shall tender at the time of taking to the manufacturer or vendor of such product, or to the person having the custody of the same, the value thereof, and a statement in writing for the taking of such sample. Whenever it is determined by the Dairy and Food Commissioner, his deputy or inspectors, that filthy or unsanitary conditions exist or are permitted to exist in the operation of any bakery, confectionery, or ice cream plant, or in any place where any food or drink products are manufactured, stored, deposited or sold for any purpose whatever, the proprietor or proprietors, owner or owners, of such bakery, confectionery or ice cream plant, or any person or persons, owning or operating any plant where any food or drink products are manufactured, stored, deposited or sold, shall be first notified and warned by the commissioner, his deputy or inspectors to place such bakery, confectionery or ice cream plant, or any place where any food or drink products are manufactured, stored, deposited or sold in a sanitary condition within a reasonable length of time; and any person or persons owning and operating any bakery, confectionery or ice cream plant or any place where any food or drink products are manufactured, stored, deposited or sold, failing to obey such notice and warning, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars and costs of prosecution, or imprisonment in the county jail not to exceed ninety days, or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court. (C. L. 1915, § 6365.)*

37. When May Seize Food Products; Duty of Prosecuting Attorneys.—The commissioner, his deputy or any person by said commissioner duly appointed for that purpose, is authorized at all times to seize and take possession of any and all food and dairy products, substitutes therefor, or imitation thereof kept for sale, exposed for sale or held in possession or under the control of any person which in the opinion of the said commissioner, or his deputy or such person by him duly appointed, shall be contrary to the provisions of this act or other laws which now exist or which may be hereafter enacted.

First. The person so making such seizure as aforesaid, shall take from such goods as seized a sample for the purpose of analysis and shall cause the remainder thereof to be boxed and sealed and shall leave the same in the possession of the person from whom they were seized, subject to such disposition as shall hereafter be made thereof according to the provisions of this act.

Second. The person so making such seizure, shall forward the sample so taken to the State Analyst for analysis, who shall make an analysis of the same and shall certify the results of such analysis, which certificate shall be prima facie evidence of the fact or facts therein certified to in any court where the same may be offered in evidence.

Third. If upon such analysis it shall appear that said food or dairy products are adulterated, substitutes or imitations within the meaning of this act, said commissioner, or his deputy or any person by him duly authorized may make complaint before any justice of the peace or police justice having jurisdiction in the city, village or township where such goods were seized, and thereupon said justice of the peace shall issue his summons to the person from whom said goods were seized, directing him to appear not less than six nor more than twelve days from the date of the issuing of said summons and show cause why said goods should not be condemned and disposed of. If the said person from whom said goods were seized cannot be found said summons shall be served upon the person then in possession of the goods. The said summons shall be served at least six days before the time of appearance mentioned therein. If the person from whom said goods were seized cannot be found, and no one can be found in possession of said goods,

*Act 211 of 1893. See Nos. 36-41.

and the defendant shall not appear on the return day, then said justice of the peace shall proceed in said cause in the same manner provided by law where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants shall appear upon the return day.

Fourth. Unless cause to the contrary thereof is shown, or if said goods shall be found upon trial to be in violation of any of the provisions of this act or other laws which now exist or which may be hereafter enacted, it shall be the duty of said justice of the peace or police justice to render judgment that said seized property be forfeited to the State of Michigan, and that the said goods be destroyed or sold by the said commissioner for any purpose other than to be used for food. The mode of procedure before said justice shall be the same as near as may be as in civil proceedings before justices of the peace. Either parties may appeal to the circuit court as appeals are taken from justices' courts, but it shall not be necessary for the people to give any appeal bond.

Fifth. The proceeds arising from any such sale shall be paid into the State treasury and credited to the general fund: Provided, that if the owner or party claiming the property or goods so declared forfeited can produce and prove a written guarantee of purity, signed by the wholesaler, jobber, manufacturer or other party from whom said articles were purchased, then the proceeds of the sale of such articles, over and above the costs of seizure, forfeiture, and sale, shall be paid over to such owner or claimant to reimburse him, to the extent of such surplus, for his actual loss resulting from such seizure and forfeiture, as shown by the invoice.

Sixth. It shall be the duty of each prosecuting attorney when called upon by said commissioners [commissioner] or by any person by him authorized as aforesaid to render any legal assistance in his power in proceedings under the provisions of this act, or any subsequent act relative to the adulteration of food, for the sale of impure or unwholesome food or food products. (Id. § 6366.)

38. **Unlawful for State Analyst to Give Certificates.**—It shall be unlawful for the State Analyst, while he holds his office, to furnish to any individual, firm or corporation, any certificate as to the purity or excellence of any article manufactured or sold by them to be used as food or in the preparation of food. (Id. § 6367.)

39. **Annual Report to Governor.**—The commissioner shall make an annual report to the Governor on or before the first day of July in each year, and which shall be printed and published on or before the first day of September next thereafter, which report shall cover the doings of his office for the preceding fiscal year, which shall show, among other things, the number of manufactories and other places inspected and by whom, the number of specimens of food articles analyzed, and the State Analyst's report upon each one; the number of complaints entered against persons for violation of the laws relative to the adulteration of food, the number of convictions had, and the amount of fines imposed therefor, together with such recommendations relative to the statutes in force as his experience may justify. The commissioner shall also prepare, print and distribute to all the papers of the State, and to such persons as may be interested or may apply therefor a monthly bulletin, in suitable paper covers, containing results of inspections, the results of analyses made by the State Analyst, with popular explanation of the same, and such other information as may come to him in his official capacity relating to the adulteration of food and drink products and of dairy products, so far as he may deem the same of benefit and advantage to the public; also a brief summary of all the work done during the month by the commissioner, and his assistants in the enforcement of the laws of the State, but not more than ten thousand copies of each such monthly bulletin shall be printed. (Id. § 6368.)

40. **Penalty for Interfering With Inspectors.**—Any person who shall willfully hinder or obstruct the Dairy and Food Commissioner, or his deputy, or other person or inspector by him duly authorized, in the exercise of the powers conferred upon him by this act, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days, or both such fine and imprisonment in the discretion of the court. (Id. § 6369.)

41. **Annual Report of Commissioner to Account for Moneys.**—The published annual report of the Dairy and Food Commissioner which shall be made to the Governor, shall include a complete accounting of all moneys received by the department from every source, and the amount expended by the department. (Id. § 6378.)

42. **Unlawful to Obstruct Inspectors in Their Duty.**—Any person who shall obstruct the Dairy and Food Commissioner, or his deputy, or any of his duly appointed inspectors, by refusing to allow him entrance to any place where he is authorized to enter in the discharge of his official duty, or refuses to deliver to

him a sufficient sample for the analysis of any article of food or drink sold, offered or exposed for sale, or in his possession for the purpose of sale, wherever the same may be found, when the same is requested and when the value thereof is tendered, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars or more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail not less than ten days or more than ninety days, or by both such fine and imprisonment, in the discretion of the court, for each and every offense. (Id. § 6389.)*

43. Civil Suit, When Dairy and Food Commissioner May Bring.—Whenever any corporation, firm or person engaged as a dealer, manufacturer, storer or transporter of any food or beverage product for man or animal, doing business within the State shall for thirty days after the same becomes due refuse or neglect to pay any registration or license fee which the laws of Michigan require said corporation, firm or person to pay to the State Dairy and Food Department, the State Dairy and Food Commissioner may bring a civil suit in the name of the people of the State of Michigan for the use and benefit of the State Dairy and Food Department for the recovery of said registration or license fee. (Id. § 6390.)†

44. Where Commenced; Proviso, Notice.—Said suit may be commenced in the Circuit Court for the county of Ingham or in the Circuit Court of the county where the principal business office of such defendant corporation, firm or person shall be located and shall be prosecuted in like manner as in civil suits between individuals, and judgment and execution may follow in like manner and costs may be recovered to be taxed as in other civil cases, and all moneys recovered shall be paid into the State treasury for the use and benefit of the State Dairy and Food Department: Provided, that no suit as authorized by this act, shall be commenced until thirty days after the defendant in such suit has been duly notified of his or her delinquency, either personally or by registered letter. (Id. § 6391.)

45. Bacteriological Examination; Analysis of Water, Etc.; Samples to be Sent in Sealed Packages; Analysis in Criminal Matters; Proviso, Cost.—The various boards of health, health officers, and all State institutions may require a bacteriological examination or analysis of blood, sputum, urine, water, milk, or other substance in localities where there is an outbreak of any contagious disease or epidemic in which bacteriological examination or analysis may be necessary to the public health and welfare, or for the purpose of locating sources of infection, or contamination of water, milk, ice, etc., as the case may be. The said State Board of Health shall also be required to make an examination and analysis of the water used by the public, and of public water supplies, when contamination is suspected, whenever the examination or analysis is required by the mayor of any city, the president of any village, or the supervisor of any township. Such boards or officers shall forward or deliver to the secretary of the State Board of Health a sample of the substance required to be analyzed, in a sealed package or jar accompanied by a statement from such board or officer, indicating the necessity for the analysis. The examination or analysis for the boards or officers above named shall be made free of charge. The State Board of Health shall also make a bacteriological examination or analysis in all matters of a criminal nature whenever requested by the prosecuting attorney of the county in which the case may arise: Provided, however, that any prosecuting attorney requiring any analysis of a criminal nature, or any private individual, corporation or association requiring an analysis for private purposes, shall be required to pay to the State Board of Health, upon the completion of the analysis, the nominal cost of the materials used and for the time necessarily spent in making such examination or analysis, which amounts shall constitute a charge against the particular county, private individual, corporation or association, and shall together with all fees for expert testimony be turned into the State treasury to the credit of the bacteriological fund, in addition to the amount herein provided, and may be drawn by the State Board of Health in the manner now provided by the accounting laws of this State for the purpose of maintaining or adding to the equipment of the bacteriological division of the Department of Health. (Id. § 5003.)‡

*Act 167 of 1899.

†Act 37 of 1913, included in Nos. 43 and 44.

‡Act 109 of 1907.

PART II.

Special Food Laws.

Apples.

See Nos. 228-234 and 462-463.

Baked Goods.

46. Shipment of Baked Goods, Etc., Regulated.—It shall be unlawful for any person, firm or corporation engaged in the manufacture of baked goods and pastries by himself, herself or themselves or by his, her or their agent or employee to convey, ship or transport any baked goods or pastries from the place where such goods are manufactured to any place in this State where such baked goods and pastries are to be consumed or offered for sale, without first placing such baked goods and pastries in a clean and sanitary container or package sufficiently tight and compact to exclude all dust and dirt and other contamination. None of such containers or packages containing baked goods or pastries shall be opened or exposed to the dust or dirt or other contamination from the place where manufactured until they arrive in the place where such baked goods and pastries are to be consumed or exposed for sale. (P. A. 1925, No. 320, § 1.)

47. Misdemeanor, Penalty for.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars or imprisonment in the county jail not exceeding twenty days or both such fine and imprisonment in the discretion of the court. (Id. § 2.)

NOTE: See also No. 36.

Beans.

See No. 26.

Beet Syrup.

See Nos. 282-283.

Beverages.

48. Application for License; Fee; Annual Renewal; Drinks not Manufactured in State; Inspection Fee; Annual Renewal.—No person, firm or corporation shall manufacture for sale at wholesale any soft drink or other nonalcoholic beverage except apple cider within this State without having first filed with the Food and Drug Commissioner* an application for a license, accompanied with a fee of twenty-five dollars, upon receipt of which application, the Food and Drug Commissioner shall issue to the person, firm or corporation making such application, a license to manufacture soft drinks or other nonalcoholic beverages, as hereinafter provided. Said license shall run for one year from the date of the application, unless sooner revoked, as herein provided, and shall be renewed annually thereafter. No soft drink or other nonalcoholic beverage except apple cider not manufactured in the State shall be sold or offered for sale within the State of Michigan unless same is first inspected and registered with the Food and Drug Department and an inspection fee of twenty-five dollars, for each such soft drink or other nonalcoholic beverage bearing a distinguishing flavor or name shall be paid either by the manufacturer, his agent or dealer, to the Commissioner of the Food and Drug Department of the State of Michigan, same to be renewed annually. (Supp. 1922, § 6449(1).)

49. Registration of Name of Drink; License Fee; Local Sellers; Sample.—No person, firm or corporation shall sell, offer for sale, or have in his or their possession with intent to sell, any soda water syrup or extract, soft drink syrup or extract, bearing a distinguishing name as parlay, coca cola, et cetera, without first registering the same and the name and address of the manufacturer thereof with the Food and Drug Commissioner; they shall also pay to the Food and

*This law (Act 259 of 1919, included in Nos. 48-61) is now enforced by the Department of Agriculture. See No. 28.

Drug Commissioner at the time of making such registration, a license fee of five dollars for each and every syrup or extract bearing a distinguishing name, that is sold or offered for sale. Said registration shall be renewed annually: Provided, that whenever any manufacturer, agent or seller shall have paid this fee, his or their agent or dealer using the same shall not be required to do so: All moneys collected by the Food and Drug Commissioner under the provisions of this act shall be paid into the State treasury. The provisions of this section shall not apply to local sellers of soft drinks or other non-intoxicating beverages, or syrups and extracts made by themselves for their own use exclusively. A manufacturer, jobber or dealer in every syrup, extract, soft drink or other nonalcoholic beverage required to be licensed under this section, shall, upon making application for such license, file with the Food and Drug Commissioner a sample of said syrup, extract, soft drink or other nonalcoholic beverage for analysis, and said license shall not be granted by the Food and Drug Commissioner unless he shall determine that said syrup, extract, soft drink or other beverage is free from all harmful drugs and other ingredients that are injurious to health. (Id. § 6449(2).)

50. Saccharin Prohibited.—The use of saccharin in the manufacture of soft drinks or other nonalcoholic beverages is hereby prohibited. (Id. § 6449(3).)

51. Revocation of Licenses; Effect.—The Food and Drug Commissioner shall have the power to revoke any license issued under the provisions of this act whenever it is determined by himself or any of his deputies, chemists, or other properly qualified official, that any of the provisions of this act have been violated. Any person, firm or corporation whose license has been so revoked shall discontinue the manufacture or sale within the State, of soft drinks, syrups or other non-alcoholic beverages until the provisions of this act have been complied with and a new license issued. He may revoke such license temporarily until there is a compliance with such conditions as he may prescribe, or permanently for the unexpired period of such license. (Id. § 6449(4).)

52. Notice to Licensee; Hearing.—Before revoking any license, the Food and Drug Commissioner shall give written notice to the licensee affected, stating that he contemplates the revocation of the same and giving his reasons therefor. Said notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the licensee. On the day of hearing, the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the commissioner shall decide the question in such manner as to him appears just and right. (Id. § 6449(5).)

53. Appeal.—Any licensee who feels aggrieved at the decision of the commissioner may appeal from said decision within ten days by writ of certiorari to the Circuit Court of the county where licensee resides, and issue shall be framed in said court and a trial had and its decision shall be final. (Id. § 6449(6).)

54. Soft Drinks, of What to Consist; Proviso; Further Proviso.—For the purpose of this act, all soft drinks or other nonalcoholic beverages, except pure nonalcoholic fruit juices, shall consist of a beverage made from a pure cane or beet sugar syrup containing pure flavoring materials, with or without added fruit acid, with or without added color, and shall contain in the finished product not less than eight per cent sugar, except dry ginger ale, which must contain not less than seven per cent sugar: Provided, that nothing in this act shall prohibit the use of any other harmless ingredient in the manufacture of soft drinks or other non-alcoholic beverages: And provided, further, that whenever artificial coal tar colors are used, nothing but the certified colors as approved by the Federal Government are permissible. The provisions of this section shall not apply to nonalcoholic beverages made in imitation of beer, bitter drinks or other similar drinks. All soft drinks or other nonalcoholic beverages not in compliance with the standards established by this act shall be deemed to be adulterated. (Id. § 6449(7), as amended P. A. 1925, No. 65.)

55. Artificial Coloring and Flavoring; Imitations; Labeling.—Whenever artificial colors or flavors are used in the manufacture of soft drinks or other non-alcoholic beverages, the bottle or other container shall be distinctly labeled "artificially colored and flavored." All nonalcoholic ciders, nonalcoholic fruitades, non-alcoholic fruit juices or other similar drinks that are made in imitation of the natural product shall be properly and distinctly labeled with the word "imitation," followed by the name of the beverage. All soft drinks and other nonalcoholic beverages sold in bulk or from open receptacles, that contain artificial coloring or artificial flavors of any character shall be so labeled, said labels to be prominently displayed on all stands, booths, or other places where said soft drinks or other nonalcoholic beverages are sold or dispensed. Labels for this purpose shall be printed in letters not less than one inch long and three-fourths of an inch in

width and shall contain the following: "Artificially colored, artificially flavored," or "artificially colored, imitation flavor." When said soft drinks or other non-alcoholic beverages contain artificial color and natural fruit flavor, said labels shall indicate the presence of the artificial coloring as follows: "Artificially colored." When said beverages contain artificial flavors and no artificial coloring, they shall be labeled as follows: "Artificial flavor," or "imitation flavor." (Supp. 1922, § 6449(8).)

56. Sterilization of Bottles; Labels.—All bottles used in the manufacture of soft drinks or other nonalcoholic beverages, before being filled, shall be sterilized by soaking in a hot caustic solution of not less than one hundred twenty degrees Fahrenheit, that shall contain not less than three per cent caustic or alkali expressed in terms of sodium hydrate for a period of not less than five minutes, then thoroughly rinsed in pure water until free from alkali or sodium hydrate. Each and every bottle so sterilized, when filled with a soft drink or other nonalcoholic beverage, must be distinctly labeled with the true name of the soft drink or other nonalcoholic beverage therein contained, together with the true name of the manufacturer thereof. The use of bottles with other than the manufacturer's or filler's or authorized distributor's name blown therein, without the written consent of the original owner, is hereby prohibited. Nothing in this act shall be construed to include milk or cream bottles. (Id. § 6449(9), as amended P. A. 1925, No. 65.)

57. Sanitary Conditions.—All buildings, stores, factories, or other places where soft drinks or other nonalcoholic beverages are manufactured or bottled, shall be well lighted and ventilated and shall be kept at all times in a sanitary condition. All machines, bottles, jars, or other utensils used in the manufacture of soft drinks or other nonalcoholic beverages shall be kept at all times in a clean and sanitary place and in a sanitary condition. (Supp. 1922, § 6449(10).)

58. Stoppers.—No bottles shall be used in the manufacture of soft drinks or other nonalcoholic beverages in which the metal or rubber part of the stopper comes in contact with the beverage. The provisions of this section shall not apply to carbonated water put up in siphons. (Id. § 6449(11).)

59. Liquor Acts not Affected.—This act shall be construed as in no way affecting, modifying or changing in any manner, any act passed by the Legislature relating to the liquor traffic. (Id. § 6449(12).)

60. Penalty.—Any person, firm or corporation who shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things required by this act, or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6449(13).)

61. Enforcement.—The Food and Drug Commissioner* shall be charged with the enforcement of the provisions of this act. (Id. § 6449(14).)

62. Unhealthful Ingredients in Spirituous, Fermented or Malt Liquors Prohibited.—No person shall within this State manufacture, brew, distill, have or offer for sale, or sell, any spirituous or fermented or malt liquors, containing any substance or ingredient not normal or healthful, to exist in spirituous, fermented or malt liquors, or which may be deleterious or detrimental to health when such liquors are used as a beverage. (C. L. 1915, § 6489.)†

63. Adulteration of Liquors a Misdemeanor, Etc.—If any person shall adulterate any spirituous or alcoholic liquors used or intended for drink, by mixing the same in the manufacture or preparation thereof, or by process of rectifying, or otherwise, with any deleterious drug, substance, or liquid, which is poisonous or injurious to health, except as hereinafter provided, or if any person shall sell, or offer to sell, any wine, or spirituous, or alcoholic liquors, or shall import into this State, any wine, or spirituous, or intoxicating liquors and sell, or offer for sale such liquors, knowing the same to be adulterated, or shall sell, or offer to sell any spirituous or intoxicating liquors from any barrel, cask, or other vessel containing the same, and not branded as hereinafter provided, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, nor less than fifty dollars, and shall be imprisoned in the jail of the county not more than six months, nor less than ten days. (Id. § 7055.)‡

NOTE: See also Nos. 4, 24, 27 et seq., 393 et seq., and 443 et seq.

*Department of Agriculture. See No. 28.

†Act 193 of 1895. For penalty, see No. 7.

‡Act 313 of 1887.

Buckwheat Flour Compounds.

64. Compounds, How Labeled.—Within this State no person shall manufacture, offer or expose for sale, keep in possession with intent to sell, or sell any ground buckwheat containing any product of wheat, corn, rice or other foreign substance, unless each and every package thereof be distinctly and legibly branded or labeled "Buckwheat Flour Compound" in letters not less than one-half inch in length and be followed with the name of the maker and factory and the location of such factory. (C. L. 1915, § 6452.)

65. To be Distinguishing Label.—Any brand or label herein required shall be an inseparable part of the general or distinguishing label, and such label shall be that principal and conspicuous sign under which it is sold, and any other label or printed matter upon the package shall not be in contravention of the requirements of this act. (Id. § 6453.)

66. What Deemed Intent to Sell.—The having in possession of any buckwheat flour compound, which is not branded or labeled as hereinbefore required and directed upon the part of any person engaged in the public or private sale of such article, shall, for the purpose of this act, be deemed prima facie evidence of intent to sell the same. (Id. § 6454.)

67. What Deemed Sale.—The taking of orders or the making of agreements or contract by any person, firm or corporation or by any agent or representative thereof, for the future delivery of buckwheat flour compound shall be deemed a sale within the meaning of this act. (Id. § 6455.)

68. Penalty for Violation.—Whoever shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things enjoined by this act,* or in any way violate any of the provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than thirty nor more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6456.)

Canned Goods.

69. Canned Fruits, Etc., to be Free From Deleterious Substances; to be Labeled; Soaked Goods, How Labeled.—No packer or dealer in preserved or canned fruits and vegetables, or other articles of food, shall sell or offer for sale such canned articles, unless such articles shall be entirely free from substances or ingredients deleterious to health, and unless such articles bear a mark, stamp, brand or label bearing the name and address of the firm, person or corporation that packs or distributes the same. All "soaked or bleached goods" or goods put up from products dried before canning, shall be plainly marked, branded, stamped or labeled as such, with the words "soaked or bleached goods," in letters not less than two-line pica in size, showing the name of the article and the name and address of the packer or distributor. (C. L. 1915, § 6487.)†

70. License, Who to Issue.—All persons, firms, corporations and associations except domestic housewives and clubs of boys and girls twenty years of age or under, organized under the jurisdiction and supervision of the Michigan Agricultural College or otherwise to compete in canning and other contests are prohibited from engaging in the business of canning or preserving fruits and vegetables for sale without first having been licensed so to do by the Food and Drug Commissioner‡ of the State of Michigan. (Supp. 1922, § 6535(1), as amended P. A. 1925, No. 195.)

71. How Issued, Term, Conditions, Fee; Use of Moneys Received.—License to engage in the business specified in section one shall be granted by the Food and Drug Commissioner to any person, firm, corporation or association, lawfully entitled to do business within the State, annually, commencing with the first day of July, nineteen hundred nineteen, upon the production of evidence satisfactory to the commissioner in such form as he may require that the applicant can and will comply with the provisions of this act, and upon the payment of a license fee of twenty-five dollars. Moneys received by the Food and Drug Commissioner under the

*Act 208 of 1903, included in Nos. 64-68.

†Act 193 of 1895. For penalty, see Nos. 6-7.

‡This law (Act 411 of 1919, included in Nos. 70-82) is now enforced by the Department of Agriculture. See No. 28.

provisions hereof shall be paid by him into the State treasury, and be used to help defray the expenses incurred in the enforcement of this act. (Supp. 1922, § 6535(2).)

72. How Factories to be Located; Sanitation; By-Products.—All factories engaged in the business specified in section one hereof shall be located so as to receive raw material and distribute their products promptly without danger of damage or deterioration. Such factories shall not be located in any place which is insanitary or which cannot be made sanitary, or in the immediate vicinity of any works from which noxious odors are given off, or in which decomposed substances are kept or used. Such factories shall not be located where refuse and by-products cannot be disposed of in a sanitary manner and in such manner as not to create a nuisance. (Id. § 6535(3).)

73. Disposition of Waste.—Persons, firms, corporations and associations engaged in the business specified in section one shall prevent the accumulation of litter, waste, refuse or decomposed matter in or around the buildings, yards or grounds used by them. All liquid waste shall be conducted from the buildings by suitable drains. By-products suitable for other uses may be retained in a sanitary manner. Gross by-products may be stacked or may be placed in silos separate from the factory properly drained. (Id. § 6535(4).)

74. Regulations Concerning Buildings.—All buildings used in the canning of fruit and vegetables shall be clean and properly lighted and ventilated. The ceilings shall be of sufficient height to permit ample clearance for all work under any shafting, hangers, piping or other apparatus suspended therefrom. When natural light and ventilation are not sufficient the same shall be augmented by mechanical methods. The interiors of all working rooms shall be kept a light color by paint, whitewash or other similar substances. The floors of all factories shall be water tight and pitched so as to properly drain all waste to the sewers. Gratings shall be provided around cookers and washers and other places where overflow is unavoidable. All scalders, blanchers and tanks of water in which any goods are held shall be provided with a continuous fresh supply of water and an overflow. (Id. § 6535(5).)

75. Syrup or Brine; Water.—Cans shall not be brined or syruped by submergence. Only potable water shall be used in making syrup or brine, or to wash equipment coming in contact with food. (Id. § 6535(6).)

76. Sterilization; Cleanliness; Prevention of Dust.—All tables, pails, pans, trays, utensils, conveyors, machines and floors shall be cleaned and sterilized with steam and water at least as often as at the close of business each day, and as much oftener as is necessary to prevent souring and insure proper sanitation. Ample water and steam supply shall be furnished to keep the factory clean. Roadways about the factory shall be sprinkled, oiled or otherwise treated to prevent dust. (Id. § 6535(7).)

77. Washing.—All fruits and vegetables shall be washed before canning. (Id. § 6535(8).)

78. Washrooms for Employees; Drinking Fountains; Persons not to be Employed; Tobacco; Clothing; Dressing Rooms; Finger Nails and Hands.—Washrooms shall be provided for employees conveniently located and of sufficient size and equipment for the accommodation of all employees. Separate rooms shall be provided for each sex, and such rooms shall be equipped with running water and provided with individual and sanitary towels and plenty of soap. Sanitary drinking fountains shall be conveniently placed for employees, and the use of common drinking cups or cans or apparatus used about the factory for drinking purposes is prohibited. No person afflicted with any infectious or contagious disease, or who is suffering from any infected wound shall be employed or shall work in any factory engaged in the business specified herein. The use of tobacco and spitting on the floor is prohibited. Employees shall be properly clothed for the work they are to do, and if a change from street clothing to working clothing is necessary, dressing rooms for each sex shall be provided by the employer with suitable hangers or lockers. Employees are required to keep their finger nails clean and short, and to wash their hands each time before commencing their work after any absence from the work room. (Id. § 6535(9).)

79. Revocation of License.—The Food and Drug Commissioner shall have authority to suspend any license granted by him upon cause shown and any Circuit Court may revoke any license which has been granted hereunder upon the filing of a petition therefor by the Food and Drug Commissioner or by the prosecuting attorney of the county and the practice and procedure upon such petition shall be the same as in civil actions at law. (Id. § 6535(10).)

80. When Bond Required.—License shall not be granted to persons, firms, corporations and associations who shall have been convicted of violating any of the provisions of this act in the preceding year until in addition to the showing required by section two hereof and the payment of the fee hereinbefore provided they shall in the discretion of the commissioner give a bond with one or more sureties to be approved by the commissioner conditioned that they shall under penalty of not less than five hundred dollars nor more than ten thousand dollars obey the provisions of this act. (Id. § 6535(11).)

81. Duty of Food and Drug Commissioner; Rules and Regulations.—It shall be the duty of the Food and Drug Commissioner to foster and encourage the canning industry in this State, and for that purpose, he shall investigate the general conditions of canning factories with full power to himself, his deputies or inspectors, to enter upon any premises for such investigation with the object in view of improving the quality and creating and maintaining uniformity of the products canned and produced in such factories. The commissioner shall, as soon as practicable after this law becomes effective, make such rules and regulations as he deems necessary to successfully carry into effect the provisions of this act. (Id. § 6535(12).)

82. Penalty.—Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars or by imprisonment in the county jail for not more than ninety days or by both fine and imprisonment in the discretion of the court. ((Id. 6535(13).)

Cider.

See Nos. 399 and 443 et seq.

Cloves.

See No. 276.

Coffee, Molasses, Syrup and Glucose, Etc.

83. "Coffee Compound" to be Labeled as Such; Molasses, Etc., for Sale Shall be Labeled if Adulterated.—No person shall manufacture or sell, or offer for sale any manufactured or artificial coffee berry in imitation of the genuine berry. No person shall manufacture, sell or expose for sale any ground or prepared coffee, which is adulterated with chicory or other substance not injurious to health, unless each package thereof shall be distinctly labeled or marked "coffee compound," together with the name and address of the manufacturer or compounder thereof, and has no other label of whatever name or designation. No person shall offer or expose for sale, have in his possession with intent to sell, or sell any molasses, syrup or glucose, unless the barrel, cask, keg, can or pail containing the same shall be distinctly branded or labeled with the true and appropriate name; nor shall any person offer or expose for sale, have in his possession with intent to sell, or sell any molasses or syrup mixed with glucose, unless the barrel, cask, keg or pail containing the same be distinctly branded or labeled "glucose mixture," and the per cent in which glucose enters into its composition. Such barrel, cask, keg or pail shall be branded or labeled in a conspicuous place; and such brands or labels shall be in letters of not less than one-half inch in length. Glucose and glucose mixtures shall have no other designation than herein required. (C. L. 1915, § 6488.)*

NOTE: See also No. 279 et seq.

Cold Storage.

See Nos. 195 et seq. and 299-300.

Confectionery.

84. Confectioneries, Adulteration of.—No person, firm or corporation shall manufacture for sale, offer or expose for sale, sell, exchange or deliver, or have in his possession with the intent to sell, exchange or deliver, any candies or confectioneries adulterated by the admixture of terra alba, barytes, talc or other earthy or mineral substances, or any poisonous colors, flavors or extracts, or other deleterious ingredients detrimental to health. (C. L. 1915, § 6532.)

*Act 193 of 1895. For penalty, see Nos. 6-7.

85. Penalty.—Whoever violates any of the provisions of section one of this act* [6532] shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars and the costs of prosecution, or by imprisonment in the county jail or State House of Correction and Reformatory at Ionia, for not less than six months nor more than three years, or by both such fine and imprisonment in the discretion of the court, for each and every offense. (Id. § 6533.)

86. Adulteration of Candies; Punishment for.—Any person or persons manufacturing for sale or knowingly selling or offering to sell any candies or confectioneries adulterated by the admixture of terra alba, barytes, talc, or other earthy or mineral substances, or any poisonous colors, flavors or extracts or other deleterious ingredients detrimental to health, shall upon proper conviction thereof, before a court of competent jurisdiction, be punished by a fine not less than ten nor more than one hundred dollars, or imprisonment in the county jail not less than ten nor more than thirty days, or both such fine and imprisonment in the discretion of the court. (Id. § 15127.)†

87. Duties of Health Officers; Prosecuting Attorney.—It is hereby made the duty of the local health officer or local board of health having jurisdiction thereof to investigate without unnecessary delay all complaints that may be properly brought before them and containing facts as supported by affidavit of the parties complaining of the adulteration or sale of adulterated candies or confectioneries, and if after investigation by such officer or board reasonable cause for action is found to exist, then such officer or board shall at once give notice to the prosecuting attorney of the county in which such complaint is made, and make or cause to be made, before a proper officer, a formal complaint in writing and duly verified, and thereupon said prosecuting attorney shall immediately commence proceedings against the person or persons so offending. (Id. § 15128.)

NOTE: See also Nos. 2 and 36.

Corn Syrup.

See Nos. 282-283.

Dairy Products—Substitutes for Dairy Products.‡

88. Oleomargarine; Use Prohibited in Public Institutions.—The use of oleomargarine, butterine or any other substitute for butter, in any of the public institutions of this State, be and the same is hereby prohibited, except in the penal institutions of the State. (C. L. 1915, § 1958.)

89. Misdemeanor; Penalty.—Any warden, superintendent or other officer of any such institution, who shall knowingly violate the provisions of section one [1958] of this act, or shall knowingly permit the same to be violated shall be deemed guilty of a misdemeanor and every violation shall constitute a separate offense and on conviction thereof shall be punished by a fine of not less than twenty-five, nor more than one hundred dollars, together with costs of prosecution, or by imprisonment in the county jail of the county in which said institution is situated, not exceeding ninety days, or both such fine and imprisonment, at the discretion of the court. (Id. § 1959.)

90. Unlawful to Manufacture and Sell Imitation Butter.—No person, by himself or his agents, or servants, shall render or manufacture, sell, or offer for

*Act 207 of 1911, included in Nos. 84-85.

†Act 11 of 1887, included in Nos. 86-87.

‡The acts quoted hereunder are, in addition to those stated: Act 45 of 1891, included in Nos. 88-89; Act 22 of 1901, included in Nos. 90-91; Act 63 of 1913, included in Nos. 92-98; Act 34 of 1881, included in Nos. 99-100; Act 243 of 1903, included in Nos. 101-103; Act 166 of 1887, included in Nos. 104-106; Act 193 of 1895, included in No. 107; Act 248 of 1911, included in Nos. 108-118; Act 257 of 1911, included in Nos. 119-120; Act 93 of 1915, included in Nos. 121-122; Act 211 of 1893, included in Nos. 123-127; Act 106 of 1899, included in Nos. 128-129; Act 222 of 1913, included in Nos. 130-135; Act 176 of 1913, included in Nos. 136-137; Act 280 of 1907, included in Nos. 138-141; Act 409 of 1919, included in Nos. 142-146; Act 103 of 1913, included in No. 147; Act 26 of 1873, included in No. 148; Act 246 of 1887, included in Nos. 149-162; Act 221 of 1921, included in No. 163; Act 70 of 1909, included in Nos. 175-182; Act 53 of 1915, included in Nos. 183-191; Act 154 of 1915, included in Nos. 192-194.

The Department of Agriculture now enforces the food laws. See No. 28.

sale, expose for sale, or have in his possession with intent to sell, any article, product or compound made wholly or in part out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure unadulterated milk or cream of the same: Provided, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form, and in such manner as will advise the consumer of its real character, free from coloration or ingredient that causes it to look like butter. (Id. § 6393.)

91. Penalty for Violation.—Whoever violates any of the provisions of section one of this act [6393] shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and the costs of prosecution, or by imprisonment in the county jail or State House of Correction and Reformatory at Ionia for not less than six months nor more than three years, or by both such fine and imprisonment, in the discretion of the court, for each and every offense. (Id. § 6394.)

92. Oleomargarine, Etc., Labeling, Etc.—No person shall sell, expose or offer for sale or exchange, or have in his possession with intent to sell or exchange, any oleomargarine or other substance made in imitation of butter, and which is intended to be used as a substitute for butter, unless each and every vessel, package, roll or parcel of such substance has distinctly and durably printed, stamped or stenciled thereon in black letters the true name of such substance, in ordinary bold-faced capital letters, not less than five-line pica in size; and also the name and address of the manufacturer, in ordinary bold-faced letters, not less than pica in size. (Id. § 6395.)

93. Substance to be Labeled.—No person shall sell, exchange or deliver any oleomargarine or other substance made in imitation of butter, and which is intended to be used as a substitute for butter, unless he shall also deliver to the purchaser of each and every roll, package or parcel of such oleomargarine or other substance, at the time of the delivery of the same, a distinct label, on which is plainly and legibly printed in black ink in ordinary bold-faced capital letters not less than five-line pica in size, the true name of such substance and also the name and address of the manufacturer in ordinary bold-faced letters not less than pica in size. (Id. § 6396.)

94. Placards Where Oleomargarine Used, Etc.—The proprietor or keeper of any store, hotel, restaurant, eating saloon, boarding house, or other place where oleomargarine is sold or furnished to persons paying for the same, shall have placed on the walls of every store or room where oleomargarine is sold or furnished a white placard on which is printed in black ink, in plain Roman letters of not less than three inches in length, and not less than two inches in width, the words "Oleomargarine sold or used here," and shall at all times keep the same exposed in such conspicuous place as to be readily seen by any and all persons entering such store, or other room or rooms. (Id. § 6397.)

95. "Butter," Etc., Unlawful Use of Word.—No person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "butter," "creamery," or "dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter. (Id. § 6398.)

96. "Butter," What Deemed.—For the purpose of this act the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter. (Id. § 6399.)

97. Oleomargarine, What Designated As.—For the purpose of this act certain manufactured substances, certain extracts and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, vegetable oil, butterine, lardine, suine and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, vegetable oil, intestinal fat, and offal fat, made in imitation or semblance of butter, or when so made, calculated or intended to be sold or used as butter or for butter. (Id. § 6400.)

98. Penalty for Violation.—Whoever violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, and the costs of prosecution, or by imprisonment in the county jail or State House of Correction and Reformatory at Ionia, for not less than six months nor more than three years, or by both such fine and imprisonment in the discretion of the court, for each and every offense. . . . (Id. § 6401.)

99. Substance in Semblance of Butter to be Stamped; Label to be Furnished Purchaser; When Sale Void.—Every person who shall manufacture for sale, or who shall offer or expose for sale, by the tub, firkin, box or package, or any greater quantity, any article or substance in semblance of butter not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals not produced from milk enters as a component part, or into which melted butter, or any oil thereof has been introduced to take the place of cream, shall distinctly and durably stamp, brand, or mark upon the top and also upon the side of every such tub, firkin, box or package of such article or substance, the word "oleomargarine," if such article or substance is composed in part of suet or tallow, or the word "butterine," if such article or substance is composed in part of lard, where it can be plainly seen, in Roman letters which shall be burned on, or printed thereon with permanent black paint, in a straight line, and each letter shall not be less than one inch in length; and in case of retail sales of such articles, or substance, in parcels, the seller shall in all cases, sell, or offer, or expose the same for sale from a tub, firkin, box, or package stamped, branded, or marked, as herein stated, and shall also deliver therewith to the purchaser a printed label bearing the plainly printed word "oleomargarine," or "butterine," as the same may be, with the name of the manufacturer in Roman letters not less than one-half inch in length which shall be printed in a straight line; and every sale of such article or substance by tub, firkin, box or package, or in any greater quantity not so stamped, branded, or marked as "oleomargarine" or "butterine," as the same may be, and every sale of such article or substance, at retail in parcels that shall not be sold from a tub, firkin, box, or package, so stamped, branded, or marked, or without delivery of a label therewith as above stated, is declared to be unlawful and void, and no action upon any contract shall be maintained in any of the courts of this State to recover upon any contract for the sale of any such article or substance not so stamped, branded, marked, labeled, or sold. (Id. § 6403.)

100. Penalty for Selling Without Stamping.—Every person who shall sell, or offer, or expose for sale, or who shall cause or procure to be sold, offered, or exposed for sale, by the tub, firkin, box, or package, or in any greater quantity, any article or substance required by the first section of this act [6403] to be stamped, branded, or marked, that shall not be so stamped, branded, or marked, or in case of retail sales in parcels, every person who shall sell, or offer or expose for sale, or who shall cause or procure to be sold, offered or exposed for sale, any article or substance required by the first section of this act to be sold, offered or exposed for such sale from a tub, firkin, box, or package, stamped, branded, or marked, and labeled as therein stated, contrary to the provisions of said section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten nor more than one hundred dollars, and the costs of prosecution, or by imprisonment in the county jail for not less than five nor more than thirty days, or by both such fine and imprisonment for each and every offense. (Id. § 6404.)

101. To be Properly Labeled.—No person, firm or corporation shall manufacture for sale, offer or expose for sale, sell, exchange or deliver, or have in his possession with the intent to sell, exchange or deliver, any butter that is produced by taking original packing stock butter or other butter, or both, melting the same so that the butter fat can be drawn off or extracted, mixing the said butter fat with skimmed milk, or milk or cream, or other milk product, and rechurning or reworking the said mixture; nor shall any person, firm or corporation manufacture for sale, offer or expose for sale, sell, exchange or deliver, or have in his possession for any such purpose, any butter which has been subjected to any process by which it is melted, clarified or refined, and made to resemble butter, and is commonly known as boiled, process or renovated butter, and which for the purpose of this act is hereby designated as "Renovated Butter" unless the same shall be branded or marked as provided in section two of this act [6406]. (Id. § 6405.)

102. Tub, Etc., of Renovated Butter, How Labeled, Etc.; When Placard to be Attached; How Wrappers to be Stamped; Placard on Walls of Hotel, Restaurant, Etc.—Whoever, himself or by his agent or as the servant or agent of another person, shall sell, expose for sale or have in his custody or possession

with the intent to sell any renovated butter as defined in section one of this act [6405], shall have the words "renovated butter" conspicuously stamped, labeled or marked in one or two lines and in plain Gothic letters, at least three-eighths of an inch square, so that the words cannot easily be defaced, upon two sides of each and every tub, firkin, box or package containing said renovated butter; or if such butter is exposed for sale uncovered, or not in a case or package, a placard containing the said words in the same form as above described in this section shall be attached to the mass in such a manner as to be easily seen and read by the purchaser. When renovated butter is sold from such packages or otherwise at retail in print, roll or other form, before being delivered to the purchaser, it shall be wrapped in wrappers plainly stamped on the outside thereof with the words "renovated butter" printed or stamped thereon in one or two lines, and in plain Gothic letters at least three-eighths of an inch square, and such wrappers shall contain no other words or printing thereon, and said words "renovated butter" so stamped or printed on the said wrapper shall not be in any manner concealed, but shall be in plain view of the purchaser at the time of the purchase. The proprietor or keeper of any hotel, restaurant, eating saloon, boarding house, or other place where renovated butter is furnished to persons paying for the same, shall have placed on the walls of every store or room where renovated butter is furnished, a white placard on which is printed in black ink, in plain Roman letters of not less than three inches in length, and not less than two inches in width, the words "renovated butter used here," and shall at all times keep the same exposed in such conspicuous place as to be readily seen by any and all persons entering such store, hotel, restaurant or other room or rooms. (Id. § 6406.)

103. Penalty for Violation.—Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, and the costs of prosecution, or by imprisonment in the county jail or Michigan Reformatory at Ionia, for not less than six months nor more than three years, or by both such fine and imprisonment, in the discretion of the court, for each and every offense. (Id. § 6407.)

104. Sale, Etc., as Butter, of Oleomargarine, Etc., a Misdemeanor.—Any person who knowingly sells, or offers for sale, as butter, any oleomargarine, butterine, or other article or substance resembling butter, and not made exclusively from milk or cream, and of which the oil or fat of animals not produced from milk is a component part, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined, for each such offense, not less than twenty-five dollars nor more than two hundred dollars, and by imprisonment in the county jail or State House of Correction and Reformatory at Ionia, not less than ninety days and not exceeding one year, or by both such fine and imprisonment, in the discretion of the court. (Id. § 6409.)

105. Proprietors of Hotels, Restaurants, Etc., Using or Permitting Use, Guilty of Violation of Act.—The proprietor or keeper of any hotel, restaurant, eating saloon, boarding house, or other place where food is furnished to persons paying for the same, who shall knowingly place upon the table, or use or permit to be used in the preparing of any food to be used in such place, or to be sold to any person, any oleomargarine, butterine, or other such substance resembling butter, described in section one of this act [6409], shall be deemed as selling and as offering for sale as butter, of such substance resembling butter, within the meaning and intent and contrary to the provisions of this act, and liable and subject to the penalties prescribed for such offense. (Id. § 6410.)

106. The Presence of Such Oleomargarine, Etc., Evidence of Violation of Act; Proviso.—The presence of such oleomargarine, butterine or other substance resembling butter, in any such place before mentioned where food is sold or furnished to persons paying for the same, shall be prima facie evidence in any court before which any person violating the provisions of this act may be brought for examination or trial, that such person has sold and offered for sale as butter, such substance resembling butter: Provided, nevertheless, that if the proprietor or keeper of such store, hotel, eating saloon, boarding house or other place hereinbefore mentioned, shall have placed on the outside door, and conspicuously hung in the center, and placed on the walls of any store, or room where food is sold or furnished, a white placard on which is printed in black ink, in plain Roman letters of not less than three inches in length, and not less than two inches in width the words "oleomargarine or butterine sold or used here," and shall, at all times, keep the same exposed in such conspicuous places as to be readily seen by any and all persons entering such store or room or rooms, he shall be deemed to have complied

with the provisions of this act, and may use, sell and offer for sale such oleomargarine, or butterine or other substance resembling butter. (Id. § 6411.)

107. Making or Selling Any Article as Butter Not Made Exclusively of Milk or Cream Prohibited.—No person, by himself or his agents or servants, shall manufacture for sale or offer or expose for sale, or sell, as butter, and the legitimate product of the dairy or creamery, any article not made exclusively of milk or cream, but into which the oil or fat of animals, or any other oils not produced from milk, enters as a component part, has been introduced to take the place of cream. Whoever violates the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, and the costs of prosecution, or by imprisonment in the county jail, or the State House of Correction and Reformatory at Ionia for not less than ninety days nor more than two years, or by both such fine and imprisonment in the discretion of the court for each and every offense. (Id. § 6477.)

108. Milk Commission, Appointment of; Powers; Term of Office; Removal.—Authority is hereby given the board of health of any city, village or township in this State, so constituted as to have in its membership two or more physicians duly authorized to practice medicine under the laws of this State, to appoint five physicians duly authorized to practice medicine under the laws of this State a medical milk commission for the purpose of supervising the production, transportation and delivery of milk, which it is intended to use for infant feeding, sickroom clinical purposes in said city, village or township. In cities, villages or townships not having a board of health so constituted as above stated, the State Board of Health may make such appointment. All members of such milk commission shall have and possess [possess] all powers and immunities provided by this act or any other act relating to the appointees of such board of health while performing their duties as such appointees. One member of such commission shall be appointed and hold office from the time of such appointment until the end of the thirty-first of December, nineteen hundred eleven, one shall be appointed and hold office until the end of the thirty-first of December, nineteen hundred twelve, one shall be appointed and hold office until the end of the thirty-first of December, nineteen hundred thirteen, and one shall be appointed and hold office until the end of the thirty-first of December, nineteen hundred fourteen, one shall be appointed and hold office until the end of the thirty-first of December, nineteen hundred fifteen, and until their several successors are appointed and qualified. The term of office of each member of the commission, after the termination of the aforesaid terms shall be five years, and on the expiration of any term a new appointment shall be made in the same manner above prescribed. No more than one milk commission shall be appointed for any one city, village or township. Any and all members of such commission may be removed at any time by the board which appointed them. Such medical milk commission shall make and file a certificate in writing in the manner hereinafter mentioned. (Id. § 5149.)

109. Certificates.—Such certificates shall set forth:

The name of such association, which shall be as hereinafter designated;

The purpose for which the association shall be formed;

The names and residences of the medical directors who shall manage the affairs of the association for the first year of its existence;

The city, village or township in this State where such association shall operate. (Id. § 5150.)

110. How Executed, Etc.—Such certificate shall be executed in triplicate and acknowledged before some person within this State authorized to take the acknowledgment of deeds, and one copy thereof shall be filed in the office of the clerk of the county where the purposes of such association are to be carried out and one copy shall be filed in the office of the Secretary of State; said certificate or copy thereof duly certified by the said clerk or Secretary of State shall be evidence in all courts or places. (Id. § 5151.)

111. Name of Commission.—The name of such association shall be "The Medical Milk Commission of the [stating whether city, village or township] of [designating the name of city, village or township] [designating the name of the county] County of Michigan." (Id. § 5152.)

112. By-Laws, Amendments.—Such medical directors shall have the power from time to time to make, alter and amend by-laws not inconsistent with the Constitution and laws of the United States and of this State, and to appoint such agents and officers as shall in their judgment tend to promote or advance any purpose or purposes of such commission, and to prescribe their respective duties;

and for the regulating of the conditions under which milk shall be produced by any dairyman or dairymen under contract with such commission. (Id. § 5153.)

113. Compensation, Unlawful to Receive; Penalty.—No medical director of any association organized under this act shall receive directly or indirectly, from such association or dairyman or dairymen producing milk under agreement with such commission, any salary or emolument or any compensation of any kind or character for any services rendered under the provisions of this act, and any medical director who shall receive any salary, emolument or any compensation of any kind or character for such services, shall be liable to a penalty of one hundred dollars to be recovered in an action of debt by the association of which he is a member, and in addition thereto shall be removed from his office as a member of said association, and thereafter disqualified from becoming a member of any association incorporated under the provisions of this act. (Id. § 5154.)

114. Power of Association.—Every such association shall have the power to enter into agreement in writing with any dairyman or dairymen for the production of milk under the supervision of such association for the purposes enumerated in section one [5149] hereof, and to prescribe in such agreement the conditions under which such milk shall be produced, which conditions, however, shall not be below the standards of purity and quality for certified milk as fixed by the American Association of Medical Milk Commissions, and the standards for milk now fixed or that may hereafter be fixed by the Board of Health of the State of Michigan. In any contract entered into by any such commission with any dairyman or dairymen, it may be provided that such medical milk commission may designate any analysts, chemists, bacteriologists, veterinarians, medical inspectors or other persons who in its judgment may be necessary for the proper carrying out of the purposes of such commission for employment of such dairyman or dairymen, and to prescribe and define their powers and duties, and that such persons so employed by such dairyman or dairymen may be discharged from employment whenever such medical milk commission may request such discharge or removal in writing. (Id. § 5155.)

115. Containers to Have Seal.—All containers of any kind or character used in the carrying or distribution of milk produced by any dairyman or dairymen under contract with any medical milk commission shall have attached thereto or placed thereon a certificate or seal bearing the name of the medical milk commission with which such dairyman or dairymen producing such milk shall be under contract, which certificate shall have printed, stamped or written thereon the day or date of the production of the milk contained in any such container and the words "certified milk" in plain and legible form. (Id. § 5156.)

116. Investigation.—The work and methods of any milk commission organized under this act and of the dairies of which milk is produced under contract with any such commission, shall at all times be subject to investigation and scrutiny by the local board of health and the Board of Health of the State of Michigan. The secretary of said State Board of Health and the local health officer shall be ex-officio members of every milk commission organized under this act. (Id. § 5157.)

117. Standard of Milk, Sale of.—No person, firm or corporation shall sell or exchange or offer or expose for sale or exchange in any city, village or township as and for certified milk, any milk which is not certified by the medical milk commission of that city, village or township, and which is not produced in conformity with the methods and regulations for the production of certified milk from time to time adopted by the American Association of Medical Milk Commissions, and which is below the standards of purity and quality for certified milk as fixed by the American Association of Medical Milk Commissions. (Id. § 5158.)

118. Penalty.—Whoever shall by himself, servant or agent sell, exchange or deliver or have in his custody with intent to sell, exchange or deliver, or offer or expose for sale in any city, village or township as certified milk, any milk which has not been certified by the medical milk commission of that city, village or township, or shall violate any of the provisions of this act, shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 5159.)

119. Unlawful to Open Milk Bottles.—From and after the date on which this act takes effect, it shall be unlawful for any driver of any milk wagon, or any distributor of milk, or any person whatsoever, except legally authorized milk inspectors and persons to whom such milk is delivered, to open milk bottles or in any way interfere with or molest the caps or covers of the same after such milk

bottles shall have been closed at the creamery, or during the process of the delivery of said milk, or after said milk shall have been delivered in due course of business and in the ordinary manner. (Id. § 5164.)

120. Penalty.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court of competent jurisdiction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 5165.)

121. By-Products to be Pasteurized; Proviso, When Act Not to Apply.—Every owner, operator or manager of a cheese factory, creamery, skimming station or other place where milk is received and the by-products distributed, shall, before returning to or delivering to any person or persons any skim milk, whey, buttermilk or other milk by-products to be used for feeding purposes for farm animals, cause such skim milk, whey, buttermilk, or other milk by-products to be thoroughly pasteurized by heating the same to one hundred forty-five degrees Fahrenheit and holding at that temperature for not less than thirty minutes or to one hundred eighty-five degrees without holding: Provided, that the provisions of this act shall not apply to cheese factories or creameries that pasteurize the milk or cream prior to manufacture. (Id. § 6333.)

122. Penalty.—Whoever violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than one hundred dollars or imprisonment in the county jail for not exceeding ninety days, or both, in the discretion of the court. (Id. § 6334.)

123. Creameries, Cheese Factories, to Investigate Condition of; May Cause Instruction to be Given; Furnish Inspectors.—It shall also be the duty of the Dairy and Food Commissioner to foster and encourage the dairy industry of the State, and, for that purpose, he shall investigate the general conditions of the creameries, cheese factories, condensed milk factories, skimming stations, milk stations and farm dairies in this State, with full power to enter upon any premises for such investigation, with the object in view of improving the quality and creating and maintaining uniformity of the dairy products of the State; and should it become necessary, in the judgment of the Dairy and Food Commissioner, he may cause instruction to be given in any creamery, cheese factory, condensed milk factory, skimming station, milk station, or farm dairy, or in any locality in this State, and in order to secure the proper feeding and care of cows, or the practical operation of any plant producing dairy products, and in order to secure such a uniform and standard quality of dairy products in this State, he shall furnish a sufficient number of competent inspectors for that purpose, the appointment of whom is provided for in section four [6363] of this act, and they shall be duly qualified to act as such inspectors. (Id. § 6372.)

124. Notice to be Given Persons Using, Selling, Impure Milk, Etc.—Whenever it is determined by the Dairy and Food Commissioner, his deputy or inspectors, that any person is using, selling or furnishing to any skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade or to any consumer of milk, any impure or unwholesome milk or cream, which impurity or unwholesomeness is caused by the unsanitary or filthy condition of the premises where cows are kept, or by the unsanitary or filthy care or handling of the cows, or from unclean utensils being used, or from unwholesome food, or from any other cause, the person so using, selling or furnishing to any skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade, or to any consumer of milk, any such milk or cream, shall first be notified and warned by the commissioner, his deputy or inspectors not to use, sell, or furnish such milk or cream to such skimming station, creamery, cheese factory, condensed milk factory, milk depot, farm dairy, milk dealer, the retail trade, or to any consumer of milk, and any person failing to obey such notice and warning and continuing to use, sell or furnish to any skimming station, creamery, cheese factory, condensed milk factory, farm dairy, milk dealer or to the retail trade such impure or unwholesome milk or cream, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not less than ten dollars, nor more than fifty dollars, and costs of prosecution, or imprisonment in the county jail, not to exceed ninety days, or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court. (Id. § 6373.)

125. Notice to be Given Operators of Unsanitary Creameries, Etc.—Whenever it is determined by the Dairy and Food Commissioner, his deputy or inspectors, that unsanitary conditions exist or are permitted to exist in the operation of any

skimming station, creamery, cheese factory, condensed milk factory, milk depot, or farm dairy, the proprietor or proprietors, or manager of said skimming station, creamery, cheese factory, condensed milk factory or farm dairy, shall be first notified and warned by the commissioner, his deputy or inspectors to place such skimming station, creamery, cheese factory, condensed milk factory, milk depot or farm dairy in a sanitary condition, within a reasonable length of time; and any person or persons owning or operating such skimming station, creamery, cheese factory, condensed milk factory, milk depot, or farm dairy, failing to obey such notice and warning, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five, nor more than three hundred dollars, and costs of prosecution, or imprisonment in the county jail, not to exceed ninety days or until such fine and costs are paid, or both fine and imprisonment in the discretion of the court. (Id. § 6374.)

126. Proprietors, Managers of Creameries, Etc., When and Where to Register.—It shall be the duty of the proprietor or proprietors (manager or managers) of every skimming station, creamery, cheese factory, condensed milk factory or milk or cream depot in the State where milk or cream is received by purchase or otherwise from three or more persons within thirty days after the commencement of the operation of said cheese factory, condensed milk factory or milk or cream depot and annually on the first day of April thereafter to register with the Dairy and Food Commissioner upon blanks furnished by said official, the location of such skimming station, creamery, cheese factory, condensed milk factory or milk or cream depot, and the name of its owner or owners and manager. And it shall be the duty of the proprietor or proprietors or manager of every skimming station, creamery, cheese factory, condensed milk factory or milk or cream depot in this State, where milk or cream is received by purchase or otherwise from three or more persons, to file a report with the Dairy and Food Commissioner, said report to be made on or before April first of each year, upon blanks furnished by said official, and to show the amount of milk or cream received by said skimming station, creamery, cheese factory, condensed milk factory or milk or cream depot during the year ending December thirty-first preceding; and said report shall show the amount of butter, cheese or condensed milk manufactured during the year, together with a list of the names and post office addresses of the patrons of said skimming station, creamery, cheese factory, condensed milk factory or milk or cream depot. Every skimming station, creamery, cheese factory, condensed milk factory or milk or cream depot, so registering and so reporting, shall pay to the office of the State Dairy and Food Commissioner an annual registration fee of five dollars, to be paid at the time of such registration. Whoever violates any of the provisions of this section, shall be deemed guilty of a misdemeanor, and for each and every offense shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail for not more than thirty days or both. The money so collected by the Dairy and Food Commissioner shall be paid into the State treasury and be used to help defray the expenses of the office of the Dairy and Food Commissioner, in addition to the annual appropriation therefor. (Id. § 6375.)

127. Milk Dealers, Who Considered; Must Obtain License.—Any person, persons or corporation who shall sell milk or cream from a wagon or other conveyance, depot or store, or who shall sell or deliver milk or cream to a hotel, restaurant, boarding house or any public place, shall be considered a milk dealer; and every milk dealer who shall sell milk or cream from a wagon or other conveyance, depot or store, or who shall sell, or deliver milk or cream to a hotel, restaurant, boarding house or any public place in any city, town or village of this State, must first obtain a license from the Dairy and Food Commissioner to sell such milk or cream. A license shall be required for each wagon or other conveyance, depot or store. Each dealer shall pay to the Dairy and Food Commissioner a license fee of one dollar for each license so granted, which license must be obtained on or before the first day of July of each year. The moneys received by the Dairy and Food Commissioner, in payment of such licenses, shall be paid into the State treasury and be used to help defray the expenses of the office of the Dairy and Food Commissioner in addition to the annual appropriation. All licenses shall be used only in the name of the owner of the wagon, depot or store, and shall, for the purpose of this act, be prima facie evidence of ownership. No license shall be sold, assigned, or transferred. Each license shall record the name, residence, place of business, number of wagons, depots or stores used (where more than one is employed) and the number of the license. Whoever violates any of the provisions of this section, insofar as relates to registration and the securing of licenses, shall be deemed guilty of a misdemeanor, and for each and every offense shall be punished by a fine of not less than five dollars, nor

more than twenty-five dollars and the costs of prosecution, or by imprisonment in the county jail for not more than thirty days, or both. (Id. § 6376.)

128. Sale of Adulterated Milk Prohibited.—No person shall offer or expose for sale, sell, exchange or deliver, or have in his possession with intent to sell, exchange or deliver, any milk to which water, chemicals or preservatives, or any other foreign substance has been added. The term milk as used in this act shall include all skimmed milk, buttermilk, cream and milk in its natural state, as drawn from the cow. (Id. § 6415.)

129. Violation of Act a Misdemeanor; Penalty.—Whoever shall do any of the acts or things prohibited, or neglects or refuses to do any of the acts or things enjoined by this act, or in any way violates any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than one dollar nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 6416.)

130. Milk Defined; Cream Defined; Insanitary Milk Defined; Insanitary Cream Defined.—For the purpose of this act, the term "Milk" shall mean the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within eight days before and four days after calving, and contains not less than eight and one-half per cent of solids not fat, and not less than three per cent of milk fat; and the term "cream" shall mean that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean, and contains not less than eighteen per cent of milk fat. Milk which shall be drawn from cows that are kept in barns or stables which are not reasonably well lighted and ventilated, or that are kept in barns or stables that are filthy from an accumulation of animal feces and excreta or from any other cause, or milk which shall be drawn from cows which are themselves in a filthy condition; or milk kept or transported in dirty, rusty or open-seamed cans or other utensils; or milk that is stale, putrescent, or putrid; or milk to which has been added any unclean, or unwholesome foreign substance; or milk which has been kept exposed to foul or noxious air or gases in barns occupied by animals, or kept exposed in dirty, foul or unclean places or conditions, is hereby declared to be insanitary milk. Cream produced from any such aforesaid insanitary milk; or cream produced by the use of a cream separator, which separator had not been thoroughly washed, cleansed and scalded after previous use in the separation of cream from milk; or cream produced by the use of a cream separator placed or stationed in any unclean or filthy room or place or in any building containing a stable wherein are kept cattle or other animals, unless such cream separator is so separated and shielded by a partition from the stable portion of such building as to be free from all foul or noxious air or gases which issue or may issue from such place or stable; or cream that is stale, putrescent, or putrid; or cream that is kept or transported in dirty, rusty or open-seamed cans or other utensils; or cream which has been kept exposed to foul or noxious air or gases in barns occupied by animals, or in dirty, foul, or unclean places or conditions, is hereby declared to be insanitary cream. (Id. § 6417.)

131. Sale Prohibited.—No person shall by himself, his servant or agent, or as the servant or agent of any other person, or as the officer, servant or agent of any firm or corporation, sell or offer for sale, furnish or deliver, or have in possession or under his control with intent to sell or offer for sale, or furnish, or deliver to any person, firm or corporation as food for man, or to any creamery, cheese factory, milk condensing factory, or milk or cream dealer, any insanitary milk or any insanitary cream. (Id. § 6418.)

132. Manufacture Prohibited.—No person shall by himself, his servant or agent, or as the servant or agent of any other person, or as the servant or agent of any firm or corporation, manufacture for sale any article of food for man from any insanitary milk or from any insanitary cream. (Id. § 6419.)

133. Insanitary Premises, Etc., Defined.—All premises and utensils used in the handling of milk, cream, and by-products of milk, and all premises and utensils used in the preparation, manufacture, or sale, or offering for sale of any food product for man from milk or cream or the by-products of milk which shall be kept in an unclean, filthy or noxious condition are hereby declared to be insanitary. It shall be unlawful for any person, firm, or corporation engaged in selling, or furnishing milk, cream, or any by-products of milk, intended for use as food for man; and it shall be unlawful for any person, firm or corporation engaged in selling or furnishing milk, cream, or any by-products of milk, to any creamery, cheese factory, milk condensing factory, or to any place where such milk, cream or by-products of milk are manufactured or prepared into a food product for man and for sale as such; and it shall be unlawful for any milk dealer, or an employee of such milk dealer, or any

person, firm, or corporation, or the employee of such person, firm or corporation, who operates a creamery, cheese factory, milk condensing factory, or who manufactures or prepares for sale any article of food for man from milk, cream, or by-product of milk, or who manufactures, re-works, or packs butter for sale as a food product, to maintain his premises and utensils in an insanitary condition. (Id. § 6420.)

134. Cleansing of Containers Before Return.—Any person, firm or corporation, not a common carrier who receives from a common carrier in cans, bottles or other vessels any milk, or cream, ice cream or other dairy product intended as food for man, which has been transported over any railroad or boat line or by other common carrier, when such cans, bottles or vessels are to be returned, shall cause the said cans, bottles, or other vessels to be thoroughly washed and cleansed before return shipment. (Id. § 6421.)

135. Penalty for Violation.—Any person who by himself, his servant or agent, or as the servant or agent of any other person, or as the officer, servant or agent of any firm or corporation, who violates any provision of this act shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars for each and every offense, or shall be imprisoned in the county jail not more than sixty days. (Id. § 6422.)

136. Labeling of Certain Containers; Formula.—Every container of evaporated, concentrated or condensed whole milk, and every container of evaporated, concentrated or condensed skimmed milk, sold or offered for sale or had in possession or custody with intent to sell by any person, firm or corporation within this State, shall have plainly printed thereon in the English language, or attached thereto on some firmly affixed tag or label, a formula for extending the said evaporated, concentrated or condensed milk and said evaporated, concentrated or condensed skimmed milk, respectively, with water. The formula for the extension of said evaporated, concentrated or condensed whole milk shall be such that the resulting milk products shall not be below the Michigan standard of milk solids or fat for whole milk, and shall be in the following form: By adding parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for whole milk. The formula for the extension of said evaporated, concentrated or condensed skimmed milk shall be such that the resulting milk product shall not be below the Michigan standard of milk solids for skimmed milk, and shall be in the following form: By adding parts of water to one part of the contents of this can a resulting milk product will be obtained which will not be below the legal standard for skimmed milk. (Id. § 6423.)

137. Penalty for Violation.—Whoever, himself or by his servant or agent, or as the servant or agent of any person, firm or corporation, sells, exchanges or delivers, or has in his custody or possession with intent to sell, exchange or deliver any container of evaporated, concentrated or condensed milk, within this State, not marked or labeled in compliance with the provisions of this act, shall, for the offense, be punished by a fine of not more than one hundred dollars or by imprisonment for not less than three nor more than six months. (Id. § 6424.)

138. Representative Average Sample; Certain Methods a Misdemeanor.—In taking samples of milk or cream from any milk can, cream can or any container of milk or cream, the contents of such milk can, cream can, or container of milk and cream shall first be thoroughly mixed either by stirring or otherwise and the sample shall be taken immediately after mixing, or by any other method which gives a representative average sample of the contents, and it is hereby made a misdemeanor to take samples by any method which does not give a representative average sample where milk or cream is bought or sold, and where the value of said milk or cream is determined by the butter fat contained in the same by the Babcock test. (Id. § 6426.)

139. Standard Testing Glassware; Standard Pipette; Butter Fat and Cream Scales.—In the use of the Babcock test the term "standard Babcock testing glassware" shall apply to glassware complying with the following specifications:

(a) Standard Milk Test Bottles.

Graduation.—The total per cent graduation shall be eight per cent. The graduated portion of the neck shall have a length of not less than sixty-three five-tenths millimeters (two and one-half inches). The graduation shall represent whole per cent, five-tenths per cent, and tenths per cent. The tenth per cent graduations shall not be less than three millimeters in length; the five-tenths per cent graduations shall be one millimeter longer than the tenths per cent graduations, projecting one millimeter to the left; the whole per cent graduation shall extend at least one-half way around the neck to the right and projecting two millimeters to the left of the tenths per cent graduations. Each per cent gradua-

tion shall be numbered, the number being placed on the left of the scale. The arrow at any point of the scale shall not exceed one-tenth per cent.

Neck.—The neck shall be cylindrical and the cylindrical shape shall extend for at least nine millimeters below the lowest and above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb.—The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter shall be between thirty-four and thirty-six millimeters; if conical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters, and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be eighteen grams.

The total height of the bottle shall be between one hundred fifty and one hundred sixty-five millimeters (five and seven-eighths and six and one-half inches).

(b) Standard Cream Test Bottles.

Two types of bottles shall be accepted as standard cream test bottles, a fifty per cent nine gram short-neck bottle and a fifty per cent nine gram long-neck bottle.

Fifty per cent nine gram short-neck bottles. Graduation.—The total per cent graduation shall be fifty. The graduated portion of the neck shall have a length of not less than sixty-three five-tenths millimeters (two and one-half inches). The graduation shall represent five per cent, one per cent and five-tenths per cent. The five per cent graduations shall extend at least one-half way around the neck of the bottle (to the right). The five per cent graduations shall have a length intermediate between the five per cent and the five-tenths per cent graduations. Each five per cent graduation shall be numbered, the number being placed on the left of the scale. The arrow at any point of the scale shall not exceed five-tenths per cent.

Neck.—The neck shall be cylindrical and the cylindrical shape shall extend at least nine millimeters below the lowest and nine millimeters above the highest graduation mark. The top of the neck shall be flared to a diameter of not less than ten millimeters.

Bulb.—The capacity of the bulb up to the junction of the neck shall not be less than forty-five cubic centimeters. The shape of the bulb may be either cylindrical or conical with the smallest diameter at the bottom. If cylindrical, the outside diameter of the base shall be between thirty-one and thirty-three millimeters and the maximum diameter between thirty-five and thirty-seven millimeters.

The charge of the bottle shall be nine grams. All bottles shall bear on top of the neck above the graduations, in plainly legible characters, a mark defining the weight of the charge to be used (nine grams).

The total height of the bottle shall be one hundred fifty and one hundred sixty-five millimeters (five and seven-eighths and six and one-half inches) same as standard milk test bottles.

Fifty per cent nine gram long-neck bottles.—The same specifications in every detail as specified for the fifty per cent nine gram short-neck bottles shall apply for the long-neck bottle with the exception, however, that the total height of this bottle shall be between two hundred ten and two hundred thirty-five millimeters (eighth and one-half and eight and seven-eighths inches) and that the total length of the graduation shall be not less than one hundred twenty millimeters.

The Standard Babcock Pipette.

Total length of pipette shall be not more than three hundred thirty millimeters (thirteen and one-fourth inches). Outside diameter of suction tube six to eight millimeters. Length of suction tube one hundred twenty millimeters. Outside diameter tube one hundred to one hundred twenty millimeters. Distance of graduation mark above bulb thirty to sixty millimeters. Nozzle straight. Delivery seventeen six-tenths cubic centimeters of water at twenty degrees C. in five to eight seconds.

All butter fat and cream scales used for the purpose of determining the value or per cent of butter fat content of milk or cream by the Babcock test shall be subject to the following specifications:

1. The scales shall be provided with a graduated face of at least ten divisions over which the pointer shall play.

2. The pointer must reach to the graduated divisions and shall terminate in a fine point to enable the readings to be made clearly and distinctly.

3. The clear interval between the divisions on the graduated face shall not be less than five one-hundredths inch.

4. All scales whose weight indications are changed by an amount greater than one-half the tolerance allowed, when set in any position on a surface making an angle of three degrees or approximately five per cent with the horizontal, shall be equipped with leveling screws and a device which will indicate when the scale is level: Provided, however, that the scale shall be rebalanced at zero each time its position is altered during the test.

5. The addition of one-half grain to the scale when loaded to capacity shall cause a movement of the pointer at least equal to one division on the graduated face.

6. The sensibility reciprocal and tolerance of cream test and butter fat test scales shall be one-half grain (thirty milligrams). Every person, firm, company, association, corporation or agent thereof buying and paying for milk or cream on the basis of the amount of butter fat contained therein as determined by the Babcock test shall use standard Babcock test bottles, pipettes and accurate weights and scales as defined in this act. (Id. § 6427.)

140. Unlawful Reading of Test.—It shall be unlawful for the owner, manager, agent, or any employee of a cheese factory, creamery, condensed milk factory or milk depot or other place where milk or cream is tested for quality or value to falsely manipulate or under-read or over-read the Babcock test, or make settlements on any other basis than the correct reading of the Babcock test or any other contrivance used for determining the quality or value of milk or cream where the value of said milk or cream is determined by the per cent of butter fat contained in the same or to make any false determination by the Babcock test or otherwise. (Id. § 6428.)

141. Penalty.—Whoever shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each and every offense or be imprisoned in the county jail not less than ten days nor more than thirty days. (Id. § 6429.)

142. License Required; Fee.—Every person who shall test milk or cream in this State by the Babcock method for the purpose of determining the percentage of butter or milk fat contained therein, where such milk or cream is bought and paid for on the basis of the amount of butter or milk fat contained therein, shall first obtain a license from the Food and Drug Commissioner. A license fee of one dollar for each license so granted shall be paid to the Food and Drug Commissioner. (Supp. 1922, § 6429 (1).)

143. Rules and Regulations; Hearings; Term of License.—The Food and Drug Commissioner shall establish and promulgate rules and regulations, not inconsistent with the provisions of this act, that shall govern the granting of all licenses provided for in this act, provided that before such proposed rules and regulations are promulgated, a copy of said proposed rules and regulations shall be submitted to the secretary of each interested trade association at least thirty days before the same are promulgated, and thereafter, upon request of any interested trade association and any other interested parties, the Food and Drug Commissioner shall give said association and any other interested parties, a hearing on said rules and regulations. All licenses so granted shall run for one year from the date of issue, unless sooner revoked as provided for in section 6* of this act, and shall be renewed annually thereafter. (Id. § 6429 (2).)

144. Revocation of Licenses; Hearing.—The Food and Drug Commissioner shall have power to revoke any license granted under the provisions of this act, upon good and sufficient evidence that the provisions of this act, or the rules and regulations of the Food and Drug Commissioner, are not being complied with: Provided, that before any license shall be revoked, an opportunity shall be granted licensee, upon being confronted with the evidence, to show cause why such license should not be revoked. (Id. § 6429 (3).)

145. Appeals.—Any licensee who feels aggrieved at the decision of the Food and Drug Commissioner, may appeal from said decision within ten days by writ of certiorari, to the Circuit Court of the county where licensee resides, and an issue shall be framed in said court, and a trial had, and its decision shall be final unless an appeal is taken to the Supreme Court. (Id. § 6429 (4).)

146. Penalty.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished

*See No. 144.

by a fine of not more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail for a period of not more than two months, or both such fine and imprisonment in the discretion of the court. . . . (Id. § 6429 (5).)

147. Unfair Discrimination, What Deemed; Penalty.—Any person, firm, copartnership or corporation engaged in the business of buying poultry, eggs, milk, cream or butter fat for the purpose of manufacture, who shall with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, communities or cities of this State by purchasing such commodity at a higher price or rate in one locality than is paid for the same commodity by said person, firm, copartnership or corporation in any other locality, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture, shall be deemed guilty of unfair discrimination, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not to exceed six months. (C. L. 1915, § 15040.)

148. Provisions, Relative to Traffic In.—Whoever shall knowingly sell to any person or persons, or sell, deliver or bring to be manufactured to any cheese or butter manufactory in this State, any milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as "skimmed milk," or shall keep back any part of the milk known as "strippings," with intent to defraud, or shall knowingly sell milk, the product of a sick or diseased animal or animals or any milk produced from any cow fed upon the refuse of a distillery, or of a brewery, or upon any substance deleterious to the quality of the milk, or shall knowingly use any poisonous or any deleterious material in the manufacture of any cheese or butter, or shall knowingly sell or offer to sell any cheese or butter, in the manufacture of which any poisonous or deleterious substance has been used, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars; and may be committed to the county jail until such fine shall be paid: Provided, that such imprisonment shall not exceed ninety days; and shall be liable in double the amount of damages to the person or persons, firm, association, or corporation upon which such fraud shall have been committed. An act entitled "An act to prevent the adulteration of milk and to prevent the traffic in impure and unwholesome milk," approved March thirty-first, eighteen hundred and seventy-one, is hereby repealed: Provided, that any right accrued or forfeiture incurred under said act, shall remain valid and binding, and may be enforced under said act as if the same were not repealed. (Id. § 15129.)

149. Unlawful to Sell Unwholesome Milk.—It shall be unlawful for any person, either by himself or agent, to sell or expose for sale within the State of Michigan any unwholesome, watered, or adulterated or impure milk or swill milk or colostrum, or milk from cows kept upon garbage, swill or any substance in a state of fermentation or putrefaction or other deleterious substances, or from cows kept in connection with any family in which there are infectious diseases. The addition of water or ice to milk is hereby declared an adulteration. (Id. § 15130.)

150. Penalty for Violation of Act.—Any person who shall violate any of the provisions of the preceding section shall be punished by a fine not to exceed one hundred or [by] imprisonment not to exceed three months or by both such fine and imprisonment, in the discretion of the court. (Id. § 15131.)

151. Inspector, Appointment and Office of.—It shall be the duty of the metropolitan police commissioners of the city of Detroit, by and with the consent and advice of the board of health of the city of Detroit, to appoint an inspector, who shall be a person of previous practical experience. Said inspector may be created captain, sergeant, or roundsman of the said police force of the city of Detroit, at the option of the board of metropolitan police commissioners. (Id. 15132.)

152. Duty of; Proviso.—It shall be the duty of said inspector to personally view, so far as possible, all milk exposed for sale in said city, and to visit all dairy houses, barns, or stables in said city or the county of Wayne, to inspect the same, and the animals held therein, and to visit all places where milk is kept or exposed for sale in the city of Detroit, and to inspect and ascertain the condition of said milk. He may detail any patrolman of said city to assist him in the performance of any or all of the duties enjoined on him by this act: Provided, always, that said inspector and any policeman so detailed shall always be subject to the provisions of the law establishing and governing the metropolitan police of said city. (Id. § 15133.)

153. Duty of Inspector, Etc., to Make Complaint.—It shall be the duty of said inspector or of his assistant, and of all other inspectors appointed under this

act, to make complaint in writing before a police justice or justice of the peace, or other court having jurisdiction thereof, of every violation of this act coming to his knowledge. (Id. § 15134.)

154. Separate Offense.—Each and every quantity of milk sold or exposed for sale, contrary to the provisions of this act, shall constitute a separate offense. (Id. § 15135.)

155. Penalty for Refusing to Allow Inspection, Etc.—Any person who shall refuse to permit the said inspector, or his assistant [assistants], to perform his duty under this act, either by refusing him entrance to his premises or by concealing any milk, or refusing to permit any milk or animal or premises wherein the animals are kept, to be viewed and inspected as herein provided, or by in any manner hindering or resisting any said inspector or assistant inspector in the performance of his duty, shall be guilty of a misdemeanor, and punished therefor. (Id. § 15136.)

156. Any City or Village May Appoint Inspector, Etc.—Authority is hereby given the common council of any city, and the board of trustees or council of any village, to appoint an inspector of milk in any such city or village, and to fix their compensation, and when appointed the said inspectors of milk shall have all the powers given by section four of this act [15133], and shall perform all the duties required of inspectors of milk as provided herein, and such other powers and duties as may be conferred or imposed by the ordinances of said cities or villages. (Id. § 15137.)

157. Penalty for Adulterations.—Whoever shall adulterate by himself, or by his servant or agent, or sell, exchange or deliver, or have in his custody or possession with intent to sell or exchange the same, or exposes or offers for sale or exchange, adulterated milk or milk to which water or any foreign [substance] substances in any state of fermentation or putrefaction, or from sick or diseased cows, shall be guilty of a misdemeanor, and shall, for every such offense, be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail or the State House of Correction and Reformatory at Ionia not exceeding three months. (Id. § 15138.)

158. Idem as to Skimmed Milk, Etc.—Whoever shall adulterate, himself, or by his servant or agent, sell, exchange or deliver, or have in his custody or possession with intent to sell or exchange the same, or exposes or offers for sale as pure milk any skimmed milk from which the cream or any part thereof has been removed shall be guilty of a misdemeanor, and shall, for such offense, be punished by the penalty provided in the preceding section. (Id. § 15139.)

159. Notice of Skimmed Milk to be Displayed; Penalty.—Any dealer in milk who shall by himself, servant or agent, sell, exchange or deliver or have in his custody or possession with intent to sell, exchange or deliver the same, milk from which the cream or any part thereof has been removed, unless in a conspicuous place above the center upon the outside of every vessel, can or package from which any such milk is sold, the words "Skimmed Milk" are distinctly painted in letters not less than one inch in length, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail or Detroit house of correction not exceeding three months. (Id. § 15140.)

160. Grade of Milk.—If milk sold or offered for sale under the provisions of this act as pure milk, is shown upon analysis by weight to contain more than eighty-seven and fifty one-hundredths per centum of watery fluid, or to contain less than twelve and fifty one-hundredths of milk solids, per centum, or less fat than three per centum, or if the specific gravity at 60 degrees Fahrenheit is not between 1.29-1000 to 1.33-1000, it shall be deemed to be adulterated. If milk sold or offered for sale under the provisions of this act as skimmed milk has a specific gravity at 60 degrees Fahrenheit less than 1.032, and greater than 1.037, it shall be deemed to be adulterated. (Id. § 15141.)

161. Duty of Inspector to Test Milk.—Whenever any inspector of milk has reason to believe that any milk found by him is adulterated, he shall take specimens thereof and test the same with such instrument or instruments as are used for such purposes, and he shall make an analysis thereof, showing total solids, the percentage of butter, the percentage of water and the percentage of ash; and if the result of such test and analysis indicates that the milk has been adulterated or deprived of its cream or any part thereof, the same shall be prima facie evidence of such adulteration in a prosecution under this act. (Id. § 15142.)

162. Misdemeanor, What Deemed; Penalty.—Any person who shall remove the cream or any part thereof from milk to be sold as pure milk to any manufactory in which milk is used as a material in the process of production, and any person who shall, in any manner, adulterate such milk, either by the addition of

water or otherwise, or who shall purchase any milk for resale which is adulterated within the meaning of section 12 of this act [15141], shall be guilty of a misdemeanor, and shall, for every such offense, be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail or Detroit house of correction not exceeding ninety days. (Id. § 15143, as amended P. A. 1925, No. 49.)

163. Butter Fat Production of Cows; Fraudulent Records; Penalty.—Any person who shall connive at, commit, or attempt to commit any fraudulent or dishonest practice in connection with the making of official or semi-official records of milk and butter fat production of cows, shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment in the discretion of the court. (Supp. 1922, § 15387 (2).)

164. Sale of Certain Milk, Etc., Unlawful; Exception.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. Nothing in this act shall be construed to prohibit the manufacture, sale, exchange or possession of preparations containing milk in any form intended exclusively for the feeding of infants and young children and sold to be used under the order of physicians. (P. A. 1923, No. 23, § 1.)

165. Products Shipped Into State.—Nothing in this act shall be construed to prohibit the shipment into this State from a foreign State and the first sale thereof in this State in the original package intact and unbroken, of any of the products or articles, the manufacture, sale or exchange of which or possession of which, with intent to sell or exchange is prohibited hereby. (Id. § 2.)

166. Misdemeanor, What Deemed; Penalty.—Any violation of any of the provisions of this act is hereby declared to be a misdemeanor and any person, whether individually or as a member of a partnership or as an agent or officer of a corporation who shall be convicted of such violation, either on his own behalf or in the interests of a corporation shall be punished by imprisonment in the county jail for not less than thirty days nor more than sixty days, or by a fine of not less than fifty dollars nor more than one hundred dollars, or by both such fine and imprisonment. (Id. § 3.)

167. Cheese Defined.—Cheese is the sound, solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments and seasoning or added coloring matter, and shall contain in the water-free substance not less than 50 per cent of milk fat, and cheese known as American or Cheddar cheese shall contain not more than 40 per cent of water, and cheese known as Brick cheese not more than 42 per cent of water. Cheese containing less than 50 per cent of milk fat in the water-free substance, shall be known and branded as skimmed milk cheese; except that what is known as "Emmenthaler" or "domestic Swiss cheese," "Camembert cheese," and "Edam cheese," or "fancy cheese," shall contain in the water-free substance not less than 43 per cent of milk fat: Provided, That the provisions of this act shall not be construed to apply to such cheese as is known as "Dutch cheese" or "Cottage cheese." (P. A. 1923, No. 30, § 1.)

168. Cheese Containing Animal Fats, Etc.—No person shall manufacture, deal in, sell, offer or expose for sale or exchange, any article or substance in the semblance of, or in imitation of, cheese made exclusively of unadulterated milk or cream, or both, into which any animal, intestinal or offal fats or oils, or vegetable fats or oils, or melted butter in any condition or state, or modification of the same, or oleaginous substances of any kind not produced from unadulterated milk or cream shall have been introduced. (Id. § 2.)

169. "Full Cream Cheese"; "Skimmed Milk Cheese," Branding of; Containers, How Marked.—Every manufacturer of full cream cheese may put a brand upon each cheese, indicating "Full Cream Cheese," and no person shall use such a brand upon any cheese containing less than 50 per cent of milk fat in the water-free substance. Every manufacturer of American or Cheddar skimmed milk cheese, as defined by this act, shall put a brand upon each cheese so manufactured, indicating "Skimmed Milk Cheese," which brand shall be in plain Roman letters and made by indelible ink, and placed on the rind at intervals of not more than one inch, and so made, placed or attached that it can easily be seen and read and cannot be easily defaced, and the same shall be placed upon the surface of the

cheese, before the cheese is paraffined, as well as upon the container thereof. All skimmed milk cheese, except American and Cheddar skimmed milk cheese, shall be packed in containers on which the following shall appear, "MADE FROM PARTLY SKIMMED MILK" and the same shall be placed on the package or container so that it can easily be seen and read and cannot be easily defaced. (Id. § 3.)

170. Placards in Hotel, Etc., Where Certain Cheese Served, Etc.; Penalty for Violation.—The proprietor or keeper of any hotel, restaurant, eating saloon, boarding house or other place where American or Cheddar skimmed milk cheese is sold or furnished to persons paying for the same, shall have placed on the walls of every store or room where American or Cheddar skimmed milk cheese is sold or furnished, a white placard on which is printed in black ink, in plain Roman letters of not less than three inches in length, and not less than two inches in width, the words "SKIMMED MILK CHEDDAR CHEESE SOLD or USED HERE," and shall at all times keep the same exposed in such conspicuous place as to be readily seen by any and all persons entering such store, room or rooms. No person shall offer, sell or expose for sale or exchange any cheese or package of cheese which is falsely branded or labeled. Whoever shall violate any of the provisions of this act shall be punished by a fine of not less than fifty nor more than five hundred dollars and the cost of prosecution, or by imprisonment in the county jail or the Michigan reformatory at Ionia for not less than ninety days nor more than two years, or by both such fine and imprisonment in the discretion of the court for each and every offense. (Id. § 4.)

171. Unlawful to Sell, Etc.—No person, firm or corporation by themselves or their agents or servants shall, within this State, have in his or their possession with intent to sell, or offer or expose for sale, or sell as butter or as cream, any product which is adulterated within the meaning of this act. (P. A., 1925, No. 78, § 1.)

172. Adulterated Butter.—Butter shall be deemed to be adulterated within the meaning of this act:

1. If the fat content is not exclusively derived from cow's milk.
2. If it contains less than eighty per cent of milk fat.
3. If it contains to exceed sixteen per cent moisture. (Id. § 2.)

173. Adulterated Cream.—Cream shall be deemed to be adulterated within the meaning of this act if it contains less than eighteen per cent of milk fat or is not that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force, or is not clean. (Id. § 3.)

174. Penalty.—Whoever shall do any of the acts or things prohibited, or willfully neglect or refuse to do any of the acts or things enjoined by this act, or in any way violate any of its provisions, shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 4.)

175. Ice Cream, Lawful Constituents.—No person, firm or corporation shall manufacture for sale, keep for sale, sell, barter, exchange or deal in ice cream which shall contain any substance other than milk, cream, eggs, sugar, and some neutral flavoring gelatin or vegetable gums or which contain other than the required amount of milk fat as hereinafter provided. (C. L. 1915, 6430.)

176. Sale of Adulterated, Unlawful.—No person, firm or corporation shall manufacture for sale, keep for sale, sell, barter, or deal in ice cream adulterated within the meaning of this act. (Id. § 6431.)

177. Adulterated Ice Cream Defined; Proviso.—Ice cream shall be deemed to be adulterated within the meaning of this act:

First, If it shall contain boric acid, formaldehyde, saccharin, or any other added substance or compound that is deleterious to health.

Second, If it shall contain salts of copper, iron oxide, ocrs or any coloring substance deleterious to health: Provided, That this paragraph shall not be construed to prohibit the use of harmless coloring matter in ice cream when not used for fraudulent purposes:

Third, If it shall contain any deleterious flavoring matter, or flavoring matter not true to name;

Fourth, If it be an imitation of, or offered for sale under the name of another article;

Fifth, If it contains less than ten per centum milk fat, except where fruit or nuts are used for the purpose of flavoring when it shall not contain less than eight per centum milk fat. Nothing in this act shall be construed to prohibit the use of not to exceed seven-tenths of one per centum of pure gelatin, gum tragacanth or other vegetable gums. (Id. § 6432.)

178. Standard.—The standard ice cream in this State and for the purpose of this act is hereby declared to be a frozen product made from milk, cream, eggs and sugar with or without a natural flavoring and the gums mentioned in the preceding section and contains not less than ten per cent of milk fat. Fruit ice cream is a frozen product made from milk, cream, eggs and sugar and sound, clean, mature fruits, and contains not less than eight per cent of milk fat. Nut ice cream is a frozen product made from milk, cream, eggs, sugar and sound, non-rancid nuts, and contains not less than eight per cent of milk fat. (Id. § 6433.)

179. False Labeling.—It shall not be lawful for any person, firm or corporation to sell, offer for sale, expose for sale, or have in possession, with intent to sell, any ice cream in any container which is falsely labeled or branded as to the name of the manufacturer thereof or to misrepresent in any way the place of manufacture of ice cream or the manufacturer thereof. (Id. § 6434.)

180. License, Application, Fee, Etc.—Each person, firm or corporation engaged in the manufacture of ice cream as a business within this State, after this act shall take effect, and annually thereafter on the first day of April, shall file with the Commissioner of Agriculture, upon blanks to be furnished by said official, an application for a license accompanied with a fee of five dollars, for each establishment or plant maintained by such person, firm or corporation, and upon receipt of such application, the Commissioner of Agriculture shall issue to the person, firm or corporation making such application, a license to manufacture ice cream, as provided in this act, which license shall be renewed annually. The Commissioner of Agriculture may suspend any such license temporarily for failure to comply with the provisions of this act, or any regulations or order made by him, and shall have the power finally to revoke the same for such cause. Before any such suspension or revocation of a license is made, the Commissioner of Agriculture shall [have] given written notice to the licensee that he contemplates the suspension or revocation of the same, and giving his reasons therefor. Such notice shall appoint a time for hearing before said Commissioner of Agriculture and may be sent by registered mail to the licensee. The hearing shall be held in the county in which the complaint is made. On the day of hearing the licensee may present such evidence as he desires, and after hearing the evidence, the Commissioner of Agriculture shall decide the matter in such manner as to him appears just and right. The money so collected by the Commissioner of Agriculture shall be paid into the State treasury to be disbursed in such manner and for such purposes as may be provided by law. (Id. § 6435, as amended, P. A. 1923, No. 95.)

181. Penalty for Violation.—Any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than thirty days or by both such fine and imprisonment in the discretion of the court. (C. L. 1915, § 6436.)

182. Enforcement of Act.—The Dairy and Food Commissioner shall be charged with the enforcement of the provisions of this act. (Id. § 6437.)

183. Butter; Any Person May Use Brand, Etc.—Any person, firm or corporation manufacturing butter in this State may use the brand, mark or label therefor as provided in this act. (Id. § 6270.)

184. Who to Have Charge.—Said trade-mark or brand and its use and regulation shall be in charge of and under the control of a commission of three members consisting of the State Dairy and Food Commissioner, the president of the Michigan State Dairymen's Association and the president of the Michigan State Butter Makers' Association. (Id. § 6271.)

185. Rules and Regulations.—The State trade-mark or brand shall be controlled, used, manufactured and issued under such rules and regulations as may be found necessary from time to time by the said commission. Said commission or commissioners shall have power to make such changes in the rules and regulations for the use of said trade-mark or brands as it may deem necessary from time to time. (Id. § 6272.)

186. Publication of Rules; Labels, Etc., How Furnished.—The rules governing the use of such trade-mark or brand shall be published by and through bulletins issued by the State Dairy and Food Department. Such labels, stamps or other means of imprinting such trade-mark or brand upon the manufactured product or the receptacles containing the same, shall be furnished to those entitled to the use thereof by the State Dairy and Food Department. (Id. § 6273.)

187. Copyright of Brand; Description of Brand.—The said commission is hereby directed and authorized to secure a copyright under the laws of the United

States for trade-marks or brands, and copyrights for such trade-mark or brand of butter. Said trade-mark, brand, or label shall be of such size and design as the said commission shall designate and shall contain in prominent letters, the words, "Michigan Butter, License Number.....," and the words, "State Butter Control." (Id. § 6274.)

188. Application for License; When License Granted; What License to State.—Any person, firm or corporation desiring to use the brand or label provided for in this act in the manufacture or sale of butter shall make written application for a license therefor to the Dairy and Food Commissioner, which application shall describe by location and name the creamery or factory in which such butter is to be manufactured, and give such other information as may be required. A license shall be granted to such person, firm or corporation to use such brand or label at the factory described in the application, if on investigation by the Dairy and Food Commissioner, his deputy or duly authorized assistants, it appears that all the provisions in this act and the rules and regulations by the commission have been complied with. Such license shall state that the brand or label provided for by the said commission may be used in connection with the manufacture or sale of butter from the factory described in such license. Such factories so described shall be given the same number as the serial number of the license. (Id. § 6275.)

189. Unlawful Use of Brand; Revocation of License; Not Transferable.—No person, firm or corporation shall use in the manufacture or sale of butter such brand or label without having first obtained a license therefor as provided in this act. Such license so granted may be revoked by the said commissioner if any of the conditions of this act or of the rules and regulations of the commission are not complied with. Such license so granted shall not be transferable. (Id. § 6276.)

190. Similar Brands Prohibited.—The use of any brand or mark for butter or butter substitute resembling the above brand or so near like it that it can be confounded with it, is prohibited. (Id. § 6277.)

191. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not more than one hundred dollars or imprisoned in the county jail for not more than thirty days. (Id. § 6278.)

192. Capacity of Milk Bottles; Variations Allowed; What to be Blown in Bottles; Record of Bonds and Designating Numbers.—On and after January one, nineteen hundred sixteen, bottles used for the sale of milk and cream in this State, shall be of the capacity of half gallon, three pints, one quart, one pint, ten ounce, half pint, one gill, filled full to the bottom of the lip. The following variations on individual bottles or jars may be allowed: Six drams above and six drams below on the half gallon; five drams above and five drams below on the three pint; four drams above and four drams below on the quart; three drams above and three drams below on the pint; two and one-half drams above and two and one-half drams below on the ten ounce; two drams above and two drams below on the half pint; two drams above and two drams below on the gill. But the average contents of not less than twenty-five bottles selected at random from at least four times the number tested must not be in error by more than one-quarter of the tolerances: One and five-tenths drams above and one and five tenths drams below on the half gallon; one and twenty-five hundredths drams above and one and twenty-five hundredths drams below on the three pint; one dram above and one dram below on the quart; seventy-five hundredths drams above and seventy-five hundredths drams below on the pint; seventy-five hundredths drams above and seventy-five hundredths drams below on the ten ounce; five-tenths drams above and five-tenths drams below on the half pint; five-tenths drams above and five-tenths drams below on the gill. Bottles or jars used for the sale of milk shall have clearly blown or otherwise permanently marked in the side of the bottle, the capacity of the bottle and the word "sealed" and in the side or bottom of the bottle the name, initials or trade-mark of the manufacturer and designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number shall be furnished by the State Superintendent of Weights and Measures upon application by the manufacturer, and upon filing by the manufacturer of a bond in the sum of one thousand dollars with sureties to be approved by the Attorney-General, conditioned upon their performance of the requirements of this section. A record of the bonds furnished, the designating numbers, and to whom furnished, shall be kept in the office of the Superintendent of Weights and Measures. (Id. § 6279.)

193. Unlawful Sales; Penalty; Unlawful Use of Bottles.—On and after January one, nineteen hundred sixteen, any manufacturer who sells milk or cream bottles to be used in this State, which do not comply as to size and markings with the provisions of this act, shall suffer the penalty of five hundred dollars, to be recovered by the Attorney-General in an action against the offender's bondsmen, to be brought in the name of the people of the State. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles purchased after this law takes effect, which do not comply with the requirements of this act as to markings and capacity, shall be deemed guilty of using false or insufficient measure. (Id. § 6280.)

194. Bottles Not to be Sealed; Tests to be Made; Penalty.—Sealers of weights and measures are not required to seal bottles or jars for milk or cream marked as in this act provided, but they shall from time to time make tests on individual bottles used by the various firms in the territory over which they have jurisdiction, in order to ascertain whether the above provisions are being complied with, and they shall report violations found immediately to the Superintendent of Weights and Measures. Any dealer who knowingly uses for the purpose of selling milk or cream, jars or bottles purchased after this law takes effect, which do not comply with this act as to marking the capacity, shall be guilty of a misdemeanor and be punished accordingly. (Id. § 6281.)

NOTE: See also Nos. 3, 21, 27 et seq., 45, and 443 et seq.

Eggs.

195. "Cold Storage Eggs" Defined.—For the purpose of this act* the term "cold storage eggs" shall be construed to mean eggs that have been held in cold storage for thirty days or more at or below a temperature of forty degrees Fahrenheit, and the term "held eggs" shall be construed to mean eggs that have been held for thirty days or more and artificially preserved by packing in salt, water-glass or other preservatives. (Supp. 1922, § 6535 (16).)

196. Container, How Marked.—Whenever eggs that have been held in cold storage or artificially preserved are sold at wholesale or retail, or offered or exposed for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words "cold storage eggs" or "held eggs," as the case may be, or there shall be attached to such container a placard or sign having on it the said words printed in black on a white background, no other lettering on or to be attached to said sign or placard. If eggs that have been in cold storage or are artificially preserved are sold at retail or offered or exposed for sale without a container, or placed upon a counter or elsewhere, a sign or placard, having the words "cold storage eggs" or "held eggs" plainly or conspicuously marked upon it shall be displayed in, upon or immediately above the said eggs; the intent of this act being that cold storage or artificially preserved eggs sold or offered or exposed for sale shall be designated in such a manner that the purchaser will know that they are cold storage or held eggs. The display of the words "cold storage eggs" and "held eggs," as required by this act, shall be in letters not less than one inch in height except that the container in which eggs sold at retail are delivered to the customer may be stamped or marked in letters less than one inch in height if uncondensed gothic type is used, but such letters shall in no case be less than one-half inch in height. (Id. § 6535(17).)

197. Enforcement of Provisions.—It shall be the duty of the Food and Drug Commissioner† to enforce the provisions of this act. (Id. § 6535(18).)

198. Penalty.—Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in a sum not more than one hundred dollars or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment. (Id. § 6535(19).)

NOTE: See also No. 147.

Feeding Stuffs.

199. Commercial Feeding Stuffs; What Constitutes.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs, together with

*Act 69 of 1919, included in Nos. 195-198.

†Department of Agriculture. See No. 28.

all condimental and patented proprietary feeds used for feeding live stock and poultry, except unmixed whole seeds or grains; the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo; corn and oats feed made by grinding together the pure grains of corn and oats; wheat, rye and buckwheat brans or middlings when unmixed with other materials; whole hays, straws, ensilage and corn stover when unmixed with other materials, and all other materials containing sixty per cent or more of water. (Supp. 1922, § 6388(1).)

200. Tag or Label, What to Contain.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale, or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside, containing a legible and plainly written statement in the English language, clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum percentage of crude protein allowing one per cent of nitrogen to equal six and one-quarter per cent of protein;
- (e) The minimum percentage of crude fat;
- (f) The maximum percentage of crude fibre;
- (g) The specific name of each ingredient used in its manufacture. (Id. § 6388(2).)

201. Registration With Department of Agriculture.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs, he shall file with the State Board of Agriculture a certified copy of the statement specified in section 2 [6388(2)] for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the State Board of Agriculture shall so request, by a sealed package containing at least one pound of the commercial feeding stuffs, to be sold, offered or exposed for sale or distributed in this State, and the company or persons furnishing said sample shall thereupon make an affidavit that the said sample is representative of the commercial feeding stuffs offered for registration. (Id. § 6388(3).)

202. Fees; License; Sales in Bulk.—Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling any commercial feeding stuffs as defined in section 1 [6388(1)] of this act,* shall pay to the Secretary of the State Board of Agriculture on or before the first day of April, nineteen hundred eighteen, a license fee of fifteen dollars for each brand of commercial feeding stuffs sold, offered or exposed for sale in this State for the period ending December thirty-one, nineteen hundred eighteen. Thereafter the license fee shall be twenty dollars for each brand of commercial feeding stuffs sold, offered or exposed for sale in this State, and the same shall be payable to the secretary of said board on or before the first day of January of each year. Fees so collected shall be used to defray the expenses incurred in collecting and analyzing samples of commercial feeding stuffs, publishing the results of analysis and all other expenses incidental to carrying out the provisions of this act. Any surplus from license fees remaining on hand at the end of the fiscal year shall be placed to the credit of the experiment station fund of said board. Whenever the manufacturer, importer, agent or seller of any commercial feeding stuffs shall have complied with the requirements of this section, the State Board of Agriculture shall issue or cause to be issued a license permitting the sale of said feeding stuffs, which license shall terminate on December thirty-first following the date of issue. Whenever any commercial feeding stuffs as defined in section 1 [6388(1)] is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section 2 [6388(2)] and when such feeding stuffs is sold at retail, in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser, upon request, with a card or cards upon which appears a statement required by the provisions of section 2. (Id. § 6388(4).)

203. Power to Refuse or Cancel License; Lowering Guaranteed Analysis or Changing Ingredients.—The State Board of Agriculture shall have the power to refuse to license any commercial feeding stuffs under a name, brand or trade-

*Act 91 of 1917, included in Nos. 199-209.

mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed or when the specific name of each and all ingredients used in its manufacture is not stated. It shall also have the power to refuse to license more than one commercial feeding stuff under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be licensed in this State and it is afterwards discovered that such license is in violation of any of the provisions of this act, the said board shall have the power to cancel such license. The State Board of Agriculture shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation, or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeding stuffs during the term for which licensed, unless reasons satisfactory to said board are presented for making such change or changes. (Id. § 6388(5).)

204. Only One License Required for Brand.—Whenever a manufacturer, importer, jobber, firm, association, corporation, or person manufacturing or selling a brand of commercial feeding stuffs, shall have filed the statement required by section 3 [6388(3)] and paid the license fee, as required by section 4 [6388(4)] of this act, no other agent, importer, jobber, firm, association, corporation or person shall be required to file such statement or pay such fee upon such brand. (Id. § 6388(6).)

205. Access to Mills, Parcels, Etc.—Any authorized agent or agents of the State Board of Agriculture shall have free access, during reasonable business hours, to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, sale or storage of any commercial feeding stuffs and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and upon tender and full payment of the selling price of said sample, for the purpose of procuring a sample of suitable size for analysis, from each and every lot or parcel of commercial feeding stuffs being sold, offered or exposed for sale: Provided, That said sample shall be taken in the presence of the person or agent having the feeding stuffs in charge and said sample shall be taken from not less than five separate original packages in the lot, in which case a portion shall be taken from each original package; if the commercial feeding stuffs is in bulk, portions shall be taken from not less than five different places in the lot unless the manner in which the commercial feeding stuffs is stored prohibits, in which case, portions shall be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. (Id. § 6388(7).)

206. Analyzed Annually; Portion of Sample.—At least one sample of each brand of commercial feeding stuffs sold, offered or exposed for sale in the State, secured in the manner described in section 7 [6388(7)] shall be analyzed annually under the direction of the State Board of Agriculture and the results of such analysis shall be promptly submitted to the manufacturers or persons responsible for placing the commodities on the market, and shall be published in reports or bulletins from time to time together with such additional information as the said board may deem advisable. The manufacturers or persons responsible for the placing of any commodity on the market shall, upon request to the State Board of Agriculture, be furnished with a portion of the official sample of that commodity. The methods of analysis shall be those in force at the time by the Association of Official Agricultural Chemists of North America. (Id. § 6388(8).)

207. Certification of Violations; Hearing; Certificates as Evidence.—If it appears that any of the provisions of this act have been violated, the State Board of Agriculture shall certify the facts to the prosecuting officer of the county in which the violation has occurred, together with a copy of the results of the analysis or other examination of such feeding stuffs duly authenticated by the analyst or other officer making the determinations under oath of said officer: Provided, That in such case, said board shall first cause notice of such apparent violation to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the State Board of Agriculture before the facts shall be certified to the prosecuting officer. In all prosecutions arising under the provisions of this act certificates of the analyst or other officer making the examination or analysis, when duly sworn to by such officer, shall be *prima facie* evidence of the fact or facts therein certified. (Id. § 6388(9).)

208. Penalty Clause.—Any manufacturer, importer, jobber, firm, association, corporation or persons who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any duly authorized agent of the State Board of Agriculture in the performance of his duty in connection with the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section 1, without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs which contains a smaller percentage of crude protein or crude fat, or a larger percentage of crude fibre than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than one hundred dollars for the first offense, and not less than two hundred dollars for each subsequent offense. Any manufacturer, importer, jobber, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of live stock or poultry, shall be deemed guilty of a misdemeanor, and in addition to the penalty provided in this section the lot of feeding stuffs shall be subject to seizure, condemnation and sale, as the court may direct; the proceeds from such sale to be covered into the State treasury. The court may in its discretion release the feeding stuffs so seized when the requirements of the provisions of this act have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure. (Id. § 6388(10).)

209. Enforcement of Act.—The State Board of Agriculture* is hereby empowered to enforce the provisions of this act and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as may be deemed necessary to carry into effect the full intent and meaning of this act. (Id. § 6388(11).)

210. Unlawful to Have in Possession Adulterated Feed.—No person shall within this State manufacture for sale, or have in his possession with intent to sell, offer or expose for sale, or sell any ground grain or feed adulterated with oat hulls. (C. L. 1915, § 6319.)

211. Violation a Misdemeanor; Penalty.—Any person who shall willfully violate any of the provisions of this act† shall be deemed guilty of a misdemeanor and shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than thirty nor more than ninety days or by both such fine and imprisonment in the discretion of the court. (Id. § 6320.)

NOTE: See also Nos. 28 and 29.

Flavoring Extracts.

See Nos. 399 and 400.

Flour, Meal, Etc.

See No. 479 et seq.

Fruit Jelly and Fruit Butter.

See No. 245.

Fruits and Vegetables.

212. "Closed Package," How Construed.—In this act,‡ unless the contents otherwise requires, the term "closed package" shall be construed to mean a barrel, box, basket, carrier or crate, of which all the contents cannot readily be seen or inspected when such package is prepared for market. Fresh fruits or vegetables in baskets or boxes, packed in closed or open crates, and packages covered with burlap, tarlatan or slat covers shall come within the meaning of the term "closed package." None of the provisions of this act shall apply to other than Michigan grown fruits and vegetables. (C. L. 1915, § 15365.)

*See No. 27 et seq.

†Act 192 of 1899, included in Nos. 210-211.

‡Act 207 of 1913, included in Nos. 212-217.

213. How Marked.—Every person who, by himself or by his agent or employee, packs or repacks fresh fruits or vegetables in closed packages intended for sale in the open market, shall cause the same to be marked in a plain and indelible manner, as follows:

First, With his full name and address, including the name of the State where such fresh fruits and vegetables are packed, before such fresh fruits or vegetables are removed from the premises of the packer or dealer;

Second, The name and address of such packer or dealer shall be printed or stamped on said closed packages in letters not less than one-quarter inch in height. (Id. § 15366.)

214. Sale, Etc., When Unlawful.—No person shall sell or offer, expose or have in his possession for sale, in the open market, any fresh fruits or vegetables packed in a closed package and intended for sale, unless such package is marked as is required by this act. (Id. § 15367.)

215. When Marked "Fancy," Etc.—No person shall sell or offer, expose or have in his possession for sale, any fresh fruits or vegetables packed in a closed or open package, upon which package is marked any designation which represents such fruit as "No. 1," "Finest," "Best," "Extra Good," "Fancy," "Selected," "Prime," "Standard," or other superior grade or quality, unless such fruit or vegetables consist of well grown specimens, sound, of nearly uniform size, normal shape, good color, for the variety, and not less than ninety per cent free from injurious or disfiguring bruises, diseases, insect injuries or other defects, natural deterioration and decay in transit or storage excepted. (Id. § 15368.)

216. False Representation.—No person shall sell or offer, expose or have in his possession for sale, any fresh fruits or vegetables packed in any package in which the faced or shown surface gives a false representation of the contents of such package, and it shall be considered a false representation when more than twenty per cent of such fresh fruits or vegetables are substantially smaller in size than or inferior in grade to, or different in variety from, the faced or shown surface of such package, natural deterioration and decay in transit or storage excepted. (Id. § 15369.)

217. Misdemeanor, Penalty.—Every person who, by himself, his agent or employee knowingly violates any of the provisions of this act shall, for each such offense, be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding ten dollars, or by imprisonment in the county jail for a period not exceeding thirty days, or by both such fine and imprisonment in the discretion of the court. (Id. § 15370.)

218. Potatoes, U. S. Fancy; Variation.—U. S. Fancy shall consist of potatoes of one variety which are mature, bright, well shaped, free from freezing injury, soft rot, dirt, or other foreign matter, sunburn, second growth, growth cracks, hollow heart, cuts, scab, blight, dry rot, disease, insects or mechanical injury and other defects. The range in size shall be reasonably uniform, and in no case shall the diameter be less than two inches.

In order to allow for variations incident to proper grading and handling, not more than five per cent, by weight, of any lot may vary from the range and size stated, and, in addition, not more than three per cent, by weight, of any lot may be below the remaining requirements of this grade, but not to exceed one-third of this three per cent tolerance shall be allowed for potatoes affected by soft rot. (P. A. 1925, No. 76, § 1.)

219. U. S. No 1; Diameter; Variation.—U. S. No. 1 shall consist of potatoes of similar varietal characteristics which are not badly misshapen, which are free from freezing injury and soft rot and from damage caused by dirt or other foreign matter, sunburn, second growth, growth cracks, hollow heart, cuts, scab, blight, dry rot, disease, insects or mechanical or other means.

The diameter of potatoes of round varieties shall be not less than one and seven-eighths inches and of potatoes of long varieties, one and three-fourths inches.

In order to allow for variations incident to proper grading and handling, not more than five per cent, by weight, of any lot may be below the prescribed size, and, in addition, not more than six per cent, by weight, may be below the remaining requirements of this grade, but not to exceed one-third of this six per cent tolerance shall be allowed for potatoes affected by soft rot. (Id. § 2.)

220. U. S. No. 1 Small; Variation.—U. S. No. 1 small, shall consist of potatoes ranging in size from one and one-half inches to one and seven-eighths inches in diameter, but meeting all the other requirements of U. S. No. 1.

In order to allow for variations incident to proper grading and handling, not more than twenty-five per cent, by weight, of any lot may vary from the prescribed size, but not to exceed one-fifth of this tolerance shall be allowed for potatoes under one and one-half inches in diameter. In addition, not more than six per cent, by weight, may be below the remaining requirements of this grade, but not to exceed one-third of this six per cent tolerance shall be allowed for potatoes affected by soft rot. (Id. § 3.)

221. U. S. No. 2; Diameter; Variation.—U. S. No. 2 shall consist of potatoes of similar varietal characteristics which are free from freezing injury and soft rot and from serious damage caused by sunburn, cuts, scab, blight, dry rot, disease, insects or mechanical or other means.

The diameter of potatoes of this grade shall be not less than one and one-half inches.

In order to allow for variations incident to proper grading and handling, not more than five per cent, by weight, of any lot may be below the prescribed size, and, in addition, not more than six per cent, by weight, may be below the remaining requirements of this grade, but not to exceed one-third of this six per cent tolerance shall be allowed for potatoes affected by soft rot. Any potatoes other than those mentioned in this act shall be sold as "culls" and marked or labeled as provided in this act. (Id. § 4.)

222. Terms Defined; Container, Etc.—The following terms, wherever used in this act, or in rules and regulations later promulgated by the Commissioner of Agriculture, shall have the meaning as indicated:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

2. "Bright" means free from dirt or other foreign matter or discoloration from any cause so that the outer skin (epidermis) has the attractive color normal for the variety.

3. "Smooth" means free from second growth, growth cracks and other abnormal, rough surfaces.

4. "Well shaped" means that normal, typical shape for the variety in the district where grown and free from pointed, dumb-bell shaped, excessively elongated and other ill-formed potatoes.

5. "Free from damage" means that the appearance shall not be injured to an extent readily apparent upon casual examination of the lot, and that any damage from the causes mentioned can be removed in the ordinary process of preparation for use without appreciable waste in addition to that which would occur if the potato were perfect. Loss of outer skin (epidermis) shall not be considered as an injury to the appearance.

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis.

7. "Soft rot" means a soft, mushy condition of the tissues from whatever cause.

8. "Badly misshapen" means of such shape as to cause appreciable waste in the ordinary process of preparation for use in addition to that which would occur if the potato were perfect.

9. "Free from serious damage" means that any damage from the causes mentioned can be removed by the ordinary process of paring without increase in waste of more than ten per cent, by weight, over that which would occur if the potato were perfect.

10. "Container" or "Package" means cloth or fibre sack (such as is customarily used for the shipment of potatoes), barrel, box, crate, hamper or basket. (Id. § 5.)

223. Label, Etc.; How Grades Designated; Proviso.—When prepared for shipment in bags, baskets, barrel, box, hamper, or any other container, the same shall be tagged or labeled or branded legibly, designating the name and address of the dealer, shipper, corporation, society or association, or agent or representative, also the grade and net weight. When shipped as bulk, two cards conspicuously placed shall accompany such potatoes, which cards shall not be smaller than four and one-half inches by six inches in size, designating in letters not less than one-half inch in height the name and address of the shipper, the name of the grade, the car initial and number, and the date.

Dealers offering for sale, exposing for sale or selling potatoes from a vehicle shall designate the grade in the following manner: By a legibly printed tag on each container, or by a card not less than four and one-half inches by six inches in size, conspicuously placed upon, or adjacent to, said potatoes, the

letters to be not less than one-half inch high. Upon request of purchasers, the dealer must name the grade of potatoes sold to them.

It is further provided that this bill shall not apply to, or be construed to include, the sale of potatoes by the grower, made by himself personally or by an employee, direct to a consumer, or to a groceryman or company or copartnership conducting a grocery store: Provided, That when the operator of a grocery store shall purchase ungraded potatoes from a producer or grower, he shall have the right to display same for sale in open packages and sell same to the customer: Provided further, That a grocery keeper who buys from the grower ungraded potatoes and sells them as graded potatoes, under one of the qualifications of this act, shall be subject to the same fines and punishment as provided herein for violation of this act. (Id. § 6.)

224. "Dealer" Defined.—The word "dealer" as used herein shall be construed to include any person, shipper, corporation, society, association, or their agent or representative. The act, omission or failure of any official or employee of any dealer, when such official or employee is acting within the scope of his employment or office, shall in every case, be deemed also the act, omission or failure of the dealer as well as the official or employee. (Id. § 7.)

225. Unlawful Sale, Etc.—It shall be unlawful for any dealer to ship for sale, offer or consign for sale, or sell, potatoes which are not graded and branded in accordance with the provisions of this act and the regulations made hereunder, or have in his possession for sale any potatoes prepared for sale or sold which bear any false statement, design or device regarding the same, within the meaning of this act. In re-using any package or cover upon which appear any marks required by this act, or which were intended to describe the contents of the package, the dealer who is responsible for the re-use of such package or cover shall cause such marks to be removed, erased or obliterated before re-using. No person, except an authorized inspector of the State Department of Agriculture, shall alter, efface, or remove, or cause to be altered, effaced or removed, wholly or in part, any brands or marks required to be put upon packages under the provisions of this act, except in re-packing, or to make the brands or marks correspond to the contents of the package. (Id. § 8.)

226. Misdemeanor; Penalty.—Any person, either principal or agent, who violates any of the provisions of this act, or of the regulations promulgated hereunder, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, for the first offense, and not more than one hundred dollars for each subsequent offense, or by imprisonment in the county jail for not more than thirty days in default of paying the fine, or both in the discretion of the court. (Id. § 9.)

227. Enforcement; Proviso.—It shall be the duty of the Commissioner of Agriculture to diligently enforce the provisions of this act, and his officers, inspectors, employees and agents are authorized to enter upon the premises of any person within this State for the purpose of inspecting potatoes and securing evidence of the violation of this act, and the said Commissioner of Agriculture is hereby authorized and empowered to make, promulgate and enforce such regulations as may be necessary for interpreting the grade specifications prescribed in this act, and for otherwise enforcing its provisions: Provided, however, That any grades, standards or classes for potatoes, or any requirements for marking packages containing potatoes which may hereafter be established by the authority of the Congress of the United States, and which are mandatory or optional as applying to interstate commerce, shall, or may, as far as applicable, be established and promulgated by the Commissioner of Agriculture as official grades, standards, classes and marks for potatoes packed or offered for sale in the State of Michigan. (Id. § 10.)

228. Grades, Etc., for Apples.—The grades for Michigan apples and the proper packing and branding of closed containers when packed for sale, shipment, delivery, consignment, or when sold, shall be as hereinafter set forth. The requirements mentioned in this explanation are for the Michigan fancy and Michigan A grades. The apples shall consist of one variety, which are firm, hand-picked, well grown, well formed, and apparently free from dirt, skin-puncture, injuries caused by bruises, hail, disease, insects or mechanical or other means, except those incident to proper packing. Containers should be ring-faced and tailed, well filled, but not bruised or crushed, and should have flexible cushion placed between fruit and cover.

First—Michigan Fancy.—Each apple shall have fine color for the variety. Apples must be sized to within one-half inch in variation; not more than five

per cent may be below the color requirement, and not more than five per cent below grade requirement for other defects.

Second—Michigan "A."—Each apple shall have good color for the variety. Apples must not be less than two and one-half inches in diameter except as otherwise provided; not more than ten per cent may be below the color requirement, and not more than ten per cent below grade requirement for other defects. Apples that conform to Michigan A grade (excepting minimum size requirement) and which are sized to within one-half inch in variation may be marked "MICHIGAN UNIFORM A."

Third—B Grade.—Shall consist of one variety, which are firm, hand-picked, well grown, fairly well formed, ring faced, apparently free from serious damage caused by dirt, bruises, hail, disease, insects or mechanical or other means except those incident to proper packing. Each apple must be not less than two and one-quarter inches in diameter, except as otherwise provided; not more than fifteen per cent may be below the grade requirements.

Fourth—Commercial grade.—Shall consist of one variety of marketable fruit which does or does not conform to the foregoing grade requirements, except that apples must be not less than two inches in diameter; apparently free from decay and must not have skins broken; ten per cent tolerance on undersize.

It shall be deemed a violation of this act when more than twenty-five per cent of the apples in any one package are inferior in color, size or quality than the faced or shown surface. (P. A. 1925, No. 82, § 1.)

229. Color Requirements.—Color means that portion of the surface of an apple which shows a good shade of red characteristic of the variety. "Fine color" refers to the amount specified in Michigan Fancy and "good color" refers to the amount specified in Michigan "A" as follows:

Solid red varieties, such as Arkansas Black, Gano (Black Ben Davis), King David, Spitzenburg (Esopus), Winesap, and other solid red varieties shall have seventy-five per cent for Michigan Fancy and thirty-three and one-third per cent for Michigan "A".

Striped or partial red varieties, such as Alexander, Delicious, Fameuse (Snow), King (Tompkins), Jonathan, Red Canada (Steeles Red), and Stayman, shall have fifty per cent for Michigan Fancy and twenty-five per cent for Michigan "A"; Baldwin, Ben Davis, McIntosh, Northern Spy, Rome, Wagener, Wealthy, and York Imperial shall have fifty per cent for Michigan Fancy and fifteen per cent for Michigan "A"; Gravenstein, Hubbardston, Oldenburg (Duchess), Twenty Ounce, and Wolf River, twenty-five per cent for Michigan Fancy and ten per cent for Michigan "A".

Red cheeked or blushed varieties, such as Maiden Blush, Winter Banana, and other red cheeked and blushed varieties, shall have blushed cheek for Michigan Fancy and a tinge of color for Michigan "A".

Yellow, russet or green varieties, such as Rhode Island Greening, Golden Russet, Newtown Pippin (Albermarle Pippin), Tolman Sweet, Grimes Golden, and other yellow, russet, or green varieties, shall have characteristic color. (Id. § 2.)

230. Definition of Terms and Sizes.—"Well grown" means mature, but not over-ripe. Mature means having reached the stage which will insure the completion of the ripening process.

"Well formed" means characteristic shape of the variety.

"Fairly well formed" means not to cause more than ten per cent additional waste in paring them than "well formed."

"Free from serious damage" means that no defects materially deform or discolor the fruit or injure its keeping quality. Scab, spots, fruit spots, or other defects exceeding an aggregate area of one-half inch in diameter shall be considered serious damage.

The words "closed container," as used in this act, shall be construed as a basket, box, barrel, or any package the contents of which cannot all be inspected when prepared for market.

Such apples as Red Astrachan, Yellow Transparent, Chenango, Maiden Blush, Black Gilliflower, Grimes, Jonathan, Fameuse, King David, Spitzenburg, Tolman Sweet, Red Canada, and Golden Russet shall not be less than two and one-quarter inches in diameter in Michigan "A" grade or two inches in Michigan "B" grade. (Id. § 3.)

231. Marking.—Before being removed from premises of grower, packer, or dealer, all closed containers packed for sale, shipment, delivery, consignment, or sold, shall bear upon the outside of each container or cover, either by stamp, label, or stencil, the following: Name and address of grower or dealer; name of the variety, when known; if not known, then "Unknown", the grade and the

minimum size. The Michigan Fancy and Michigan Uniform "A" grades shall also bear the maximum size mark. Letters used in marking shall be at least one-quarter inch high. In re-using any container or cover that bears any brands or markings describing previous contents, such brands or markings, if they are inconsistent, must be removed or obliterated. (Id. § 4.)

232. Inspection of Closed Packages.—The Commissioner of Agriculture, or his inspectors, are hereby given permission to enter in or upon any premises or property for the purpose of inspecting closed packages of apples and securing evidence of the violation of this act and to procure a sample or samples upon market value being tendered or accepted. (Id. § 5.)

233. Enforcement of Act.—It shall be the duty of the Commissioner of Agriculture to enforce this act. The Commissioner of Agriculture may promulgate rules and regulations to carry out the provisions of this act. (Id. § 6.)

234. Penalty for Violations.—Any person, association, corporation (principal or agent) who packs for sale, ships for sale, offers or consigns for sale or sells in closed packages, apples which are not graded, packed and branded in accordance with the provisions of this act and the regulations made hereunder, or has in his possession for sale any closed packages of apples which bear any false statement, design or device regarding such fruit, or who violates any of the other provisions of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than ten dollars, nor more than fifty dollars and cost for the first offense, and not more than one hundred dollars and cost for subsequent offenses, not more than thirty days in the county jail upon failure to pay such fine and cost, or both in the discretion of the court.

The act, omission, or failure of any employee or any person or persons, shall in every case, be deemed also the act, omission, or failure of the employer. (Id. § 7.)

235. "Fancy Table Grapes," How Packed; Bunches.—"Fancy table grapes" shall be packed in two or four quart climax baskets or carriers of two or more small units, or any container of less than twelve quart (sixteen pound) capacity, and shall consist of grapes of one variety which are sound, well colored, mature, firmly attached to cap-stems, and free from split, crushed, wet, soft, dried, shattered berries, mildew, berry moth, russetting and damage caused by other diseases, insects, mechanical or other means. Bunches shall be compact for the variety, excepting compact portions of bunches consisting of three or more berries to fill open spaces between full bunches. Bunches shall be packed with stems concealed as nearly as may be. Not more than ten per cent, by count, of the berries may be below the grade requirements, and not more than two per cent of berries, by count, injured by mechanical means, nor more than one per cent may be affected by dry rot. In addition, not more than five per cent by count, of any lot may consist of bunches not compact. (P. A. 1925, No. 145, § 1.)

236. "No. 1 Grapes."—"No. 1 grapes" shall be packed in twelve quart (sixteen pound) capacity climax baskets, or larger containers, and shall consist of grapes which meet the requirements of the fancy table grade, except that not more than one-fourth, by count, of less compact bunches shall be permitted in this grade, together with a tolerance of two per cent by count for dry rot and three per cent by count, injured by mechanical means. Facing bunches shall be packed with stems concealed as nearly as may be. (Id. § 2.)

237. "No. 2 Grapes."—"No 2 grapes" shall be packed in twelve quart (sixteen pound) capacity climax baskets, or larger capacity, and shall consist of sound, marketable grapes which means grapes shall have a marketable value, but does not include green, unripe bunches, which do not meet the requirements of either of the foregoing grades. (Id. § 3.)

238. "Frosted Grapes."—Grapes that have been subjected to frost injury prior to harvest may be packed only in twelve quart (sixteen pound) capacity climax baskets, or containers of larger capacity, and graded according to the standards as provided in section 2 or section 3 of this act, and shall be designated as "No. 1 Frosted" or "No. 2 Frosted," as the case may be. Marking of "Frosted" shall be in letters not less than one-half inch in height. (Id. § 4.)

239. Marking Requirements.—All containers shall be clean and in good condition, and shall be conspicuously and legibly marked declaring: (1) The name and address of the person, firm or association under whose authority the grapes were packed, sold or offered for sale. (2) The name of the grade. (3) The net contents. (4) The name of the variety of the grapes. If the variety of the grapes is unknown, it shall be so stated. Excepting as otherwise provided in this act, the labeling or marking of the containers shall be done with

letters not less than one-fourth inch in height before leaving the premises of the person or persons responsible for the grading and packing. (Id. § 5.)

240. Definition of Terms.—"Well colored" means that ninety per cent of the grapes have solid color for the variety. "Mature" means that grapes have flavor characteristic of the variety. "Dry rot" means dried up, raisin-like grapes. "Less compact" means that bunches must have at least seventy-five per cent as many berries as compact bunches of the same dimension. "Small Units" means not to exceed four quart capacity containers. (Id. § 6.)

241. Who May Inspect.—The Commissioner of Agriculture, his inspectors or agents, for the purpose of inspection and enforcement of this act, or any section or part of section thereof, are given authority and power to enter into or upon any premises or property, without warrant, where grapes are packed, exposed, offered or consigned for sale, or held in possession for storage or delivery, and inspect the same, also procure, upon market value being tendered or accepted, sufficient samples to present as evidence in obtaining complaint for prosecution. (Id. § 7.)

242. Penalty.—Any person convicted of violating any of the provisions of this act shall, upon conviction thereof for the first offense, be subject to a fine of not more than fifty dollars, or imprisonment in the county jail for not to exceed thirty days, or both such fine and imprisonment in the discretion of the court. Any person convicted for the second and subsequent violations shall be subject to a fine of not more than two hundred dollars, or thirty days in jail, or both such fine and imprisonment in the discretion of the court or magistrate before whom such conviction may be had. (Id. § 8.)

NOTE: See also Nos. 26, 27 et seq., 69 et seq., 245, 443 et seq., 448 et seq., and 461 et seq.

Glucose.

See Nos. 83, 245 and 279 et seq.

Grain.

See Nos. 26, 293 et seq., 462, 463a and 479-485.

Grapes.

See Nos. 235 et seq. and 469.

Honey.

243. Unlawful Sale of; Packages to be Labeled.—It shall not be lawful for any person, knowingly, to sell, or offer for sale, any compounded or manufactured honey, unless each package or vessel shall be marked or labeled as such, and bearing the name of the manufacturer or compounder, either written or printed thereon. (C. L. 1915, § 6450.)

244. Penalty.—Any person violating the provisions of this act,* shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than ten nor more than twenty-five dollars for the first offense, and for each offense thereafter, not less than twenty-five dollars, nor more than fifty dollars, or imprisonment in the county jail for any time not exceeding three months, or both such fine and imprisonment, in the discretion of the court. (Id. § 6451.)

Ice.

See No. 45.

Jelly and Fruit Butter.

245. Regulating the Manufacture and Sale of Imitation Fruit Butter and Fruit Jellies; Shall Not be Colored; Misdemeanor; Penalty.—No person, firm or corporation in this State shall manufacture for sale, or sell, or offer or expose for sale, as fruit jelly or fruit butter, any jelly or imitation fruit butter or other similar compound made or composed in whole or in part of glucose, dextrine, starch or other substances, and colored in imitation of fruit jelly or fruit butter; nor shall any such jelly, fruit butter or compound be manufactured, or sold, or offered for sale, under any name or designation whatever, unless the

*Act 27 of 1885, included in Nos. 243-244.

same shall be composed entirely of ingredients not injurious to health, and shall not be colored in imitation of fruit jelly, and every can, pail or package of such jelly or butter sold in this State shall be distinctly and durably labeled "Imitation fruit jelly or butter," with the name of the manufacturer and the place where made. Whoever violates the provisions of this section shall be deemed guilty of a misdemeanor, and when convicted thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail or State House of Correction and Reformatory at Ionia for not less than ninety days nor more than two years, or by both such fine and imprisonment in the discretion of the court. (C. L. 1915, § 6486.)*

Maple Molasses.

See No. 279 et seq.

Maple Sugar.

See No. 279 et seq.

Maple Syrup.

See No. 279 et seq.

Meat—Meat Products.

246. Prohibiting the Manufacture or Sale as Lard of Other Than the Product of the Fat of the Hog.—No person shall within this State manufacture for sale, have in his possession with intent to sell, offer or expose for sale, or sell as lard, any substance not the legitimate and exclusive product of the fat of the hog. (C. L. 1915, § 6482.)*

247. Requiring All Packages Containing Substitutes to be Branded as Such.—Every person who manufactures for sale, has in his possession with intent to sell, offers or exposes for sale, or sells, any substance made in the semblance of lard, or as an imitation of lard, and which consists of any mixture or compound of animal or vegetable oils, or fats, other than hog fat, in the form of lard, shall cause the tierce, barrel, tub, pail or package containing the same to be distinctly and legibly branded or labeled "Lard substitute or compound," and every person who manufactures for sale, has in his possession with intent to sell, offers or exposes for sale or sells, any substance made in the semblance of lard or as an imitation of lard, or as a substitute for lard, and which is designed to take the place of lard, and which consists of any mixture or compound of lard with animal or vegetable oils or fats, shall cause the tierce, barrel, tub, pail or package containing the same to be distinctly and legibly branded or labeled either "adulterated lard," "lard compound," or "lard substitute." Such brands or labels shall be in letters not less than one inch in length and shall be followed with the name of the maker and factory, and the location of such factory. (Id. § 6483.)*

248. Substitutes, Packages Containing, Lard How Labeled.—Every dealer or trader who, by himself or agent, or as the servant or agent of another person, offers or exposes for sale, or sells any form of lard substitute or adulterated lard as hereinbefore defined, shall securely affix or cause to be affixed to the package wherein the same is contained, offered for sale or sold, a label, upon the outside and face of which is distinctly and legibly printed in letters not less than one-half inch in length, the words "lard substitute" or "adulterated lard" or "lard compound," or other appropriate word which shall correctly express its nature and use. (Id. § 6484.)*

249. Having in Possession, Prima Facie Evidence of Intent to Sell.—The having in possession of any lard substitute or adulterated lard or lard compound as hereinbefore defined, which is not branded or labeled as hereinbefore required and directed, upon the part of any dealer or trader, or any person engaged in the public sale of such articles, shall for the purpose of this act be deemed prima facie evidence of intent to sell the same. (Id. §§ 6485.)*

250. Appointment of Inspectors, Etc.—Any city or village in this State may appoint an inspector or inspectors of animals and meat supplies intended for human consumption therein, license the sale thereof, provide for the regulation

*Act 193 of 1895. See Nos. 6-7.

of slaughterhouses wherein such animals intended for use as human food in such city or village are slaughtered, and the markets and places where meat intended for consumption as human food is kept or offered for sale within such city or village, the vehicle in which such meat is transported, or from which same is sold, offered for sale or disposed of for said purpose; and cause to be erected and maintained a public abattoir therein and regulate the use thereof. (Id. § 6498.)

251. When to Have License; Statement, What to Contain; Further Statement; When Clerk to Issue License; Who May Revoke.—No person or persons shall vend or offer for sale in any city or village having an inspector of meats as provided by this act,* any meat intended for human consumption, whether slaughtered within such city or village or elsewhere, unless licensed so to do by the board of health of such city or village. Any person or persons desiring so to do may apply to the board of health of such city or village for a license; but the clerk shall not issue same until the applicant therefor presents a statement in writing signed by him which shall state fully and explicitly:

(a) The name and residence of said applicant.
 (b) The exact location or place from which said applicant obtains his meats, whether slaughtered by himself in whole or in part.
 (c) The manner in which said applicant intends to dispose of his meats when licensed.

(d) A written consent granting permission to the meat inspector, the health officer or his representative, or any member of the board of health, the mayor or any alderman of said city, or the president and trustees of said village free and open access to the slaughterhouse in which he proposes to slaughter and the market or vehicle owned, leased or occupied by him from which his meat is sold, for the purpose of making inspection of the said premises, market or vehicle. Blanks for such applications shall be furnished by the clerk. Each applicant for a license shall also stipulate in writing that he will faithfully conform and cause the slaughterhouse, market or vehicle owned, leased or occupied by him to comply in all respects with the requirements of the ordinance of said city or village enacted under the provisions of this act, and pay such license fee as shall be prescribed therein. The city or village clerk shall not issue any such license until the meat inspector shall have examined into the sanitary condition and cleanliness of the slaughterhouse to be used by the applicant, or the market where his meat is to be sold, or the vehicle in which it is to be transported or from which it is to be sold or offered for sale, and shall certify that same comply with the requirements of the ordinance in force therein. The mayor of said city or president of said village may at any time revoke and suspend any license issued pursuant thereto if, upon investigation and report of the meat inspector and after hearing the holder of such license summarily, he shall find the condition of the slaughterhouse where meat is slaughtered, or the market or vehicle or the meat offered for sale to be in violation of the provisions of said ordinance filthy or detrimental to the public health; which revocation shall continue until such person shall have fully complied with the requirements of this act and the provisions of the said ordinance. This section shall apply to slaughterhouses whether situated within or without the city or village limits. (Id. § 6499.)

252. When to Regulate Inspection by Ordinance.—Each city or village having a meat inspector under the provisions of this act shall establish by ordinance such tests and requirements in conformity herewith as are necessary for the purpose of excluding from within its limits for sale or use as human food any diseased or unwholesome meat, meat which has been prepared, dressed or stored in an unsanitary or filthy place, or handled or transported in an unsanitary or filthy manner; and each city or village shall authorize and empower its inspector or inspectors to enforce such tests and requirements, and shall provide and enforce suitable penalties for the violation of any provisions of such ordinance. (Id. § 6500.)

253. When to Appoint Inspector; Term of Office; to Report Violations.—Any city or village having enacted an ordinance under the provisions of this act shall immediately appoint a person qualified by education and experience to properly perform the duties of the office of inspector, who shall hold his office for one year and until his successor is appointed and qualified, and such deputies with like qualifications as may be necessary, who shall hold office for a like term; and such inspector and all deputy inspectors shall take an oath of office to faithfully and impartially discharge all the duties thereof. The inspector shall promptly report to the city or village attorney, or to the proper prosecuting officer

*Act 120 of 1903, included in Nos. 250-260.

for prosecution every violation of the ordinance in force in such city or village under the provisions of this act, and shall also report to the board of health of said city or village, at least monthly, in detail, all inspections made by him and all violations of said ordinance. (Id. § 6501.)

254. Requirements for Slaughterhouses.—Any city or village having enacted an ordinance under the provisions of this act shall specify the following requirements for all slaughterhouses within its limits:

(a) No slaughtering shall be done in barns, sheds, or other buildings not designed and not suitable for slaughtering animals and for the handling, dressing and cooling of meats; nor shall any slaughtering be done outside of a building.

(b) All slaughterhouses shall have an abundant supply of water from a well or other source which is not contaminated from the slaughterhouse or surrounding pens or enclosures, or in any part of the premises; and which may be applied with adequate pressure through a hose to any part of the room or rooms used for the purpose of slaughtering or preparing meats for consumption as human food.

(c) All slaughterhouses shall have suitable floors and sub-drainage with proper sewer connections, which floors shall be thoroughly washed off each day after the slaughtering is completed.

(d) The walls and all exposed surfaces on the inside of slaughterhouses shall be cleansed by washing or scraping as often as once in each month, and if the surfaces are not painted they shall be calcimined or whitewashed at least once a month.

(e) Cooling and store rooms for meat shall be properly ventilated.

(f) All offal and refuse shall be removed from the slaughterhouse on the day of slaughtering, and disposed of in a decent and sanitary manner.

(g) All animals kept in yards attached to slaughterhouses shall be treated in a humane manner, and, if kept there over twelve hours, shall be fed and watered.

(h) All pens or enclosures connected with any slaughterhouse shall be kept in a proper sanitary condition. (Id. § 6502.)

255. Failure to Comply With Outside Limits.—Any city or village having a meat inspector under the provisions of this act shall refuse to permit to be brought within its limits to be sold or offered for sale therein any meat from any slaughterhouse situated outside its limits whose owner, lessee or occupant has not conformed to the requirements specified in section 5 [6502] of this act, and the provisions of the ordinance enacted by said city or village pursuant to this act and in force therein. (Id. § 6503.)

256. Salary of Inspector, How Fixed; Fees.—Any city or village having an inspector under the provisions of this act shall appropriate out of its general funds such sums of money as shall be deemed proper for the salary of the inspector and his deputies; and in addition thereto, may apply the license fee and any fees accruing from the inspections of animals and meats, to be paid thereunder for that purpose, or require said fees to be covered into the city or village treasury. (Id. § 6504.)

257. Powers and Duties of Deputies.—All deputy inspectors shall have the same powers and perform all the duties devolving upon the inspector under his direction and superintendence, except that they shall make all reports required by this act to the inspector, by whom the same shall be reported as hereinbefore provided. (Id. § 6505.)

258. When Meat Not Subject to Inspection.—All meat which has been inspected by federal authority shall not be subject to local inspection, except as to the market, vehicle or place at or from which it is sold or offered for sale and as to changes, decomposition, etc. (Id. § 6506.)

259. Evidence in Prosecutions.—In all prosecutions for violation of any ordinance enacted pursuant to this act, the fact that any meat is found in any slaughterhouse, market or vehicle within such city or village shall be presumptive evidence that the same was intended for use as human food. (Id. § 6507.)

260. When May Establish Slaughterhouses; Proviso; Further Proviso.—No slaughterhouse shall be established or maintained nearer to the limits of any city or village than is prescribed by the law in this State: Provided, however, Any city or village having enacted and in force, an ordinance pursuant to this act may cause to be erected and maintain a public abattoir, in which all animals intended for human food within said city or village may be slaughtered, regulate the use thereof, and the terms upon which same may be used: Provided, further, That nothing in this act shall be construed to prevent any farmer from killing, dressing and selling, in the open market, unless diseased, any animal or fowl in-

tended for food that he has raised, fed or slaughtered, nor any dealer or merchant from buying or selling the same. (Id. § 6508.)

261. Adulterated Sausage, Unlawful to Sell, Etc.; Sausage, What Deemed—It shall be unlawful for any person or persons, by himself, herself or themselves, or by his, her or their agents, servants or employees, to sell, offer for sale, expose for sale, or have in possession with intent to sell, sausage that is adulterated within the meaning of this act.* Sausage when used in this act shall be deemed to include Bologna, Wienewurst and Frankforts. (Id. § 6509.)

262. What Held to be.—For the purpose of this act, sausage or sausage meat shall be held to be comminuted meat from neat cattle or swine, or a mixture of such meats, either fresh, salted, pickled or smoked, with added salt and spices, and with or without the addition of edible animal fat, blood and sugar, or subsequent smoking. It shall contain no larger amount of water than the meats from which it is prepared contain when in their fresh condition. (Id. § 6510.)

263. When Deemed Adulterated.—For the purpose of this act, sausage shall be deemed to be adulterated:

First, If it contains added water in excess of the quantity required to bring the amount up to that which the meats from which it is prepared contain immediately after slaughter;

Second, If it contains any cereal or vegetable flour;

Third, If it contains any coal-tar dye, boric acid or borates, sulphites, sulphur dioxide, sulphurous acid, or any other substances injurious or deleterious to health;

Fourth, If it contains any diseased, contaminated, filthy or decomposed substance; or is manufactured, in whole or in part, from a diseased, contaminated, filthy or decomposed substance, or a substance produced, stored, transported or kept in a way or manner that would render the article diseased, contaminated or unwholesome; or if it is any product of a diseased animal, or the product of any animal which has died otherwise than by slaughter. Nothing in this act shall be construed as prohibiting the sale of sausage which when properly labeled shall conform to the following standard: Sausage shall not contain cereal in excess of two per cent. When cereal is added its presence shall be noted on the label or on the product. That water or ice shall not be added to it except for the purpose of facilitating grinding, chopping and mixing, in which case the added water or ice shall not exceed three per cent except as provided in the following paragraph. Sausages of the class which are cooked or smoked, such as Frankfort style, Vienna style and Bologna style, may contain added water in excess of three per cent, but not in excess of amount sufficient to make the sausage palatable. When water in excess of three per cent is added to this class of sausage, the statement "Sausage, water and cereal" shall appear on the label or on the product, but when no cereal is added, the addition of water need not be stated. (Id. § 6511.)

264. Misdemeanor, Penalty.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars, nor more than two hundred dollars, or to undergo an imprisonment of not less than thirty days, nor more than sixty days, or both or either, in the discretion of the court. (Id. § 6512.)

265. Enforcement.—The Dairy and Food Commissioner† shall be charged with the enforcement of the provisions of this act. (Id. § 6513.)

266. Sale of Immature Calves; Age Limit.—No person shall for the purpose of selling, kill a calf less than four weeks old, and no person shall sell the meat of any such calf or have the same in his possession with intent to sell the same either by himself, his agents, or servants. (Id. § 6514.)

267. Penalty.—Whoever shall do any of the acts or things prohibited by this act,‡ or in any way violate any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and the costs of the prosecution, or by imprisonment in the county jail not more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6515.)

268. Sanitary Conditions.—Hereafter all dressed calves, sheep, hogs and beeves, or any portion of the same, when being shipped or transported by freight or express, shall be kept in a clean and sanitary manner. Any carcass or any

*Act 151 of 1913, included in Nos. 261-265.

†Department of Agriculture. See No. 28.

‡Act 340 of 1913, included in Nos. 266-267.

portion thereof, which shall be transported in any car, shall when practicable be hung in such car, during such transportation. Such carcass, when tendered for shipment, shall be covered with clean covers of cloth of such texture as to exclude all dirt and dust: Provided, This shall not apply to carcasses shipped with the hides left on. (Supp. 1922, § 6516 (1).)

269. Penalty.—Any person or persons, firm or corporation, violating any of the provisions of this act,* shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred dollars, or by imprisonment for a term of not more than three months, or by both such fine and imprisonment in the discretion of the court. (Id. § 6516 (2).)

270. Enforcement.—It shall be the duty of the State Dairy and Food Commissioner† to enforce the provisions of this act. (Id. § 6516 (3).)

NOTE: See also Nos. 3, 23, 97, 147, 299-300, and 463a.

Mill Products.

See Nos. 462, 463a, and 479-485.

Molasses.

See No. 83.

Nutmegs.

See No. 277.

Pepper, Etc.

271. Sale or Manufacture of Adulterated Pepper Prohibited; Pepper, What to Contain.—Within this State no person, firm or corporation shall manufacture, offer or expose for sale, keep in possession with intent to sell, or sell any ground or whole black pepper containing any foreign substance whatever. All black pepper shall contain not more than six and one-half per cent ash or mineral matter; and shall contain not less than twenty-five per cent starch as determined by the diastase method; and shall contain not less than six-tenths of one per cent nor more than one and three-fourths per cent of volatile ether extract; and shall contain not more than ten per cent nor less than six and one-half per cent of non-volatile ether extract, and shall contain not more than sixteen per cent of crude fibre. (C. L. 1915, § 6519.)

272. Penalty for Violation.—Whoever shall do any of the acts or things prohibited or neglects or refuses to do any of the acts or things enjoined by this act,‡ or in any way violates any of its provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than twenty-five dollars nor more than five hundred dollars and the costs of the prosecution or by imprisonment in the county jail not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 6520.)

273. Standards Fixed for Black Pepper.—No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole black pepper which contains not less than six and seventy-five hundredths per cent of non-volatile ether extract, not less than thirty per cent of starch, not more than seven per cent of total ash, nor more than one and five-tenths per cent of ash insoluble in hydrochloric acid. (Supp. 1922, § 6520 (1).)

274. Standards for White Pepper.—No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole white pepper which contains not less than seven per cent of non-volatile ether extract, not less than fifty-two per cent of starch, not more than five per cent of crude fiber, not more than three and five-tenths per cent of total ash, nor more than [sic] three-tenths per cent of ash insoluble in hydrochloric acid. (Id. § 6520 (2).)

275. Standards for Red Pepper.—No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole red pepper

*Act 90 of 1917, included in Nos. 268-270.

†Department of Agriculture. See No. 28.

‡Act 180 of 1901, included in Nos. 271-272.

which contains not more than eight per cent of total ash, nor more than one per cent of ash insoluble in hydrochloric acid. (Id. § 6520 (3).)

276. Standards for Cloves.—No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver any ground or whole cloves which contain not more than five per cent of clove stems, not less than fifteen per cent of volatile [non-volatile?] ether extract, not less than twelve per cent of quercitannic acid (calculated from the total oxygen absorbed by the aqueous extract), not more than ten per cent of crude fiber, not more than seven per cent of total ash, nor more than five-tenths per cent of ash insoluble in hydrochloric acid. (Id. § 6520 (4).)

277. Standards for Nutmegs.—No person, firm or corporation shall manufacture for sale, or expose for sale, sell, exchange or deliver or have in his possession with intent to sell, exchange or deliver, any ground or whole nutmegs which contain not less than twenty-five per cent of non-volatile ether extract, not more than ten per cent of crude fiber, not more than five per cent of total ash, nor more than five-tenths per cent of ash insoluble in hydrochloric acid. (Id. § 6520 (5).)

278. Penalty.—Any person who shall violate any of the provisions of this act* shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not more than five hundred dollars and costs of prosecution or by imprisonment in the county jail not more than one hundred days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6520 (6).)

Potatoes.

See Nos. 26, 218 et seq., and 462.

Syrup, Etc.

279. Unlawful to Sell, Adulterated Maple Sugar, Etc.—It shall be unlawful for any person, dealer, firm, manufacturer or corporation to manufacture and sell, or offer for sale, any maple sugar, maple molasses or maple syrup that is in anywise adulterated with common sugar, beet sugar, glucose or any other foreign substance without distinctly marking, stamping or labeling the article or the package containing the same with the true and appropriate name of such article and the percentage in which common sugar, beet sugar, glucose or any other foreign substance enters into the composition of the same. (C. L. 1915, § 6468.)

280. Violation a Misdemeanor; Penalty.—Any person, dealer, firm, manufacturer or corporation who shall sell or offer for sale, and who shall falsely stamp or misrepresent or label any cans, jugs, jars, or packages containing maple molasses or maple syrup, and any person, dealer, firm, manufacturer or corporation who shall sell or offer for sale any maple sugar that is in anywise adulterated, who falsely misrepresents or labels or stamps the same, or knowingly permits such misrepresentation or false stamping or labeling, shall be deemed guilty of a misdemeanor and punished with a fine not less than fifty dollars, in case of vendor, and in the case of manufacturers and those falsely or fraudulently stamping or labeling or misrepresenting such goods, shall be fined not less than five hundred dollars, nor more than one thousand dollars, and it shall be the duty of any board of health in this State, or food commissioner†, should there be one, cognizant of any violation of this act‡ to prosecute any person, dealer, firm, manufacturer, or corporation, which it has reason to believe has violated any of the provisions of this act, and after deducting the costs of trial and conviction the balance of fine recovered, one-half be placed in the township treasury wherein the conviction is made, the balance placed to the general fund of the county. Any [person] persons, dealer, firm, manufacturer or corporation who shall knowingly sell or offer for sale any cans, jugs, jars, or packages containing maple molasses, maple syrup, or maple sugar, that is in anywise adulterated, shall be deemed guilty of a misdemeanor and punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period not to exceed three months, or by both such fine and imprisonment, at the discretion of the court. (Id. § 6469.)

*Act 418 of 1919, included in Nos. 273-278.

†Department of Agriculture. See No. 28.

‡Act 170 of 1893, included in Nos. 279-281.

281. Penalty for Falsely Stamping, Etc.—Any person, dealer, firm, manufacturer, or corporation, who shall falsely stamp or misrepresent or label any cans, jugs, jars or packages, containing maple molasses, or maple syrup, or maple sugar, that is in anywise adulterated, or knowingly permits such [misrepresentation] misrepresentations or false stamping or labeling, shall be deemed guilty of a misdemeanor, and punished by a fine, not more than five hundred dollars, or by imprisonment in the county jail for a period of not more than one year, or by both such fine or imprisonment, in the discretion of the court. (Id. § 6470.)

282. Syrups, How Labeled and Marked.—No person shall offer or expose for sale, have in his possession with intent to sell, or sell, any cane syrup, beet syrup, or glucose, unless the barrel, cask, keg, can, pail or package containing the same be distinctly branded or labeled with the true and appropriate name; nor shall any person offer or expose for sale, have in his possession with intent to sell, or sell any cane syrup or beet syrup mixed with glucose unless the barrel, cask, keg, can, pail or package containing the same be distinctly branded or labeled "Glucose Mixture" or "Corn Syrup" in plain Gothic type not less than three-eighths of an inch square, with the name and percentage by weight of each ingredient contained therein plainly stamped, branded or stenciled on each package in plain Gothic letters not less than one-quarter of an inch square. Each and every package of syrup either simple or mixed shall bear the name and address of the manufacturer. Such mixtures or syrups shall have no other designation or brand than herein required that represents or is the name of any article which contains a saccharine substance; and all brands or labels required shall be an inseparable part of the general or distinguishing label, and that the general or distinguishing label shall be that principal and conspicuous sign under which it is sold. (Id. § 6471.)

283. Penalty for Violation.—Whoever shall do any of the acts or things prohibited, or neglect or refuse to do any of the acts or things required by this act,* or in any way violate any of the provisions, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than thirty nor more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6472.)

NOTE: See also No. 83.

Vinegar.

284. Unlawful to Sell, Etc.—No person shall manufacture for sale, offer or expose for sale, sell or deliver, or have in his possession with intent to sell or deliver, any vinegar not in compliance with the provisions of this act.† (C. L. 1915. § 6458.)

285. "Vinegar" Defined.—The word "vinegar" as used herein is limited to a water solution of acetic acid derived by the alcoholic and subsequent acetous fermentations of fruits, grain, vegetables, sugar or syrups, and if not distilled must carry in solution the extractive matter derived solely from the substances indicated on the label as its source. (Id. § 6459.)

286. "Cider Vinegar" Defined; Container to be Branded.—No vinegar shall be sold or exposed for sale as apple or cider vinegar which is not the legitimate product of pure apple juice. The term "cider vinegar" as used herein shall be construed to mean vinegar derived by the alcoholic and subsequent acetous fermentation of the expressed juice of apples, the acidity, solids and ash of which have been derived exclusively from apples, and which contains not less than four per cent of absolute acetic acid. Cider vinegar which during the course of manufacture has developed in excess of four per cent acetic acid, may be reduced to a strength of not less than four per cent, and cider vinegar so reduced shall not be regarded as adulterated. Every manufacturer or producer of cider vinegar shall plainly brand on the head of the cask, barrel or keg or other container of such vinegar, his name, place of business, and the words "fermented cider vinegar," and no person shall mark or brand as cider vinegar any package containing that which is not cider vinegar. Any vinegar sold or offered for sale shall be marked or branded plainly upon the package or container from which it is sold and also on the original package or container in which it is sold or delivered, in a manner to show its true character and source. (Id. § 6460.)

*Act 123 of 1903, included in Nos. 282-283.

†Act 384 of 1913, included in Nos. 284-292.

287. Sugar Vinegar.—All sugar vinegar sold or exposed for sale as such shall be strictly and distinctly fermented from sucrose, molasses or refiner's syrup. (Id. § 6461.)

288. Malt Vinegar.—No vinegar shall be sold or exposed for sale as malt vinegar which is not fermented strictly and distinctly from barley malt, or cereals whose starch has been converted to malt. (Id. § 6462.)

289. Vinegar, What Not to Contain.—No vinegar shall be sold or exposed for sale in which foreign substances, drugs or acids shall have been introduced. No vinegar shall contain any artificial coloring matter, and all vinegar shall have an acidity of not less than four per cent by weight of absolute acetic acid. If vinegar contains any artificial matter, or less than the required amount of acidity, it shall be deemed to be adulterated. (Id. § 6463.)

290. "Fermented" Vinegar.—All vinegar made by fermentation and oxidation without the intervention of distillation, shall be branded "fermented" vinegar, with the name of the fruit or substance from which such vinegar has been made. (Id. § 6464.)

291. "Distilled" Vinegar.—All vinegar made by acetous fermentation of dilute distilled alcohol shall be branded "distilled" vinegar, together with the name of the substance or substances from which it is made, and all vinegar made wholly or part from distilled vinegar shall be conspicuously labeled "distilled vinegar." (Id. § 6465.)

292. Penalty.—Whoever violates any of the provisions of this act shall, upon conviction, be punished by a fine of not more than two hundred dollars or imprisonment in the county jail not to exceed six months or both such fine and imprisonment in the discretion of the court. (Id. § 6466.)

NOTE: See also No. 399.

Water.

See No. 45.

Wheat.

293. Penalty for Selling, Etc., as Michigan Wheat, Wheat Not Raised in Michigan.—If any person or persons shall knowingly sell or offer for sale, or cause to be sold or offered for sale, any wheat not raised in Michigan, falsely pretending or representing to the public or any purchaser, or in the market, by any brand, device, or representation, or by word or writing, that the same is a Michigan product, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars and not less than two hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or both fine and imprisonment, in the discretion of the court. (C. L. 1915, § 7146.)

294. Penalty for Selling, Etc., Mixed Wheat as Wholly Michigan Wheat.—If any person or persons shall knowingly mix or cause to be mixed any wheat not raised in Michigan with Michigan wheat with intent to sell or offer the mixture for sale under the representation that the same is wholly Michigan wheat, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars and not less than two hundred dollars, or by imprisonment in the county jail for a period not exceeding six months, or both by fine and imprisonment, in the discretion of the court. (Id. § 7147.)

295. Persons Selling Liable for Damages.—Any person or persons who shall sell to another any wheat as Michigan wheat or the product of this State, knowing the same to be in whole or in part the product of any other State or country, shall be liable to the person or persons to whom the same is so sold in an action on this statute for double the amount of damages which he shall have sustained by reason of any breach in the contract of sale. (Id. § 7148.)

296. Exception to Foregoing Provisions.—The provisions of the foregoing section [sections] of this act* shall not apply in cases where wheat is brought to market in this State by teams from adjoining localities in other States. (Id. § 7149.)

Sanitation.

297. Food Establishments; Employment of Diseased Persons; Physical Examination.—No person who is affected with any infectious disease, or

*Act 141 of 1875, included in Nos. 293-296.

with any venereal disease in a communicable form, shall work or be permitted to work in any place where food or drink is prepared, cooked, mixed, baked, exposed, bottled, packed, handled, stored, manufactured, offered for sale or sold. Whenever required by any local health officer, any person employed in any such place shall submit to a physical examination by such officer, or by some physician designated by such health officer or by a physician regularly in the employ of the person, firm, corporation or institution by whom the person to be examined is employed. If as a result of such examination, such person shall be found to be affected with any infectious disease, or with any venereal disease in a communicable form, such employment shall immediately cease and such person shall not be permitted to work in any such place. (Supp. 1922, § 5145(5).)*

298. Penalty.—Any person, knowingly affected with any infectious disease, or with any venereal disease in a communicable form who shall work in any place defined in section 1 [5145(5)], and any person knowingly employing or permitting such person to work in such place, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding two hundred and fifty dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment in the discretion of the court. (Id. § 5145(6).)

299. Sanitary Condition; Storage of Unfit Food.—It shall be unlawful to permit filthy or insanitary conditions to exist in the operation of any warehouse, cold storage plant, slaughterhouse or other place within the State in which food intended for human consumption is manufactured for sale, slaughtered, received, kept, stored, sold or offered for sale, and it shall further be unlawful to place, receive or keep, or distribute in or from any warehouse, cold storage plant, slaughterhouse, store or other place where food products intended for human consumption are kept, any article intended for sale as food if same is diseased, decomposed, putrid, infected or tainted. (Id. § 6535 (14).)†

300. Dairy and Food Commissioner; Powers and Duties.—The Dairy and Food Commissioner‡ shall make necessary rules and regulations to carry into effect all legislative enactments pertaining to the manufacture for sale, receiving, keeping, storing, selling or offering for sale of food products intended for human consumption, and such Commissioner, his deputy or inspectors shall, for the purposes of inspection and to take samples for analysis, have right to entrance to warehouses, cold storage plants, slaughterhouses and other places where food products are manufactured for sale, placed, received, kept, stored, sold or offered for sale. (Id. § 6535 (15).)

NOTE: See also No. 36; the baked goods law, No. 46 et seq.; the beverage law, No. 48 et seq.; the canned goods law, No. 70 et seq.; the dairy law, No. 88 et seq.; the meat inspection law, No. 250 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

301. What to Constitute a Misdemeanor Under This Act.§—Any person who sells, lends, gives away, or offers to sell, lend, or give away, or shows, or has in [his] possession with intent to sell, lend, or give away, or to show or advertise, or who offers to loan, give, sell, or distribute any obscene, immoral, lewd, lascivious, or indecent book, magazine, pamphlet, newspaper, writing, paper, print, picture, drawing, publication, or photograph, or any article or instrument of indecent or immoral use, or who designs, copies, draws, photographs, prints, utters, publishes, or otherwise prepares such a book, picture, drawing, paper, or other article or thing, or writes or prints, or causes to be written or printed, a circular, advertise-

*Act 25 of 1919, included in Nos. 297-298.

†Act 344 of 1917, included in Nos. 299-300.

‡Department of Agriculture. See No. 28 et seq.

§Act 138 of 1885, included in Nos. 301-302.

ment, or notice of any kind, or gives information orally stating when, where, how, or of whom, or by what process such obscene article or thing can be purchased or obtained; or second, any person who sells, lends, gives away, or shows, or has in his possession with intent to sell, or give away, or to show, advertise, or otherwise offers for loan, gift, or distribution, any book, pamphlet, magazine, newspaper, or other printed paper, devoted to the publication or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime; or third, any person who in any manner hires, uses, or employs any minor child to sell, or give away, or in any manner to distribute, or who having the care, custody, or control of any minor child, permits such child to sell, give away, or in any other manner to distribute any book, magazine, pamphlet, newspaper, story paper, writing paper, picture, drawing, photograph, or other article or matter coming within the descriptions of articles and matter mentioned in the first and second subdivisions of this section or any of them, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment in the discretion of the court. (C. L. 1915, § 15476.)

302. Duty of Municipal Courts and Justices as to Warrants for Seizure; Confiscation of Property Seized.—All municipal courts and justices of the peace, on complaint supported by oath or affirmation, that any person has in his possession or control any indecent books, papers, articles, and things described in this act, shall issue a warrant directed to the sheriff of the county, within which such complaint shall be made, or to any constable, marshal, or police officer within said county directing him, them, or any of them to search for, seize, and take possession of, such obscene and indecent books, papers, articles, and things, and said court or justice of the peace shall, upon conviction of the person or persons offending, under the law, any of the provisions of this act, forthwith in the presence of the person or persons upon whose complaint the said seizure or arrest is made, if he or they shall, after notice thereof elect to be present, destroy, or cause to be destroyed, the aforesaid books, papers, articles or things, and shall cause to be entered upon the records of his court the fact of such destruction. (Id. § 15477.)

303. Prohibiting the Printing, Etc., of Virtues of Medicine in Immoral Language; Penalty; Each Appearance of Such Publication a New Offense.—No person or persons, their agents or clerks, shall print, stamp, or engrave on any cards, bills, or posters for public display or advertisement, or publish in any newspaper in the State of Michigan, the virtues or applications and its or their effects of any such patent and other simple or compound medicine, in language of immoral tendency or of ambiguous character. Any person or persons, their agents or clerks, who shall fail to comply with the requirements herein expressed, shall be deemed guilty of a misdemeanor, and shall be liable to a fine not less than fifty nor more than one hundred dollars, or to imprisonment in the county jail not exceeding three months, or both, for each and every offense. Any proprietor or proprietress of any newspaper published in the State of Michigan, who shall permit any such publications to appear in consecutive issues, each and every day shall be deemed a new and separate offense, and shall be liable to a penalty as herein expressed. (Id. § 15521.)*

304. Penalty for Publishing, Etc., Circulars, Etc.—The publication or sale within this State of any circular, pamphlet, or book containing recipes or prescriptions in indecent or obscene language for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compounds designed to prevent conception, or tending to produce miscarriage or abortion is hereby prohibited; and for each copy thereof, so published and sold, containing such prohibited recipes or prescriptions, the publisher and seller shall each be deemed guilty of a misdemeanor, and shall be liable to the same penalties provided for a violation of the preceding section. (Id. § 15522.)

305. Sale of Drugs for Purpose of Procuring Abortions Prohibited.—No person shall in any manner, except as hereinafter provided, advertise, publish, sell, or publicly expose for sale any pills, powders, drugs, or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion. (Id. § 15523.)

306. When Drugs Designed for Procuring Abortions May be Sold; Person Selling to Keep Record of Sales, Etc.—Any drug or medicine known to be designed and expressly prepared for producing an abortion, shall only be sold upon the written prescription of an established practicing physician of the city, village, or township in which the sale is made; and the druggist or dealer selling the same

*Act 106 of 1869, included in Nos. 303-304.

shall, in a book provided for that purpose, register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold, and the name and residence of the physician prescribing the same. (Id. § 15524.)

307. Penalty.—Any person violating any of the provisions of this act,* shall upon conviction thereof, be punished by a fine of not less than twenty-five nor more than one hundred dollars, in the discretion of the court. (Id. § 15525.)

Distribution of Samples.

308. Free Distribution of Medicines Prohibited.—The free distribution of all medicines of every kind and nature from house to house, or from any vehicle, is hereby prohibited. (C. L. 1915, § 6331.)

309. Penalty.—Any person, firm or corporation, or any servant, agent or employee thereof who violates the provision of this act† shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 6332.)

Insecticides and Fungicides.

310. Adulteration Unlawful.—It shall be unlawful for any person to manufacture, sell, offer or expose for sale within the State of Michigan any insecticide, Paris green, lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act;‡ and any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed two hundred dollars for the first offense, and upon conviction for each subsequent offense shall be fined not to exceed three hundred dollars, or sentenced to imprisonment in the county jail for a period not exceeding ninety days, or both in the discretion of the court. (C. L. 1915, § 15591.)

311. Uniform Rules, Etc.—The State Board of Agriculture shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examinations of specimens of insecticides, Paris green, lead arsenates, and fungicides manufactured or offered for sale in the State of Michigan. (Id. § 15592.)

312. Examination of Specimens; Hearing.—The examination of specimens of insecticides, Paris greens, lead arsenates, and fungicides shall be made at the agricultural college by such existing departments as may be directed by the State Board of Agriculture for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the State Board of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the State Board of Agriculture shall at once certify the facts to the Attorney-General, or prosecuting officer of the county in which the offense is committed, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid. (Id. § 15593.)

313. Prosecutions.—It shall be the duty of the Attorney-General or other prosecuting officer to whom the State Board of Agriculture shall report any violation of this act, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the State of Michigan without delay, for the enforcement of the penalties as in such case herein provided. (Id. § 15594.)

314. Terms Defined.—The term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any insects which may infest vegetation, man or ani-

*Act 138 of 1873, included in Nos. 305-307.

†Act 148 of 1907, included in Nos. 308-309.

‡Act 254 of 1913, included in Nos. 310-319.

imals, or households, or be present in any environment whatsoever. The term "Paris green" as used in this act shall include the product sold in commerce as Paris green, and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_2AsO_4) by replacing one or more hydrogen atoms by lead. The term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever. (Id. § 15595.)

315. Adulterated Paris Green Defined.—For the purpose of this act an article shall be deemed to be adulterated, in case of Paris green:

First, If it does not contain at least fifty per centum of arsenious oxide;

Second, If it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide;

Third, If any substance has been mixed and packed with it so to reduce or lower or injuriously affect its quality or strength;

In the case of lead arsenate:

First, If it contains more than fifty per centum of water;

Second, If it contains total arsenic equivalent to less than twelve and one-half per centum arsenic oxide (As_2O_3);

Third, If it contains arsenic in water-soluble forms equivalent to more than seventy-five one hundredths per centum of arsenic oxide (As_2O_3);

Fourth, If any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength: Provided, however, That extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of insecticides or fungicides, other than Paris green and lead arsenate:

First, If its strength or purity fall below the professed standard or quality under which it is sold;

Second, If any substance has been substituted wholly or in part for the article;

Third, If any valuable constituent of the article has been wholly or in part abstracted;

Fourth, If it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, shall be injurious to such vegetation when used as recommended by the manufacturer. (Id. § 15596.)

316. False Branding, Defined.—The term "misbranded" as used herein shall apply to all insecticides, Paris green, lead arsenates, or fungicides or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, Paris green, lead arsenates, or fungicides which are falsely branded as to the State, territory, or country in which they are manufactured. For the purpose of this act an article shall be deemed to be misbranded, in the case of insecticides, Paris greens, lead arsenates and fungicides:

First, If it be an imitation or offered for sale under the name of another article;

Second, If it is labeled or branded so as to deceive or mislead the purchaser, or if the contents of the packages as originally put up shall be removed in whole or in part and other contents shall have been placed in such packages;

Third, If in package form, and the contents are stated in terms of weight and measure, they are not plainly and correctly stated on the outside of the package; in this connection it is held to be permissible to state the average net weight of the package.

In the case of insecticides (other than Paris green and lead arsenates) and fungicides:

First, If it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum or metallic arsenic) is not stated on the label;

Second, If it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum or metallic arsenic) is not stated on the label;

Third, If it does not state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide

having insecticidal or fungicidal properties and the total percentage of inert ingredients present. (Id. § 15597.)

317. Guaranty.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the State of Michigan from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case, said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under this act. (Id. § 15598.)

318. "Person" Defined.—The word "person" as used in this act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association, within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the other person. (Id. § 15599.)

319. Expense, How Paid.—The necessary expense incurred in carrying out the provisions of this act, shall be paid by warrant of the auditor general drawn upon the State Treasurer. Such expenses shall be certified to the auditor general by the State Board of Agriculture, but the total amount to be paid in any one fiscal year shall not exceed five hundred dollars. (Id. § 15600.)

320. Unlawful Manufacture or Sale.—It shall be unlawful for any person, firm or corporation to manufacture, compound, sell or offer for sale, or cause to be manufactured, compounded, sold or offered for sale, any fly paper or other form of fly killer which contains arsenic or other poison in sufficient quantity to be dangerous to the life or health of persons, unless same, when so manufactured, compounded, sold or offered for sale, shall be so prepared, constructed or guarded that when in use said poisonous paper, substance, compound or solution shall be inaccessible to children or other persons who might eat, drink or swallow the same, or any portion thereof. (Id. § 6344.)

321. Penalty.—Any person, firm or agent of a corporation violating any of the provisions of this act* shall be guilty of a misdemeanor, and upon conviction thereof for the first offense shall be fined not more than one hundred dollars or imprisoned in the county jail for a period not to exceed two months, or both, and for each succeeding offense shall be fined not less than fifty dollars nor more than three hundred dollars, or imprisoned in the county jail for a period not less than two months nor more than nine months, or by both such fine and imprisonment. (Id. § 6345.)

NOTE: See also Nos. 28-29.

Pharmacy, Poisons and Narcotics.

322. Board of Pharmacy, Appointment of; Term.—The Governor, with the advice and consent of the Senate, shall, within thirty days after the passage of this act,† appoint five persons and annually thereafter one person from among such competent pharmacists in the State as have had ten years' practical experience in dispensing physicians' prescriptions, who shall constitute the Michigan Board of Pharmacy. The terms of office of said five persons shall be so arranged that the term of one shall expire on the thirty-first day of December of each year, and all appointments made thereafter shall be for the term of five years, and until their successors are appointed and qualified. (Supp. 1922, § 6760.)

323. Officers.—The said board shall, within thirty days after its appointment, meet and organize, by the election of a president and vice-president from its own members who shall hold their respective offices for the term of one year, and until their successors are elected and qualified, and shall perform such duties as shall from time to time be prescribed by the board. Any person authorized to receive money for the board, before entering upon his duties shall give bond to the people of the State conditioned for the faithful receipt, disbursement and accounting for, in accordance with this act, of all moneys that may come into

*Act 269 of 1915, included in Nos. 320-321.

†Act 134 of 1885 as amended, included in Nos. 322-354.

his hands in an amount to be fixed by the board, undersigned by a responsible surety company at the expense of the board, to be at all times under the approval of the State administrative board which bond shall be filed in the office of the Secretary of State. (Id. § 6761, as amended P. A. 1925, No. 58.)

324. Salary; Per Diem; Annual Report.—The members of the board shall each receive the sum of five dollars for every day actually engaged in the service of the board, and also all their traveling and other necessary expenses incurred in the performance of their official duties. Said salaries, per diem and expenses shall be paid from the fees received under the provisions of this act. The board shall at the close of each fiscal year, cause to be made an annual report to the State administrative board and to the Michigan State Pharmaceutical Association of all moneys received by and disbursed by it under the provisions of this act. (Id. § 6762.)

325. May Make By-Laws, Etc.—The State Board of Pharmacy shall have the power: To make such by-laws, rules and regulations not inconsistent with the laws of the State, as may be necessary for the protection of the public health and the lawful performance of its powers; to investigate all complaints as to quality and strength of all drugs and medicines, and to take such action as said board may deem necessary to prevent the sale of drugs and medicines that are adulterated or misbranded under act number one hundred forty-six, Public Acts of nineteen hundred nine,* and acts amendatory thereof, entitled "An act to prohibit and prevent adulteration, misbranding, fraud and deception in the manufacture and sale of drugs and drug products in the State of Michigan, and to provide for the enforcement thereof," and any other law of the State; to employ such persons as the said board may deem necessary and shall authorize, at such salaries as shall be approved by the State Administrative Board who, besides the members of the board, may inspect during business hours all pharmacies, dispensaries, stores or places in which drugs, medicines and poisons are compounded, dispensed, or retailed, all inspectors and other employees to receive their traveling and other necessary expenses incurred in the performance of their duties; to hold meetings at such places in this State as the board may determine for the examination of applicants for registration and the transaction of such other business as shall pertain to the duties of the board five times each year, said meetings to be held on the third Tuesday in the months of January, March, June, August and November, and to hold such special meetings as shall from time to time be deemed necessary by a majority of the board for the due performance of the duties of the board; to send such representation from the membership of the board to meetings of the American Pharmaceutical Association as a majority of the board may deem expedient and necessary, if the board decide that such attendance will assist them in establishing better protection for the public and aid the board in better performance of its duties; to license druggists; to keep a book of registration in which shall be entered the names and places of business of all persons registered under this act, which book shall also specify such facts as all such persons shall claim to justify their registration. The records of said board or a copy of any part thereof, certified by any officer of the board to be a true copy, attested by the seal of the board, shall be accepted as competent evidence in all courts of the State. Three members of said board shall constitute a quorum; to examine all applicants for registration, and to issue two grades of certificates to be known respectively as that of "registered pharmacist" and "registered assistant pharmacist"; to investigate all alleged violations of the provisions of this act or any other law of this State regulating the dispensing or sale of drugs, medicines or poisons or the practice of pharmacy which may come to its attention and whenever there appears reasonable cause therefor to bring the same to the attention of the proper prosecuting authorities. (Id. § 6763.)

326. Registration and License; Annual Renewal; Violation.—From and after the first day of July, nineteen hundred twenty-one, it shall be unlawful for any person, firm or corporation to engage in the business of selling at retail, drugs and poisons or compounding prescriptions, except those who are exempted from registration under section 18 of this act [6778] without first securing from the State Board of Pharmacy a license as hereinafter provided for each separate place in which said business is to be carried on. Application for such license shall be in writing and shall be accompanied by a payment to said board of the sum of three dollars as a license fee. Such licenses shall be valid for a period of one year commencing on July first and ending on the thirtieth day of the next

*See Nos. 9-19.

June, and such license shall contain the name of the licensee and the address of the place at which such business will be conducted. Every person, firm or corporation, and every member or officer thereof, that shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be liable to the penalties provided in section 32 of this act [6792]. (Supp. 1922, § 6764.)

327. Apprentices; Examination; Registration; Fee.—It shall be the duty of registered pharmacists who take into their employ an apprentice for the purpose of becoming a pharmacist to require such applicant to apply to said board of pharmacy for registration as apprentice, and the said Board of Pharmacy shall have the right to require such an examination as shall establish the educational qualifications of the applicant, and the date of experience required of applicants for assistant or registered pharmacists, shall be computed from the date of registration as apprentice. In computing the period of service as an apprentice under this act, forty-eight hours shall be construed as one week's time. The board of pharmacy shall furnish proper blanks for this purpose and issue a certificate of registration as a registered apprentice upon payment of one dollar. (Id. § 6764(1).)

328. Certificate Exposed; Record of Certificates.—Every person receiving a certificate or license under this act shall keep the same conspicuously exposed in his place of business, and every registered pharmacist or registered assistant pharmacist shall within ten days after changing his place of business or employment, as designated by his certificate, notify the board of his new place of business or employment. The board shall preserve and keep a record of all certificates issued by former boards and keep a record of all certificates issued by it, and such records shall at all times be open to inspection, as are other public records. (Id. § 6765, as amended P. A. 1925, No. 58.)

329. Expiration of Certificates.—Any person who shall, at the time this act takes effect, lawfully hold a certificate as a registered pharmacist or assistant registered pharmacist, shall be entitled to the privileges granted by such certificate until January one, nineteen hundred six, and no longer, and such persons shall be entitled to re-registration on or before January one, nineteen hundred six, without examination upon payment of the fees herein specified. (C. L. 1915, § 6766.)

330. Pharmacy or Drug Store, What Deemed.—From and after the taking effect of this act, every place in which drugs, medicines or poisons are retailed or dispensed or physicians' prescriptions compounded, shall be deemed a pharmacy or drug store, and the same shall be in charge of and under the supervision of a registered pharmacist, and subject to the provisions of this act. (Id. § 6767.)

331. Morphine, Etc., Unlawful Sale of.—Any person registered under the provisions of this act who shall give, sell, furnish, or offer for sale, directly or indirectly, any morphine, its salts and its derivatives, except to or upon the order of legally practicing physicians, dentists, veterinary surgeons, original prescriptions which shall not be refilled or a copy thereof given to any person, shall be guilty of a misdemeanor, and upon conviction of same shall be punished by a fine or imprisonment or both, as hereinafter provided: Provided, That the above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers, to retail druggists or legally practicing physicians, or to each other, or to druggists and pharmacists if sold in original packages only, nor to sales at retail by retail druggists to regular practitioners of medicine, dentistry or veterinary medicine, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparations, nor to sales to hospitals, colleges, scientific or public institutions. (Id. § 6768.)

332. Application.—Except as specified in section seven of this act [6766], no person shall be granted a certificate as a registered assistant pharmacist, until he shall have made written application to said board setting forth in an affidavit that he is at least eighteen years of age, and has had not less than two years' practical experience in pharmaceutical work where drugs, medicines and poisons were dispensed and retailed, and prescriptions compounded, and furnished satisfactory evidence to the board that he has completed the equivalent to tenth grade work in the public schools, and shall have paid such fees as shall have been fixed by the board, not exceeding ten dollars, as an examination fee and ten dollars as a certificate fee, and shall have passed an examination satisfactory to said board for the granting of such certificate. A registered assistant pharmacist may be employed for the purpose of dispensing, compounding or retailing drugs, medicines and poisons, in any pharmacy, drug store or place in which drugs, medicines and

poisons are compounded or retailed under the management and supervision of a registered pharmacist and during his temporary absence therefrom: Provided, however, That on and after July first, nineteen hundred twenty-seven, every applicant for such a certificate shall furnish satisfactory evidence that he has completed twelfth grade work in the public or private schools or its equivalent. (Supp. 1922, § 6769, as amended, P. A. 1925, No. 58.)

333. Idem; Proviso.—Except as specified in section seven of this act [6766], no person shall be granted a certificate as a registered pharmacist until he shall have made application to the board, setting forth by affidavit that he is at least twenty-one years of age, that he has had at least two years' practical experience in pharmaceutical work in a place where drugs, medicines and poisons were dispensed and retailed, and prescriptions compounded, and shall furnish satisfactory evidence to the board that he has completed twelfth grade work in the public schools, or its equivalent, and if an alien he must produce satisfactory proof that he has filed with the proper authorities his declaration of intention of becoming a citizen and until he has paid such examination and certificate fees as shall be fixed by the board, and not exceeding the sum of fifteen dollars, as an examination fee, and fifteen dollars, as a certificate fee, and until he shall have passed an examination satisfactory to said board for the granting of such certificate: Provided, however, That on and after January first, nineteen hundred twenty-nine, every applicant for such a certificate shall furnish satisfactory evidence that he has completed two years' work in an accredited school or college of pharmacy. (Id. § 6770.)

334. Fees for Subsequent Examinations.—In case of failure of an applicant upon his first application to pass a satisfactory examination before the said board, all subsequent examinations shall be granted upon the payment of three dollars by applicant for registered pharmacist and a fee of two dollars by applicant for registered druggist. (C. L. 1915, § 6771.)

335. When Granted Without Examination.—The board may in its discretion also grant certificates of registration without further examination to the licentiates of such other boards of pharmacy as it may deem proper upon the payment of a fee of not to exceed thirty dollars. (Id. § 6773, as amended P. A. 1925, No. 58.)

336. Unlawful Use of Terms, Etc.—It shall be unlawful for any one but a registered pharmacist under this act, who shall conform to the rules and regulations of the State Board of Pharmacy to take, use and exhibit the titles "pharmacist," "druggist," "pharmacy" and "drug store," or any term, sign or device implying same and to have charge of, engage in or carry on for himself or for another, the dispensing, compounding or sale of drugs, medicines or poisons anywhere within the State, but no registered pharmacist shall have personal supervision of more than one pharmacy or drug store at the same time. (C. L. 1915, § 6774.)

337. Who May Practice.—Except as prescribed by the provisions of this act, it shall not be lawful for any person to practice as a registered pharmacist, registered druggist, or advertise himself by sign or otherwise to be such, or to engage in, conduct, carry on, or be employed in the dispensing, compounding or retailing of drugs, medicines or poisons within this State: Provided, This section and the preceding section shall not be construed as precluding any person from owning a drug store or pharmacy if all of the pharmaceutical work in the same shall be under the personal supervision and direction of a registered pharmacist. (Id. § 6775.)

338. Adulteration, Etc.—No pharmaceutical preparation sold or dispensed in a pharmacy, dispensary, store or place shall be adulterated or misbranded within the meaning of act one hundred and forty-six [Nos. 9-19], Public Acts of nineteen hundred nine, or acts amendatory thereof or any law of the State. (Id. § 6776.)

339. Proprietor, Responsible for Quality, Etc.—Every proprietor of a wholesale or retail drug store, pharmacy, or other place where drugs, medicines or chemicals are compounded, dispensed or sold, shall be held responsible for the quality and strength of all drugs, chemicals or medicines sold or dispensed by him, except those articles or preparations known as patent or proprietary medicines. (Id. § 6777.)

340. Act Not to Apply in Certain Cases.—Nothing in this act shall apply to the practice of a practitioner of medicine, who is not the proprietor of a store for the dispensing or retailing of drugs, medicines and poisons, or who is not in the employ of such proprietor, and shall not prevent practitioners of medicine from supplying their patients with such articles as they may deem proper, or to

the sale of Paris green, white hellebore and other poisons for destroying insects, or any substance for use in the arts, or the manufacture and sale of proprietary medicines, or to the sale by merchants of ammonia, bicarbonate of soda, borax, camphor, castor oil, cream of tartar, dyestuffs, essence of ginger, essence of peppermint, essence of wintergreen, non-poisonous flavoring essence or extracts, glycerine, licorice, olive oil, sal ammoniac, saltpetre, sal soda and sulphur, except as herein provided: Provided, however, That in the several towns of this state, where there is no registered pharmacist within five miles, physicians may compound medicines, fill prescriptions, and sell poisons, duly labeling the same as required by this act, and merchants and drug dealers may sell any drugs, medicines, chemicals, essential oils, and tinctures which are put up in bottles, boxes, packages, bearing labels securely affixed, which labels shall bear the name of the pharmacist putting up the same, the dose that may be administered to persons three months, six months, one year, three years, five years, ten years, fifteen and twenty-one years of age, and if a poison, the name or names of the most prominent antidotes; and to the sale by such merchant of copperas, borax, blue vitriol, saltpetre, pepper, sulphur, brimstone, Paris green, liquorice, sage, senna leaves, castor oil, sweet oil, spirits of turpentine, glycerine, glauher salts, epsom salts, cream of tartar, bi-carbonate of soda, sugar of lead and such acids as are used in coloring and tanning, paregoric, essence of peppermint, essence of ginger, essence of cinnamon, hive syrup, syrup of ipecac, tincture of arnica, syrup of tolu, syrup of squills, spirits of camphor, sweet spirits of nitre, quinine, and all other preparations of cinchona bark, tincture of aconite and tincture of iron, or quinine pills, and to the sale of carbolic acid, laudanum, sugar of lead, oxalic acid, duly labeling and registering the same as required by this act; and to the sale of any patent or proprietary medicines. (Id. § 6778.)

341. Withholding, Revocation or Suspension of License.—The State Board of Pharmacy shall have the power to withhold a license from any applicant whenever it shall be satisfied that the safety of the public health will be endangered [endangered] by reason of the habits or character of such applicant. If any registered pharmacist or registered assistant pharmacist shall have obtained a license by misrepresentation, error or fraud, or shall have become unfit or incompetent to practice pharmacy by reason of habitual intemperance, or the use of drugs; or has been convicted of any crime involving moral turpitude; or if any person holding a certificate as a registered pharmacist or a registered assistant pharmacist shall have been convicted a second time of a violation of pharmacy, narcotic, general liquor or other drug laws of this State, in any court of the State, the State Board of Pharmacy shall have the power to revoke or suspend such license or certificate after giving any such person reasonable notice and an opportunity to be heard; and if any person licensed under this act shall wilfully and repeatedly violate any of the provisions of this act, such board may revoke or suspend his license or licenses issued by said board, upon sufficient evidence of such violation in addition to any other penalty by the law imposed for such violation. (Supp. 1922, § 6779.)

342. Board to Notify Person, When License Revoked.—Whenever the board shall revoke or suspend the registration of any registered pharmacist or registered druggist it shall notify such registered or licensed person of such action, and he shall immediately deliver to the board or its representative his certificate or license of registration. (C. L. 1915, § 6780.)

343. Violations of This Act, What Considered; Misdemeanor.—Any person who shall attempt to procure, or who shall procure a certificate or registration for himself, or for any other person, under this act by making or causing to be made any false representations; any licensed pharmacist who shall permit the compounding and dispensing of prescriptions of medical practitioners in his store or place of business by any person or persons not licensed or registered under the provisions of this act; any person not licensed by said board who shall prepare or dispense a medical prescription or physician's prescription or dispense, give or sell at retail poisons or medicines, except under the immediate supervision of a duly licensed pharmacist whose certificate, license or registration is displayed in the place where the same is furnished, prepared, dispensed or sold; any person not licensed by said board, who shall open, conduct or have charge of any pharmacy or drug store which is not under the direct supervision of a registered pharmacist for retailing, dispensing or compounding medicines or poisons; any person who shall fraudulently represent himself to be licensed; any person who knowingly refuses to permit any member of said board of inspectors of pharmacy employed by said board to enter a pharmacy or drug store for the purpose of lawfully inspecting the same; any person who directly or indirectly prevents or attempts to prevent the lawful inspection of any place

in which drugs, medicines or poisons are retailed, or dispensed or physicians' prescriptions compounded; any person whose license or certificate of registration has expired or has been duly revoked or suspended by said board, and who refuses to surrender his certificate or license to said board; any person who holds a license or certificate of registration and who fails to display the same as hereinabove provided; or any person who shall violate any of the provisions of this act, in relation to retailing, compounding and dispensing of drugs, medicines and poisons, for which violation no other penalty is hereinbefore imposed, shall, for such offense, be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished in accordance with the terms of the general penal clause of this act as hereinafter set forth. (Id. § 6781.)

344. Adulteration; Penalty.—Any person who shall knowingly, wilfully or fraudulently falsify or adulterate any drug, medicinal substance or preparation used or intended to be used as a medicine or shall knowingly or wilfully or fraudulently offer for sale, sell or give away or cause the same to be sold or given away shall be guilty of a misdemeanor, and on conviction thereof shall be punished as hereinafter prescribed, and all drugs, medicinal substances or preparations so falsified or adulterated shall be forfeited to and destroyed by the Michigan Board of Pharmacy or its duly authorized representative. (Id. § 6782.)

345. Labeling of Poisons.—It shall be unlawful for any person or persons licensed under the provisions of this act to sell at retail or furnish any of the poisons named in the schedules hereinafter set forth without affixing or causing to be affixed to the bottle, box, vessel or package, a label containing the name of the article and the word "poison" distinctly shown, together with the name and place of business of the seller all printed in red ink, and the name of such poison printed or written thereupon in plain legible characters, except when sold in the original package of the manufacturer, which conform to the requirements for the wholesale dealers, as hereinafter set forth. The following are the schedules:

Schedule "A"—Arsenic, cyanide of potassium, hydrocyanic acid, strychnia, and all poisonous alkaloids and their salts, oil of bitter almonds containing hydrocyanic acid.

Schedule "B"—Aconite, belladonna, cantharides, colchicum, conium, cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of tansy, veratrum viride and other pharmaceutical preparations, arsenical solutions, carbolic acid, chloral hydrate, chloroform, corrosive sublimate, creosote, croton oil, mineral acids, oxalic acid, Paris green, salts of lead, salts of zinc, white hellebore, or any drug, chemical or preparation, which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less. (Supp. 1922, § 6783.)

346. Record of Poisons Sold, What to Show.—Every person licensed under the provisions of this act who shall give, sell or dispose of at retail any poisons included under schedule "A" shall before delivering the same, make or cause to be made, an entry in a book to be kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quantity of the poison, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for at least five years after the last entry. Nor shall any such person deliver any such poison without satisfying himself that the purchaser is aware of its poisonous character and that the said poison is to be used for a legitimate purpose: Provided, however, That the foregoing portions of this section shall not apply to the dispensing of medicines or poisons on the physician's prescriptions. (C. L. 1915, § 6784.)

347. Labeling by Wholesale Dealers.—Wholesale dealers in drugs, medicines, pharmaceutical preparations or chemicals shall affix or cause to be affixed to every bottle, box, parcel or outer enclosure of an original package containing any of the articles enumerated in Schedules "A" and "B" of this act, a suitable label or brand in red ink with the word "poison" upon it. (Id. § 6785.)

348. Giving of False or Fictitious Names, a Misdemeanor.—The giving [of] a false or fictitious name to the apothecary, druggist or other person from whom such poison was purchased, shall be deemed a misdemeanor, and the person or persons guilty thereof shall, upon conviction thereof, be liable to a fine not exceeding fifty dollars. (Id. § 6786.)

349. Sale of Liquors.—The sale of spirituous, vinous or malt liquors for chemical, scientific, medical, mechanical or sacramental purposes, by druggists and pharmacists, shall be subject to the provisions of this act, and all such liquors sold by druggists or pharmacists shall be, for the purpose of this act,

considered as drugs, medicines and for the use of arts only, and the sale of the same shall be subject to the same regulations and requirements as are herein contained relative to the dispensing of drugs, medicines, and poisons and the compounding of prescriptions, and all violations hereof shall be subject to penalties prescribed by the general penal clause of this act. A book shall be kept and all sales of liquors shall be recorded therein giving the purchasers' name, address, quantity and for what purpose it is represented it is furnished, said book to be open for inspection to board of inspectors of pharmacies of this State and to be kept at least one year after date of last sale, except such as is dispensed on physician's prescriptions. (Id. § 6787.)

350. Duty of Board, in Case of Violations; Duty of Prosecuting Attorney; Penalty.—It shall be the duty of the Michigan Board of Pharmacy, upon receiving bona fide information of any violation of the provisions of this act, relative to the sale of spirituous, vinous or malt liquors by any pharmacist, druggist or other person, to bring the offense, together with all information relating to the same, to the attention of the prosecuting attorney under whose jurisdiction the violation is committed, whose duty it shall be to cause an investigation of such alleged violation, and if sufficient evidence be obtained, to cause the prosecution of such pharmacist, druggist or other person, operating under the provisions of this act, under the general liquor law of the State or under the provisions of this act. Upon conviction thereof the person so found guilty shall be subject to the penalties contained in the general liquor law, in cases brought under the general liquor law, and subject to the penal clause of this act where action is commenced under the terms of this act. (Id. § 6788.)

351. Exemption From Jury Duty.—Every registered pharmacist or registered druggist dispensing and compounding medicines, shall be exempt and free from all jury duty in the courts of this State. (Id. § 6789.)

352. Not to Interfere With Practice of Physicians.—Nothing in this act shall be construed to interfere with or preclude any legally practicing physician from prescribing, dispensing, compounding, or giving any medicines or poisons to his patients in the regular course of his practice as such physician. (Id. § 6790.)

353. Duty of Board and Prosecuting Attorney.—It shall be the duty of this board, upon obtaining sufficient evidence of any violation of the provisions of this act, to lay the same before the prosecuting attorney of the county in which such violation shall take place and it shall be the duty of such prosecuting attorney to prosecute the same under this act or other general laws of the State. (Id. § 6791.)

354. Violation; Penalty.—Every person, firm or corporation and every member or officer thereof that shall himself or through any agent, servant, employee or other person, directly or indirectly violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than fifty dollars, nor more than one hundred dollars and costs of prosecution or imprisonment in the county jail for not less than ten days, nor more than ninety days or both such fine and imprisonment in the discretion of the court. (Supp. 1922, § 6792.)

355. Pharmacists' Certificates, When Issued.—The State Board of Pharmacy is authorized and required to issue a certificate to any person as a registered pharmacist as provided by an act entitled "An act to regulate the practice of pharmacy in the State of Michigan," same being number one hundred thirty-four* of the Public Acts of eighteen hundred eighty-five, approved June second, eighteen hundred eighty-five, and amendments thereto, without examination, upon payment of the fees specified in said act and amendments thereto, who now holds a certificate of a registered assistant issued to any such person at the time said act took effect, and who at such time was eligible and qualified to be granted a certificate of a registered pharmacist instead of a registered assistant under said act and to any person who has been an assistant druggist twenty-five years last past: Provided, That any such person shall forward to said board satisfactory proof supported by his affidavit, that he has been engaged in the business of an actual druggist twenty-five years, or that he was so eligible and qualified at such time to be given a certificate of a registered pharmacist, setting forth in such affidavit the facts such as were required by said act at the time it took effect, to obtain a certificate of a registered pharmacist, and that he has been continuously engaged in this State since the granting to him of said certificate in the practice of pharmacy as such registered assistant. (C. L. 1915, § 6794.)†

*See Nos. 322-354.

†Act 403 of 1913.

356. Penalty on Physician Prescribing Poison, Etc., While Intoxicated.—If any physician or other person, while in a state of intoxication, shall prescribe any poison, drug or medicine, to another person, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars. (Id. § 15125.)*

357. Penalty for Neglecting to Label Certain Substances.—Every apothecary, druggist, or other person who shall sell and deliver at retail, any arsenic, corrosive sublimate, prussic acid, or any other substance or liquid usually denominated poisons, without having the word "poison," and the true name thereof, and the name of some simple antidote, if any is known, written or printed upon a label attached to the vial, box or parcel containing the same, shall be punished by a fine not exceeding one hundred dollars. (Id. § 15126.)†

358. Duty of Apothecaries, Etc., in the Sale of Poisons.—Every apothecary, druggist, or other person who sells any arsenic, strychnine, corrosive sublimate, prussic acid, or other poison, shall keep a record of the date of such sale, the article and amount thereof sold, and the person or persons to whom delivered, and their residence, which record shall be open to the inspection of any police officer or physician during the business hours of each day; and each and every neglect to keep such record as herein provided, shall be deemed a misdemeanor, and the person or persons guilty thereof shall, upon conviction thereof, be liable to a fine not exceeding fifty dollars. (Id. § 15153.)‡

359. Penalty for Giving a False Name.—The giving a false or fictitious name to the apothecary, druggist, or other person from whom such poison was purchased, shall be deemed a misdemeanor, and the person or persons guilty thereof shall, upon conviction thereof, be liable to a fine not exceeding fifty dollars. (Id. § 15154.)

360. Opium, Etc., Unlawful Sale, Etc.—It shall be unlawful for any person, natural or artificial, or for the officers, agents, servants or employees of any corporation, directly or indirectly, individually or by agent, servant or employee, to sell or offer for sale, give away or offer to give away, dispense or distribute, or have in possession or under control, any opium or coca leaves, or any compound, manufacture, preparation or derivative, their salts, or any preparation of them, derivative or preparation thereof, except as hereinafter provided. (P. A. 1923, No. 92, § 1, as amended P. A. 1925, No. 9.)

361. Possession Prima Facie Violation.—Possession of any of the drugs, compounds or derivatives mentioned in section 1 shall be prima facie evidence of the violation of this act. (P. A. 1923, No. 92, § 2.)

362. Provisions Not Applicable to Certain Persons; Certain Preparations Excepted.—The provisions of this act relating to possession of any of the drugs, compounds or derivatives aforesaid shall not be deemed to apply to officers of the law obtaining and retaining such possession for the purposes of prosecution of violations of this act, nor shall the prohibitory or penal provisions of this act apply to manufacturers, wholesale druggists, pharmacists, druggists, physicians, nurses and caretakers, patients and others possessing and using said drugs, compounds or derivatives in compliance with the provisions of this act as hereinafter set forth, nor shall anything in this act contained be construed to apply to preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine or more than one-eighth of a grain of heroin, or more than one grain of codeine or any salt or derivative of any of them in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce, or to liniments, ointments or other preparations which are prepared for external use only and which do not contain cocaine or any of its salts or alpha or beta eucaine or any of their salts produced either naturally or synthetically whenever and wherever such remedies and preparations are sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intention and provisions of this act. The provisions of this act shall not apply to decocainized coca leaves or preparations made therefrom or to other preparations of coca leaves, which do not contain cocaine. (Id. § 3.)

363. Prescription.—Any person holding an unexpired certificate as a registered pharmacist or registered druggist under the laws of this State may dispense any drug or drugs mentioned in section 1 of this act upon a written prescription or order of a physician, veterinarian or dentist duly qualified to practice under the laws of this State, which prescription shall be retained in the pharmacy or store

*R. S. '46, c. 159, § 4.

†R. S. '46, c. 159, § 5.

‡Act 123 of 1863, included in Nos. 358-359.

in which the same was dispensed, by the proprietor thereof or his successor for a period of two years. Said prescription shall be filled but once and no copy of it shall be taken by or furnished to any person, except the same be required for the enforcement of this act. (Id. § 4.)

364. Sold Only Upon Written Order to Physicians, Etc.—Any manufacturer or jobber of any or all of the drugs mentioned in section 1 of this act, any wholesale druggist, any pharmacist or druggist who may lawfully practice pharmacy and dispense drugs under the laws of the State may sell any item mentioned in section 1 of this act to any such manufacturer, jobber, wholesale druggist, pharmacist, druggist, or to any lawfully practicing physician, veterinarian or dentist, but only upon a written order duly signed by such manufacturer, jobber, wholesale druggist, pharmacist, druggist, physician, veterinarian or dentist, which order shall show the item or items ordered and the date of delivery; and which order shall be kept on file in the laboratory, warehouse, pharmacy or store from which it was filled by the proprietor thereof or his successor for a period of not less than two years from the date of delivery. (Id. § 5.)

365. Orders, Etc., Open to Inspection.—The prescriptions and orders required to be kept on file by this act shall be at all times open to the inspection of the prosecuting attorney and sheriff of the county, their deputies or assistants, or any constable, police officer, member of the State Board of Pharmacy, member of the State Board of Health, Food and Drug Commissioner* or inspector and inspector of pharmacies, each of whom shall be permitted to make such notes therefrom and such copies thereof as he may deem wise. (Id. § 6.)

366. Dispensing by Physician, Etc.—Nothing in this act contained shall be construed to forbid or regulate the dispensing or distribution of any of the drugs mentioned in section 1 of this act by or under the instructions of a lawfully practicing physician, dentist or veterinarian in the course of his professional practice, and not for the purpose of evading the provisions of this act. (Id. § 7.)

367. False Pretense, Penalty.—Any person who shall make any false pretense for the purpose of purchasing or obtaining any of the drugs mentioned in section 1 of this act when it would be unlawful to sell, give away, or dispense the same to him, shall be liable to the penalties of this act, whether he succeed in purchasing or obtaining same or not. (Id. § 8.)

368. Search Warrant, When May Issue; Held as Evidence.—If any person makes a sworn complaint or affidavit before any magistrate authorized to issue warrants in criminal cases that any drugs, derivatives, compounds or preparations mentioned in section 1 of this act are being possessed, sold, dispensed, distributed or given away or kept for the purpose of being possessed, sold, dispensed, distributed or given away, contrary to law, or that such drugs, derivatives, compounds or preparations are stored or concealed temporarily or otherwise in any depot, freight house, express office or in any other building or place or in any vehicle or conveyance with the apparent intention of being delivered for the purpose of being possessed, sold, dispensed, distributed or given away, contrary to the provisions of this act or that the complainant or affiant believes and has good cause to believe that such drugs, derivatives, compounds or preparations are concealed in any barn, building, place, vehicle or conveyance, such magistrate, if he be satisfied there is reasonable cause for such belief, shall immediately issue his warrant to any officer whom the complainant may designate having power to serve criminal process, commanding him to search the premises described and designated in such complaint and warrant and if any drugs, derivatives, compounds or preparations are there found to seize the same, together with bottles, cases, vessels or packages in which they are contained and all the implements, furniture, vehicles and conveyances used and kept for such illegal possessing, storing, selling, dispensing, distributing or giving away of such drugs, derivatives, compounds or preparations and them safely keep and make immediate return on said warrant. Such drugs and other articles seized, unless the same be owned by innocent third parties, shall be held subject to the order of such court or magistrate to be used as evidence in the prosecution for the violation of this act. (Id. § 9.)

369. Penalty.—Any person who shall violate any of the provisions of this act shall, upon conviction, be punished by imprisonment in the State Prison not more than five years, or by imprisonment in the county jail not more than two years, or by a fine not exceeding two thousand dollars, in the discretion of the court. (Id. § 10, as amended P. A. 1925, No. 9.)

370. Any Inhabitant May Petition for Treatment of Drunkards, Etc.—Any inhabitant of this State may petition the board of supervisors of the county, wherein any indigent person addicted to the excessive use of any intoxicating

*Department of Agriculture. See No. 28.

liquors or of morphia, laudanum, cocaine, opium or other narcotics to such an extent as to become an habitual drunkard, resides, for leave to send such drunkard, at the expense of the county, to any reputable institute for the treatment of such cases, designated by such board of supervisors under the conditions hereinafter contained, which petition shall set forth the name, age and condition of such drunkard, that such drunkard is not financially able to incur the expense of such treatment, and that such habitual drunkard is willing and has agreed to attend such institute for the cure of drunkenness, which petition shall be verified by the person making such request and shall contain in addition thereto the written agreement of such drunkard to take such treatment, if allowed by the board, and a further statement signed by three reputable taxpayers of the county, and the supervisor of the township, ward or village, where such drunkard resides, stating that they are familiar with the facts set forth in the petition and with the financial circumstances of the drunkard and that they deem it a proper case for such action by the board of supervisors. (C. L. 1915, § 5292.)*

371. When Supervisors May Make Contract for Treatment.—When such petition is filed, the board of supervisors may, if satisfied that the facts set forth in the petition are true, make and enter into a contract with the institution for the cure of such cases, for the treatment of the same, and the said board of supervisors shall order that the expense for the treatment, not exceeding one hundred dollars, be paid out of the county treasury in the manner that other claims and bills against the county are paid. (Id. § 5293.)

372. Drunkard, Defined.—A drunkard, as defined herein, shall include all persons who use alcoholic, spirituous, malt, brewed, fermented or vinous liquors, or morphia, laudanum, cocaine, opium or other narcotic to such an extent as to deprive him or her of a reasonable degree of self-control. (Id. § 5294.)

373. Contract to be Made With Michigan Institution.—Such contract with such institute for the cure of said cases shall be made and entered into with one which is located in the State of Michigan, that can satisfy said board that not less than seventy-five per cent of the persons having taken a full course of treatment, consisting of not less than four weeks, have been cured and have remained cured for at least one year thereafter. (Id. § 5295.)

374. Persons Treated May Reimburse County.—Any person who shall be treated at any institute under the provisions of this statute may at any time reimburse the county by paying to the county treasurer the amount thereof, and the treasurer shall give him a receipt for the amount so paid, which receipt shall state that such payment is for reimbursement, as aforesaid, and the amount so paid shall be turned into the general fund. (Id. § 5296.)

374a. Prisoners Not Allowed Drugs, Etc., Without Permit.—No spirituous or fermented liquor, drug, medicine, poison, opium, morphine or any other kind or character of narcotics shall, on any pretense whatever, be sold or given away in any prison, or in any building appurtenant thereto, or on the land granted to or owned or leased by the State for the use and benefit of the prisoners; nor shall any kind of spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics be brought into any prison, or any building appurtenant thereto, on or to the land granted to or owned or leased by the State for the use and benefit of the prisoners, without a written permit signed by the physician of such prison, specifying the quantity and quality of the liquor or narcotic which may be furnished to any convict, or employee in the prison, the name of the prisoner or employee for whom, and the time when the same may be furnished, except the ordinary hospital supply of the prisons, which permit shall be delivered to and kept by the warden of the prison; nor shall any spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics be sold, given away or furnished, either directly or indirectly, to any convict either in, or anywhere outside of the prison or be disposed of in such manner or in such a place, that it may be secured by any prisoner or employee of the prison; nor shall any spirituous or fermented liquor, drug, medicine, poison, opium, morphine, or any other kind or character of narcotics be knowingly sold, given away, or furnished to any paroled prisoner, without a written prescription of a duly licensed physician. (Id. § 1827.)

374b. Permit, Etc., Conditional.—No permit or prescription shall be granted or given unless it shall satisfactorily appear to the physician granting or giving the same, that the liquor or narcotic allowed to be furnished is necessary for the health of the person named therein, for whose use it is permitted, which shall be stated in such permit or prescription. (Id. § 1828.)

*Act 68 of 1907, included in Nos. 370-374.

374c. Violation Deemed Felony.—Any person violating any of the provisions of this act* shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars or imprisonment in the State Prison not exceeding five years, or by both such fine and imprisonment in the discretion of the court. (Id. § 1831.)

375. Toilet Preparations, Licensing of Vendors of.—Any itinerant or traveling vendor or hawker of any drug, nostrum, face powder, face cream, face bleach, face lotion, cosmetic, tooth powder, tooth paste, dentrifice or other toilet preparation, or any ointment or application of any kind for the treatment of any disease, injury or deformity, before offering for sale or selling any such drug, nostrum, face powder, face cream, face bleach, face lotion, cosmetic, tooth powder, tooth paste, dentrifice or other toilet preparation, or any ointment or application of any kind for the treatment of any disease, injury or deformity shall pay to the director of the Michigan Board of Pharmacy an annual fee of twenty-five dollars, upon the receipt of which the said director shall issue a license for one year from the date of said payment. (P. A. 1923, c. 85, § 1, as amended P. A. 1925, No. 147.)

376. Who Deemed Vendors.—Itinerant or traveling vendors or hawkers under the meaning of this act shall include all persons who carry on the business described in section one hereof, by passing from house to house or haranguing the people on the public streets or in public places or by using any art or device for attracting crowds and therewith recommending their wares and offering them for sale or who travel from place to place and hire, lease or occupy any room, building or structure for the exhibition and sale of their wares. (Id. § 2.)

377. Penalty for Violation.—Any violation of this act shall be a misdemeanor and any person upon conviction thereof shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment in the discretion of the courts. (Id. § 3.)

378. Sales Not Affected.—Nothing in this act contained shall be held or construed to affect sales by traveling representatives of regularly established jobbers or of manufacturers selling to the trade by sample for future delivery from their established place of business; nor any person selling products raised upon lands leased or owned by him; nor individuals handling vegetables, fruits or perishable farm products. (Id. § 5.)

379. In Lieu of Other License.—Any person licensed under the provisions of this act shall not be required to obtain a State license as such vendor or hawker under any prior act. (Id. § 6.)

NOTE: See also Nos. 13, 433 et seq. and 443 et seq.

Serum, Anti-Toxin, Tuberculin, Etc.

380. Selling of Mallein, Etc.—It shall be required of all individuals or firms who sell mallein or tuberculin to any resident of the State of Michigan to report such sale immediately to the State Veterinarian,† including the date of sale, name and address of parties to whom sold, and the amount of such sale. (C. L. 1915, § 7333.)‡

381. Hog Cholera Serum, What May be Used.—From and after the taking effect of this act¶ it shall not be lawful to use any hog cholera serum in this State, except that made by a serum manufacturing plant licensed by the United States Bureau of Animal Industry. Such serum may be used or administered by any competent person, and the use of cholera virus is prohibited in this State, except when used under the direction of the State Veterinarian or a regular qualified veterinarian authorized by the State Commissioner or State Veterinarian.† All expenses connected with the purchase of such serum or virus shall be borne by the owner or owners of such infected hogs: Provided, however, that the board of supervisors of any county, or the township board of any township, shall have the power to appropriate money to be expended for hog cholera serum for use within their respective counties or townships. Any individual or firm selling mallein, tuberculin or hog cholera virus within this State, shall report such sale

*Act 17 of 1909, included in Nos. 374a-374c.

†See No. 28.

‡Act 199 of 1913.

¶Act 181 of 1919.

immediately to the State Commissioner of Animal Industry,* specifying in said report the date of sale, the name and address of parties purchasing and the quantity sold. (Supp. 1922, § 7344(18).)

382. Authority to Distribute; Health Officers May Make Requisition for.—From and after the first day of January, nineteen hundred twenty-two, it shall be the duty of the State Commissioner of Health to acquire in the manner hereinafter provided, and to distribute throughout the State, antitoxin and other biological products for the prevention and treatment of diphtheria. Said commissioner is hereby authorized to adopt rules and regulations governing such distribution. Subject to the rules and regulations so prescribed, health officers and health boards of the various counties, cities, villages and townships of the State may from time to time make requisition on the State Commissioner of Health for such antitoxin and other products, which requisitions shall, if deemed reasonable and necessary, be honored in the order in which the same are presented to said commissioner. (Id. § 5145(1).)†

383. Plant for Manufacture of, Established; Site; Equipment.—The State Commissioner of Health is hereby authorized when directed by the State Administrative Board, to establish a suitable plant within this State for the manufacture of antitoxin and other biological products used and suitable for the prevention and treatment of diphtheria. Such plant shall be established at such site as may be selected therefor by said commissioner, with the advice and approval of the State Administrative Board. For the purposes of such plant, suitable land not exceeding forty acres may be acquired in the name of the people of the State of Michigan as may be deemed necessary; and said commissioner shall procure such equipment and cause such buildings to be constructed as the purposes of said plant may require. The commissioner may also purchase such number of animals as may be required for the manufacture of said products, and may employ necessary labor and purchase supplies requisite for the operation of such plant. The erection of such plant and the operation thereof shall in all respects be subject to the supervisory control of the State Administrative Board. (Id. § 5145(2).)

384. Anti-toxin, Etc., Purchase of.—Such quantities of anti-toxin and other biological products for the treatment of diphtheria as may be required under the provisions of section one [5145(1)] shall be purchased by the State Commissioner of Health. Bids for the furnishing of such products shall be advertised for in at least three newspapers of the State, of general circulation, such advertisement to be published not less than ten days prior to the date fixed for receiving bids. Upon the receipt of such bids, contracts for the furnishing of antitoxin and other products may be let, but in no case shall any such contract cover a period of more than one year in length or extend beyond the thirtieth day of June of each year. The right to reject any and all bids shall be reserved. Contracts shall be let to the lowest responsible bidders furnishing adequate security for the performance thereof: Provided, however, if deemed expedient by the State Commissioner of Health, contracts for a portion only of the products required may be made with any bidder. (Id. § 5145(3), as amended P. A. 1925, No. 189.)

385. Appropriations for Plant, Etc.—For the purpose of acquiring, constructing and operating the said plant there is hereby appropriated out of any moneys in the State treasury not otherwise appropriated for the fiscal year ending June thirty, nineteen hundred twenty-six, the sum of twenty-five thousand dollars, and for the fiscal year ending June thirty, nineteen hundred twenty-seven, the sum of twenty-five thousand dollars. There is also appropriated for the purchase of antitoxin and other biological products for the treatment and prevention of diphtheria for the fiscal year ending June thirty, nineteen hundred twenty-six, the sum of thirty-eight thousand dollars, and for the fiscal year ending June thirty, nineteen hundred twenty-seven, the sum of thirty-eight thousand dollars and thirty-eight thousand dollars for each fiscal year thereafter. (Id. § 5145(4).)

Venereal Disease Drugs.

386. Certain Advertisements Unlawful.—Any person who shall advertise in his own name or the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, period-

*See No. 28.

†Act 370 of 1921, included in Nos. 382-385

ical or other written or printed paper, or the owner, publisher or manager of any newspaper or periodical who shall permit to be published or inserted in any newspaper or periodical owned or controlled by him, an advertisement of the treating or curing of venereal diseases, the restoration of "Lost manhood" or "Lost vitality or vigor," or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual vice, self-abuse, or in any diseases of like cause, or shall advertise in any manner any medicine, drug, compound, appliance or any means whatever whereby sexual diseases of men or women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or both in the discretion of the court. (C. L. 1915, § 15512.)

387. Advertising Matter, Distribution Unlawful.—Any person publishing, distributing or causing to be distributed or circulated any of the advertising matter hereinbefore described, either in newspaper or other printed or written forms, shall be guilty of a misdemeanor as noted in section one [15512] and punished as therein described: Provided, that this act* shall not be construed as creating a penalty in addition to that specified in act number two hundred thirty-seven of the Public Acts of eighteen hundred ninety-seven, as amended by act number one hundred sixty-four of the Public Acts of nineteen hundred seven, for the acts made unlawful therein.† (Id. § 15513.)

388. Prima Facie Evidence.—It is further enacted that any advertisement found in any newspaper, pamphlet or circular containing the words "Lost manhood," "Lost vitality or vigor," or other expressions synonymous therewith, shall be prima facie evidence of the guilt of the party or parties subscribing to the said advertisements, their agents or representatives, and the same penalties shall apply to the publishers of papers containing the same as prescribed in section one [15512]. (Id. § 15514.)

389. Penalty for Publishing, Etc., Circulars, Etc.—The publication or sale within this State of any circular, pamphlet, or book containing recipes or prescriptions in indecent or obscene language for the cure of chronic female complaints or private diseases, or recipes or prescriptions for drops, pills, tinctures, or other compounds designed to prevent conception, or tending to produce miscarriage or abortion is hereby prohibited; and for each copy thereof, so published and sold, containing such prohibited recipes or prescriptions, the publisher and seller shall each be deemed guilty of a misdemeanor, and shall be liable to the same penalties provided for a violation of the preceding section. (Id. § 15522.)‡

390. Diseases Declared Dangerous.—The diseases commonly known as syphilis, gonorrhea and chancroid are hereby declared to be dangerous, communicable, and infectious diseases and are declared to be subject to all the laws of the State pertaining to such diseases, except as in this act modified or otherwise provided. (Supp. 1922, § 5145(7).)¶

391. Penalty for Not Reporting; Breaking Quarantine.—Any physician or local health officer who fails to report any case of syphilis, gonorrhea or chancroid in accordance with the rules and regulations of the State Department of Health, or any person who while receiving treatment for any such diseases under the direction, supervision and control of the said board as herein contemplated, shall without leave break quarantine and leave the place of treatment or any persons who shall violate any of the provisions of this act or the rules and regulations of the State Department of Health adopted hereunder shall be guilty of a misdemeanor and upon conviction shall be liable to a fine of not more than one thousand dollars or to imprisonment in the county jail for not more than one year, or to both such fine and imprisonment in the discretion of the court. (Id. § 5145(10).)

392. Medicines for Treatment of, to be Sold Only on Prescription; How Marked; Numbering; Date; Report by Druggists; Physicians Not to Sell Drugs for Treatment of; Office Treatments; Report of Prescriptions; Penalty; May

*Act 62 of 1911, included in Nos. 386-388.

†The Compilers' note to § 15513 reads as follows: "Act 237 of 1899 was intended instead of Act 237 of 1897. Act 237 of 1899, as amended by Act 164 of 1907, above referred to is Compilers' sections 6724 to 6734." These sections relate to the regulation of physicians and surgeons and are omitted herein.

‡See Nos. 303-304.

¶Act 272 of 1919, included in Nos. 390-392.

Revoke License.—After October first, nineteen hundred nineteen, it shall be unlawful for any druggist, pharmacist, or other person to sell, barter, or give away any drug, medicine, or other remedy whatsoever for the treatment of any of the diseases specified in section one [5145(7)] hereof, except upon the prescription of a duly registered and practicing physician. Such prescription shall be marked "C. V. D.," and shall set forth the name and address of the patient and the date when given: Provided, that in any such prescription the physician giving the same may designate the patient by number instead of by name and address, but in each such case, the name and address of the patient and the number assigned thereto shall be immediately reported by the physician to the State Commissioner of Health on the regular report blank. All prescriptions filled by any druggist or pharmacist hereunder shall be numbered consecutively, and shall be kept on file for a period of not less than two years. Each prescription shall have stamped or written thereon the date of filling. All such prescriptions so kept on file shall be subject to inspection by the prosecuting attorney of the county, or by any duly authorized police officer or by any representative or inspector of the State Department of Health. On the first day of each month each said druggist and pharmacist shall make a detailed report to the State Health Department in such form as may be prescribed thereby, covering such prescription. No physician, druggist or pharmacist shall administer any treatment or remedy whatsoever for any of said diseases; nor shall any physician sell or give to a patient so affected any drug, remedy or medicine therefor: Provided, that a duly registered and practicing physician may give office treatments: Provided further, that any physician in any town within this State may fill a prescription, given to a patient affected with any disease specified in section one [5145(7)] if there is no drug store or pharmacy conducted within a distance of five miles therefrom or he is the authorized physician of any corporation who dispenses drugs or medicines to the employees of said corporation. All such prescriptions so filled by any physician shall be immediately reported to the State Health Department, and shall be kept on file by the physician, subject to inspection in the same manner as is above provided for the inspection of similar prescriptions filled by druggists and pharmacists. Any physician, druggist, pharmacist, or other persons violating any of the provisions of this section shall be deemed to be guilty of a misdemeanor, and shall be subject to the penalty hereinbefore provided in section four [5145(10)]. Any such violation by physician, druggist or pharmacist shall also be deemed sufficient reason for revoking the license granted thereto. (Id. § 5145(11).)

Intoxicating Liquors.

393. Act Construed.—This entire act* shall be deemed to be an exercise of the police power of the State, for the protection of the economic welfare, health, peace and morals of the people of the State, and all of its provisions shall be liberally construed for the accomplishment of those purposes. (Supp. 1922, § 7079(1).)

394. Extent of Prohibition.—It shall be unlawful for any person, directly or indirectly, himself or by his clerk, agent or employee, to manufacture, sell or keep for sale, give away, barter, furnish or otherwise dispose of, or to import, transport, or have in possession any vinous, malt, brewed, fermented, spirituous or intoxicating liquors; or any mixed liquors or beverages, any part of which is intoxicating; or to keep a saloon or any other place where such liquors are manufactured, sold, stored, possessed, given away or furnished in this State, on and after the first day of May, nineteen hundred eighteen, except as herein otherwise provided. (Id. § 7079(2).)

395. Intoxicating Liquors Defined.—The phrase "intoxicating liquors," wheresoever used in this act, shall be held and construed to include any vinous, malt, brewed, fermented or spirituous liquors, and every other liquor or liquid containing intoxicating properties which is capable of being used as a beverage, or will produce intoxication, whether medicated or not, and all liquids, whether proprietary, patented or not, which contain any alcohol and are capable of being used as a beverage; and all mixtures, compounds or preparations, whether liquid or not, which when mixed with water or otherwise, produce, by fermentation or otherwise, an intoxicating liquor. (Id. § 7079(3).)

396. Sale, What Deemed.—"Sale" shall include exchange, barter or traffic. In case of a sale in which a shipment or delivery of such intoxicating liquor is

*Act 338 of 1917, included in Nos. 393-415.

made by a common or other carrier, the sale thereof shall be deemed to be made in the county wherein the delivery thereof is made by such carrier to the consignee, his agent or employee, and a prosecution for such sale may be had in the county or city wherein the seller resides or from which the shipment is made, or at the place of delivery. (Id. § 7079(4).)

397. Person, How Construed.—The word "person," wheresoever used in this act shall be held and construed to mean and include natural persons, firms, co-partnerships, corporations and all associations of natural persons, incorporated, or unincorporated, whether acting by themselves or by a servant, agent or employee. (Id. § 7079(5).)

398. Druggist, What Deemed; Drug Store; Licensed Druggist.—The term "druggist" shall be deemed to mean any person duly licensed to practice as a pharmacist or druggist under the laws of Michigan, and the term "drug store" shall be deemed to mean a place in which drugs or medicines are retailed or dispensed or physicians' prescriptions compounded, and in charge of and under the supervision of a duly registered pharmacist. The terms "licensed druggist" and "licensed pharmacist" shall mean any druggist or pharmacist holding a license duly issued under this act to sell intoxicating liquors. (Id. § 7079(6).)

399. Cider, Ethyl Alcohol and Sacramental Wines; Druggists; Medicinal Preparations; Flavoring Extracts; Wood Alcohol; Records and Reports.—The provisions of this act shall not be construed to prevent the manufacture of cider from fruit, for the purpose of making vinegar, and nonintoxicating cider and fruit juice for use and sale; or to prevent the manufacture and sale of ethyl alcohol in quantities of not less than ten gallons as herein provided, to druggists, manufacturers, hospitals, infirmaries, medical or educational institutions using the same for medicinal, mechanical, chemical or scientific purposes; or the manufacture or sale of wine for sacramental purposes for use by religious bodies; or to prevent the sale and keeping and storing for sale by druggists, licensed as in this act provided, of intoxicating liquors for medicinal, mechanical, chemical or scientific purposes, or of wine for sacramental purposes by religious bodies; or to prevent the sale or gift, or keeping and storing for sale by druggists and general merchants and others of any of the medicinal preparations manufactured in accordance with the formulas prescribed by the United States Pharmacopoeia and National Formulary, patent or proprietary preparations, and other bona fide medicinal and technical preparations, which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations; and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold as medicine and not as beverages, are unfit for use for beverage purposes, and the sale of which does not require the payment of a United States liquor dealer's tax; or to prevent the manufacture and sale of tinctures or of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages, and which are unfit for beverage purposes, and upon the outside of each bottle, box or package of which is printed in the English language, conspicuously and legibly, the quantity by volume of alcohol in such preparations; or to prevent the manufacture and keeping for sale of the food product known as flavoring extracts which shall be so manufactured and sold for cooking, culinary or flavoring purposes, and are unfit for use as a beverage or for beverage purposes; or to prevent the sale of wood alcohol or the sale of ethyl alcohol for external use when combined with such other liquids, or substances as make it unfit for internal use; Provided, that it shall not be lawful to manufacture or sell any toilet, medicinal or antiseptic preparations or solutions, or any flavoring extracts or patent or proprietary medicines or preparations, the manufacture and sale of which requires the payment of a United States liquor dealer's tax, except as herein provided: Provided further, that manufacturers of alcohol shall keep such records and make such reports, and purchasers thereof shall make such application as herein provided in the case of sale by and purchase from retail druggists. (Id. § 7079(9).)

400. Sale of Medicinal or Other Preparations for Beverage Purposes; Permit for Manufacture of Preparations Containing Alcohol; Unlawful to Reveal Formula; Storage of Ethyl Alcohol.—It shall be unlawful to sell any such toilet, medicinal or antiseptic preparations or solutions or flavoring extracts or patent or proprietary medicines or preparations for beverage purposes in the guise of flavoring extracts or medicines or under such circumstances that the seller might reasonably deduce the intention of the purchaser to use them for beverage purposes. No such preparation, solution or extract shall be manufactured or sold unless there shall first be obtained a permit therefor from the Food and Drug

Commissioner,* such permit to issue upon and only upon a determination by such commissioner that such preparation, solution or extract is manufactured in full compliance with the laws of this State and of the United States relating to intoxicating liquors, and is unfit for use as a beverage or for beverage purposes: Provided, that no such permit shall be required for the manufacture and sale of toilet, medicinal preparations, flavoring extracts or patent or proprietary medicines by pharmacists and assistant pharmacists in a regularly licensed drug store. All such permits shall expire on the thirty-first day of December of the year in which issued. Any person seeking such permit may, by appropriate proceeding in a court of equity, have the action of such commissioner reviewed, and the court may affirm, modify, or reverse the finding of such commissioner. Any formula for such preparation, solution or extract filed with the Food and Drug Commissioner in connection with an application for a permit under this section shall be regarded as confidential and it shall be unlawful for such commissioner or any person connected with said Food and Drug Department to ever reveal said formula except in a court proceeding by the person seeking a permit to review the action of such commissioner or except in a prosecution for a violation of this act. The manufacturers of such preparations, solutions and extracts, permitted to be manufactured by this act, shall be permitted to purchase and to store ethyl alcohol necessary for the manufacture of said articles, but not to be sold or given away: **Provided, that such manufacturer shall, before engaging in such manufacture, secure a permit under the same conditions as provided in this act for the granting of a permit to sell intoxicating liquors to druggists.** Said manufacturers shall make the monthly report required of druggists by this act. (Id. § 7079(10).)

401. Right of Druggists to Sell Intoxicants.—Every registered druggist or pharmacist keeping a drug store, who is permitted to do so as herein provided, may, by himself or his clerk, who is a registered pharmacist or a registered druggist, sell intoxicating liquors in the following cases:

(a) Intoxicating liquors upon the written prescription, as herein provided, of a physician who is lawfully and regularly engaged in the practice of his profession in Michigan;

(b) Intoxicating liquors for medicinal, mechanical, chemical or scientific purposes, to any hospital, infirmary, medical or educational institution where such liquors are used only for medicinal, mechanical, chemical and scientific purposes, upon the sworn, written, signed and dated application of the superintendent thereof.

(c) Alcohol to any dentist who is lawfully or legally engaged in the practice of his profession in Michigan, for the use in the practice of his profession, upon the sworn, written, signed and dated application of such dentist, personally presented;

(d) Alcohol to any veterinary surgeon who is lawfully or legally engaged in the practice of his profession in Michigan, for the use in the practice of his profession, upon the sworn, written, signed and dated application of such veterinary surgeon, personally presented;

(e) Wine for sacramental purposes to any clergyman having charge of a church, or to any recognized official thereof upon the sworn, written, signed and dated application of such clergyman or of said official;

(f) Ethyl alcohol for mechanical, chemical or scientific purposes, upon the written application of the purchaser, known by such druggist or pharmacist to be a person engaged or employed in such mechanical, chemical or scientific pursuits, which shall be dated, signed and sworn to by the purchaser thereof. (Id. § 7079(11).)

402. Applications; Cancellation of Prescriptions or Applications; Filing.—All such applications for the purposes enumerated, shall state clearly and specifically the kind and quantity of the liquors required and the use to which they are to be put by the person purchasing the same, and that he will not use any of the liquors procured thereon for a beverage or for any other use than that stated in the application. All said prescriptions and applications shall be canceled as soon as filled by the person filling the same, by having the word "canceled" plainly written or stamped thereon, signed and dated by the person who filled the same, and shall be filed with the prosecuting attorney of the county in which the drug store is located and thereafter be open to public inspection; it shall be unlawful to furnish any liquors more than once upon any such prescription or application. (Id. § 7079(12).)

*Department of Agriculture. See No. 28.

403. Record of Sales, How Kept; Filing of Application; Signature of Applicant; Books Open to Inspection.—It shall be the duty of the druggist to register in an alphabetically arranged book, kept exclusively for the purpose, all prescriptions from physicians mentioned herein, in the following order: The name of the physician, the name of the person prescribed for, the quantity and kind of intoxicating liquors and the use for which prescribed; he shall endorse upon the prescription the date upon which it was filled and the name of the druggist filling the prescription or making said sale. The application mentioned in section twelve shall be filed with the prosecuting attorney, and a record thereof made by such druggist in such record book, showing the date of application, by whom made, the quantity and kind of such liquors, and when, where, and for what purpose and by whom to be used. The applicant shall certify to the same by signing his name thereto in said record book. Such book shall be open at all times to any such officer whose duty it is to enforce the provisions of this act. For the purpose of this act, any registered druggist or pharmacist making such sale shall have authority to administer the oaths herein required. (Id. § 7079(13).)

404. Permit; Fee.—No druggist shall sell liquors on prescription or application, as provided herein, until he shall have procured a permit which may be issued by the commissioner upon the payment of one dollar. Such permit shall run for one year from date of issue, unless sooner revoked, said permit may be revoked by the commissioner, at his discretion, for cause shown. (Id. § 7079(14).)

405. When to Issue; Rules Governing.—Before the commissioner shall grant any such permit he shall be satisfied that the druggist making the application is a person of good moral character and temperate habits, is a registered pharmacist in good standing, or employs a registered pharmacist in his store, and that the applicant has presented satisfactory proof that there is a necessity existing for the granting of such permit. The commissioner may make such rules and regulations regarding the application for and the granting of such permits as he shall deem advisable. (Id. § 7079(15).)

406. Institutions for Treating Liquor Habit; Permit.—Any infirmary or institution conducted solely for the purpose of treating or curing the liquor habit may purchase and possess, and dispense to its bona fide patients where necessary for medical use only, intoxicating liquors: Provided, that said infirmary or institution shall have procured a permit so to do, which may be issued by the commissioner upon the same terms as prescribed in section fourteen. (Id. § 7079(16).)

407. Clergyman's Permit; Wholesale Druggists and Manufacturers; Permits; Record of Sale; Sworn Statement; Hospitals; to Whom May Dispense.—Any clergyman having charge of a church, or any recognized official thereof, may file an application with the Food and Drug Commissioner* or his duly authorized deputy, for a permit to purchase wine for sacramental purposes, in the manner and form above specified under subdivision "e" of section 11 [7079(11)], from a manufacturer or wholesaler, and such permit, when issued, shall be pasted upon the shipment and shall authorize the carrier to transport and deliver the same. Such permit must be used within thirty days of its issue and shall be defaced or marked canceled upon the delivery of the shipment to the consignee at its destination. Such permit must remain upon the package as long as it contains any intoxicating liquors. Upon receiving such liquors the consignee or recipient shall report the receipt thereof to the officer issuing the permit. The commissioner may also issue a permit to wholesale druggists, manufacturing pharmacists, manufacturing chemists and others, to manufacture or sell intoxicating liquors to retail druggists who have been granted permits to sell the same, and to any hospital, infirmary, medical or educational institution where such liquors are used only for medicinal, mechanical, chemical or scientific purposes: Provided, however, that before any such wholesale druggist, manufacturing chemist or manufacturing pharmacist shall sell any intoxicating liquors mentioned in this section, the purchaser thereof shall make an application as provided for in case of sale by retail druggists; and such wholesale druggist, manufacturing pharmacist or manufacturing chemist shall keep a record of such sale and make reports, as herein provided for retail druggists. Each wholesale and retail druggist, manufacturing pharmacist, manufacturing chemist, infirmary and institution referred to in section sixteen shall file a sworn statement with the prosecuting attorney of the county in which he does business, and a duplicate thereof with the commissioner on or before the fifth day of each month, stating the amount of intoxicating liquors on hand

*Department of Agriculture. See No. 28.

at the first of the previous calendar month, the amount, kind and date of receipt of each consignment of said liquors received during such month, and the amount on hand at the close of the month for which the statement is made: Provided further, that it shall be unlawful for any hospital, infirmary or medical institution to dispense any of such liquors as they are permitted to purchase, except to its own patients. (Id. § 7079(17).)

408. Physician's Prescription; What to Contain; Offense of Physician.—

Any physician lawfully and regularly engaged in the practice of his profession in Michigan, who shall deem any intoxicating liquors necessary for the health of his patients may give such patient a prescription therefor for not to exceed eight ounces. Every such prescription shall contain the name and address of the person to whom it is given, full directions for taking or using the same and the number of such prescriptions that the said physician has given to the said patient within the preceding year, and that after a physical diagnosis the said physician is satisfied that the said intoxicating liquors prescribed were necessary to the health of the said patient. Any physician who shall give such prescription without complying with the provisions of this section, or shall administer such liquors in violation of this act, or who shall give or write for any person a prescription for or including intoxicating liquors, for the purpose of enabling or assisting any person to evade the provisions of this act, or to obtain liquor for use as a beverage or to be sold or disposed of in any manner in violation of this act, or who shall give a prescription to any person for or including intoxicating liquors without making the physical diagnosis herein provided for, shall be guilty of an offense under this act. (Id. § 7079(19).)

409. Druggists; Monthly Statement; Open to Inspection.—Every licensed druggist keeping a drug store shall make and swear to, or cause to be sworn to, a true statement, signed and sworn to by himself or his clerk, on or before the fifth day of each and every month for the calendar month preceding, giving the full name and residence of every person procuring liquors at his drug store during the last preceding month, the kind and quantity of liquor procured, the date of procuring the same and the object for which each purchase was made, and file the same as required by section seventeen [7079(17)] of this act. All such statements shall be open to public inspection. (Id. § 7079(20).)

410. Blank Forms.—It shall be the duty of the commissioner to prescribe the forms conforming to the provisions of this act, and to furnish supplies thereof to the clerks of the several counties of the State. Such forms shall be kept on hand and furnished, free of charge, by the county clerks and shall be used exclusively wherever applicable under this act. (Id. § 7079(21).)

411. Druggists; Bond; Affidavit of Surety; Approval of Bond.—Every druggist shall, after receipt of his permit as aforesaid and before he shall sell any of the liquors mentioned in this act, execute and file with the county treasurer of the county in which he is carrying on the said drug business, a bond, the sufficiency of which shall be determined by the official municipal governing body of the township, village or city in which such business is proposed to be carried on, to the people of the State of Michigan in the sum of two thousand dollars with two or more sufficient sureties who shall be freeholders and residents of the county in which such business is proposed to be carried on, each of whom shall justify in a sum equal to the amount of the bond over and above all indebtedness and all exemptions from sale and execution, and all liability on other bonds, which bond shall be in such form as shall be prescribed by the commissioner. There shall also be annexed to each bond required by this act the affidavit of each surety thereto, which affidavit shall state that affiant is not a surety upon any other bond required by the provisions of this act, that he is a male resident and freeholder of the county in which said principal proposes to carry on the business of a druggist, and that he is worth in real estate appearing of record in his name (giving liber and page) situate within the county in which the business is proposed to be carried on, having an assessed valuation in a sum equal to the amount of the bond over and above all indebtedness and exemptions from sale on executions, and if, in the judgment of the said board, council or commission, said sureties, or either of them, are not worth the full sum mentioned in said bond, over and above all their liabilities and exemptions, the said township board, village or city council or commission shall refuse to approve said bond. Said bond shall not be received by the county treasurer unless the approval thereof by the said board, council or commission shall be duly certified thereon in writing. (Id. § 7079(22).)

412. Violations; Penalty; Revocation of Permit; Violation by Employee.—Any druggist, physician or other person who, directly or indirectly, by himself, his clerk, agent or servant, sells, furnishes, gives, delivers or prescribes for or

to any person, intoxicating liquors, except as expressly provided herein, or any druggist or other person who fails, neglects or refuses to make the reports as herein provided, or any person permitted by this act to purchase any intoxicating liquors from any druggist, who shall use the same for any purpose other than that mentioned in the prescription or application upon which the same is procured, shall be deemed guilty of a violation of this act, and upon conviction shall be punished as provided in the penal section hereof, and in addition to the penalty prescribed therefor the court shall forthwith certify the facts of such conviction to the commissioner, which certificate shall forthwith be made a matter of record by the commissioner, whereupon said commissioner shall revoke said permit, and no new permit shall be issued to the same person or to any one conducting the same business in the same location, for a period of one year thereafter: Provided, however, that if any such clerk, agent or servant other than the said druggist, pharmacist or chemist, as owner or owners, shall sell or give away any intoxicating liquors contrary to the provisions of this act, upon conviction of said clerk or employee, said druggist, pharmacist or chemist may, before his trial and upon the discharge by him of said clerk or employee permanently, be permitted to present to the court evidence that said sale or gift was without his knowledge, consent, acquiescence or connivance, and if the court is convinced from said evidence that said druggist, pharmacist or chemist was not in any sense a party to the violation of this act by his clerk or other employee, then said druggist, pharmacist or chemist shall not be deemed guilty of the violation of the provisions of this section by reason of the violation thereof by his clerk or employee. (Id. § 7079(23).)

413. Revocation of Druggist's License; Confiscation; Certificate of Conviction.—A second and subsequent offense, in addition to the penalty herein prescribed, shall be grounds to revoke the license of the said druggist to practice pharmacy, and all intoxicating liquors in possession of said druggist, or in said drug store, or on the premises connected therewith, shall forthwith be confiscated by and forfeited to the State, and delivered to the Food and Drug Commissioner* by order of the court, and the court shall forthwith certify the fact of such conviction to the authority granting the license, which certificate shall forthwith be made a matter of record by such authority, and shall act as a bar to the granting or renewal of license to practice pharmacy to said druggist in the State. (Id. § 7079(24).)

413a. Keeping in Other Than Residence Prima Facie Evidence—Exceptions—Proof of Consumption, as Evidence of Sale.—The keeping or having of any intoxicating liquors in any building or place except a building used exclusively as a private residence shall be prima facie evidence of the keeping of a place where intoxicating liquors are possessed, sold, manufactured, furnished or given away in violation of this act: Provided, that this section shall not apply to druggists and others expressly permitted to keep such liquors who shall have complied with the provisions of this act. Proof of consumption or intended consumption of any intoxicating liquors, by any person visiting, resorting to or frequenting any of the places mentioned in this section, shall be prima facie evidence of the sale, giving away or furnishing of such liquor or beverage to such person in violation of the provisions of this act. (Id. § 7079(35).)

414. Packages, How Marked.—It shall be unlawful for any person to receive or have in his possession any package or packages containing intoxicating liquor unless said package or packages containing such intoxicating liquor shall be clearly and plainly stenciled, branded or shall have printed thereon in a conspicuous place where it can be plainly seen and read, marked in large letters, the following:

First. This package contains intoxicating liquors;

Second. The name and address of the consignor and consignee and the quantity and kind of intoxicating liquors;

Third. The specific purpose for which said liquors are to be used. (Id. § 7079(38).)

414a. Proof of Unlawful Sale.—Proof of a single sale of any one or more of the liquors mentioned in this act, except as hereinbefore permitted, or of the payment by any person, except a wholesale or retail druggist, manufacturing pharmacist or manufacturing chemist, holding a permit under this act, of a United States revenue tax, permitting the manufacture or sale, at wholesale or retail, of any of the liquors mentioned in this act, at the time and place alleged in the complaint or information, shall be prima facie evidence of a violation of this act. (Id. § 7079(45).)

415. Violation Deemed Felony.—Any person, who, himself or by his clerk, agent or employee, shall violate any of the provisions of this act, for which violation a specific penalty is not herein provided, shall be deemed guilty of a felony,

*Department of Agriculture. See No. 28.

and upon conviction thereof be sentenced to pay a fine of not more than one thousand dollars and the costs of prosecution, or to imprisonment in the State Prison, Michigan Reformatory, or the Detroit House of Correction for a period of not less than six months nor more than one year, or by imprisonment in the county jail for not less than thirty days, nor more than one year, or by both fine and imprisonment in the discretion of the court, and for every second and subsequent offense, so committed, whether in the same county or in any other county of the State, he shall upon conviction thereof, be sentenced to imprisonment in any penal institution of this State for a term of not less than six months nor more than two years, and in addition thereto the court may impose a fine not to exceed one thousand dollars. (Id. § 7079(51).)

NOTE: See also Nos. 31 and 349-350.

PART IV.

Miscellaneous Laws.

False Advertising.

416. False Advertising, Etc.; Penalty for; Proviso.—Any person, firm, corporation or association, who with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto or any interest therein, makes, publishes, disseminates, circulates or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated or placed before the public in this State, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading, or calculated to subject any person to disadvantage or injury through the publication of false or deceptive statements, shall be guilty of a misdemeanor and shall be liable to a fine of not more than one hundred dollars for each offense or to imprisonment in the county jail for a period of not more than ninety days or, in the discretion of the court, to both such fine and imprisonment: Provided, however, that the provisions of this act shall not apply to any owner, publisher, printer, agent or employee of a newspaper or other publication, periodical or circular, who in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of such advertisement. (P. A. 1925, No. 319, § 1.)

417. Misrepresentation of Merchandise a Misdemeanor.—Any firm, person, corporation or association of persons or any employee of such or any of such, who in the newspapers or other periodicals of this State, or in public advertisements, or in communications intended for a large number of persons knowingly makes or disseminates any statements or assertions of facts with respect to his, its or their business affairs concerning quantity or quality, the value, the price of his, its or their merchandise, or the possession of rewards, prizes or distinctions; or the motive or purpose of a sale, intended to have the appearance of an advantageous offer, which are untrue or calculated to mislead, shall be guilty of a misdemeanor. (C. L. 1915, § 15340.)

418. Penalty.—Any firm, person, corporation or association violating the provisions of this act* upon conviction thereof, shall be liable to a fine of not less than five or more than fifty dollars and costs of prosecution. (Id. § 15341.)

Flag Desecration.

419. Violations; Penalty.—It shall be unlawful for any person to display the State coat-of-arms, or flag, or both, for advertising purposes, or in connection

*Act 245 of 1899, included in Nos. 417-418.

with any advertising reading matter, picture or device, or to place upon either the coat-of-arms or the flag, or upon both, any inscription, letter, picture or device other than those specified in this act. Any person offending against the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction shall be punished by a fine of not less than five nor more than twenty-five dollars, or imprisonment for not less than one nor more than thirty days in the county jail of the county in which such conviction is had, or by both such fine or imprisonment, in the discretion of the court. (C. L. 1915, § 1105.)*

420. "Flag," Etc., What to Include.—The words "flag," "standard," "color," "ensign," or "shield," as used in this act, shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size; evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this State, or a copy, picture or presentation thereof. (P. A. 1923, No. 222, § 1.)

421. Mark, Etc., Unlawful to Place on Flag, Etc.; Exposition of, Unlawful; Articles of Merchandise, Etc.—No person shall, after January first, nineteen hundred twenty-four, in any manner, for exhibition or display:

(a) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this State, or authorized by any law of the United States or of this State; or

(b) Expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or

(c) Expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance. (Id. § 2.)

421a. Mutilation, Etc.—No person shall publicly mutilate, deface, defile, defy, trample upon or by word or act cast contempt upon any such flag, standard, color, ensign or shield. (Id. § 3.)

422. Exceptions.—This statute shall not apply to any act permitted by the statutes of the United States (or of this State), or by the United States army and navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement. (Id. § 4.)

423. Penalties.—Any violation of section two of this act shall be a misdemeanor and punishable by a fine of not more than twenty-five dollars. Any violation of section three of this act shall be punishable by a fine of not more than twenty-five dollars, or by imprisonment for not more than thirty days, or by both fine and imprisonment in the discretion of the court. (Id. § 5.)

424. Act so Construed.—This act shall be so construed as to effectuate its general purpose and to make uniform the laws of the States which enact it. (Id. § 6.)

Tobacco—Tobacco Products.

425. Cigarettes Containing Ingredients Foreign to Tobacco.—Any person within the State who manufactures, sells or gives to any one, any cigarette containing any ingredient deleterious to health, foreign to tobacco, shall be punished by a fine of not more than fifty dollars, or imprisonment in a county jail for not more than thirty days. (C. L. 1915, § 5181.)†

426. Sale of Cigarettes to Minors; Penalty.—Any person within this State who sells, gives to, or in any way furnishes any cigarettes in any form to any person under twenty-one years of age shall be punished by fine not to exceed fifty dollars or imprisonment in the county jail for not to exceed thirty days for each offense. (Id. § 5185.)‡

427. Smoking Cigarettes in Public Prohibited; Penalty.—Any person under twenty-one years of age who shall smoke or use cigarettes in any form, on any

*Act 209 of 1911.

†Act 226 of 1909.

‡Act 31 of 1915, included in Nos. 426-428.

public highway, street, alley, park or other lands used for public purposes, or in any public place of business or amusement, may be arrested by any officer of the law, who may be cognizant of such offense; and further, it shall be the duty of such officer upon complaint of any person and upon warrant properly issued to arrest such offenders and take them to the proper court. In case the offender is found guilty the court may impose a penalty in its discretion in the sum of not to exceed ten dollars or imprisonment in the county jail not to exceed five days for each offense. (Id. § 5186.)

428. Harboring Cigarette Smokers Prohibited; Penalty; Proviso, Right of Parents or Guardians.—Any person who knowingly harbors any person under twenty-one years of age, or grants to them the privilege of gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes in any form, shall be held under the same penalty as provided for under section one of this act [5185]: Provided, That no part of this act shall be construed as to interfere with the right of parents or lawful guardians in the rearing and management of their minor children or wards within the bounds of their own private premises. (Id. § 5187.)

429. What Unlawful.—It shall not be lawful for any person by himself, his clerk or agent, to sell, give or furnish any cigar, cigarette, cheroot, chewing or smoking tobacco, or tobacco in any form whatsoever, to any minor under seventeen years of age, unless upon the written order of the parent or guardian of said minor. (Id. 15277.)*

430. Misdemeanor; Penalty.—Any person who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, or by imprisonment in the county jail for a term of not less than ten days nor more than thirty days, or by both such fine and imprisonment in the discretion of the court. (Id. § 15278.)

431. Employment Prohibited.—No person who is affected with any infectious disease, or with any venereal disease in a communicable form, shall work, or be permitted to work, in any place where cigars are manufactured. Whenever required by any local health officer, any person employed in such place shall submit to a physical examination by such officer, or by some physician designated by such person so employed. If, as a result of such examination, such person shall be found to be affected with any infectious disease, or with any venereal disease in a communicable form, such employment shall immediately cease and such person shall not be permitted to work in any such place. (Supp. 1922, § 5145 (16).)†

432. Penalty.—Any person knowingly affected with any infectious disease, or with any venereal disease in a communicable form, who shall work in any place defined in section one [5145 (16)], and any person knowingly employing or permitting such person to work in such place, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding two hundred fifty dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment in the discretion of the court. (Id. § 5145 (17).)

Trade-Marks, Etc.

433. Penalty for Forging, Etc.—Every person who shall knowingly and willfully forge or counterfeit, or cause or procure to be forged or counterfeited, any representation, likeness, similitude, copy or imitation of the private stamp, brand, wrapper or label, usually affixed by any mechanic, druggist, apothecary, or manufacturer to, and used by such mechanic, druggist, apothecary, or manufacturer on, or in the sale of any goods, wares or merchandise, and with intent to deceive or defraud the purchaser or manufacturer of any goods, wares or merchandise whatsoever, upon conviction thereof, shall be punished by imprisonment in the county jail for a term not exceeding six months, or by fine not exceeding one thousand dollars, or both, in the discretion of the court. (C. L. 1915, § 15450.)‡

434. Penalty for Having in Possession Any Die, Etc.—Every person who shall have in his possession any die, plate, engraving, or printed label, brand, stamp, wrapper, or any representation, likeness, similitude, copy or imitation of the

*Act 77 of 1889, included in Nos. 429-430.

†Act 353 of 1919, included in Nos. 431-432.

‡Act 22 of 1863, included in Nos. 433-436.

private stamp, wrapper or label, usually affixed by any mechanic or manufacturer, druggist, or apothecary to, and used by such mechanic, druggist, apothecary or manufacturer on, or in the sale of any goods, wares or merchandise, with intent to use or sell the said die, plate, engraving, or printed stamp, label or wrapper, for the purpose of aiding or assisting in any way whatever, in vending any goods, wares or merchandise, in imitation of, or intended to resemble and be sold for the goods, wares and merchandise of such mechanic, druggist, apothecary, or manufacturer, contrary to the provisions of this act, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars, or both, in the discretion of the court. (Id. § 15451.)

435. Penalty for Vending Goods Having Forged Stamps, Etc. Thereon.—Any person who shall vend any goods, wares or merchandise, having thereon any forged or counterfeited stamps, labels or brands, imitating, resembling or purporting to be the stamps, or labels of any mechanic, manufacturer, druggist or apothecary, knowing the same to be forged or counterfeited, and resembling, or purporting to be imitations of the stamps, labels or marks, of such manufacturer or mechanic, with intent to defraud, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars, or both, in the discretion of the court. (Id. § 15452.)

436. Penalty for Selling Other Than Genuine Goods, Etc., Under Genuine Stamp.—Any person who, from any box, phial, case, package, or other form of enclosure, having thereon impressed or in any manner attached the printed label, brand, engraving, stamp, mark, or other device, of any mechanic or manufacturer, druggist or apothecary, shall sell, barter or trade therefrom, or therein, any other goods, wares or merchandise than such as are genuine production of the manufacturer or mechanic, druggist or apothecary, whose label, mark, stamp or device, may be imprinted upon or affixed to such box, or other form of enclosure, with intent to deceive such purchaser, shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine not exceeding two hundred and fifty dollars, or by imprisonment in the county jail not more than three months, or both, in the discretion of the court. (Id. § 15453.)

437. Unlawful to Imitate Trade-Mark, Label, Etc.—Whenever any person, or any association or union of workmen has heretofore adopted or used, or shall hereafter adopt or use any label, trade-mark, term, design, device, or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person, or association or union of workmen or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such labels, trade-mark, term, design, device or form of advertisement. (Id. § 15454.)*

438. Counterfeiting Label, Trade-Mark, Etc., a Misdemeanor.—Whoever counterfeits or imitates any such label, trade-mark, term, design, device or form of advertisement, or sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement; or knowingly uses any such counterfeit or imitation; or knowingly sells or disposes of, or keeps or has in his possession with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which any such counterfeit or imitation is attached or affixed, or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package, to which, or on which, any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or keeps or has in his possession with intent that the same shall be sold or disposed of any goods, wares, merchandise or other product of labor in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, or shall use or display the genuine label, trade-mark, term, design, device or form of advertisement of any such person, association or union in any manner, not being authorized so to do by such person, union or association, or who shall in any way use the name or seal of any such person, association or union or officer thereof, in and about the sale of goods or otherwise, not being

*Act 41 of 1891, included in Nos. 437-442.

authorized to so use the same, shall be deemed guilty of a misdemeanor, and shall be punished as hereinafter provided. In suits or proceedings for damage, or for equitable relief by or on behalf of any such person, association or union, on account of the violation of any provision of this act, it shall not be necessary to prove that such violation was knowingly or willfully committed. (Id. § 15455.)

439. Penalty Clause.—Any person, whether a member of a firm or corporation, or otherwise, who shall violate any of the provisions of section one [15454] of this act, or who shall knowingly or willfully violate any of the provisions of section two [15455] of this act, shall be deemed to have committed a misdemeanor thereby, and, on conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for a period not exceeding ninety days, or both such fine and imprisonment in the discretion of the court. Any person who shall be convicted a second time for violating any of the provisions of section one [15454] of this act, or who shall knowingly or willfully violate any provisions of section two [15455] of this act, shall be punished by imprisonment in the county jail for not less than sixty days nor more than ninety days. (Id. § 15456.)

440. How Suits to be Brought; In Case of Criminal Proceedings.—In actions at law or proceedings in equity brought on behalf of any such association or union which is not incorporated, the same may be brought in the name of any member of such association or union, who has been duly authorized so to do by such association or union, but for the use and benefit of all the members of such association or union: Provided, that before commencing such action or proceeding the member so authorized shall file with the justice or clerk of such court, a certificate of the president and secretary of such association or union, showing that such authority has been granted. Any criminal proceeding brought for a violation of any provision of this act, may be prosecuted by the authorized attorney of such association or union, in the court where originally commenced, but in such case the fees and compensation of such attorney, shall be borne and paid exclusively by such association or union: Provided, that nothing herein shall be deemed to prevent the prosecuting attorney from conducting any such prosecution, or the said authorized attorney of such association or union from deputizing a duly qualified attorney at law to appear in his stead. (Id. § 15457.)

441. Trade-Mark, Etc., to be Filed in Office of Secretary of State.—Every such person, association or union that has heretofore adopted or used or shall hereafter adopt or use a label, trade-mark, term, design, device or form of advertisement, as provided in section one [15454] of this act, shall file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof, with said secretary, and by filing therewith a sworn statement specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed, the class of merchandise and a particular description of the goods to which it has been or is intended to be appropriated; that the party so filing or on whose behalf such label, trade-mark, term, design, device or form of advertisement shall be filed has the right to the use of the same, and that no other person, firm, association, union or corporation has the right to such use, either in the identical form, or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile copies or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of one dollar. Any person who shall for himself or on behalf of any other person, association or union procure the filing of any label, trade-mark, term, design, device, or form of advertisement in the office of the Secretary of State under the provisions of this act, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one dollar. Any such certificate of record shall in all suits and prosecutions under this act be prima facie proof of the adoption of such label, trade-mark, term, design, device, or form of advertisement. Said Secretary of State shall not record for any person, union or association, any label, trade-mark, term, design, device or form of advertisement that would reasonably be mistaken for any label, trade-mark, term, design, device, or form of advertisement there-

tofore filed by or on behalf of any other person, union or association. (Id. § 15458.)

442. Certificate Not Assignable.—In no case shall the certificate from the Secretary of State, obtained in conformity with the fifth section [15458] of this act, be assignable by the party to whom the same is issued. (Id. § 15459.)

443. To File With Secretary of State, Description of Names, Marks, Etc.; Publication.—Any and all persons or corporations, engaged in manufacturing, bottling or selling soda water, mineral, drinking or aerated waters, porter, ale, cider, ginger ale, milk, cream, ice cream, butter, or other dairy products, beer, small beer, lager beer, Weiss beer, white beer, fruits, preserves, cordials, drugs, medicines, perfumes, mixtures, compounds, or other manufactured articles or beverages, in bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs, with his, her, its or their name or names, or other mark, initials, or device together with the word "registered," branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs used by him, her, it or them, may file in the office of the clerk in the county in which his, her, its or their principal place of business is located and also in the office of the Secretary of State, a description of the name or names, marks, initials, or devices so used by him, it or them, respectively, and cause such description to be printed once in each week for three weeks successively in a newspaper published in the county in which said notice may be filed as aforesaid. (Id. § 7404.)*

444. Unlawful to Fill, Etc.—It is hereby declared to be unlawful for any person or persons, corporation or corporations, to fill with soda water, mineral, drinking or aerated waters, porter, ale, cider, ginger ale, milk, cream, ice cream, butter, or other dairy products, small beer, lager beer, Weiss beer, beer, white beer, fruits, preserves, cordials, drugs, medicines, mixtures, perfumes or other compounds of manufactured articles or beverages, any bottle, can, ice cream can, jar, tub, ice cream tub, box, siphon, fountain or keg, so marked, or distinguished as aforesaid, with or by any name, mark, initial, or device of which a description shall have been filed and published as provided for in section one [7404] of this act, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark, initial, or device thereon; or to buy, sell, give, take, or otherwise dispose of, or traffic in the same, without the written consent of, or unless the same shall have been purchased from, the person or persons, corporation or corporations, or other persons dealing in, and selling such bottles, cans, ice cream cans, jars, tubs, ice-cream tubs, boxes, siphons, fountains or kegs, or the contents thereof, and whose mark, initial or device shall be or shall have been upon the bottle, can, ice cream can, jar, tub, ice cream tub, box, siphon or keg so filled, trafficked in, used or handled as aforesaid; any person or persons, corporation or corporations, offending against the provisions of this section shall be guilty of a misdemeanor and shall be punished for the first offense by imprisonment of not less than ten days or more than ninety days, or by a fine of one dollar for each and every bottle, can, ice cream can, jar, tub, ice cream tub, box, siphon, fountain or keg so filled, sold, used, disposed of, bought or trafficked in or by both such fine and imprisonment in the discretion of the court before whom the offense shall be tried; and for each subsequent offense by imprisonment of not less than ten days or more than ninety days, or by a fine of not less than three dollars or more than five dollars for each and every bottle, can, ice cream can, jar, tub, ice cream tub, box, siphon, fountain or keg so filled, used, sold, disposed of, bought or trafficked in, or by both such fine and imprisonment in the discretion of the court before whom the offense shall have been tried. (Id. § 7405.)

445. Unlawful to Use Without Written Consent.—The use by any person other than the person or persons, corporation or corporations, whose name, mark, initial or device shall be or shall have been upon the same, without such written consent or purchase as aforesaid of any such marked or distinguished bottle, can, ice cream can, jar, tub, ice cream tub, box, siphon, fountain or keg, a description of the name, mark, initials, or device, whereon shall have been filed and published as herein provided, for the sale of soda water, mineral, drinking or aerated waters, porter, ale, cider, ginger ale, milk, cream, ice cream, butter, or other dairy products, small beer, lager beer, Weiss beer, beer, white beer, fruits, preserves, cordials, drugs, medicines, mixtures, perfumes, compounds, or other manufactured articles or beverages or for the furnishing of such similar beverages and articles to customers or the selling, disposing of or trafficking in any such bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs, by any persons other than the persons or corporations having the name, mark, ini-

*Act 164 of 1905, included in Nos. 443-447.

tials or device thereon, of such owner without such written consent; or the having by any junk dealer or dealer in second hand articles possession of any such bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs, a description of the name, mark, initials or device used wherein shall have been so filed and published as aforesaid, without such written consent, shall and is hereby declared to be presumptive evidence of the unlawful use, purchase or traffic in such bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs. (Id. § 7406.)

446. When Justice May Issue Search Warrant; When Punishment Imposed.

—Whenever any person or persons, or the president, secretary, treasurer, or other officer of any corporation mentioned in section one of this act [7404], or his, her, its, or their duly authorized agent who has personal knowledge of the facts, shall make oath in writing before any justice of the peace or police judge, or other magistrate, that the party so making such affidavit has reason to believe and does believe that any of his, her, its, or their bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs containing a description of the name, mark, initials or device duly registered as provided in section one of this act [7404], are being filled or had by any person or corporation manufacturing or selling soda water, mineral, drinking or aerated waters, porter, ale, cider, ginger ale, milk, cream, ice cream, butter, or other dairy products, small beer, lager beer, Weiss beer, beer, white beer, fruits, preserves, cordials, drugs, medicines, mixtures, perfumes, compounds or other manufactured articles or beverages or that any junk dealer or dealer in second hand articles, vendor of bottles, or any such person or corporation has any such bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs in his, her, its or their possession the said magistrate may, when satisfied that there is reasonable cause, issue a search warrant and cause the premises designated to be searched for the purpose of discovering and obtaining the same, and may also cause to be brought before him the person in whose possession such bottles, cans, ice cream cans, jars, tubs, ice cream tubs, boxes, siphons, fountains or kegs may be found, and shall then inquire into the circumstances of such possession; and if said magistrate finds that such person has been guilty of a violation of section two of this act [7405], he must impose the punishment, therein prescribed, and he shall also award the possession of property taken upon such search warrant to the owner thereof. (Id. § 7407.)

447. How Costs Assessed.—The costs incurred in the enforcement of the provisions of this act shall be assessed and collected in the same manner as in criminal cases, and all fines collected by virtue of this act shall be turned over to the magistrate collecting the same, in the same manner and for the same purposes as criminal and misdemeanor fines are now by law disposed of. (Id. § 7408.)

448. Unlawful Use of Certain Containers, Etc.; Proviso.—Any person or persons using any fruit or vegetable container, or part thereof, upon which is borne any copyrighted or registered label, brand, stamp or trade-mark or using a copyrighted or registered bag, tag or card without first obtaining permission to do so from the person, corporation, association, society or persons having legal control of the copyrighted or registered label, brand, stamp, trade-mark, tag, bag or card, shall be deemed guilty of a misdemeanor: Provided, That nothing in this act shall prohibit the use of the container or part thereof herein mentioned in the sale of a commodity other than that described on the label, brand, stamp, tag or card attached thereto or appearing thereon. (P. A. 1925, No. 79, § 1.)

449. Penalty.—Any person or persons adjudged guilty in a court of competent jurisdiction for violating the provisions of this act shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than ninety days, or by both such fine and imprisonment in the discretion of the court. (Id. § 2.)

NOTE: See also No. 183 et seq.

Weights and Measures.

450. State Standards.—The weights and measures received from the United States under a resolution of Congress approved June fourteen, eighteen hundred thirty-six, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the national bureau of standards, shall be the State standards, by which

all county and municipal standards of weights and measures shall be tried, proved and sealed. (C. L. 1915, § 6234.)*

451. Superintendent of Weights and Measures.—The State Dairy and Food Commissioner† by virtue of his office shall be State Superintendent of Weights and Measures during his term of office. His deputy shall be Deputy Superintendent of Weights and Measures, and all inspectors appointed by the Dairy and Food Commissioner shall be State inspectors and sealers of weights and measures. (Id. § 6235.)

452. Duties of; Annual Test; Report to Governor; Inspections.—The Superintendent of Weights and Measures shall take charge of the standards adopted by this article as the standards of the State, and cause them to be kept in a safe and suitable place in the office of the superintendent from which they shall not be removed except for repairs or for certification and he shall take all other necessary precautions for their safekeeping. He shall maintain the State standards in good order and shall submit them at least once in ten years to the national bureau of standards for certification. He shall at least once in five years try and prove by the State standards all weights, measures and other apparatus which may belong to any county or city, and shall seal such when found to be accurate stamping on them the letter "C" and the last two figures of the year with seals which he shall have and keep for that purpose. He shall have and keep a general supervision of the weights, measures and weighing and measuring devices offered for sale, sold, or in use in the State. He shall, upon the written request of any citizen, firm, corporation or educational institution in the State test or calibrate weights, measures, weighing or measuring devices, and instruments or apparatus used as standards in the State. He, or his deputy, or inspectors, by his direction, shall at least once annually test all scales, weights and measures used in checking the receipts and disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the Legislature, and he shall report in writing his finding to the supervisory board and to the executive officer of the institution concerned, and at the request of such board or executive officer the Superintendent of Weights and Measures shall appoint in writing one or more employees then in the actual service of each institution, who shall act as special deputies without extra compensation for the purpose of checking the receipts and disbursements of supplies. He shall keep a complete record of standards, balances and other apparatus belonging to the State and take a receipt for same from his successor in office.

He shall annually on the first day of July make to the Governor a report of the work done by his office. The State Superintendent or his deputy, or inspectors, at his direction, shall inspect all standards and apparatus used by the counties and cities at least once in five years and shall keep a record of the same. He, or his deputy, or inspectors, at his direction shall at least once in five years visit the various cities and counties of the State in order to inspect the work of the local sealers, and in the performance of such duties, he may inspect the weights, measures, balances, or any other weighing appliance of any citizen, firm, or corporation, and shall have the same power as the local sealer of weights and measures. The superintendent shall issue from time to time, regulations for the guidance of city and county sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 6236.)

453. Supervisors, Etc., to Appoint Sealer.—The board of supervisors of each county and the commissioner or common council of each city who may in their discretion appoint a sealer under this act, shall procure at the expense of the county or city, and shall keep at all times, a complete set of weights and measures and other apparatus of such material and construction as said Superintendent of Weights and Measures may direct. All such weights, measures, and other apparatus having been tried and accurately proven by him, shall be sealed and certified to by the State Superintendent as hereinbefore provided; and shall be then deposited with and preserved by the county or city sealer as public standards for such county or city. (Id. § 6237.)

454. County Sealer; Salary; Annual Report; Bond.—The board of supervisors of each county may in its discretion appoint a county sealer of weights and measures in each county for a term of two years. He shall be paid a salary to be determined by said board, and no fee shall be charged by him or by the county for the inspection, testing, or sealing of weights, measures, or weighing or measuring devices; where not otherwise provided by law, the county sealer shall have

*Act 168 of 1913, included in Nos. 450-459.

†Department of Agriculture. See No. 28.

the power within his county, and the State Superintendent, his deputies and inspectors, within the State, to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measuring and tools, appliances and accessories connected with any and all such instruments or measures kept, offered, or exposed for sale, sold or used or employed within the county by any proprietor, agent, lessee, or employe in proving the size, quantity, extent, area, or measurement of quantities, things, produce, articles for distribution or consumption offered or submitted by such person or persons for sale, hire, or award; and they shall have the power to and shall from time to time weigh or measure packages or amounts of commodities of whatsoever kind kept for the purpose of sale, offered for sale, or sold or in the process of delivery, in order to determine whether the same contains the amount represented, and whether they be offered for sale or sold in a manner in accordance with law. The county sealer shall at least once each year, and as much oftener as he may deem necessary, see that the weights, measures, and all apparatus used in the county are correct. The county and State inspectors may for the purpose above mentioned and in the general performance of their official duties enter or go in upon, and without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever and require him, if necessary, to proceed to some place which the sealer may specify, for the purpose of making the proper tests. Whenever the county sealer or State inspectors find a violation of the statute relating to weights and measures, they shall cause the violator to be prosecuted. Whenever any sealer or inspector compares weights, measures, or weighing and measuring instruments and finds that they correspond, or causes them to correspond, with the standards in his possession, he shall seal or mark such weights, measures, or weighing or measuring instruments with appropriate devices to be approved by the State Superintendent of Weights and Measures. The county sealer shall keep a complete record of all of his official acts and shall make an annual report to the board of supervisors and an annual report, duly sworn to on the first day of July to the State Superintendent of Weights and Measures on blanks to be furnished by the superintendent. The county sealer of weights and measures shall forthwith on his appointment give a bond in the penal sum of one thousand dollars with sureties to be approved by the appointing power for the faithful performance of the duties of his office: Provided, however, That nothing in the above shall be construed to prevent two or more counties from combining the whole or any part of their districts as may be agreed upon by the board of supervisors with one set of standards and one sealer, upon the written consent of the State Superintendent of Weights and Measures. A county sealer appointed in pursuance of such an agreement for such combination, shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are party to the agreement. (Id. § 6238.)

455. City Sealer; Proviso.—Any incorporated city in this State may in its discretion appoint a city sealer of weights and measures under this act. He shall be appointed by the mayor, by and with the advice and consent of the common council. He shall perform in said city the duties and have like powers as the county sealer in the county. In those cities in which no sealer is appointed as above, the county sealer of the county, if there be one, shall perform in said cities the duties and have like powers as in the county: Provided, however, That nothing in the above shall be construed to prevent any county and a city situated therein from combining the whole or any part of their districts as may be agreed upon with one sealer, subject to the written approval of the State Superintendent of Weights and Measures. A sealer appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction, and duties as if he had been appointed by each of the authorities who are parties to the agreement. (Id. § 6239.)

456. False Measures, Etc.—Any person who shall offer or expose for sale, sell, or use or retain in his possession, a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any such commodity in a manner contrary to law; or any person who shall sell or offer for sale or have in his possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, shall be guilty of a misde-

measuror, and shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for not more than three months or by both such fine and imprisonment upon first conviction; but upon a second or subsequent conviction he shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment. (Id. § 6240, as amended P. A. 1923, No. 24.)

457. May Seize False Weights, Etc.—The Superintendent of Weights and Measures, his deputy, inspectors and the county and city sealers of weights and measures are hereby made special policemen, and are authorized to seize, for use as evidence and without formal warrant any false or unsealed weight, measure or weighing or measuring device or package or amounts of commodities, found to be used, retained or offered or exposed for sale or sold in violation of law. (C. L. 1915, § 6241.)

458. Hindering, Etc., Penalty.—Any person who shall hinder or obstruct in any way, the Superintendent of Weights and Measures, his deputy, or inspectors, or any county or city sealer, in the performance of his official duties shall be guilty of a misdemeanor, and shall be punished upon conviction thereof, in any court of competent jurisdiction, by a fine of not less than two nor more than two hundred dollars, or by imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment. (Id. § 6242.)

459. Unlawful to Impersonate.—Any person who shall impersonate in any way the Superintendent of Weights and Measures, his deputies, inspectors, or any county or city sealer, by use of his seal or otherwise, shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment. (Id. § 6243.)

460. Construction of Certain Contracts.—When any commodity shall be sold by the hundredweight, it shall be understood to mean the net weight of one hundred pounds avoirdupois, and all contracts concerning goods or commodities sold by weight, shall be construed accordingly, unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. (Id. § 6245.)*

461. Standard Measure of Fruits, Etc.; of Charcoal.—The half bushel and the parts thereof shall be the standard measure for fruits and other commodities customarily sold by heaped measure; and in measuring such commodities the half bushel or other smaller measure shall be heaped as high as may be, without especial effort or design; and the standard measure of charcoal shall be twenty-seven hundred and forty-eight cubic inches for each and every bushel thereof. (Id. § 6246.)†

462. Weight Per Bushel of Grain, Etc.—Whenever wheat, rye, shelled corn, corn on the cob, corn meal, oats, buckwheat, beans, clover seed, timothy seed, flax seed, hemp seed, millet seed, blue grass seed, red top seed, barley, dried apples, dried peaches, potatoes, potatoes (sweet), onions, turnips, peas, cranberries, dried plums, castor beans, salt, mineral coal, Hungarian grass seed, orchard grass seed, osage orange seed, beets, carrots or parsnips, shall be sold by the bushel, and no special agreement as to the measure or weight thereof shall be made by the parties, the measure thereof shall be ascertained by weight, and shall be computed as follows, viz.:

- Sixty pounds for a bushel of wheat.
- Fifty-six pounds for a bushel of rye.
- Fifty-six pounds for a bushel of shelled corn.
- Seventy pounds for a bushel of corn on the cob.
- Fifty pounds for a bushel of corn meal.
- Thirty-two pounds for a bushel of oats.
- Forty-eight pounds for a bushel of buckwheat.
- Sixty pounds for a bushel of beans.
- Sixty pounds for a bushel of clover seed.
- Forty-five pounds for a bushel of timothy seed.
- Fifty-six pounds for a bushel of flax seed.
- Forty-four pounds for a bushel of hemp seed.
- Fifty pounds for a bushel of millet or Hungarian grass seed
- Fourteen pounds for a bushel of blue grass seed.
- Fourteen pounds for a bushel of red top seed.

*R. S. '46, c. 31, § 17.

†R. S. '46, c. 31, § 19.

Forty-eight pounds for a bushel of barley.
 Twenty-two pounds for a bushel of dried apples.
 Twenty-eight pounds for a bushel of dried peaches.
 Sixty pounds for a bushel of potatoes.
 Fifty-six pounds for a bushel of sweet potatoes.
 Fifty-four pounds for a bushel of onions.
 Fifty-eight pounds for a bushel of turnips.
 Sixty pounds for a bushel of peas.
 Forty pounds for a bushel of cranberries.
 Twenty-eight pounds for a bushel of dried plums.
 Forty-six pounds for a bushel of castor beans.
 Fifty-six pounds for a bushel of Michigan salt.
 Eighty pounds for a bushel of mineral anthracite coal.
 Sixty pounds for a bushel of mineral bituminous coal.
 Fourteen pounds for a bushel of orchard grass seed.
 Thirty-three pounds for a bushel of osage orange seed.
 Fifty-six pounds for a bushel of beets.
 Fifty pounds for a bushel of carrots.
 Fifty pounds for a bushel of parsnips. (Id. § 6247, as amended P. A. 1925, No. 59.)*

463. Apples.—Whenever apples are bought or sold by weight forty-eight pounds shall constitute a bushel. (C. L. 1915, § 6250.)¹

463a. Duty of Persons Weighing Cattle, Etc.—Every person who shall weigh for any person purchasing, or selling, or offering for sale any livestock, neat cattle, sheep, swine, poultry, or other live animals, or any beef, pork, mutton, fowls, or other animals when dressed, or any hay, grain, or produce, shall make a true and correct weight or weights thereof, and give to the purchaser and seller, or person offering the same for sale, when requested, the true, full, correct, and, gross amount of any and all such weights. (Id. § 6251.)²

464. Penalty for Violation of Act.—Every person who shall willfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court. (Id. § 6252.)²

465. Number of Cubic Inches.—The quantity known as a box or basket of peaches shall contain seven hundred and sixteen and four-fifths cubic inches, or one-third of a bushel strict measure. (Id. § 6253.)³

466. Dimensions; Cranberries.—The standard barrel for fruits, vegetables, and other dry commodities other than cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge, sixty-four inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch: Provided, That any barrel of a different form having a capacity of seven thousand fifty-six cubic inches shall be a standard barrel. The standard barrel for cranberries shall be of the following dimensions when measured without distention of its parts: Length of staves, twenty-eight and one-half inches; diameter of heads, sixteen and one-fourth inches; distance between heads, twenty-five and one-fourth inches; circumference of bulge, fifty-eight and one-half inches, outside measurement; and the thickness of staves not greater than four-tenths of an inch. (Supp. 1922, § 6254(1).)⁴

467. Unlawful to Sell or Ship in Barrel of Less Capacity; Foreign Countries.—It shall be unlawful to sell, offer, or expose for sale in this State, or to ship from this State, to any other state, territory, or the District of Columbia or to a foreign country, a barrel containing fruits or vegetables or any other dry commodity of less capacity than the standard barrels defined in the first section of this act, or subdivisions thereof known as the third, half, and three-quarter barrel, and any person guilty of a wilful violation of any of the provisions of this act shall be deemed guilty of a misdemeanor and be liable to a fine not to exceed one hundred dollars, in any court of this State having jurisdiction: Provided, however, That no barrel shall be deemed below standard within the meaning of this act

*Act 223 of 1863.

¹Act 63 of 1877.

²Act 189 of 1881.

³Act 101 of 1871.

⁴Act 88 of 1917, included in Nos. 466-468.

when shipped to any foreign country and constructed according to the specifications or directions of the foreign purchaser if not constructed in conflict with the laws of the foreign country to which the same is intended to be shipped. (Id. § 6254(2).)

468. Variations; Commodities sold by Weight or Count.—Reasonable variations shall be permitted and tolerance established by rules and regulations made by the Director of the Bureau of Standards and approved by the Secretary of Commerce. Prosecutions for offenses under this act may be begun upon complaint of local sealers of weights and measures or other officer of the State appointed to enforce the laws of the said State, relating to weights and measures: Provided, however, That nothing in this act shall apply to barrels used in packing or shipping commodities sold exclusively by weight or numerical count. (Id. § 6254(3).)

469. Standard Climax Baskets.—Standards for climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket, and twelve-quart basket, respectively.

(a) The standard two-quart climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used;

(b) The standard four-quart climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used;

(c) The standard twelve-quart climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used. (Id. § 6254(6).)*

470. Small Fruit Baskets.—The standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities: Namely, dry one-half pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry half pint shall contain sixteen and eight-tenths cubic inches.

(b) The dry pint shall contain thirty-three and six-tenths cubic inches.

(c) The dry quart shall contain sixty-seven and two-tenths cubic inches. (Id. § 6254(7).)

471. Penalty for Violation; Foreign Shipments.—It shall be unlawful to manufacture for shipment, or to sell within the State any climax baskets or other containers for small fruits, berries, or vegetables, whether filled or unfilled, which do not conform to the provisions of this act; and any person guilty of a wilful violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five dollars: Provided, That nothing herein contained shall apply to the manufacture, sale, or shipment of climax baskets, baskets, or other containers for small fruits, berries, and vegetables when intended for export to foreign countries when such climax baskets, baskets, or other containers for small fruits, berries, and vegetables accord with the specifications of the foreign purchasers or comply with the law of the country to which shipment is made or to be made. (Id. § 6254(8).)

472. Who to Test; Rules and Regulations.—The examination and test of climax baskets, baskets, or other containers for small fruits, berries, and vegetables, for the purpose of determining whether such baskets or other containers comply with the provisions of this act, shall be made by the Dairy and Food Department, and the Dairy and Food Commissioner† shall establish and promulgate rules and regulations allowing such reasonable tolerances and variations as may be found necessary. (Id. § 6254(9).)

*Act 74 of 1917, included in Nos. 469-474.

†Department of Agriculture. See No. 28.

473. Prosecuting Attorney, Duty of.—It shall be the duty of each prosecuting attorney, to whom satisfactory evidence of any violation of the act is presented, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the State for the enforcement of the penalties as in such case herein provided. (Id. § 6254(10).)

474. Manufacturer's Guaranty as Relieving Dealer.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the manufacturer, wholesaler, jobber, or other party residing within the United States from whom such climax baskets, baskets, or other containers, as defined in this act, were purchased, to the effect that said climax baskets, baskets, or other containers are correct within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of climax baskets, baskets, or other containers to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act. (Id. § 6254(11).)

475. Fruits, Etc., Not to be Sold in Less Quantity Than Represented.—When any person or persons, party or parties, shall offer for sale or sell in any township, village, or city, within this State, any fruits or vegetables contained in drawers or cases, boxes or baskets, represented to hold one bushel or any fractional part thereof, said drawers, boxes, cases, or baskets, shall be of the dimensions to hold, and shall hold the quantity offered for sale or sold, whether by the bushel of thirty-two quarts or any fractional part thereof. (C. L. 1915, § 6255.)*

476. Penalty for Violating Provisions of Foregoing Section.—Any person or persons violating the provisions of the foregoing section, upon conviction before any court of competent jurisdiction, shall be liable to a fine not less than five dollars nor more than twenty dollars, and imprisonment for a term not to exceed three months or either or both, in the discretion of said court. (Id. § 6256.)*

477. Fruit Baskets to be Marked as to Number of Pounds.—All manufacturers of peach baskets and other fruit packages designed for the shipment of peaches, grapes and plums, and all shippers and dealers in the same, shall mark or cause to be marked in a plain manner on the outside, otherwise than the bottom, of such baskets or packages, the capacity of each basket or package in pounds at the rate of one pound for each forty-three and eight-thousandths cubic inches of space contained in such basket or package. (Id. § 6257.)†

478. Penalty for Violation of Act.—Any manufacturer of or dealer in peach baskets or other fruit packages designed for the shipment of peaches, grapes and plums, who shall sell or offer to sell such baskets or packages without complying with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction, shall be fined not less than twenty-five dollars nor more than one hundred dollars, and stand committed to the county jail until such fine and costs are paid. (Id. § 6258.)†

479. Certain Mill Products; Standard Weights; Weight to be Placed in Barrel, Etc.—When mill products of wheat, corn, rye or buckwheat, known as flour, grits, meal or compounds of the same, are placed or packed in barrels, fractional parts of a barrel or sacks to be sold or billed to any person or persons within this State, the standard weight or measure of a barrel or the fractional part thereof shall be as follows, viz:

- One hundred ninety-six pounds for a barrel;
- Ninety-eight pounds for one-half barrel;
- Forty-nine pounds for one-quarter barrel;
- Twenty-four and one-half pounds for one-eighth barrel;
- Twelve and one-fourth pounds for one-sixteenth barrel;
- Six and one-eighth pounds for one-thirty-second barrel.

The full and correct weights as herein established shall be placed in said barrel or fractional part thereof by the manufacturer, company, dealer, person or persons filling the same, and the weights as herein established shall be the legal weights in this State for such packages when they are bought or sold, offered or exposed for sale, or in possession with intent to sell, or sold and delivered, ordered, or billed. (Id. § 6260.)‡

*Act 101 of 1877.

†Act 224 of 1895.

‡Act 208 of 1909, included in Nos. 479-484.

480. Short Weights, Unlawful.—No person or persons shall sell, offer or expose for sale in this State, by the barrel, or by the fractional parts of a barrel as herein established, any of the mill products specified in section one hereof, unless the barrel or fractional part of such barrel shall contain the full weight of such mill product as is provided for in section one [6260] hereof. (Id. § 6261.)

481. Face Label on Package, How Printed, Etc.—Before any package containing the mill products or compounds of such mill products specified in section one [6260] of this act shall be sold or offered or exposed for sale in this State, the number of pounds contained therein shall be plainly printed or stamped on the face label in plain English letters and numbers not less than one-half inch high. When such packages are sold as one-half, one-quarter, one-eighth, one-sixteenth or one-thirty-second of a barrel they shall be so marked in addition to the number of pounds marked thereon as herein provided. (Id. § 6262.)

482. Abstraction Unlawful.—No manufacturer, company, dealer or person shall abstract any part of the mill products from the standard packages or fractional parts named in section one [6260], and sell such package as a barrel or fractional part of a barrel as defined in section one. (Id. § 6263.)

483. Penalty Clause; Proviso; Sales or Shipments Outside of State.—Any manufacturer, company, dealer, person or persons, who shall knowingly sell, offer or expose for sale or for distribution in this State any package containing mill products of the cereals enumerated in section one [6260] which are stamped or labeled with a greater number of pounds than such package actually contains, or who shall put up or sell in this State any of the mill products of the above named cereals in a manner contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars and the costs of prosecution, or by imprisonment in the county jail or the Michigan Reformatory at Ionia for not less than ninety days nor more than one year or by both such fine and imprisonment in the discretion of the court for each and every offense: Provided, however, that nothing in this act shall be construed to cover or affect sales or shipments made to any manufacturer, company, dealer, person or persons outside of this State and not intended for sale or shipment back into this State. (Id. § 6264.)

484. Dairy and Food Commissioner; Prosecuting Officers; Duty of.—It shall be the duty of the Dairy and Food Commissioner* to investigate all complaints of violations of this act, and to take all steps necessary to its enforcement. It shall be the duty of all prosecuting officers of this State to prosecute to completion all suits brought under the provisions of this act upon complaint of said commissioner or any person. (Id. § 6265.)

485. Miller to Keep Scales, Etc., and Weigh Grain, Flour, Etc., Forfeiture for Neglect or Refusal.—Every miller occupying and using a grist mill, shall be provided with scales and weights or a vibrating steelyard, to weigh corn, grain, flour and meal, delivered at and taken from the mill, if required; and if he shall neglect to keep himself so provided, or shall refuse so to weigh corn, grain, flour, or meal, when required by any person delivering or taking away the same, he shall forfeit, for each neglect or refusal, not less than one dollar, nor more than five dollars. (Id. § 6644.)†

486. False Tokens or Pretenses.—Every person who, with intent to defraud or cheat, shall designedly, by color of any false token or writing or by any false or bogus check or other written, printed or engraved instrument, by spurious coin or metal in the similitude of coin, or by any other false pretense, cause any person natural or corporate, to grant, convey, assign, demise, lease or mortgage any land or interest in land, or obtain the signature of any person, natural or corporate, to any written instrument, the making whereof would be punishable as forgery, or obtain from any person, natural or corporate, any money or personal property or the use of any instrument, facility or article or other valuable thing or service, or by means of any false weights or measures obtain a larger amount or quantity of property than was bargained for, or by means of any false weights or measures sell or dispose of a less amount or quantity of property than was bargained for, if such land or interest in land, money, personal property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of, shall be of the value of twenty-five dollars or less, shall be punished by a fine not exceeding one hundred dollars or imprisonment in the county jail not exceeding three months and if such land, interest in land, money, personal

*Department of Agriculture. See No. 28.

†R. S. '46, c. 132, § 14.

†R. S. '46, c. 154, § 39.

property, use of such instrument, facility or article, valuable thing, service, larger amount obtained or less amount disposed of shall be of the value of more than twenty-five dollars, such person shall be punished by imprisonment in the State Prison not more than ten years by a fine not exceeding five hundred dollars and imprisonment in the county jail not more than one year. (Id. § 15320.)‡

487. Gross Frauds and Cheats at Common Law, How Punished.—Every person who shall be convicted of any gross fraud or cheat at common law, shall be punished by imprisonment in the State Prison not more than ten years, or in the county jail not more than one year, or by fine not exceeding five hundred dollars. (Id. § 15321.)¹

NOTE: See also No. 4; No. 28 et seq.; the dairy law, No. 88 et seq.; the fruit and vegetable law, No. 212 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Agent Who in Good Faith Takes an Order for Pure Food is Not Guilty of Violating the Law if His Principal Fills the Order With Adulterated Food: *People v. Skillman*, 129 Mich. 618, 89 N. W. 330 (1902); *People v. Morse*, 131 Mich. 68, 90 N. W. 673 (1902).

Constitutionality—Law Not Invalid Because of Provision That "Nothing in This Act Shall Prevent the Coloring of Pure Butter": **People v. Hinshaw*, 135 Mich. 378, 97 N. W. 758 (1904).

Constitutionality—Legislature Empowered to Outlaw Sale of Adulterated Food, Irrespective of Seller's Knowledge of the Adulteration: **People v. Snowberger*, 113 Mich. 86, 71 N. W. 497, 67 Am. St. Rep. 449 (1897).

Dairy and Food Department—Authorized to Inspect Bakery of House of Correction: *People v. Jacobs*, 184 Mich. 77, 150 N. W. 363 (1915).

Eggs—Decomposed After Being Placed in Cold Storage: See *E. P. Stacy & Sons v. Moher*, 200 Mich. 81, 166 N. W. 849 (1918).

Knowledge of Adulteration or Intent to Sell Adulterated Food—Proof Thereof Not Essential to Conviction of One Who Sells Adulterated Food: *People v. Snowberger*, 113 Mich. 86, 71 N. W. 497, 67 Am. St. Rep. 449 (1897).

Lemon Extract—Terpeneless—Added Color: *People v. Jennings*, 132 Mich. 662, 94 N. W. 216 (1903).

Maple Sugar Law Governs Manufacture and Sale of Maple and Cane Syrup Mixture: *Pierre Vias Maple Co. v. Dairy and Food Commissioner*, 154 Mich. 73, 117 N. W. 553 (1908).

Mustard—Added Turmeric: *People v. Snowberger*, 113 Mich. 86, 71 N. W. 497, 67 Am. St. Rep. 449 (1897).

Oleomargarine: **Grosvenor v. Duffy*, 121 Mich. 220, 80 N. W. 19 (1899).

Prosecution—Duty as to Subpœnas: *Chase v. Kalamazoo Circuit Judge*, 154 Mich. 271 (1908).

Sale of Counterfeit Article—Action in Libel for Charging: See *Steketee v. Kimm & Harvey*, 48 Mich. 322, 12 N. W. 177 (1882).

Suit by Citizen of Another State to Restrain Dairy and Food Commissioner from Improperly Enforcing State Statute, Where No Criminal Prosecution Has Been Commenced—Not an Action Against State Within Eleventh Amendment: **Scully v. Bird*, 209 U. S. 481, 28 S. Ct. 597, 52 L. Ed. 899 (1908).

Vanilla Extract—Added Color: **People v. Hinshaw*, 135 Mich. 378, 97 N. W. 758 (1904).

2. Special Food Laws.

Beverages—Bordeaux Extract: **People v. Goodknecht*, 220 Mich. 546, 190 N. W. 706 (1922).

Beverages—Fruit Juice & Cider: *People v. Engle*, 217 Mich. 334, 186 N. W. 520 (1922).

¹R. S. '46, c. 154, § 40.

Beverages—Grape Juice: *People v. Angello*, 234 Mich. 106, 207 N. W. 879 (1926).

Beverages—Jamaica Ginger: *People v. Philpott*, 219 Mich. 156, 188 N. W. 497 (1922).

Bread—Standard Weight: **People v. Wagner et al.*, **People v. Barie et al.*, **People v. Wittelsberger et al.*, 86 Mich. 594, 49 N. W. 609, 13 L. R. A. 286, 24 Am. St. Rep. 141 (1891).

Feeding Stuffs—Condimental Stock Food Law: **Pratt Food Co. v. Bird*, 148 Mich. 631, 112 N. W. 701, 118 Am. St. Rep. 601 (1907).

Fish—Inspection: See *Tremble v. Crowell et al.*, 17 Mich. 493 (1869).

Flour and Other Cereal Products—Peddlers—License: **O'Hara v. Collier*, 173 Mich. 611, 139 N. W. 870, Ann. Cas. 1914 D, 936 (1913).

Fruits and Vegetables—Act of 1913 to Prevent Fraud and Deception in Their Sale: *People v. Frederighi*, 192 Mich. 165, 158 N. W. 177 (1916).

Maple Sugar Law—Constructed and Applied: *Pierre Viaus Maple Co. v. Dairy and Food Commissioner*, 154 Mich. 73, 117 N. W. 553 (1908).

Meat—Inspection: **Kamman v. Lane & Blum*, 55 Mich. 426, 21 N. W. 872 (1885); *People v. Bussell*, 59 Mich. 104, 26 N. W. 306 (1886).

Meat—License: **Ash v. People*, 11 Mich. 347, 83 A. D. 740 (1863); **Chaddock v. Day*, 75 Mich. 527, 42 N. W. 977, 4 L. R. A. 809, 13 Am. St. Rep. 468 (1889).

Meat—Sausage—Added Cereal: *Armour & Co. v. State Dairy and Food Commissioner*, 159 Mich. 1, 123 N. W. 580, 25 L. R. A. (N. S.) 616 (1909); **People v. Dehn*, 190 Mich. 122, 155 N. W. 744 (1916).

Meat—Slaughterhouse: *Wreford v. People*, 14 Mich. 41 (1865). See also: *Conway v. Gampel*, 235 Mich. 511, 209 N. W. 562 (1926).

Meat—Storage Incidental to Interstate Commerce Does Not Constitute Local Business: *Rath Packing Co. v. General Cold Storage Co.*, 222 Mich. 315, 192 N. W. 632 (1923).

Meat—Unwholesome: *People v. Brill*, 120 Mich. 42, 78 N. W. 1013 (1889).

Milk—Action for Malicious Prosecution: **Birdsall v. Smith*, 158 Mich. 390, 122 N. W. 626 (1909).

Milk—Action to Recover Damages from Sale of Adulterated Milk: *Michigan Condensed Milk Co. v. Wilcox*, 78 Mich. 431, 44 N. W. 281 (1889).

Oleomargarine: **Northwestern Manufacturing Co. v. Chambers*, 58 Mich. 381, 25 N. W. 372, 55 Am. Rep. 693 (1885); **People v. Dettenthaler*, **People v. Calkins*, 118 Mich. 595, 77 N. W. 450, 44 L. R. A. 164 (1898); **Grosvenor v. Duffy*, 121 Mich. 220, 80 N. W. 19 (1899); **People v. Rotter*, 131 Mich. 250, 91 N. W. 167, (1902); **People v. Phillips*, 131 Mich. 395, 91 N. W. 616 (1902); *Bennett v. Carr*, 134 Mich. 243, 96 N. W. 26 (1903); **Shepherd v. Judge of the Recorder's Court of the City of Detroit*, 175 Mich. 193, 141 N. W. 556 (1913); *Jasnowski v. Same*, 195 Mich. 269, 161 N. W. 907 (1917); *People v. Miller*, 203 Mich. 596, 170 N. W. 55 (1918).

Syrup—Cane and Corn Syrup Mixture—Label—Term "Corn Syrup" May be Used, Instead of "Glucose": *People v. Harris*, 135 Mich. 136, 97 N. W. 402 (1903).

Syrup—Maple and Cane Syrup Mixture—Label: *Pierre Viaus Maple Co. v. Dairy and Food Commissioner*, 154 Mich. 73, 117 N. W. 553 (1908).

Vinegar—Cider Vinegar—Fermented Vinegar—Minimum Solids and Mineral Matter Standard: **People v. Worden Grocer Co.*, 118 Mich. 604, 77 N. W. 315 (1898).

3. Special Drug Laws.

Pharmacy: **People v. Moorman*, 86 Mich. 433, 49 N. W. 263 (1891). See also: *In re Reidy's Estate*, *Shattuck v. Watson*, 164 Mich. 167, 129 N. W. 196 (1910).

Toilet Preparations—Peddlers—License: **People v. Rawley*, 231 Mich. 374, 204 N. W. 137, 39 A. L. R. 1381 (1925).

Venerable Disease Drugs: See **Kennedy v. State Board of Registration in Medicine*, 145 Mich. 241, 108 N. W. 730 (1906); **People v. Kennedy*, 176 Mich. 384, 142 N. W. 771, Ann. Cas. 1916 A, 895 (1913); **People v. Wohlford*, 226 Mich. 166, 197 N. W. 558 (1924).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Bottle Explosion—Cider: *O'Neill v. James*, 138 Mich. 567, 101 N. W. 828, 68 L. R. A. 342, 110 Am. St. Rep. 321 (1904).

Drugs: *Brown v. Marshall*, 47 Mich. 576, 11 N. W. 392, 41 Am. Rep. 728 (1882); *Marx v. Schultz*, 207 Mich. 655, 175 N. W. 182 (1919).

Dyed Fur Coat: Gerkin v. Brown & Sehler Co., 177 Mich. 45, 143 N. W. 48, 48 L. R. A. (N. S.) 224 (1913).

Food: Craft v. Parker, Webb & Co., 96 Mich. 245, 55 N. W. 812, 21 L. R. A. 139 (1893); Hertzler v. Manshum, 228 Mich. 416, 200 N. W. 155, 39 A. L. R. 993n (1924); Same, 237 Mich. 289, 211 N. W. 754 (1927). See also: Hoover et al v. Peters, 18 Mich. 51 (1869); Tremble v. Crowell et al., 17 Mich. 493 (1869); Sinclair v. Hathaway, 57 Mich. 60, 23 N. W. 459, 58 Am. Rep. 327 (1885); Copas v. Anglo-American Provision Co., 73 Mich. 541, 41 N. W. 690 (1889); Williams v. Weidman, 135 Mich. 444, 97 N. W. 966, 106 Am. St. Rep. 400 (1904); Cook v. Darling, 160 Mich. 475, 125 N. W. 411 (1910); Baker v. Kamantowsky, 188 Mich. 569, 155 N. W. 430 (1915); Pentland v. Jacobson, 189 Mich. 339, 155 N. W. 468 (1915); Nathan Kronman & Co. v. Gardella, 190 Mich. 645, 157 N. W. 377 (1916); Zielinski v. Potter, 195 Mich. 90, 161 N. W. 851 (1917); E. P. Stacy & Sons v. Moher, 200 Mich. 81, 166 N. W. 849 (1918).

Stove Polish: Clement v. Crosby & Co., 148 Mich. 293, 111 N. W. 745, 10 L. R. A. (N. S.) 588 (1907); Clement v. Rommeck, 149 Mich. 595, 113 N. W. 286, 13 L. R. A. (N. S.) 382, 119 Am. St. Rep. 695 (1907); Hines v. Crossby & Co., 169 Mich. 210, 135 N. W. 96, 39 L. R. A. (N. S.) 901, Ann. Cas. 1913 D, 1055 (1912); Genack v. Gorman, 224 Mich. 79, 194 N. W. 575 (1923).

5. Miscellaneous.

Cigarettes: *People v. Blumrich, 183 Mich. 133, 149 N. W. 1040 (1914).

False Advertising: *Jasnowski v. Judge of Recorder's Court of the City of Detroit, 192 Mich. 139, 158 N. W. 229 (1916).

Gift Enterprise: Hubbard v. Freiberger, 133 Mich. 139, 94 N. W. 727 (1903); People v. McPhee, 139 Mich. 687, 103 N. W. 174, 69 L. R. A. 505, 5 Ann. Cas. 835 (1905); La France v. Cullen, 196 Mich. 726, 163 N. W. 101 (1917); Boston Piano & Music Co. v. Seckinger, 198 Mich. 312, 164 N. W. 263 (1917); People v. Wassmus, 214 Mich. 42, 182 N. W. 66 (1921).

Trade-Marks: Schuneman v. Burk et al., Howell 5 (1879); Smith v. Walker & Imus, 57 Mich. 456, 22 N. W. 267, 24 N. W. 830, 26 N. W. 783 (1885); Detroit Creamery Co. v. Velvet Brand Ice Cream Co., 187 Mich. 312, 153 N. W. 664 (1915); *McBride v. Jacob, 201 Mich. 525, 167 N. W. 1007 (1918); Stone Road Dairy Co. v. Humes, 220 Mich. 57, 189 N. W. 883 (1922). See also: Grow & Grow v. Seligman, Rossman & Seligman, 47 Mich. 607, 1 N. W. 404, 41 Am. Rep. 737 (1882); Myers v. Kalamazoo Buggy Co., 54 Mich. 215, 19 N. W. 961, 20 N. W. 545, 52 Am. Rep. 811 (1884); Williams et al. v. Farrand et al., 88 Mich. 473, 50 N. W. 446, 14 L. R. A. 161 (1891); Supreme Lodge Knights of Pythias v. Improved Order Knights of Pythias, 113 Mich. 133, 71 N. W. 470, 38 L. R. A. 658 (1897); Lamb Knit-Goods Co. v. Lamb Glove & Mitten Co., 120 Mich. 159, 78 N. W. 1072, 44 L. R. A. 841 (1899); Penberthy Injector Co. v. Lee, 120 Mich. 174, 78 N. W. 1074 (1899); Gordon Hollow Blast Grate Co. v. Gordon, 142 Mich. 488, 105 N. W. 1118 (1905); Warren Brothers Co. v. Barber Asphalt Paving Co., 145 Mich. 79, 108 N. W. 652, 12 L. R. A. (N. S.) 339 (1906); Finney's Orchestra v. Finney's Famous Orchestra, 161 Mich. 289, 126 N. W. 198, 28 L. R. A. (N. S.) 458 (1910); Michigan Savings Bank v. Dime Savings Bank, 162 Mich. 297, 127 N. W. 364, 139 Am. St. Rep. 558 (1910); W. H. Hill Co. v. Gray & Worcester, 163 Mich. 12, 127 N. W. 803, 30 L. R. A. (N. S.) 327 (1910); People's Outfitting Co. v. People's Outlet Co., 170 Mich. 398, 136 N. W. 599 (1912); Smith v. Library Tea Co., 178 Mich. 43, 144 N. W. 489 (1913); Brown v. Weeks, 195 Mich. 27, 161 N. W. 945 (1917); Dayton v. Imperial Sales & Parts Co., 195 Mich. 397, 161 N. W. 958 (1917); Howard v. Lovett, 198 Mich. 710, 165 N. W. 634 (1917); Young & Chaffee Furniture Co. v. Chaffee Brothers Furniture Co., 204 Mich. 293, 170 N. W. 48 (1918); Kellogg v. Kellogg Toasted Corn Flake Co., 212 Mich. 95, 180 N. W. 397 (1920); Grand Rapids Trust Co. v. Haney School Furniture Co., 221 Mich. 487, 191 N. W. 196, 27 A. L. R. 1020 (1922); McGarry v. Milne, 226 Mich. 566, 198 N. W. 178 (1924).

Trading Stamps: *People ex rel. Attorney-General v. Sperry & Hutchinson Co., 197 Mich. 532, 164 N. W. 503, L. R. A. 1918 A, 797 (1917).

Weights and Measures: McGeorge et al. v. Walker et al., 65 Mich. 5, 31 N. W. 601 (1887); *People v. Wagner et al., *People v. Barie et al., *People v. Wittelsberger et al., 86 Mich. 594, 49 N. W. 609, 13 L. R. A. 286, 24 Am. St. Rep. 141 (1891); Parker, Webb & Co. v. Austin, 156 Mich. 573, 121 N. W. 322, 23 L. R. A. (N. S.) 266 (1909); Sachse v. Helper, 163 Mich. 369, 128 N. W. 186 (1910).

MINNESOTA.*

PART I.

General Food and Drug Law.

General Food Law.

1. Minnesota Dairy and Food Law.—The laws of Minnesota relating to dairy and food products be and the same hereby are amended, supplemented, revised, consolidated, rearranged and codified in the order and form following, which revision and codification may be known as the "Minnesota Dairy and Food Law." (G. S. 1923, § 3788.)

2. Unlawful to Sell Certain Food.—It shall be unlawful for any person to manufacture, sell, use, transport, offer for sale or transportation, or have in possession with intent to use, sell or transport any article of food which is adulterated, misbranded, insufficiently labeled, unwholesome, poisonous or deleterious within the meaning of this act. (Id. § 3789.)

3. Definition of Food.—The term "food" as used herein shall include every article used for, or entering into the consumption [composition] of or used or intended for use in the preparation of food, drink, confectionery or condiment for man, whether simple, mixed or compound. (Id. § 3790.)

4. When Food is Deemed to be Adulterated.—For the purposes of this act an article shall be deemed to be adulterated—

In the case of confectionery:

If it contains terra alba, barytes, coal tar dye, except those colors certified as harmless for use in foods under the United States Food and Drugs Act, or the rules and regulations for its enforcement, or saccharine, chrome yellow or other mineral substance or any other poisonous or injurious coloring or flavoring matter, or any substance or ingredient deleterious or detrimental to health or any vinous, malt or spirituous liquor or compound or narcotic drug.

In the case of food:

First. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed.

Fifth. If it contain any added boric acid or borates salicylic acid or salicylates, formaldehyde, sulphurous acid or sulphites, except such nominal percentage of sulphurous acid or sulphites as the process of manufacture may necessitate, hydrofluoric acid or fluorides, coal tar dye or color, except that such coal tar dyes or colors as are certified as harmless for use in foods by the Secretary of the United States Department of Agriculture under the United States Food and Drugs Act, or the rules and regulations for its enforcement may be used in still or carbonated beverages, candies and such other food products as may be permitted and authorized under the rules and regulations promulgated by the Dairy and Food Commissioner, saccharine or any added poisonous or other added deleterious ingredient which may render such article unwholesome, injurious or detrimental to health.

Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of any animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. (Id. § 3791, as amended L. 1925, c. 167.)

5. When Food is Deemed to be Misbranded.—The term "misbranded" as used herein shall apply to all articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or

*CITATIONS: "G. S. 1923" refers to the General Statutes of Minnesota, 1923, published by authority of Chapter 95, Laws of 1923. "L." refers to the session laws of the year cited.

device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food product which is falsely branded as to the State, territory or country in which it is manufactured or produced.

For the purpose of this act an article shall also be deemed to be misbranded—

In the case of food:

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha, or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide or any derivative or preparation of any of such substances contained therein.

Third. If in package form the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of net weight, measure or numerical count; provided, however, that reasonable variations may be permitted and tolerances and also exemptions as to small packages may be established by rules and regulations made in accordance with the provisions of sections 15, 16, and 17 of this act,* and provided, further that the Dairy and Food Commissioner shall have full authority to determine when food is in package form.

Fourth. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular. (G. S. 1923, § 3792.)

6. Appointment of Dairy and Food Commissioner.†—The Governor shall appoint a Dairy and Food Commissioner, whose term of office shall extend to the first Monday in January of the odd-numbered year next after his appointment and until his successor qualifies; but the Governor may supersede such commissioner at pleasure. He shall cause to be enforced all the provisions of this act and all other laws designed to prevent fraud and deception in the manufacture and sale of food and the several ingredients thereof, and shall have authority to take all proper educational measures to foster and promote the manufacture and sale of pure food products. All appointees hereunder shall be qualified electors of this State. The commissioner shall be a practical dairyman; the assistant commissioner, chief chemist, chemists, inspectors and all agents and other persons appointed or employed by the commissioner shall be practical men and especially trained and equipped for their particular line of work. He shall report on or before the fifteenth day of each session of the Legislature concerning his official acts, showing receipts and disbursements of his office, and may issue public bulletins of information from time to time. (Id. § 3793.)

7. Salaries of Dairy and Food Commissioner and Employees.—The annual salary of the Dairy and Food Commissioner and the position, number and annual salary of the subordinates to be appointed by him in his department are hereby fixed as follows:

The commissioner, four thousand dollars; assistant commissioner, three thousand dollars; secretary, two thousand dollars; chief chemist, three thousand five hundred dollars; chief clerk, thirteen hundred and twenty dollars; statistician, fifteen hundred dollars; laboratory clerk and stenographer, twelve hundred dollars; one stenographer, twelve hundred dollars; general clerks as in his judgment may be necessary, not to exceed two at twelve hundred dollars each; two stenographers, not to exceed twelve hundred dollars each; three assistant chemists and twenty-two inspectors at a minimum annual salary of fifteen hundred dollars each; but the commissioner may, in consideration of faithful and continuous service, increase the salary of any assistant chemist or inspector not more than two hundred dollars for each year such assistant chemist or inspector has been employed by the department until such salary reaches two thousand dollars, which shall be the maximum; provided, that the provisions of this act shall not apply to chapter 97, Laws of 1913, and amendments thereto. (Id. § 3794.)

8. Expenses.—The expenses of the commissioner and his subordinates necessary [necessarily] and actually incurred in the discharge of his official duties shall be paid in addition to salary, upon itemized vouchers approved by the commissioner or assistant commissioner. (Id. § 3795.)

*See Nos. 16-18.

†See No. 33a.

9. Offices and Reports.—Rooms shall be provided in the Capitol for the office and laboratory of the commissioner. He may require reports from persons engaged in the purchase, manufacture or sale of dairy products and all owners or operators of skimming stations or other places engaged in the business of purchasing milk or cream, and operators of condensaries, dry milk factories, creameries and cheese factories shall on March first in each year, and at such other times as the commissioner may fix, send to him a full and accurate report of the amount of business done during the year preceding, together with such other statistical information as the commissioner may require. (Id. § 3797.)

10. Right of Inspection.—For obtaining information regarding suspected violations of law, the commissioner, his assistants, inspectors, appointees, agents and employees shall have access to all places where any article of food, or other article, the manufacture, sale, use or transportation of which is restricted, regulated or prohibited by this act, or by any law of this State, is or may be manufactured, prepared, stored, sold, used, transported, offered for sale or transportation, or had in possession with intent to use, sell or transport, or where cows or other animals are pastured or stabled, to cars or other carriages used for transportation of such articles or animals, and to places where food is or may be cooked, prepared, sold or kept for sale to or for the public or distributed as a part of the compensation of servants or agents, including public and private hospitals, lumber and railroad camps, inns, boarding and eating houses, drinking places, dining cars, boats and other places where any of said articles may be manufactured, sold, used, offered for sale or transportation, or had in possession with intent to use, sell, or transport, and they may inspect any package, receptacle or container found therein apparently containing any article of food or ingredient thereof, or any other article the manufacture, use, sale or transportation of which is restricted, regulated or forbidden by this act or by any law of this State, and may take samples therefrom for analysis. Any person obstructing such entry or inspection, or failing upon request to assist therein shall be guilty of a misdemeanor. (Id. § 3798.)

11. Seizure, Search, Warrants.—The commissioner may seize all food, the manufacture, transportation, sale or use of which is prohibited by this act, or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation, or had in possession with intent to sell, use or transport in violation of any provision of this act, or in violation of any rule, regulation, definition, standard or ruling made, adopted and published hereunder, and for this purpose he and his several assistants, inspectors, agents and employees shall have the powers of a constable. Such seizure may be made without a warrant, but in such case, as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary, a search warrant may be issued, as in the case of stolen property, the form of the complaint and of the warrant being adapted to the purpose of this act. (Id. § 3799.)

12. Execution of Warrant; Disposition of Food Seized.—The search warrant shall be directed to the sheriff or any constable of the county, and to the chief of police, or any police officer or marshall of any municipality, and may be executed by the commissioner or any of his agents or employees. No security for costs shall be required thereon nor upon any prosecution under this act. All food seized, whether with or without warrant, shall be safely kept by the officer or person seizing the same, so long as it may be needed for evidence; and if found upon trial to have been manufactured, sold, used, transported, kept or offered for sale, use or transportation or had in possession with intent to use, sell or transport in violation of law, it shall be forfeited to the State, and shall be disposed of as directed by the court. (Id. § 3800.)

13. Price Not Collectible.—No action shall be maintained for the purchase price or value of any food, the sale of which is prohibited by this act, or which is manufactured, used, sold, transported, kept or offered for sale, use or transportation, or had in possession with intent to sell, use or transport in violation of law; nor shall any person be liable for the price or value of food or board furnished in violation of this act. (Id. § 3801.)

14. Additional Powers and Authority.—The Dairy and Food Commissioner, by himself or any of his assistants, inspectors, agents or employees, in addition to the authority and powers otherwise conferred by law, is authorized and empowered to have and to take access to any and all trucks, aeroplanes, airships, vehicles and railroad cars of every sort and nature transported or being within this State, all railroad stations, storage houses, warehouses, express offices or other places wherein at any time there may be food transported or shipped into from without this State, whether or not such food has been manufactured,

sold or given away without the State, provided, that such food was manufactured, sold or given away with the intent that it be delivered, had or used within this State; and the Dairy and Food Commissioner shall have the same power and authority to open any package, car or vessel containing food so transported or shipped into from without the State, which contains or which he has reason to believe contains any such food; to inspect the contents thereof and to take samples for analysis and examination, all after the same manner and with the same procedure as obtains by law in reference to similar goods manufactured, sold, transported, offered for sale, use or transportation, or had in possession with intent to sell, use or transport within this State. If it shall appear that any such food is adulterated, misbranded, insufficiently labeled, unwholesome, poisonous or deleterious, the Dairy and Food Commissioner shall have the same rights and remedies and shall enforce the same in the same manner as in the case of food manufactured, sold, transported, offered for sale, use or transportation, or had in possession with intent to sell, use or transport within this State. On receiving notice from the commissioner or any authorized agent or employee that he desires to inspect the contents of any such package, can or vessel, it shall be the duty of any common carrier, storage man, warehouseman or their employees, or other person having the same in his possession or under his control, to withhold the same from delivery within this State for such period of time as may be reasonably necessary for the inspection, examination and analysis thereof. It is further made the duty of all such persons to render to the commissioner and his agents and employees all the assistance in their power when so required to effectuate the purposes of this act. In case such inspection, examination or analysis of any such food shall disclose it to be adulterated, misbranded, insufficiently labeled, unwholesome, poisonous or deleterious within the meaning of this act, such persons shall on demand disclose to the commissioner the names and addresses of the consignor and consignee of the package, can or vessel containing the same, and the commissioner, before proceeding further, shall notify such consignor and consignee in writing at their respective addresses of the result of such inspection, examination or analysis as so disclosed. Any common carrier, warehouseman, storageman, employee or other person having such food in his possession or under his control, failing or refusing to comply with any of the provisions of this act shall be deemed guilty of a misdemeanor. (Id. § 3802.)

15. Authority of the Commissioner to Render Certain Food Unsalable.—The Dairy and Food Commissioner, his assistants, inspectors, agents and employees, shall also have power and authority in their discretion to render unsalable for use as food, any food, the sale or use of which is prohibited by this act, or which is manufactured, sold, used, transported, offered for sale or transportation, or had in possession with intent to use, sell or transport in violation of any provision of which [this] act, or in violation of any provision of any rule, regulation, definition, standard or ruling made, adopted and published hereunder, and the said commissioner and his several assistants, inspectors, agents and employees shall be exempt from liability for any such action. The test of the condition of any such food shall be its condition at the time of discovery. Any reasonable and necessary means may be adopted for rendering such food unsalable for use as food. (Id. § 3803.)

16. Definitions and Standards.—For the purpose of securing uniformity, so far as practicable, between the laws of this State and those of the Federal government enacted to prevent fraud and deception in the manufacture, use, sale and transportation of food, and to protect and preserve the public health, it shall be the duty of the Dairy and Food Commissioner to fix, adopt and publish, from time to time, by ruling or rulings, in writing, definitions and standards of quality, purity and strength of articles of food for which no definitions and standards are prescribed by law, and such definitions and standards so fixed, adopted and published shall be the lawful definitions and standards thereof before all courts; provided, that when definitions and standards have been or may be fixed by the Secretary of the Department of Agriculture of the United States, except in cases where definitions or standards otherwise are prescribed by law, they shall be accepted by the Dairy and Food Commissioner and published as definitions or standards for Minnesota. Before any such definitions or standards shall be deemed to be fixed and adopted the ruling or rulings fixing and adopting the same shall be published twice in a legal newspaper of general circulation published at the capital of this State and from and after the tenth day succeeding the date of the last such publication, such ruling or rulings shall have the force and effect of law. An affidavit of such publication, setting forth the said ruling or rulings in full and the dates of such publication thereof, shall be made by

the publisher of such newspaper or by the manager or agent of such publisher, and shall be kept on file by the commissioner in his office with the original of such ruling or rulings. Such affidavit of publication, or a duly certified copy thereof, shall be prima facie evidence of the facts therein contained and of the due fixing, adopting and publishing of the said ruling or rulings, therein set forth. Until such definitions and standards are fixed, adopted and published, the definitions and standards heretofore fixed and adopted by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, offer for sale or transportation or have in possession with intent to sell, use or transport any article of food which does not conform to such definition and standard so fixed, adopted and published, shall be deemed guilty of a violation of this act. (Id. § 3804.)

17. Rules and Regulations.—For the purposes aforesaid it shall also be the duty of the Dairy and Food Commissioner to make and publish uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions of this act, which rules and regulations shall be approved by the Attorney-General as to form and legality and shall be made and published and affidavits of publication made and filed in the manner specified in section 15 of this act [3804]. From and after the tenth day succeeding the date of the last such publication, such rules and regulations shall have the force and effect of law. The affidavit of publication, or a duly certified copy thereof, shall be prima facie evidence of the facts therein contained, and of the due making and publishing of the rules and regulations therein set forth. Until such rules and regulations are made and published, the rules and regulations heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, offer for use, sale or transportation, or have in possession with intent to use, sell or transport, any article of food contrary to the provisions of any such rule or regulation, or who shall fail to comply with any such rule or regulation, shall be deemed guilty of a violation of this act. (Id. § 3805.)

18. Labeling.—For the purposes aforesaid, it shall also be the duty of the Dairy and Food Commissioner, by ruling or rulings not inconsistent with law, to require that any article of food or the package, receptacle or container thereof, before it be sold, transported, used, offered for sale or transportation, or had in possession with intent to use, sell or transport within this State, shall be labeled, stamped, stenciled, marked or branded in such manner as to plainly exhibit to the purchaser any or all of the following data or information, to wit: The percentages and true composition of such food article, its quality, strength, quantity, source of its manufacture or production or the person by or for whom the same is manufactured, produced, packed or shipped; and the said commissioner shall also have authority to prescribe by such ruling or rulings the date on which the same shall take effect and be in force, and also the form, size, style and wording of and the place, time, method, means and manner of use of all such labels, stamps, stencils, brands and markings, which ruling or rulings shall be made and published and affidavits of publication made and filed in the manner specified in section 15 of this act [3804]. From and after the tenth day succeeding the date of the last such publication, unless a later date be fixed in the ruling for the taking effect thereof, and in such case from and after such date so fixed, such ruling or rulings shall have the force and effect of law.

The affidavit of publication, or a duly certified copy thereof, shall be prima facie evidence of the facts therein contained, and of the due making and publishing of the ruling or rulings therein set forth. Until such rulings are made and published and in effect as aforesaid, the rulings heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall fail to comply with such ruling or rulings shall be deemed guilty of a violation of this act. (Id. § 3806.)

19. Analysis; Evidence.—It shall be the duty of the Chief Chemist and assistants to make analysis and examinations of such articles as shall be furnished to them by the commissioner for the purpose of determining from such examination whether such articles are adulterated, misbranded, insufficiently labeled, unwholesome, poisonous or deleterious within the meaning of this act, and whether such articles have been manufactured, used, sold, transported, offered for use, sale or transportation, or had in possession with intent to use, sell or transport in violation of any provision of this act or of any definition, standard, rule, regulation or ruling made and published thereunder, and to certify the result of such analysis and examination to the commissioner. A copy of the result of the examination or analysis of any such article, duly authenticated, by the chemist making such analysis

or examination, under oath of such chemist, shall be prima facie evidence in all courts of the matters and facts therein contained. (Id. § 3807.)

20. Duty to Prosecute.—It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of this act to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as in such case herein provided. (Id. § 3808.)

21. Penalties.—Any person violating or failing to comply with any of the provisions of this act, or any of the provisions of any of the rules, regulations, definitions, standards or rulings made and published thereunder shall be deemed guilty of a misdemeanor, and, save as herein otherwise specifically provided, for each first offense shall be punished by a fine of not less than fifteen dollars, or by imprisonment for not less than twenty days, and for each subsequent offense by a fine of not less than fifty dollars or by imprisonment for not less than sixty days. (Id. § 3809.)

22. Disposition of Receipts.—In all prosecutions under this act, save as herein otherwise specifically provided, the fine or fines collected by and under the same shall be forthwith transmitted by the officer collecting the same to the State Treasurer, to the credit of the general revenue fund, and all other fees and payments made to the Dairy and Food Commissioner, except as aforesaid, shall be accounted for and disposed of in the same manner. (Id. § 3810.)

23. Civil Service; Office of Dairy and Food Commissioner.—Before any person shall be eligible to appointment as an inspector in the Dairy and Food Department, except special inspectors to be stationed at canneries while operating, he shall be required to pass a competitive examination touching his general qualifications and proficiency and such general knowledge of the trade and technical phases of the work required in such position as may be deemed necessary by a board of examiners to the proper discharge of the duties of such position. And no person shall be eligible to such appointment unless in addition to the examination requirements herein specified, he shall satisfy the board as to his moral, mental and physical fitness to hold such position. All applicants must be citizens of the United States and must have resided in the State of Minnesota at least one year before receiving an appointment under the provisions of this act. All appointments and removals under the provisions of this act shall be made by the officer now authorized by law to make such appointments and removals. In case of the removal of any such inspector, a statement in writing giving the reasons for such removal shall be filed by the person making such removal with the Secretary of State, which shall be open to public inspection, but the inspector against whom such statement has been filed shall, on written request, be given a hearing before the Board of Examiners within fifteen days from the filing of such request. The failure to make and file such statement within five days after such removal shall operate to reinstate such official or employee. No removal of any inspector shall be made except for neglect of duty, incompetence, insubordination or immorality. (Id. § 3861.)

24. Civil Service; Board of Examiners.—To carry out the provisions of the preceding section of this act, a Board of Examiners is hereby created consisting of the State Dairy and Food Commissioner, the dean of the Agricultural College and the Attorney-General. In case of death or inability to act as one of three persons herein designated, the Governor of the State shall appoint some person temporarily to act in his place. The State Dairy and Food Commissioner shall be secretary of such board and shall keep all the records which shall contain all the proceedings of the board in reference to examinations and of its actions in carrying out the provisions of this act. The secretary of the board shall likewise keep and have open to the inspection of the public, a list of the names of the persons who are eligible to appointment. Two members of the board shall constitute a quorum for the transaction of business. A chairman shall be elected by the board from its number. None of the members of the board shall receive any compensation for their services herein required, except their reasonable and necessary expenses, which shall be paid out of the fund appropriated for the maintenance of the State Dairy and Food Department in the same manner as other charges against such fund are paid. (Id. § 3862.)

25. Civil Service; Duty of Board of Examiners.—The Board of Examiners shall provide for such examinations, suitable lists of questions, which shall be submitted to the applicants in such manner as the board may determine; and a list shall be made of the successful applicants, and from which list the State Dairy and Food Commissioner shall make selections for the positions above named. (Id. § 3863.)

26. Examiners.—The Board of Examiners shall convene for the purpose of holding the first examination the second Monday in January, 1921, and annually thereafter. Special examinations may be called by the board upon written request of the commissioner, provided that, except for extraordinary reasons, it shall not be necessary to call special examinations if there be a sufficient number of eligibles remaining from previous examinations. Any person who shall pass such examination shall be eligible to appointment at any time within one year from the date of his examination, provided he shall remain morally, mentally and physically fit. Thirty days' notice, signed by the secretary of the board, of any examination held hereunder shall be given by one publication in two St. Paul daily newspapers of opposite political faith, such notice to state the time and place thereof and in general terms the subject matter upon which applicants will be examined. All examinations shall be held in the city of St. Paul at some suitable place therein to be fixed by the board. If more applicants than are necessary to fill vacancies shall have passed such examination, or series of examinations, the commissioner shall have authority to select from such entire list, but without reference to any political affiliation or belief, those persons who in his judgment are best fitted to perform the duties of the position; and if at any time there be an insufficient number of eligibles, the commissioner shall have authority to temporarily fill a vacancy, such appointment to hold until such list of eligibles has been sufficiently replenished. (Id. § 3864.)

27. Construction of Act.—This act is intended to be a restatement of existing laws, with such changes as appear, and its provisions, so far as they are the same as those of existing statutes, shall be construed as continuations thereof and not as new enactments. Any of the provisions of this act inconsistent with the existing code of criminal procedure or penal law shall be effective for the purposes of this act only. (Id. § 3865.)

28. Provisions Severable.—The provisions of this act, and each part thereof, and its sections, and each part thereof, are independent and severable, and if any provisions or part thereof, or section or part thereof, be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid. (Id. § 3866.)

28a. Not to Affect the Feeding Stuff Control Law.—Nothing in this act shall be construed to change, modify, amend, or in any manner affect any of the provisions of chapter 260, session laws 1919, approved April 15, 1919,* entitled: "An act to prevent fraud and deception in the manufacture and sale of concentrated commercial feeding stuffs and providing for registration and labeling thereof and repealing chapter 383, general laws of Minnesota, 1907, and all other acts or parts of acts inconsistent herewith." And said chapter 260 session laws 1919, shall continue in full force and effect. (Id. § 3867.)

29. Definitions; Evidence of Intent.—The word "person" as used in this act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, co-partnerships, companies, societies and associations. The word "men" shall include "women." No person who shall commit or assist in committing any offense herein defined shall be exempt from conviction and punishment therefor for the reason that he acted as the agent, employee, or representative of another. When construing and enforcing the provisions of this act, the acts, omission or failure of any officer, agent or other person acting for or employed by any corporation, co-partnership, company, society or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such corporation, co-partnership, company, society or association, as well as that of the person.

The words "sell" and "sale" as used herein shall be construed as including the keeping, offering or exposing for sale, use, transportation or exchange of the restricted, regulated or prohibited article, the having of any such article in possession with intent to sell, use, transport or exchange the same, and the storing, carrying or handling thereof in aid of traffic therein, whether done or permitted in person or through others. The having in possession of any article, the manufacture, sale, use or transportation of which is restricted, regulated or forbidden by this act, shall be deemed prima facie evidence of intent to sell, manufacture, transport or use the same in violation of law. (Id. § 3871.)

30. Tenure of Office Preserved.—Whoever, when this act takes effect, holds an office under any of the laws thereby repealed, shall continue to hold it according to the tenure thereof, unless it is abolished or unless a different provision relative thereto is made by this act. (Id. § 3872.)

*See Nos. 128-138.

General Drug Law.

30a. Manufacture, etc., of Misbranded Drugs Prohibited.—The manufacture, production, preparation, compounding, packing, selling, offering for sale or keeping for sale, within the State of Minnesota, of any drug which is adulterated, mislabeled or misbranded, within the meaning of this act, is hereby prohibited. Any person, firm, company, or corporation who shall manufacture or produce, prepare or compound, pack or sell, offer for sale or keep for sale, within the State of Minnesota, any such adulterated, mislabeled or misbranded drug, shall be guilty of a misdemeanor. (G. S. 1923, Appendix and Addenda, p. 82, L. 1921, c. 190, § 1.)

30b. Definition of "Drug."—The term "drug" as used in this act shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals. (Id. § 2.)

30c. National Standard to Govern.—The standard of purity of drugs shall be the United States Pharmacopœia or National Formulary. The regulations and definitions adopted for the enforcement of the national food and drugs act of June 30, 1906, and any amendments thereof, may be adopted by the State Board of Pharmacy so far as applicable to the provisions of this act and the Board may adopt such other rules and regulations as may be necessary for the enforcement of this act. (Id. § 3.)

30d. What Constitutes Adulterated Drugs.—Drugs shall be deemed adulterated within the meaning of this act in any of the following cases:

First. If, when a drug is sold under or by a name used in the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary official at the time. Provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the package thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

Second. If the strength or purity fall below the professed standard or quality under which it is sold. (Id. § 4.)

30e. Definition of "Misbranded."—The term "misbranded" as used herein shall apply to all drugs, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any drug which is falsely branded or labeled as to the county, city and county, city, town, state, territory, District of Columbia or foreign country in which it is manufactured or produced. (Id. § 5.)

30f. When Deemed Misbranded or Mislabeled.—Drugs shall be deemed mislabeled or misbranded under the meaning of this act in either of the following cases:

First. If it be an imitation of or offered for sale under the name of another drug.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package as offered for sale at retail or wholesale, fail to bear a statement on the label of the per cent by volume of alcohol, or the quantity of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide or any derivative or preparation of any such substances contained therein, except when prescribed by a physician, dentist, or veterinarian duly licensed to practice under the laws of this State.

Third. If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article, or any of the ingredients or substances contained therein, which is false and fraudulent. (Id. § 6.)

30g. Definition of "Package."—The term "package" as used in this act shall be construed to include any phial, bottle, jar, demijohn, carton, bag, case, can, box or barrel or any receptacle, vessel or container of whatsoever material or nature which may be used by a manufacturer, producer, jobber, packer or dealer, for enclosing any drug but shall not include any shipping container in which properly marked packages are contained. (Id. § 7.)

30h. Sale or Offering for Sale to Be Prima Facie Evidence of Violation of Act.—The sale or offering for sale, within this State, of any adulterated, mislabeled or misbranded drug by any manufacturer, producer, jobber, packer or dealer

in drugs, or broker, commission merchant, agent, employee or servant of any such manufacturer, producer, jobber, packer or dealer, shall be prima facie evidence of the violation of this act. (Id. § 8.)

30i. Refusal to Sell an Agent Prima Facie Evidence of Violation.—It shall be prima facie evidence of violation of this act for any person to refuse to sell to any agent of the State Board of Pharmacy any sample of drug upon tender of the market price therefor, or to conceal any such drug from such officer, or to withhold from him information where such drug is kept or stored. (Id. § 9.)

30j. Duties of State Board of Pharmacy.—It shall be the duty of the State Board of Pharmacy to enforce the provisions of this act and the power and authority of the said Board as now defined by the laws of this State are hereby extended so as to be commensurate with the duties hereby imposed. (Id. § 10.)

30k. Penalties—Disposition of Fines.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and, for each offense, upon conviction thereof, be fined not to exceed fifty dollars; and upon conviction for any second or subsequent offense, shall be fined not to exceed one hundred dollars, and upon each conviction the person so convicted shall, in addition to the fine herein mentioned, pay all the cost of prosecution, including the expense incurred in examining and analyzing the article found to have been adulterated or misbranded; and all fines paid and collected for violations of this act shall be paid to the State Board of Pharmacy forthwith, the provisions of any statute, ordinance or charter to the contrary notwithstanding. The fines so collected shall be kept in a separate fund by the said Board, to be used in the enforcement of the provisions of this act. But the Board may use so far as they deem necessary other moneys in its hands for this purpose. (Id. § 11.)

30l. Application.—The provisions of this act relating to misbranding shall not apply to the distribution or sale, or to the possession with intent to distribute or sell by any dealer, of such drugs as may be in such dealer's stock, in this State, on October first, one thousand nine hundred and twenty-one: Provided, that the package or other container in which said drugs shall be contained shall be plainly and conspicuously marked with the words and figures: "On hand October first, one thousand nine hundred and twenty-one." (Id. § 12.)

30m. Effective Oct. 1, 1921.—This act shall be in force and effect from and after the first day of October, nineteen hundred and twenty-one. (Id § 13.)

Miscellaneous General Provisions.

31. Adulteration or Imitation of Foods, etc.—Every person who, with intent that the same may be sold as unadulterated or undiluted, shall adulterate or dilute wine, milk, distilled spirits, or malt liquors, or any drug, medicine, food, or drink for man or beast; or shall offer for sale or sell the same as unadulterated or undiluted, or without disclosing to or informing the purchaser that the same has been adulterated or diluted; or shall manufacture, sell, expose, or offer for sale, as such article of food or drink, any substance in imitation thereof, without disclosing the imitation by a suitable and plainly visible mark or brand; or with intent that the same may be used as food, drink, or medicine, shall sell, offer or expose for sale, any article whatsoever which to his knowledge has become spoiled, tainted, or for any cause unfit to be used as food, drink, or medicine, where special provision has not otherwise been made by statute for its punishment, shall be guilty of a misdemeanor, and punished by a fine of not less than twenty-five dollars, or by imprisonment in the county jail for not less than thirty days. (G. S. 1923, § 10250.)

32. Monopolization of Food Products Declared a Criminal Conspiracy.—Any combination of persons, either as individuals, or as members or officials of any corporation to monopolize the markets for food products in this State or to interfere with or restrict the freedom of such markets, is hereby declared to be a criminal conspiracy. (Id. § 10485.)

32a. Punishment.—Any person found guilty of violating this act shall be punished by a fine of not less than fifty dollars nor more than \$100, or imprisonment in the county jail for a period not to exceed ninety days. (Id. § 10486.)

33. Departments and Agencies of State Government Established.—The following departments and agencies of the State government are hereby created and established, to be designated and known respectively as follows: . . . the Department of Dairy and Food, the Department of Agriculture, . . . the Department of Health, . . . the Department of Labor and Industry, . . .

All of said departments and all officials and agencies of the State government shall be subject to the provisions and limitations of this act.* (L. 1925, c. 426, Art. I, § 1.)

33a. Department of Dairy and Food—Commissioner.—The Department of Dairy and Food, subject to all the provisions and limitations of this act, shall be under the supervision and control of a dairy and food commissioner, appointed by the Governor with the advice and consent of the Senate, with term and salary as now provided by law. All the rights, powers and duties now by law vested in and imposed upon the Department of Dairy and Food, except that the rights, powers and duties of such commissioner as to oil inspection are hereby transferred to and vested in the Director of Standards under the Department of Labor and Industry.

The office of Dairy and Food Commissioner is hereby abolished. (L. 1925, c. 426, Art. VI, § 1.)

33b. Department of Agriculture—Commissioner.—The Department of Agriculture shall be under the supervision and control of a Commissioner of Agriculture appointed by the Governor, with the advice and consent of the Senate, with term and salary as now provided by law. All the rights, powers and duties now by law vested in or imposed upon the Commissioner of Agriculture are hereby vested in and imposed upon the Department of Agriculture, subject to the provisions and limitations of this act.

The offices of Commissioner of Agriculture and Inspector of Apiaries are hereby abolished. The powers, duties and authority of the Inspector of Apiaries are hereby transferred to and vested in the Department of Agriculture. (L. 1925, c. 426, Art. VII, § 1.)

33c. Commissioner to Approve Expenditures.—No expenditure of money for any purpose shall be made from any State appropriation to any agricultural, horticultural, florist, dairymen's crop improvement, poultry, live stock, or live stock breeders' association, society, or corporation or to any other association, society, or corporation of a similar nature not a part of or connected with the State government except upon the written approval of the Commissioner of Agriculture; provided, that this section shall not apply to the State Agricultural Society nor to county agricultural associations or other societies or associations whose books and records are required by law to be audited by any State official as a prerequisite to such payment. (Id. § 2.)

33d. Department of Health Continued.—The Department of Health as now created under the title of the State Board of Health is hereby continued as now constituted with its present powers and duties, but subject to the provisions of this act. (L. 1925, c. 426, Art. IX, § 1.)

33e. Duties and Powers of Department of Health.—The Department of Health shall have and exercise all of the authority and perform all the duties now by law imposed upon and vested in the State Hotel Inspector. With the advice and consent of the Department of Administration and Finance, the department shall appoint and fix the compensation of a hotel inspector and such other inspectors and agents as may be required for the efficient conduct of the duties hereby imposed. These inspectors, by order of the Department of Administration and Finance, may be required to inspect any or all food products subject to inspection by the Departments of Dairy and Food and of Agriculture and to investigate and report to such departments violations of the pure food laws and the regulations of the Departments of Dairy and Food and of Agriculture pertaining thereto. The reports of these inspectors to the Departments of Dairy and Food and of Agriculture shall have the force and effect of reports made or required to be made by the inspectors of such departments. (Id. § 2.)

33f. Powers and Duties of Commission.—The Industrial Commission shall establish under its direction a division of standards and shall appoint one of its members to act as the head of this division under the title of Director of Standards. The office of Chief Oil Inspector, and Chief Boiler Inspector are hereby abolished, and the authority conferred and the duties now imposed by law upon these officers are hereby transferred to, vested in, and imposed upon the Director of Standards so appointed. The functions and duties prescribed in Chapter 20,† General Statutes 1923, shall be performed by a Chief Oil Inspector appointed by the Director of Standards. The Chief Oil Inspector shall be a skilled and suitable person with experience and knowledge of petroleum and its by-products, and who is not interested in the manufacture of or dealing in such products. In the appointment of Dairy and Food and Oil Inspectors, sections 3861 to 3864 inclusive,

*Included in Nos. 33a-33f.

†Entitled "Inspector of Oils."

General Statutes 1923,* shall apply subject to the provisions of this act and insofar as the same are not inconsistent therewith, provided, however, that the provisions of said sections shall be administered under the supervision of the Commission of Administration and Finance.

The division of standards, with the approval of the commission, shall adopt and promulgate suitable rules and regulations relating to all State inspection, except grain inspection, the qualifications and activities of State Inspectors performing duties under its direction or that of the commission or under the direction of other departments of the State government, and shall have and exercise all inspectional powers not specifically assigned by law to any other State Department. (L. 1925, c. 426, Art. XII, § 2.)

33g. State Board of Health, General and Special Rules.—The Board may adopt, alter and enforce, reasonable regulations of permanent application throughout the whole or any portion of the State, or for specified periods in parts thereof, for the preservation of the public health. Upon the approval of the Attorney-General and the due publication thereof such regulations shall have the force of law, except in so far as they may conflict with a statute or with the charter or ordinance of a city of the first class upon the same subject. In and by the same the board may control, by requiring the taking out of licenses or permits, or by other appropriate means, any of the following matters:

1. The manufacture into articles of commerce, other than food, of diseased, tainted or decayed animal or vegetable matter. . . . (G. S. 1923, § 5345.)

NOTE: See also No. 207.

PART II.

Special Food Laws.

Bakeries.

See No. 165 et seq.

Beverages.

34. Manufacturers of Soft Drinks to Obtain License; Proviso.—No person shall manufacture, mix or compound any soft drinks or other nonalcoholic beverage, except apple or fruit ciders, natural fruit juices or cereal beverages to be sold in bottles, barrels, kegs, jars, coolers, or other containers without first having obtained a license therefor from the Dairy and Food Commissioner, who is charged with the duty and power of administering and enforcing the provisions of this act; provided, that this act shall not apply to beverages manufactured, mixed or compounded in quantities of less than one quart at one time. (L. 1927, c. 42, § 1.)

35. Inspection and Registration.—No soft drinks or other nonalcoholic beverages except apple or fruit ciders, natural fruit juices, or cereal beverages, not manufactured in this State, shall be sold, offered, exposed, exchanged, or held in possession with intent to sell within this State, unless the same are first inspected and registered with the commissioner. (Id. § 2.)

36. Definitions.—Wherever used in this act, the terms "soft drinks or other nonalcoholic beverages" shall mean and include (a) carbonated or still beverages, (b) natural and mineral waters, carbonated, plain or otherwise, but shall not include apple or fruit ciders, or natural fruit juices, or cereal beverages. (Id. § 3.)

37. Application; License Fee.—Any person desiring to manufacture, mix and compound soft drinks or other nonalcoholic beverages, as described in section 1 hereof, shall apply for a license therefor to the commissioner in such form and furnish such information as he may require. Each application shall be accompanied by a fee of \$24.00, which shall constitute the license fee in case license is granted, and one-half of which shall be retained to reimburse the State for inspection in case license is refused. If the commissioner shall find that the applicant maintains a proper place and the equipment and containers necessary for the manufacture of soft drinks and other nonalcoholic beverages, as required by this act, and other-

*See Nos 23-26.

wise complies therewith, the commissioner shall issue to the applicant a license therefor. (Id. § 4.)

38. Samples; Registration Fee.—Any person who manufactures soft drinks or other nonalcoholic beverages outside of this State for sale within this State, shall apply for registration with the commissioner in such form and furnish such information as he may require. Samples of all soft drinks or other nonalcoholic beverages so manufactured for sale and sold within this State shall be submitted. Each application shall be accompanied by a registration fee of \$24.00, which shall constitute the registration fee in case registration is granted, and one-half of which may be retained to reimburse the State for inspection should registration be refused. If the commissioner shall find that the samples so submitted are up to accepted standards, and otherwise comply with the laws of this State, then he shall issue to the applicant a certificate of registration. (Id. § 5.)

39. Fees.—The fee for such license, or certificate of registration shall be \$24.00, and shall expire on the 31st day of March following its issue, and no license or certificate of registration shall be issued for a longer term than one year, and shall not be transferable from one person to another or from the ownership to whom issued to another ownership or from one place to another place or location. Provided, that no manufacturer now licensed under chapter 432, General Laws of Minnesota for the year 1921* shall be required to apply for a new license until his present license shall expire. And, provided, further, that a license or certificate of registration issued for a less term than one year, the fee for same shall be computed at the rate of two dollars for each calendar month or fractional part of such month. A penalty of 50 per cent of the license or registration fee shall be imposed if license or certificate of registration is not applied for on or before April 1 of each year, or within the same month such beverages are first manufactured or sold within this State. (Id. § 6.)

40. Disposition of Fees and Fines Collected.—All fees collected hereunder by the commissioner, together with all fines paid for the violation of this act, shall be paid into the State treasury and credited to the beverage inspection fund, hereby created. The money so derived is hereby appropriated to compensate for and meet the expense of inspection and supervision as provided for in this act. The money so collected and appropriated, known as the beverage inspection fund, shall be expended by the commissioner for inspection, supervision, publications, short courses, and such other activities as in his judgment may be necessary, not inconsistent with the provisions of this act. (Id. § 7.)

40a. Suspension or Revocation of License.—The commissioner shall have power to suspend or revoke any such license or certificate of registration for failure to comply with the provisions of this act, or rules and regulations made hereunder, either temporary or permanent, but before any such permanent revocation of license or certificate of registration shall be made, the commissioner shall serve upon the licensee or certificate holder, by registered letter containing a copy thereof, an order to show cause why the license or certificate of registration should not be permanently revoked, stating the grounds thereof and the time and place of hearing, which time shall not be less than 15 days after the mailing of the order.

At the appointed time and place, and at such times as the matter may be adjourned to, the commissioner shall hear all proper evidence relating to the cause of the proposed revocation, and within a reasonable time thereafter he shall make and file his decision of the matter, and forthwith mail to the licensee or certificate holder a copy thereof.

The commissioner may temporarily suspend the license of any licensee for violations of this act, regulations made hereunder, or the "Minnesota Dairy and Food Law," but no such temporary suspension shall exceed 30 days in which time steps may be taken by the commissioner for permanent revocation as above provided.

Any person, whose license or certificate of registration has been so suspended or revoked shall discontinue the manufacture of, or sale within this State, of any soft drinks or other nonalcoholic beverages, until the suspension is removed or a new license or certificate is granted. (Id. § 8.)

40b. Carbonated or Still Beverage Defined.—A carbonated or still beverage within the meaning of this act, shall be a beverage made of pure cane or beet sugar, with pure water, and pure flavoring materials, with or without fruit acids and harmless coloring materials, and the finished product shall contain not less than seven per centum of sugar and less than one-half of one per centum of alcohol by volume. All carbonated or still beverages not conforming to the above requirements,

*Repealed by this law.

this act, the Minnesota Dairy and Food Law, or the rules, regulations, definitions and standards made thereunder, shall be deemed to be adulterated. (Id. § 9.)

40c. Factories to be Kept Clean and Well Lighted.—All factories, rooms and places where soft drinks or other nonalcoholic beverages are manufactured, mixed, compounded and placed in containers shall be well lighted and kept in a clean and sanitary condition; and all machinery, apparatus and utensils used in the manufacture of such beverages shall be kept clean and sanitary and in a clean and sanitary place. (Id. § 10.)

40d. Containers to be Sterilized.—Before being filled with such beverages, all bottles, jars and coolers shall be sterilized by soaking for a period of not less than five minutes in a solution of not less than four per centum of caustic soda or alkali, expressed in terms of sodium hydrate, heated to not less than 110 degrees Fahrenheit, and then thoroughly rinsed in pure water until freed from alkali. Jars and coolers before being refilled, shall be cleansed and washed as in the manner prescribed for bottles. When such beverages are marketed in second hand or used barrels, kegs, or other wooden containers, such containers shall be thoroughly cleansed and coated on the inside with paraffin, pitch or other suitable material. No beverages shall be placed in containers known as the "Hutchinson Plunger Bottle," or any container of similar type. (Id. § 11.)

40e. Unlawful to Place Products in Bottles of Another.—It shall be unlawful for any person to place his products in bottles or containers bearing any name blown in the glass or appearing thereon other than the true name of the manufacturer. (Id. § 12.)

40f. Enforcement of Act.—The commissioner, his inspectors, assistants and employees, shall enforce the provisions of this act, and in so doing shall have all the powers and authority with relation thereto that is conferred upon them and each of them by chapter 495, General Laws for the year 1921, known as the Minnesota Dairy and Food Law, and the provisions of sections 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of said chapter shall be deemed a part thereof in the enforcement of this act and accomplishments of its purposes. (Id. § 13.)

40g. Violations; Penalties.—Any person violating any of the provisions of this act or of any regulations made hereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25.00, or by imprisonment in the county jail for not less than 30 days for the first offense, and in the sum of not less than \$50.00 or by imprisonment in the county jail for not less than 60 days for each subsequent offense. (Id. § 14.)

NOTE: See also Nos. 4, 31, 261 et seq., and 303 et seq.

Bread.

41. Sale of Bread Regulated.—It shall be unlawful for any person, firm or corporation to manufacture, produce for sale, sell, or offer, or expose for sale in this State bread in loaves of any other weight than the following standard avoirdupois weights: one pound, one and one-half pounds, or any multiple of one pound.

Whenever twin or multiple loaves are baked, the weight herein specified shall apply to each unit of the twin or multiple loaf, but nothing in this act shall be construed to prohibit making a twin loaf of a total weight of 16 or 24 ounces if the same be marked and sold as a pound or a pound and a half loaf. (L. 1927, c. 351, § 1.)

41a. Labeling.—Every loaf of bread manufactured for sale, or sold, offered or exposed for sale, shall have affixed thereon in plain statement in a prominent place the weight of the loaf of bread, together with the name of the manufacturer.

In the case of wrapped bread the required information shall be stated on the wrapper of each loaf, and in the case of unwrapped bread it shall be stated on a label, using plain legible type. The labels on unwrapped bread shall not be affixed by the use of gums or pastes which are unsanitary and unwholesome. There shall not be more than two labels on a loaf of bread or unit thereof. (Id. § 2.)

41b. "Weights" Defined.—The weights herein specified shall be construed to mean net weights within a period of 24 hours after baking. (Id. § 3.)

41c. Penalty.—Any person, firm or corporation which shall violate any provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$10.00 nor more than \$100.00, and each separate sale or violation of any provision shall constitute a separate offense. (Id. § 4.)

Canned Foods.

See No. 42 et seq.; No. 165 et seq.

Canning Compounds.

42. Manufacture and Sale of Canning Compounds Prohibited.—It shall be unlawful for any person to manufacture for sale within the State of Minnesota any article to be used as a canning compound or chemical preservative in the canning and preserving of fresh fruits and vegetables which is adulterated within the terms of this act, nor shall any person add to, apply or use, in the process of canning fruits or vegetables, any canning compound which is adulterated within the terms of this act.

Provided, that no article shall be deemed adulterated within the provisions of this act when intended for export to any foreign country or purchaser, and prepared and packed according to the specifications or directions of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not except said article from the operation of any of the other provisions of this act. (G. S. 1923, § 3890.)

43. Possession a Misdemeanor.—The having in possession of any preservative compound which is adulterated as herein defined, with intent to sell the same, is hereby prohibited, and whoever shall have in his possession with intent to sell, sell or offer for sale any preservative compound, which is adulterated within the meaning of this act, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished as hereinafter provided.

Proof that any person, firm or corporation has or had possession of any preservative compound which is adulterated within the terms of this act shall be prima facie evidence that the possession thereof is in violation of this section. (Id. § 3891.)

44. Definition of Term.—The term "Preservative Compound," as used herein, shall include all articles used for preservative purposes, whether simple, mixed or compound, and any substance used as a constituent in the manufacture thereof. (Id. § 3892.)

45. Contents of Compound.—For the purpose of this act a preservative compound shall be deemed to be adulterated if it contain any added poisonous or other added deleterious, unwholesome and injurious ingredient which may render said article injurious to public health; and formaldehyde, hydrofluoric acid, salicylic acid, sulphurous acid, and all compounds and derivatives thereof, are hereby declared unwholesome and injurious. (Id. § 3893.)

46. Dairy and Food Commissioner to Enforce Provisions.—The Dairy and Food Commissioner of the State is charged with the proper enforcement of all the provisions of this act. (Id. § 3894.)

47. Violation a Misdemeanor.—Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and violation thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100), or by imprisonment in the county jail for not more than three (3) months. (Id. § 3895.)

Cider.

See No. 34 et seq.

Cold Storage.

48. Definition of "Cold Storage."—For the purpose of this act "cold storage" shall mean the storage or keeping of articles of food at or below a temperature above zero of 45 degrees Fahrenheit in a cold storage warehouse. The term "Cold Storage Warehouse" shall mean and include every place, whether a single room or enclosed space, or a group of rooms, that is cooled, mechanically or by any artificial means whatever, including the cooling by use of ice, to or below a temperature of 45 degrees Fahrenheit above zero and in which articles of food are placed and held for thirty days or more.

For the purposes of this act any room or rooms in a cold storage warehouse, leased, controlled and operated apart from the general storage business of such warehouse and to which the general public has not access for storage purpose, is hereby declared a separate cold storage warehouse, subject to licensing and supervision under this act.

Refrigerator cars and ships, when used solely for the transportation as distinguished from the storage of foods shall not be regarded as cold storage ware-

houses, nor shall the ice boxes of retail food establishments and chill rooms used only for the holding of food for periods of less than thirty days, be so regarded. The commissioner shall, however, for the proper enforcement of the law, have the right of inspection of such chill rooms, and, as well, of the food held therein: "Articles of food" shall mean fresh meat and fresh meat products and all fish, game, poultry, eggs, butter, butter substitutes, and lard substitutes. For the purposes of enforcing sanitation and public health and in order to make public all current tariff rates and the total amount of cold storage holdings, all other articles of food not hereinbefore specifically mentioned shall be included and come under the provisions of this act and for these purposes shall be subject to such inspection, rules and regulations as may be prescribed by the Commissioner of Agriculture. (G. S. 1923, § 6207.)

49. Licenses, Fees, etc.—No person, firm or corporation shall maintain or operate a cold storage warehouse without a license so to do issued by the Commissioner of Agriculture. Any person, firm or corporation desiring such license shall make written application to the Commissioner of Agriculture for that purpose, stating the location of the warehouse. The Commissioner of Agriculture, shall cause an examination to be made of said warehouse, and if it be found by him to be in proper sanitary condition and otherwise properly equipped for its intended use, he shall issue a license authorizing the applicant to operate the same as a cold storage warehouse during one year. The license shall be issued upon payment by the applicant of a license fee of fifty (\$50.00) dollars to the Commissioner of Agriculture. (Id. § 6208.)

50. Suspending or Revoking Licenses.—The Commissioner of Agriculture shall also have authority to suspend or revoke the license of any cold storage warehouse man or dealer in cold storage products, whenever it shall be made to appear to him by satisfactory evidence that any such licensee has violated any of the terms or provisions of this act. Such suspension or revocation shall be made only after notice to the licensee and an opportunity to be heard with reference to the grounds for suspension or revocation and such action by the Commissioner of Agriculture shall in no way exempt such licensee from the penalties otherwise provided for in this act. (Id. § 6209.)

51. Records, Reports, etc.—Every licensee, operating under section 2 of this act [6208], shall keep accurate records of the articles of food received in and of the articles of food withdrawn from his cold storage warehouse, and the Commissioner of Agriculture shall have free access to such records at any time. Every such licensee shall submit a monthly report to the Commissioner of Agriculture, setting forth its itemized particulars and the quantity and kinds of articles of food in his cold storage warehouse. Such monthly reports shall be filed on or before the fifth day of each month, and the reports so rendered shall show the conditions existing on the last day of the preceding month reported and a summary of such reports shall be prepared by the Commissioner of Agriculture and shall be open to the public inspection on or before the tenth day of each month. (Id. § 6210.)

52. Inspection.—The Commissioner of Agriculture shall inspect and supervise all cold storage warehouses and make such inspection of articles of food therein as he may deem necessary to secure the proper enforcement of this act, and he shall have access to all cold storage warehouses, together with all related offices, toilet, wash and locker rooms, egg candling rooms, power houses or rooms, loading and unloading platforms, passage ways, approaches, and other spaces, the state of sanitation of which may affect the sanitary conditions of the cold storage foods, or which may require visitation or inspection for the enforcement of any of the provisions of the law, at all reasonable times. The commissioner may appoint such persons as he deems qualified to make any inspection under this act. (Id. § 6211.)

53. Food Which May be Received For Cold Storage.—No article of food intended for human consumption shall be placed, received or kept in any cold storage warehouse unless the same is in an apparently pure and wholesome condition. A food will be deemed "wholesome" only when it is in all respects fit for human consumption. The Commissioner of Agriculture may seize and condemn any articles of food in cold storage warehouses which are found to be unfit for human consumption, and such articles of food shall be destroyed or otherwise disposed of under such conditions as the commissioner shall prescribe. (Id. § 6212.)

54. Marking Articles of Food.—No person, firm or corporation shall place, receive or keep in any cold storage warehouse in this State, articles of food unless the same shall be plainly marked, stamped or tagged, either upon the

container in which they are packed, or upon the article of food itself, with the date when placed therein; and no person, firm or corporation shall remove or allow to be removed such articles of food from any cold storage warehouse unless the same shall be plainly marked, stamped or tagged, either on the container in which it is enclosed or upon the article of food itself, with the date of such removal, and such marks, stamps and tags shall be prima facie evidence of such receipt, and removal, and of the date thereof. It shall be unlawful to remove, deface, add to, alter or change any mark or marks placed upon the container, wrapper or upon the article of food itself, or upon the label or tag attached thereto, which marks are required under the provisions of this act, or in compliance with regulations adopted by the Commissioner of Agriculture or under the provisions of the cold storage act of any other State, without permission of the Commissioner of Agriculture or under his direction.

If the articles of food are stored by the lessee of a room or rooms in a cold storage warehouse, the said lessee shall be responsible for the goods placed by him or his employees in said leased space, and also for the placing upon them of the required marks. Articles of food entered for periods of less than thirty days in a chill room located in cold storage warehouses, but used solely for the storage of articles of food for less than thirty days, shall have affixed their respective lot numbers, but require no "time of entry" marks. Cold storage products, as defined in this act, may be removed from one container to another for the purpose of grading or repacking into more convenient commercial form, either during cold storage or at the time of withdrawal therefrom providing that the old container was properly marked; the lot number or numbers, and all other distinguishing marks, shall be marked also upon the new container. An invoice or bill shall be rendered and delivered by the seller to the purchaser for each sale or consignment in wholesale quantities of articles of food which have been in cold storage for a period of thirty days or more, and a copy of such invoice or bill shall be kept on file at the place where said sale was made; such invoice or bill and copy thereof shall clearly describe the articles of food sold, and in addition shall describe such articles of food as being "cold storage," by using the words "cold storage" in connection with such description as for example, "cold storage meat," "cold storage fish," "cold storage poultry," "cold storage butter," "cold storage eggs," "cold storage tallow," "cold storage lard substitutes," etc., such description to be plainly contained on the invoice or bill on a separate line, printed or stamped in type not smaller than ten point bold face, which line shall contain no other words than as above indicated. When such goods are bought for resale or on consignment, the purchaser shall keep such invoice or bill on file for at least thirty days after all of the goods covered by such invoice or bill are sold. (Id. § 6213.)

55. Length of Storage Period.—No person, firm or corporation shall keep or permit to remain in any cold storage warehouse any article of food which has been held in cold storage either within or without the State for a longer aggregate period than twelve months, except with the consent of the Commissioner of Agriculture, as herein provided.

The commissioner upon written application made and presented during the twelve months' period may extend the allowable storage period for any particular article of food, provided the same upon examination is found to be in proper condition for further cold storage. If the commissioner shall grant the application for such further cold storage period he shall enter an order specifying the period for which such additional storage may be permitted. The commissioner shall make written report on each case in which such extension of storage is granted, including therein the information relating to the reason for the action taken, specifying the kinds and amounts of the articles of food covered by such extension order and the length of time for which the extension is granted, and this report and the order based thereon shall be kept on file in the office of the commissioner at all times open to the public. No extension shall be granted for a longer period than sixty days, but a second extension of not more than sixty days may be granted upon re-investigation and re-examination, provided the entire extension period shall in no event exceed more than one hundred and twenty (120) days.

In case the owner of any article of food in storage in a cold storage warehouse fails or refuses to remove the same before the expiration of the period of time within which the storage may lawfully be continued, then and in such case the warehouseman may sell the same at public auction and for the best price obtainable, first giving ten days' published notice of his intention so to do and account for and pay over to the owner of said articles of food so sold the amount

for which the same is sold after deducting the reasonable expense of such sale and his charges, if any, for the storage of such articles of food. In such case it shall be lawful to retain such articles of food in cold storage for a period of time not exceeding fifteen days after the expiration of time during which such article of food could otherwise be kept in cold storage. (Id. § 6214.)

56. Shortening Storage Period.—Whenever, in the opinion of the Commissioner, the market conditions of food articles, resulting from hoarding or deterioration, is such as to require the release for immediate sale of foodstuffs held in cold storage so that there is immediate market therefor at fair and reasonable prices, the commissioner, by order, may shorten the twelve months' storage period herein provided for as to any particular article of food and may by his order fix and establish a shorter storage period for such article or articles of food and thereupon the articles covered by such order shall, upon the expiration of such shortened storage period be released from storage and removed from such storage warehouse.

If such provision for shortened storage period for any reason shall be invalid, no other provision of this act shall be impaired or held invalid in consequence thereof. (Id. § 6215.)

57. Display of Placards.—It shall be unlawful to sell, or to offer for sale, either at wholesale or retail, fresh meat or fresh meat products, fish, game, poultry, eggs, butter, butter substitutes and lard substitutes which have been held for a period of thirty days or over in cold storage, either within or without the State, without notifying persons purchasing or intending to purchase the same that it has been so held, by the display of a placard, which shall indicate the kind of cold storage products offered for sale by such dealer, which placard shall be furnished at cost by the Department of Agriculture and shall be permanently displayed within the principal salesroom of such place of business. (Id. § 6216.)

58. Dealers' Penalties.—Any place of business, or warehouse, or outbuilding connected therewith, wherein cold storage products are sold or held subject to sale, and all books and records shall be open at all reasonable times to inspection by the Commissioner of Agriculture, and for the purpose of examination of such foods the commissioner may cause any food container to be opened and examined as to its suitability for human consumption.

Any dealer in cold storage products, whether wholesale or retail, violating section 10 of this act [6216] or who shall fail to comply with the rules and regulations of the Commissioner of Agriculture in the enforcement of same shall be guilty of a misdemeanor and shall, upon conviction, be punished for the first offense by a fine of not to exceed twenty-five dollars (\$25.00), for a second offense by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment, or by both such fine and imprisonment. (Id. § 6217.)

59. Returning Food to Cold Storage; Transfer.—After food has been withdrawn from a cold storage warehouse for the purpose of placing it on the market for sale, it shall be unlawful for any person, firm or corporation to return such food or any portion thereof to such cold storage warehouse or to any similar warehouse. Subject to such regulations as may be prescribed by the Commissioner of Agriculture, food may be transferred from one cold storage warehouse or refrigerating plant to another; provided, however, that the total length of time such food shall remain in such cold storage for the purpose of sale shall not exceed the time specified in section 8 of this act [6214]. (Id. 6218.)

60. Making Rules and Regulations.—The commissioner shall have power and it shall be his duty from time to time to make and publish uniform rules and regulations, not inconsistent with law, to carry out and enforce the provisions of this act, which rules and regulations shall be filed in the office of the commissioner and published twice in a legal newspaper of general circulation published at the capital of the State, and from and after the tenth day succeeding the date of the last such publication such rules and regulations shall have the force and effect of law. An affidavit of such publication shall be kept on file in the office of the commissioner. A copy of such rules and regulations, certified by the commissioner, shall be prima facie evidence of the facts therein contained and of the due making and publication of such rules and regulations. (Id. § 6219.)

61. Penalties.—Any person, firm or corporation violating any provision of this act as relating to cold storage warehousing shall be guilty of a gross misdemeanor and shall, upon conviction, be punished for the first offense by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment in the jail of the proper county for a period of not more than three months, or by both such fine and imprisonment, and for the second or subsequent offense by a fine not to exceed one thousand (\$1,000.00) dollars or by imprisonment in the jail of the proper

county for a period not to exceed one year, or by both such fine and imprisonment. (Id. § 6220.)

62. Fees and Fines, Disposition of.—All license fees and fines accruing through the enforcement of the provisions of this act shall be paid into the State treasury and credited to the State Revenue Fund. (Id. § 6221.)

NOTE: See also the egg law, No. 123 et seq.

Confectionery.

See No. 4; No. 165 et seq.

Dairy Products—Substitutes For Dairy Products.

63. Milk and Cream.—No person shall sell or knowingly buy unwholesome or adulterated milk or cream. Milk or cream that has not been well cooled and aerated, or to which a preservative has been added; milk drawn from cows kept in crowded conditions or in places not well ventilated or lighted, or which from any cause are filthy or insanitary, or from unclean or diseased cows, or those fed with garbage or any filthy, decayed, putrid or unwholesome animal or vegetable substance; milk drawn from cows within fifteen days before or five days after the calving; and milk or cream which has been kept in any place where bad air exists, and cream taken from unwholesome or adulterated milk, shall be deemed unwholesome and adulterated within the meaning of this act. Milk from which any normal ingredient has been abstracted, or milk containing any substance not a normal constituent thereof, or containing less than three and one-fourth per cent of butter fat, and cream in which there is less than 20 per cent of butter fat, or which contains any foreign thickening or coloring substance, or any abnormal ingredient whatsoever, shall be deemed adulterated; nor shall any article of food be manufactured from unwholesome or adulterated milk or cream except as in the next following section hereof provided. (G. S. 1923, § 3811.)

64. Skimmed Milk.—Notwithstanding the provisions of section 22 [3811], milk from which the cream has been removed, if such milk is otherwise wholesome and unadulterated, may be sold as such to makers of skimmed milk cheese, and by licensed dealers; but in the latter case only from vessels legibly marked "skimmed milk" in plain, common black letters upon a light colored background, each letter being at least one inch high and one-half inch wide, and said words being placed on the top or side of such vessel. These requirements, however, shall not apply to skimmed or separated milk delivered to any patron of a creamery who furnishes milk thereto, but all skimmed milk from creameries and all whey from cheese factories so delivered to patrons shall first be pasteurized at a minimum temperature of 145 degrees Fahrenheit for not less than thirty minutes, or at a minimum temperature of 180 degrees Fahrenheit for continuous flow pasteurization. (Id. § 3812.)

65. Milk and Cream; Sales Licensed.—No person shall sell milk or cream without being licensed by the Dairy and Food Commissioner, and the fee for such license shall be \$1.00 for each place or vehicle from which sale is made. Every such license shall expire May 1st, next after its issue; shall be given only to a person owning or leasing the vehicle or place from which sales are to be made, and shall not be transferred. Each license shall be numbered and shall contain the name, residence and place of business of the licensee, the names of all employees authorized to act thereunder, and the number of vehicles and places to be used. The name and number of the license shall be plainly inscribed on both sides of each vehicle in use for the purpose aforesaid, and the license shall be conspicuously posted in each place where such milk or cream is sold, and the making of every sale from a vehicle not so inscribed or from a place where such license is not so posted, shall be deemed the commission of a misdemeanor. Provided that any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor. (Id. § 3813.)

66. Licenses Revoked.—The commissioner may withhold a license from any applicant therefor under any provision of this act whom he may deem unworthy, and may revoke any license issued by him to any licensee who has violated the terms thereof, or who has failed to comply with any requirement of this act, or refused or failed to obey his lawful request or direction, and every conviction of the licensee for an offense punishable under this act shall be a sufficient ground for each revocation. (Id. § 3814.)

67. Standard Measure; Tests.—All milk and cream sold or purchased for the purpose of manufacture into butter or cheese, or for the purpose of condensing or drying the same, shall be sold and purchased by weight and payment shall be made therefor upon the basis of milk fat therein contained and not otherwise. The percentage of milk fat in such milk and cream shall be determined by the Babcock test and by employing a standard official method for operating said test, which method shall be that adopted, prescribed and set forth with specifications in detail, in the rules and regulations from time to time made and published by the commissioner under and pursuant to authority therefor conferred by the Minnesota Dairy and Food Law for the purpose of carrying out and enforcing the provisions thereof, which authority hereby expressly is declared to be applicable in the premises.

All glassware, test bottles, pipettes, acid measures, chemicals, scales and other apparatus used in the operation of said test shall conform to the specifications set forth in said method.

Any person who shall use any appliances other than the standard Babcock glassware for measuring or testing milk or cream sold or purchased at prices determined upon the basis of milk fat therein contained, or who shall manufacture or sell Babcock glassware which is not constructed and or graduated in accordance with said specifications, or who shall employ any test other than the Babcock test or any method other than the said standard official method for determining the milk fat content of milk or cream or who shall underread or otherwise falsify or manipulate the reading of the test, or who shall falsely state, certify or use in the purchase or sale of milk or cream a misreading of such test, whether the test or actual reading shall have been made by such person or by any other person, shall be deemed guilty of a misdemeanor. (Id. § 3815, as amended L. 1927, c. 154.)

68. Cans to be Cleaned.—Every person delivering milk, cream or ice cream to any other person, in cans or other vessels shall have such cans or vessels free from any deleterious substance, filth or rust, and in a wholesome condition for containing such milk, cream or ice cream. Every person receiving milk, cream or ice cream in cans or vessels which are to be returned to the sender or seller, shall cause such vessels to be promptly emptied, thoroughly cleansed and immediately returned. (G. S. 1923, § 3816.)

69. Custom Factories; Records.—No person engaged in making butter or cheese for others out of cream or milk furnished by them shall withhold or permit to be withheld, any part of the cream or milk so furnished, or any product thereof without the knowledge and consent of the owner. Every maker shall keep a record of all quantities of milk and cream received each day and from whom received and the disposition thereof, also of the weight of all cheese and butter made each day and of the number and aggregate weight of all packages of cheese and butter delivered to those furnishing milk and cream for manufacture or otherwise disposed of. Such records shall be exhibited on request of the commissioner and his employees and to all persons furnishing milk and cream to such maker. (Id. § 3817.)

70. Minnesota Brands.—Any person manufacturing in this State, cheese which is wholly and exclusively the product of wholesome and unadulterated milk, or butter which is wholly and exclusively the product of wholesome and unadulterated milk and cream, may label and sell the same as "Minnesota full milk cheese" or "Minnesota pure dairy (or creamery) butter," as the case may be, and may add to such brand or label the name of the county wherein such cheese or butter is made, using for the purpose a numbered stencil brand furnished by the Dairy and Food Commissioner. Such commissioner shall issue to such manufacturer under such regulation as to the custody and use thereof as the commissioner may prescribe, uniform stencil brands for such marking, keeping a register of the number of each and of the name and place of residence of the manufacturer receiving the same.

Any person who shall, without authority of the commissioner, as aforesaid, use any such brand or label, or any person who shall use such brand or label upon cheese or butter below the grade aforesaid, shall be guilty of a misdemeanor. (Id. § 3818.)

71. Inspection of Dairies.—At such times as he may deem proper the commissioner shall cause to be inspected all places where dairy products are made, stored or served as food for pay, and all places where cows are kept by persons engaged in the sale of milk or cream, and shall require the correction of all unsanitary conditions and practices found therein.

Every refusal or neglect to obey any lawful direction of the commissioner or his agent given in carrying out the provisions of this section shall be deemed a misdemeanor. (Id. § 3819.)

72. Local Inspection.—The governing authority of any municipal corporation may by ordinance provide for the inspection of milk, cream and butter sold within its limits and of dairies and dairy herds kept for the production of such milk, cream or butter and may prescribe the terms upon which such sales may be made and fix penalties for violation thereof; but no such ordinance shall conflict with any law of this State or interfere with any power or duty of the Dairy and Food Commissioner or his official subordinates. (Id. § 3820.)

73. Dairy and Creamery Butter.—No person shall manufacture, for sale, or sell any dairy or creamery butter which contains more than 16 per cent of water by weight or less than 80 per cent of butter fat by weight. (Id. § 3821.)

74. Renovated Butter.—No person shall sell any butter made by taking original packing stock or other butter or both and melting the same and drawing off or extracting butter fat and mixing such fat with skimmed milk or cream or other milk product and rechurning or reworking such mixture; or any butter product produced by any process commonly known as boiled process or renovated butter, unless the words "Renovated Butter" shall be plainly branded with bold-faced letters at least three-fourths of an inch in height on the top and sides of each receptacle, package or wrapper in which it is kept for sale or sold. And if such butter is exposed for sale uncovered or not in a receptacle, package or wrapper, then a placard containing the words "Renovated Butter" printed in style and manner as aforesaid shall be attached to the mass of butter in such manner as to be easily seen and read by purchasers. (Id. § 3822.)

75. Process Butter.—No person shall sell any butter made of part cream and part casein and other ingredients by what is known as the "Quinness Patent" or process, or that made by other similar process, whereby the casein of milk and other ingredients are made to imitate or resemble genuine butter made from cream, unless each package or receptacle in which the same is kept for sale or sold shall be stamped or marked "patent butter" on the top and sides thereof with lamp black and oil in letters at least one-fourth of an inch wide and one-half of an inch high; and in addition to such marking the seller at the time of the sale shall give to the purchaser a printed card stating distinctly and correctly the different ingredients contained in said compound. (Id. § 3823.)

76. Dairy Products; Preservatives.—No person shall manufacture for sale, advertise or sell any mixture or compound designed or offered for sale or use as an adulterant, preservative or renovator of milk, cream, butter or cheese, or as a neutralizer of the acidity of milk, cream, butter or cheese; nor shall any person add or apply to milk, cream, butter or cheese any borax, boric acid, salicylic acid, formaldehyde, formalin or other anti-ferment or preservative, nor any alcohol, viscogen, lime, saltpeter, sal soda, soda ash or other neutralizer; provided, however, that this section shall not apply to pure salt added to butter or cheese. (Id. § 3824.)

77. Ice Cream.—For the purposes of this act, ice cream is defined as a frozen product made from cream and sugar with or without a natural flavoring and containing not less than twelve per cent by weight of butter fat; fruit ice cream is defined as a frozen product made from cream, sugar and sound, clean, mature fruits, and containing not less than ten per cent by weight of butter fat; and nut ice cream is a frozen product made from cream, sugar and sound, non-rancid nuts and containing not less than ten per cent by weight of butter fat. It shall be unlawful for any person to manufacture, sell, transport, offer for sale, use or transportation or have in possession with intent to sell or transport ice cream containing less than twelve per cent by weight of butter fat or fruit ice cream containing less than ten per cent by weight of butter fat, or nut ice cream containing less than ten per cent by weight of butter fat. (Id. § 3827.)

78. Pasteurized Milk and Cream.—Any creamery equipped with machinery and appliances for pasteurizing the milk and cream which it receives may apply to the State Dairy and Food Commissioner for an inspection by him of such machinery and appliances; and upon such application made showing such fact and the wish of the creamery to use such process in the manufacture of butter, the State Dairy and Food Commissioner shall cause such inspection to be made.

If such machinery and appliances are sufficient for effective use in so pasteurizing the milk and cream received, the said Dairy and Food Commissioner may issue a certificate to such creamery, authorizing it so long as it shall keep such machinery and appliances in use and shall pasteurize such milk and cream at a minimum temperature of 145 degrees Fahrenheit for not less than thirty minutes, or at a minimum temperature of 180 degrees Fahrenheit for continuous flow pasteurization, to label its products "This product is from pasteurized milk and cream," and such creamery may label its products so long as it continues to so pasteurize all its milk and cream used in the manufacture of such product. Labeling contrary to this section shall be a misdemeanor. (Id. § 3828.)

79. License For Testing Apparatus.—No person shall operate a milk or cream testing apparatus to determine the percentage of butter fat in milk or cream for the purpose of purchasing the same either for himself or another without first securing a license from the Dairy and Food Commissioner of this State, or from one of his duly appointed assistants or inspectors, authorizing such person to so operate such tester. (Id. § 3829.)

80. Application For License; Non-resident Not to Secure License.—Any person desiring to secure such license shall make application therefor on a blank to be prepared and provided by the Dairy and Food Commissioner, and such applicant, before such license may be issued, shall pass a satisfactory examination in person and prove by actual demonstration that he is competent and qualified to properly use such tester and make an accurate test with the same. Provided, however, that no person who is not a resident of the United States shall be licensed under the provisions of this act. (Id. § 3830, as amended L. 1925, c. 164.)

81. License Fee and Term.—Such license shall be issued for a period ending on the thirty-first day of December following, and a fee of \$1.00 shall be paid for such license by the licensee upon the issuance thereof.

The testing of each lot of milk or cream by any unlicensed person shall constitute a separate offense except in case such unlicensed person shall have valid reasons to appoint a substitute for a period of not to exceed three days, subject to the approval of the Dairy and Food Commissioner. (G. S. 1923, § 3831.)

82. Butter and Cheese Brands.—Any person manufacturing butter in the State of Minnesota may use the stamp, brand or label hereinafter provided when authorized by the Dairy and Food Commissioner. (Id. § 3845.)

83. Minnesota Brands.—The Dairy and Food Commissioner may authorize the use of the following stamp, brand or label for butter manufactured in the State of Minnesota. Such stamp, brand or label shall have the design and shall be of such size as the Dairy and Food Commissioner shall adopt and designate, and shall contain the following words: "Minnesota Fancy Creamery Butter, 92 points. If not up to grade, notify Minnesota Dairy & Food Commission. No. (insert factory number)." (Id. § 3846.)

84. Dairy and Food Commissioner May Authorize Brands in Certain Cases.—The commissioner may authorize the use of such stamp, brand or label only by such persons manufacturing butter who comply with the following rules:

(a) Cream must be received from all patrons at least three times per week from the first day of May up to and including the thirtieth day of September in each year, and not less than two times per week from the first day of October to and including April thirtieth thereafter.

(b) Cream must be delivered in good condition, in individual producer's cans, and when delivered must not show an acid test above three-tenths of one per cent.

(c) After such cream has been delivered to the creamery or factory it shall be pasteurized at a temperature of at least 145 degrees Fahrenheit, vat pasteurization, for at least thirty minutes, and in the flash system pasteurization at a temperature of at least 180 degrees Fahrenheit.

(d) Butter made from such cream at such factory or creamery shall score at least ninety-two per cent at the time of manufacture and within fifteen days thereafter. (Id. § 3847, as amended L. 1925, c. 49.)

85. Application For License and Penalty.—Any person desiring to use the stamp, brand or label described in this act in the manufacture or sale of butter shall make written application for a license therefor to the commissioner, which application shall describe the creamery or factory by location and name in which such butter is to be manufactured, and give such other information as the commissioner may require. A license may be granted by such commissioner to such person to use such stamp, brand or label at the creamery or factory described in the application if the commissioner shall find, on investigation, that all the provisions of law have been complied with. Such license shall state that the stamp, brand or label provided for in this act may be used in connection with the manufacture or sale of butter from the creamery or factory described in such license. Such creamery or factory so described shall be given the same number as the serial number of the license.

No person shall use in the manufacture or sale of butter such stamp, brand or label without first having obtained a license therefor. Such license so granted may be revoked by the commissioner if any of the provisions of this act are not complied with. All licenses shall be numbered in serial order. All applications for license shall be accompanied by a fee of five dollars, which fee shall be returned to the applicant in the event no license is granted.

The commissioner may require any person to whom any such license may be granted to furnish from time to time for examination samples of butter manufactured in any factory described in the license. (Id. § 3848.)

86. Complaint; Investigations; Licenses Revoked.—Whenever complaint is made in writing to the Dairy and Food Commissioner as to the quality of any butter sold bearing the stamp, brand or label described in this act, the Dairy and Food Commissioner shall, upon receipt of such complaint, immediately make investigation, and if such persons licensed to use such stamp, brand or label have not complied with, or refuses to comply with, the rules and regulations of the Dairy and Food Commissioner and with the laws relative thereto, and if such butter is found to be of an inferior quality to that prescribed by such laws, rules and regulations, the license to use such official stamp, brand or label shall be revoked and such official stamp, branch [brand] or label shall be surrendered to and taken by Dairy and Food Commissioner. (G. S. 1923, § 3849.)

87. Violation and Penalties.—Any person, firm, corporation or co-partnership who shall use the official stamp, brand or label mentioned in this act or any similar stamp, brand or label on any package of manufactured butter without first having obtained a license therefor from the State Dairy and Food Commissioner shall be guilty of a gross misdemeanor. (Id. § 3850.)

88. Manufacture of Oleomargarine.—No person shall produce or manufacture out of or from any animal fats or vegetable oils not produced from unadulterated milk or cream from the same, the article known as oleomargarine or any article or product in imitation or semblance of natural butter produced from pure unadulterated milk or cream of the same; or mix, compound with or add to milk, cream or butter any acids or other deleterious substances or any animal or vegetable oils not produced from milk or cream, so as to produce any article or substance or any human food in imitation or in semblance of natural butter, nor sell, keep for sale, or offer for sale any article, substance or compound, made, manufactured or produced in violation of the provisions of this section, whether such article, substance or compound shall be made or produced in this State or elsewhere. Any person manufacturing, selling, offering or exposing for sale any commodity or substance in imitation or semblance of butter, the product of the dairy, shall be deemed guilty of a violation of this section, whether he sells such commodity or substance as butter, oleomargarine or under any other name or designation whatsoever and irrespective of any representations he may make relative to such commodity or substance. (Id. § 3851.)

89. Sale, etc., of Oleomargarine, With Intent to Deceive.—No person shall manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine which shall be manufactured in imitation of, or in semblance of butter of any shade of yellow, with an intent to deceive or defraud the consumer or purchaser thereof.

If, in the manufacture of any oleomargarine, fats, oils, or other ingredients are selected and used in such proportions as to cause the oleomargarine so manufactured to resemble butter of any shade of yellow, such fats shall be prima facie evidence in any prosecution under this section that such oleomargarine was manufactured with an intent to deceive or defraud the consumer or purchaser thereof. (Id. § 3852.)

90. Oleomargarine, Labeling of.—It shall be unlawful for any person to manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine made wholly or partly out of fats, oils or oleaginous substances or compound thereof unless each receptacle and package in which the same is kept for sale or sold has securely affixed upon the side thereof, a white or light colored label which shall be printed in the English language with black ink in type not smaller than 36-point bold-faced Gothic capitals the word "oleomargarine" and immediately thereafter under the same label in the same colors there shall be printed in the English language, in 8-point bold-faced Gothic capitals, the name and, with substantial accuracy, the percentage of each ingredient contained in such oleomargarine, giving the name of each animal or vegetable from which such fats or oils are derived. (Id. § 3853.)

91. Labeling.—It shall be unlawful for any person to sell or offer or expose for sale, or have in possession with intent to sell, any oleomargarine which is not marked and distinguished on the outside of each tub, package, or parcel, thereof in a conspicuous place, by a placard with the word "oleomargarine" printed in English thereon; such placard to be placed in a conspicuous position in full view of the purchaser; and the said word "oleomargarine" on such placard shall be printed in plain uncondensed Gothic letters, each letter not less than one inch in height, and such placard shall contain no other words thereon; and there shall also be displayed upon each tub, package or parcel containing such oleomargarine

in the same manner and in a conspicuous position, a placard with the word "Oleomargarine" printed thereon in the same form as above described in this section; and when oleomargarine is sold from such package or tub, or otherwise at retail, in print, roll, or other form, before being delivered to the purchaser, it shall be wrapped in wrappers plainly stamped on the outside thereof with the word "oleomargarine" printed or stamped thereon in English in letters one-fourth inch square; and said wrapper shall also contain the name and address of the seller and the quantity sold, and immediately following there shall appear upon the wrapper the name and address of the manufacturer.

Descriptive matter upon the label shall be free from any statement, design or device that is in itself misleading or that conveys or tends to convey information that the product is derived from other than the ingredients of which it is composed; and it shall be unlawful to label oleomargarine "dairy rolls," "country rolls," "Guernsey," "Jersey," "Holstein" or other labeling that would indicate that said product is of dairy or creamery origin.

The use of any false or misleading statement, design, or device shall not be justified by any statement given as the opinion of an expert or other person appearing on the label, nor by any descriptive matter explaining the use of the false or misleading statement, design or device. (Id. § 3854.)

92. Oleomargarine; Serving as Butter.—It shall be unlawful for the proprietor of any hotel, dining room, dining car, drinking place, cafe, bakery, boat, lumber camp, mining camp, railroad camp, boarding house, or hospital, or any place where guests, boarders or patients are served with food for pay, or for any managing agent or servant of such proprietor, to serve as or for butter, or as a substitute thereof, any oleaginous substance or compound other than that produced wholly from pure, unadulterated milk or cream, unless he or they shall cause to be plainly printed in English upon every bill of fare, if one be used, and in letters not smaller than eight-point bold faced Gothic capitals, the words "Oleomargarine used in place of butter" and in case no bill of fare be used, the manager or person in charge of such establishment shall cause to be posted upon each side of the dining car or eating room, in a conspicuous position and in letters large enough to be distinctly seen and read from all parts of said room, placards containing on the face thereof the words in the English language "oleomargarine used in place of butter," and such person shall keep said placards continuously posted as aforesaid as long as such butter substitute be kept or used. (Id. § 3855.)

93. Discriminations.—Any person, firm, co-partnership or corporation engaged in the business of buying milk, cream or butter fat for manufacture or for sale of such milk, cream or butter fat who shall discriminate between different sections, localities, communities or cities of this State by purchasing such commodity at a higher price or rate in one locality than is paid for the same commodity by said person, firm, co-partnership or corporation in another locality, after making due allowance for the difference, if any, in the actual cost of the transportation from the locality of purchase to the locality of manufacture or locality of sale of such milk, cream or butter fat, shall be deemed guilty of unfair discrimination, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for not exceeding ninety days. (Id. §§ 3907 and 10482.)*

94. Higher Price.—Proof that any person, firm, co-partnership or corporation has paid a higher price for milk or cream in one locality than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of the violation of this act. (Id. §§ 3908 and 10483.)

94a. Dairy Commissioner to Enforce Provisions.—The State Dairy and Food Commissioner, his assistant, inspectors, agents and employes shall enforce the provisions of this act, and in so doing shall have all the powers conferred upon them, and each of them, by the provisions of Chapter 21, revised laws of 1905. (Id. § 3909 and 10484.)

95. Common Carriers to Provide Storage Rooms.—Every person, firm or corporation engaged in the business of buying and shipping milk or cream by common carrier, or operating a milk station where milk or cream is purchased and prepared for shipment by common carrier, shall provide, equip and maintain at every station where milk or cream is so received for shipment, a clean and sanitary room for the receiving, handling and storing thereof pending shipment. Said room shall be isolated and protected from contaminating surroundings, shall be constructed in

*Declared unconstitutional in *Fairmont Creamery Co. v. State of Minnesota*, 47 S. Ct. 506 (1927).

a sanitary manner, and provided with screens on all doors and windows, and shall be well lighted and ventilated. The floor thereof shall be constructed of sanitary material, and shall be kept in a sanitary condition. Said room shall be equipped so as to maintain a supply of hot water of not less than five gallons and/or with live steam under pressure in sufficient quantity to meet all requirements. Said room shall be used exclusively for the receiving, handling, testing and preparing for shipment of milk and cream. (Id. § 3911, as amended L. 1927, c. 282.)

96. Storage Rooms For Milk, etc., Must be Cool.—Milk or cream stored or kept in any such receiving station awaiting shipment by common carrier shall be kept in a cool condition either by use of ice or a tank cistern or other device using cold water to be approved by the Dairy and Food Commissioner. (Id. § 3912.)

97. Cans Must be Cleaned.—Milk or cream cans or receptacles returned to such receiving stations after use shall be scalded, washed and cleaned before being used again. (Id. § 3913.)

98. Violations; Penalties.—Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or in lieu thereof by imprisonment for not less than thirty nor more than ninety days. Each period of twenty-four hours or part thereof during which a receiving station is maintained in an unsanitary condition shall be deemed a separate offense. (Id. § 3914.)

99. Duties of Dairy and Food Commissioner.—It shall be the duty of the Dairy and Food Commissioner to inspect such milk and cream stations, and whenever he deems that any such station is not maintained in a sanitary condition to go before a magistrate and make proper complaint. Upon the conviction of any person of a second offense under this act the testing license of such person shall automatically become null and void, and no further testing license shall be issued to such person until the period of two years shall have elapsed from the date of conviction of the second offense. (Id. § 3915.)

100. Use of "Butter" in Advertising Unlawful.—It shall be unlawful for any person to make, publish, disseminate, circulate or place before the public, or directly or indirectly cause to be made, published, disseminated, circulated or placed before the public, in this State, in a newspaper or other publication, or in any book, notice, handbill, poster, bill, label, circular, pamphlet or letter or in any other way, any publication advertising in any manner any food product or article of food produced or manufactured in whole or in part out of or from animal fats or vegetable oils, or any article or product manufactured or produced in imitation or semblance of natural butter not produced wholly from pure, unadulterated milk or cream, in or as a part of or connected with which publication the word "butter" is used or appears; provided, that the word "butter" may be used in designating the food article known to the trade as "plum butter," "apple butter," "peanut butter," when used in connection with the name of article manufactured from; and provided, further, that nothing herein contained shall repeal or modify any of the provisions now in force for the labeling of the food product known as "oleomargarine." (G. S. 1923, § 3917.)

101. Violation a Misdemeanor.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor. (Id. § 3918.)

102. Dairy and Food Commissioner to Enforce Provisions of Act.—It shall be the duty of the State Dairy and Food Commissioner to enforce the provisions of this act, and of all county attorneys, upon complaint made, to prosecute all persons violating any of the provisions hereof within their respective counties. (Id. § 3919.)

103. Butter Fat Not to be Used in Substitutes.—No person, firm or corporation shall mix, compound or use any butter fat with or to any oleomargarine or any article or product containing animal or vegetable oils and intended for use as a butter substitute, except that skimmed milk or buttermilk may be used in the churning or manufacture of oleomargarine or other similar product. Violations of this act shall be a misdemeanor and shall be punished accordingly. (Id. § 3920.)

104. Oleomargarine Not to be Used in State Institutions.—The service of oleomargarine or any other butter substitute to the inmates of any State institution as a substitute for table butter is hereby prohibited. (Id. § 3921.)

105. Violations; Penalties.—Any officer in charge of any State institution affected by this act who shall knowingly violate the provisions of this act shall be dismissed from the service of the State immediately by the officer or board by whom he is appointed. (Id. § 3922.)

106. Manufacturers of Butter Substitutes Not to Use Certain Words in Advertising.—No person shall use in any way in connection or association with the sale or offering or exposure for sale or advertisement of any substance designed

to be used as a substitute for butter the word "butter," "creamery" or "dairy," or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter. (Id. § 3923.)

107. Violation a Misdemeanor.—Any person who shall violate any provision of this act shall be deemed guilty of a misdemeanor. (Id. § 3924.)

108. Dairy and Food Commissioner to Enforce Act.—The Dairy and Food Commissioner shall cause the provisions of this act to be enforced, and to that end he shall exercise all power and authority conferred upon him by the provisions of Chapter 495, Laws 1921, known as the "Minnesota Dairy and Food Law."* It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of this act to cause appropriate proceedings to be instituted in the proper courts and prosecuted without delay for enforcement of the penalties herein specified. (Id. § 3925.)

109. Sale of Adulterated Products Prohibited.—It shall be unlawful for any person, firm or corporation, by himself, his employee or agent, or as the employee or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange any milk, cream, condensed or evaporated cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them, or any butter or cheese, to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof, or under any fictitious or trade name whatsoever. (Id. § 3926, as amended L. 1925, c. 203.)

110. Violations and Penalties.—Any violation of any of the provisions of this act is hereby declared to be a misdemeanor, and any person, whether individually or as a member of a partnership, or as a responsible agent or officer of a corporation who shall be convicted of such violation, either on his own behalf or in the interests of a corporation, shall be punished by imprisonment in the county jail for not less than thirty days nor more than sixty days or by a fine of not less than fifty dollars nor more than one hundred dollars. (G. S. 1923, § 3927.)

111. Dairy and Food Commissioner to Enforce Laws.—The Dairy and Food Commissioner, by himself or by his assistants, chemists, inspectors or agents, shall be charged with the enforcement of the provisions of this act. (Id. § 3928.)

112. Milk and Cream Cans Must be Sterilized.—All persons receiving, buying or handling cream for use, either locally or after shipment, in the manufacture of butter or cheese, in cans or other receptacles which are to be returned to the senders or sellers, shall thoroughly sterilize all such cans and receptacles with live steam under pressure, before returning them to the senders or sellers. (Id. § 3929.)

113. Violation a Misdemeanor.—Every person who shall violate or fail or refuse to comply with any provision of this act [section 3929] shall be deemed guilty of a misdemeanor. (Id. § 3930.)

114. Dairy and Food Commissioner to Enforce Provisions of Act.—The Dairy and Food Commissioner shall cause the provisions of this act to be enforced, and it hereby is made the duty of every prosecuting officer to whom the commissioner shall report any violation of or failure or refusal to comply with any of its provisions to institute and prosecute without delay appropriate proceedings in the proper courts for enforcement of the penalties herein prescribed therefor. (Id. § 3931.)

115. Certain Butter Compounds Must be Labeled.—No person shall sell or offer or expose for sale or have in possession with intent to sell or offer or expose for sale, any butter in whole or in part made from neutralized cream or milk unless the words "made from neutralized cream (or milk)" shall be printed, marked or stamped on each receptacle, package or wrapper in which such butter is offered or exposed for sale or is sold, in letters at least one-fourth of an inch wide and one-half of an inch high; and if such butter is offered or exposed for sale, uncovered or not in a receptacle, package or wrapper, then a placard containing the words "made from neutralized cream (or milk)" printed, stamped or marked thereon in style and manner aforesaid, shall be attached to the mass of butter in such manner as to be easily seen and read by the purchaser. (Id. § 3933.)

116. Violation a Misdemeanor.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor. (Id. § 3934.)

117. Dairy and Food Commissioner to Enforce Act.—The Dairy and Food Commissioner shall cause the provisions of this act to be enforced, and it hereby

*See Nos. 1-30.

is made the duty of every prosecuting attorney to whom the commissioner shall report any violation of this act to cause appropriate proceedings to be commenced and prosecuted without delay in the proper courts for enforcement of the penalties hereof. (Id. § 3935.)

118. Creameries Must be Licensed; Fees.—No creamery, cheese factory, condensery or milk plant for the manufacture of butter or other dairy products, or any cream station maintained for the purpose of purchasing, collecting or storing cream or milk to be used in the manufacture of butter or cheese or other dairy products or for transportation, shall be operated in this State unless a license therefor shall be issued and be in force as herein provided. The owner, operator or lessee of any such creamery, cheese factory, condensery, milk plant or cream station shall apply to the Dairy and Food Commissioner for such license upon such form and shall furnish such information as the commissioner may require. The application shall be accompanied by a fee of \$1.00 for each place to be licensed, which shall be paid into the State treasury. If the commissioner finds that such applicant maintains a proper place with sufficient and proper machinery and equipment for the manufacture of butter or cheese or other dairy products, or for maintaining a cream station as required by law in this State and the rules and regulations of the commissioner, he shall issue the license so applied for. All such licenses shall expire on June 30th of each year, unless sooner revoked as herein provided. A separate license shall be required and the prescribed fee shall be paid for each such creamery, cheese factory, condensery, milk plant or cream station. (L. 1927, c. 187, § 1.)

119. Violation a Misdemeanor.—Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25.00 or by imprisonment for not less than 30 days, and each subsequent offense by a fine of not less than \$50.00 or imprisonment for not less than 60 days. (Id. § 2.)

120. Penalties.—Whenever any person licensed hereunder shall have been convicted of a violation of any provision of this act, or any provision of the Minnesota Dairy and Food Laws, or any provision of any other law of this State relating to the manufacture or sale of butter or cheese or other dairy products, or the operation of creameries, cheese factories, condenseries, milk plants, or cream stations maintained for the purchasing, collecting or storing of milk and or cream to be manufactured into butter or cheese or other dairy products, or for transportation, or of any provision of any rule or regulation of the commissioner made and promulgated under the provisions of law, his license may be suspended for the time stated in order of suspension, or may be revoked or canceled by the Dairy and Food Commissioner upon 10 days' written notice with opportunity to be heard; upon conviction of a second or any subsequent offense the commissioner may revoke and cancel such license with or without notice of hearing in his discretion, and in such case said commissioner shall not issue another license for the operation of such creamery, or cheese factory or condensery, or milk plant, or cream station for a term of one year from the date of such cancellation or revocation. (Id. § 3.)

121. Enforcement of Act.—The Dairy and Food Commissioner shall enforce the provisions of this act and in so doing shall have all the power and authority with relation thereto that is conferred upon him by Chapter 495, Laws of 1921*, known as the Minnesota Dairy and Food Law, and the provisions of section 43† of said chapter shall be deemed a part thereof in the enforcement of this act and the accomplishment of its purposes. (Id. § 4.)

122. Prosecuting Officers to Bring Action.—It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of this act to cause appropriate proceedings to be instituted and to be prosecuted in the proper courts without delay for the enforcement as in such cases herein provided. All fines imposed and paid hereunder shall be paid into the State treasury. (Id. § 5.)

122a. Shipment of Cream.—The shipment of cream for a distance of more than sixty-five (65) miles, over any railroad line in this State, except when such shipment is made in a refrigerator car, which car shall be kept at all times effectively iced and in a thoroughly sanitary condition, unless said cream shall have previously undergone an effective process of pasteurization, is hereby prohibited. (G. S. 1923, Appendix and Addenda, § 4385.)

122b. Same—Penalty for Violation—False Statements, Etc.—Any agent of any railroad company who shall ship or receive for shipment any cream except as provided in section 1 [4385] of this act, or any person who shall make any false

*See No. 1 et seq.

†See No. 165.

statement or make or offer any certificate containing any false statement or make or offer any certificate containing any false statement in regard to the pasteurization of cream with the intent to secure shipment of said cream, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifteen (15) dollars nor more than seventy-five (75) dollars, and the shipment of each lot of cream prohibited by section 1 [4385] of this act shall constitute a separate offense. (Id. § 4386.)

122c. "Over-run" Defined.—For the purposes of this act "over-run" is the difference between the weight of any given amount of pure butter fat and the weight of the butter manufactured therefrom, and this difference, ascertained in any case, divided by the given amount of pure butter fat in such case and multiplied by 100, is the "percentage of over-run," in the manufacture of butter. (L. 1927, c. 162, § 1.)

122d. Excess Over-run Prohibited.—It shall be and hereby is declared to be unlawful for any person to have or permit a percentage of over-run in excess of 24 per cent in butter manufactured by him. (Id. § 2.)

122e. Violation a Misdemeanor.—Any person violating any provision of this act shall be deemed guilty of a misdemeanor, the minimum punishment for which shall be a fine of \$25 or imprisonment for 20 days. (Id. § 3.)

122f. Evidence of Violation of Act.—The reports required by law to be made and which are made to the Commissioner of Dairy and Food by persons engaged in the manufacture of butter shall be competent evidence in any prosecution under this act against the person making the same, and whenever such reports, received in evidence upon the trial, show that during a period of one month or more the person on trial and charged with a violation of this act, alleged to have been committed on a certain date within said period, has had or permitted an average percentage of over-run in excess of 24 per cent in the butter manufactured by him during said period, such showing shall be prima facie evidence of a violation of this act by the person so charged, committed as of the date alleged. (Id. § 4.)

122g. "Person" Defined.—The word "person" as used in this act, shall mean persons, firms, corporations, copartnerships and associations. (L. 1927, c. 169, § 1.)

122h. Records and Reports to be Kept.—Every person engaged in the purchase, manufacture or sale of dairy products, and all owners of skimming stations or other places engaged in the business of purchasing milk or cream, and operators of condenseries, creameries, milk factories and cheese factories, shall keep in proper books true and full records of all milk, cream, butter fat and other dairy products purchased, received, shipped, stored or handled by them, the amounts paid therefor, the names of patrons, as well as the amounts received for butter sold, the number of pounds of butter shipped out of the State and the names of persons to whom shipped, the pounds of butter sold within the State, the total pounds of butter or cheese manufactured, the total pounds of butter fat, the net price received for all butter sold, the cost per pound for making butter or cheese, the amount of over-run of butter manufactured from butter fat and cream, the average test of cream and of milk and butter fat handled, and the operating expense of such person, owner or operator, including the salaries of employees, boards of directors and others. (Id. § 2.)

122i. Same.—Every such person, owner or operator shall on or before the first day of March in each year and at such other times as the Dairy and Food Commissioner, hereinafter called the commissioner, may fix or require, render to the commissioner on blank forms prepared by him, itemized and verified reports of all business transacted by him as set out in section 2 hereof during the preceding calendar year. Such reports shall state the name of the creamery or other business engaged in within the requirements of this act, the village or city and county in which the same is located, the number of patrons, the receipts for butter sold, the number of pounds of butter shipped out of the State and the names of the persons to whom shipped, the number of pounds of butter sold in the State, the total pounds of butter manufactured, the net price received for all butter sold, the cost per pound for making butter, the over-run of butter manufactured over the number of pounds of butter fat handled, purchased or used in the manufacture of butter, the average test of cream and butter fat and of milk, the amount paid patrons for butter fat, the amount of expenses and salaries paid during the year, the name of the butter maker or person in charge of such business, and the name of the president and secretary, if the business is conducted by any one except an individual; such reports shall also contain such further information as from time to time may be required by the commissioner, and a duplicate copy thereof shall be retained by such person, owner or operator in his files, which shall be subject to examination by the commissioner at any time. (Id. § 3.)

122j. Same; Inspection.—The books and records of all persons, owners and operators coming within the provisions of section 2 of this act shall be open for the inspection of the commissioner and his deputies or employees at all times, who shall make such examination thereof as is desired or deemed necessary by the commissioner. (Id. § 4.)

122k. Violation a Misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 5.)

122l. Creamery Associations May Exercise Right of Eminent Domain.—Any creamery association, now or hereafter organized in the State of Minnesota, shall have the right, power and authority to condemn lands under the right of eminent domain for easements for sewers and sites for filtration plants to take care of all sewage and refuse made in the operation of its business and said power and authority shall be exercised under and pursuant to the terms and provisions of chapter 41, General Statutes 1923, and acts amendatory thereof, and supplemental thereto. (L. 1927, c. 179, § 1.)

122m. Filtration Plants Under Supervision of Board of Health.—The establishment of any such sewage or any such filtration plants, or both, for such purposes and their maintenance and operation shall be under the supervision of the chairman of the board of health of the town, village or city in which such association has its operating plant. (Id. § 2.)

NOTE: See also No. 1 et seq.; No. 31; No. 48 et seq.; No. 141b et seq.; No. 141t et seq.; No. 165 et seq.; No. 303 et seq.

Eggs.

123. Cold Storage Eggs to be Labeled.—No person shall sell, agree to sell, or advertise for sale any cold storage eggs without making it known to the purchaser or prospective purchaser that the eggs are cold storage eggs, and all boxes or other receptacles in which cold storage eggs are sold or delivered at wholesale or retail, shall be stamped in a conspicuous manner with the words "cold storage eggs." (G. S. 1923, § 3856.)

124. Sale, etc., of Eggs Unfit For Human Food.—No person shall sell, offer or expose for sale, or have in his possession, or traffic in, any egg unfit for human food, unless the same is broken in shell and then denatured so that it cannot be used for human food. For the purpose of this act, an egg shall be deemed unfit for human food if it be addled or mouldy, a black rot, a white rot, or a blood ring; or if it has an adherent yolk, or a bloody or green white; or if it be incubated beyond the blood ring stage; or if it consists in whole or in part of a filthy, decomposed or putrid substance. (Id. § 3857.)

125. Eggs, Dockage of; Candling; Reports.—No person, firm or corporation shall, in buying or selling eggs, take or give a greater or less dockage for eggs unfit for food as defined in section 70 of this act [3857] than the actual dockage which has been determined by the careful candling of the eggs so purchased or sold, and he shall keep such candling records as may be required by the rules and regulations of the Dairy and Food Commissioner. All such records shall be open at all reasonable times for examination by the Dairy and Food Commissioner, or his assistants, agents, inspectors or employees. Every person engaged in the business of buying eggs for exchange or consignment in this State, shall, within ten days after receipt of any shipment or consignment of eggs, render a detailed and accurate statement to the person by whom such shipment or consignment of eggs was shipped or consigned. The return statement shall truthfully and accurately classify the grade of eggs received according to the general commercial standard and shall include the following information: The number of cases of eggs received, the number of No. 1 eggs, the number of No. 2's, or seconds, the number of cracked, the number of leakers, and the number of rots, as defined in section 70 of this act [3857]. The term "candling" as used herein shall be construed to mean the careful examination, in a partially dark room or place of the whole egg by means of a strong light, the apparatus and method employed to be such as shall be approved by the Dairy and Food Commissioner. Every person engaged in the business of buying eggs in this State for resale or consignment shall provide and maintain an adequate place for the accurate candling of eggs which are intended to be used for human food. (Id. § 3858.)

126. Eggs; Candling Certificate.—There shall be placed on the top layer under the top flap of every case of candled eggs by the person candling the same a candling certificate. Such candling certificate shall be printed on cards or sheets of paper not smaller in size than two and three-eighths by four and one-quarter

inches and shall give the date of candling the eggs contained in the case in which it is placed, the name, initials or number of the person candling the eggs, and the name of this State and the license number of the person for whom the eggs were candled. (Id. § 3859.)

127. Eggs; License For Selling.—No person shall engage in the business of buying, selling, dealing in or trading in eggs except those retailers who do not buy direct from the producers and who do not sell in lots greater than one case without first obtaining from the Dairy and Food Commissioner a license to conduct such business. Such officer upon receipt of a proper application upon forms such as he may prescribe, accompanied by an annual license fee of \$1.00, shall thereupon issue to such person an annual license to engage in such business. Each license shall expire on the first day of March next after its issue.

The Dairy and Food Commissioner shall determine the conditions under which eggs previously candled shall be recandled before sale in order to safeguard the purchaser against buying as a part of a lot eggs unfit for human food. (Id. § 3860.)

NOTE: See also Nos. 48 et seq., 141b et seq., and 141t et seq.

Feeding Stuffs.

128. Statement of Concentrated Feeding Stuff to be filed With Dairy and Food Commissioner.—Before any concentrated commercial feeding stuff is sold, offered or exposed for sale in Minnesota, the manufacturer, importer, dealer, agent or person who causes it to be sold or offered for sale, by sample or otherwise, within this State, shall file with the Dairy and Food Commissioner of the State of Minnesota a statement that such manufacturer, importer, dealer, agent or person desires to offer for sale such concentrated commercial feeding stuff in this State and also a certificate, the execution of which shall be sworn to before a notary public or other proper official, for registration, stating the name of the manufacturer, the location of the principal office of the manufacturer, the name, brand or trade-mark under which the concentrated commercial feeding stuffs will be sold, the ingredients from which the concentrated commercial feeding stuffs are compounded, and the minimum percentage of crude fat and crude protein, allowing one per cent of nitrogen to equal six and twenty-five one-hundredths per cent of protein, and the maximum percentage of crude fiber which the manufacturer or person offering the concentrated commercial feeding stuff for sale guarantees it to contain. (G. S. 1923, § 3874.)

129. Statement to be Affixed to Packages and Samples.—Any person, company, corporation or agent who shall sell, offer or expose for sale or distribution in this State any concentrated commercial feeding stuffs shall affix or cause to be affixed to every package or sample of such concentrated commercial feeding stuffs, in a conspicuous place on the outside thereof, a tag or label which shall be accepted as a guarantee of the manufacturer, importer, dealer or agent, and which shall have plainly printed thereon in the English language the number of net pounds of concentrated commercial feeding stuffs in the package, the name, brand or trade-mark under which the concentrated commercial feeding stuffs are sold, the name of the manufacturer, the location of the principal office of the manufacturer, and the guaranteed analysis, stating minimum percentage of crude fat and crude protein, and the maximum percentage of crude fiber, determined as provided in the provisions of this act, and the ingredients from which the concentrated commercial feeding stuff is compounded. For each one hundred pounds or fraction thereof the person, company, corporation or agent shall also affix the tag or label purchased from the Dairy and Food Commissioner of the State of Minnesota, showing that the concentrated commercial feeding stuff has been registered as required by the provisions of this act and that the inspection tax has been paid. When the concentrated commercial feeding stuff is sold in bulk, a tag, as hereinbefore described, shall be delivered to the consumer with each one hundred pounds or fraction thereof, provided, that the State Dairy and Food Commissioner's tags and labels shall be issued to cover twenty-five, fifty and one hundred pounds; provided, further, that the State Dairy and Food Commissioner is authorized to issue tags or labels of other denominations. (Id. § 3875.)

130. Registration by Dairy and Food Commissioner and Tags and Labels to be Supplied; Fees.—The State Dairy and Food Commissioner shall register the facts set forth in the certificate required by section 1 of this act [3874] in a permanent record, and shall furnish tags or labels showing the registration of such certificate to manufacturers or agents desiring to sell the concentrated commercial feeding stuff so registered at such times and in such numbers as the manufacturers or agents may desire; provided, that the State Dairy and Food Commissioner shall

not be required to sell tags or labels in less amount than to the value of five dollars (\$5.00) or a multiple of five dollars, for any one concentrated commercial feeding stuff; provided, further, that the State Dairy and Food Commissioner shall not be required to register any certificates unless accompanied by an order and fees for tags or labels to the value of five dollars (\$5.00) or some multiple of five dollars; provided, further, that such tags or labels shall be printed in such form as the State Dairy and Food Commissioner may prescribe; provided, however, that each package or container of a concentrated commercial feeding stuff offered for sale in the State of Minnesota containing one or more of the materials of low feeding value enumerated in section 6 of this act [3879], in which the maximum crude fiber content of such concentrated commercial feeding stuff is twelve and one-half per cent or more or the minimum crude protein of such concentrated commercial feeding stuff is nine per cent or less shall have attached to it a yellow tag or label, identical with the official tag as prescribed by the State Dairy and Food Commissioner, except in color, and that there should be printed on this tag, in red ink, the per cent present of each material enumerated in section 6 [3879] or the names and total per cent of all such materials or the names and maximum per cent thereof; provided, further, that such tags or labels shall be good until used. (Id. § 3876.)

131. Sworn Statement to be Filed Annually.—On or before January 31st of each year each and every manufacturer, importer, dealer, agent or person who causes any concentrated commercial feeding stuff to be sold or offered or exposed for sale in the State of Minnesota shall file with the State Dairy and Food Commissioner of the State of Minnesota a sworn statement, giving the number of net pounds of each brand of concentrated commercial feeding stuff that such manufacturer, importer, dealer, agent, persons or person has sold or caused to be offered for sale in the State, for the previous year ending with December thirty-first; provided, that when the manufacturer, jobber or importer of any concentrated commercial feeding stuff shall have filed the statement aforesaid, any persons or person acting as agent for such manufacturer, importer or jobber shall not be required to file such statement. (Id. § 3877.)

132. Fees to be Paid to Cover Expenses of Department.—For the expenses incurred in registering, inspecting and analyzing concentrated commercial feeding stuffs, the State Dairy and Food Commissioner shall receive for tags or labels furnished, to cover one hundred pounds, 80 cents for each one hundred tags or labels; to cover fifty pounds, 50 cents for each one hundred tags or labels; to cover twenty-five pounds, 30 cents for each one hundred tags or labels; provided, that if the State Dairy and Food Commissioner should, at his discretion, issue tags or labels to cover more than one hundred pounds or less than twenty-five pounds, as is provided in the provisions of this act, he shall receive for all tags or labels in excess of one hundred pounds, a proportional rate on the basis of a one hundred pound tag, and for all tags or labels issued in denominations of less than twenty-five pounds, he shall receive not less than 20 cents for each one hundred tags or labels. The money for said tags or labels shall be forwarded to the State Dairy and Food Commissioner, who shall pay all such fees received by him to the Treasurer of the State of Minnesota, who shall expend the same, on proper vouchers, to be filed with the auditor of the State in meeting all necessary expenses in carrying out the provisions of the act, including the employment of inspectors, chemists, expenses in procuring samples, printing bulletins giving the results of the work in feeding stuff inspection, as provided for by this act, and for any other expenses deemed necessary by the State Dairy and Food Commissioner for carrying out the provisions of this act. The State Dairy and Food Commissioner shall make to the Governor on or before the first day of January of each year, a classified report showing the total receipts and expenditures of all fees received under the provisions of this act, as well as a statement showing the number of samples procured, the number of analyses made, and the names of manufacturers, importers, agents or dealers who have failed to comply with the provisions of this act, or whose concentrated commercial feeding stuffs were found upon analysis to be below that guaranteed upon the tag or label. (Id. § 3878, as amended L. 1925, c. 179.)

133. Certain Adulterations Prohibited From Commercial Feeding Stuffs.—No person, company, corporation or agent shall offer for sale, sell or expose for sale any package or sample or any quantity of any concentrated commercial feeding stuffs which is adulterated with any foreign mineral matter or damaged feeding material which have been reduced in feeding value to an extent as to be rendered unwholesome, or any foreign substance of low feeding value, such as mill, elevator, boat or other sweepings or dust; buckwheat hulls, cottonseed hulls, peanut hulls,

peanut shells, rice hulls, oat hulls, corn cobs ground, cocoa shells, clipped oat by-products, ground or unground hulls, chaff, dust or other inferior cleanings derived from the preparation, cleaning or milling of any seed or grain when separated from the standard product, humus, peat, sphagnum moss, ivory nut turnings, ground corn stalks, flax plant by-products, sorghum pulp, ground or shredded straw or hay (excepting alfalfa meal or similar leguminous meals), sawdust, tree bark, cellulose or dirt, coffee hulls or chaff, or any other materials of equally low feeding value, without plainly stating on the tags or labels hereinbefore described, the components of such mixture, using the names by which each ingredient is commonly known. Provided, that if any concentrated commercial feeding stuff is adulterated with humus, peat or sphagnum moss, the maximum percentage of such humus, peat or sphagnum moss present in the concentrated commercial feeding stuff must also be stated upon the tag or label. Provided further, that no concentrated commercial feeding stuffs shall be adulterated with any substance injurious to the health of domestic animals. (G. S. 1923, § 3879.)

134. Powers Granted State Dairy and Food Commissioner.—The State Dairy and Food Commissioner or any person deputized by him is hereby empowered to procure from any lot, parcel or package of any concentrated commercial feeding stuff offered for sale or found in the State of Minnesota; and upon tender and full payment of the selling price of said sample take therefrom a quantity of commercial feeding stuff of not less than two pounds; provided, that such sample shall be obtained during reasonable business hours, or in the presence of the owner of the concentrated commercial feeding stuff, or in the presence of some person claiming to represent the owner. (Id. § 3880.)

135. Standards and Definitions Authorized to be Promulgated.—The State Dairy and Food Commissioner is hereby empowered to promulgate standards and definitions for concentrated commercial feeding stuffs, and to subscribe and enforce such rules and regulations, relating to concentrated commercial feeding stuff as he may deem necessary to carry into effect the full intent and meaning of this act, and to refuse the registration of any concentrated commercial feeding stuff under a name which would be misleading as to the materials of which it is made or when the percentage of crude fiber is above or the percentage of crude fat or crude protein below the standards adopted by the State Dairy and Food Commissioner for concentrated commercial feeding stuffs. The State Dairy and Food Commissioner is further empowered to refuse to issue tags or labels to any manufacturer, importer, dealer, agent or person who shall sell or offer or expose for sale any concentrated commercial feeding stuff in the State of Minnesota and refuse to submit a sworn statement as required by the provisions of this act. (Id. § 3881.)

136. County Attorneys to Prosecute For Violations.—It shall be the duty of every prosecuting attorney to whom the State Dairy and Food Commissioner shall report any violation of this act to cause proceedings to commence against the person or persons so violating this act, and the same prosecuted in the manner required by law. (Id. § 3882.)

137. Articles Included Within Terms.—The term "concentrated commercial feeding stuffs" as used in this act shall include linseed meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, maize feeds, starch feeds, sugar feeds, dried brewer's grains, malt sprouts, dried distiller's grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts and other mill by-products not excluded in this section, ground beef or fish scraps, dried blood, blood meals, bone meals, tankage, meat meals, slaughter-house waste products, mixed feeds, clover meals, alfalfa meals and feeds, pea vine meal, cottonseed meal, sunflower oil cake, velvet bean meal or any other leguminous meal, mixed feeds and mixed meals made from seeds or grains and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds; but it shall not include straws, hays, whole seeds, unmixed meals, made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat and broom corn, nor wheat flours or other cereal flours. (Id. § 3883.)

138. Violations a Misdemeanor.—Any person, company, corporation or agent that shall offer for sale, sell or expose for sale any package or sample or any quantity of any concentrated commercial feeding stuff which has not been registered with the State Dairy and Food Commissioner as required by the provisions of this act, or which does not have affixed to it a tag or label required by the provisions of this act, or which is found by an analysis made by or under the direction of the State Dairy and Food Commissioner to contain a smaller

percentage of crude fat or crude protein than the minimum guarantee, or a greater percentage of crude fiber than the maximum guarantee or which shall be labeled with a false or inaccurate guarantee, or who shall alter the tags or labels of the State Dairy and Food Commissioner, or who shall use the name and title of the State Dairy and Food Commissioner, or who shall use the tags or labels of the State Dairy and Food Commissioner a second time, or who shall refuse or fail to make the sworn statement required under the provisions of this act, or who shall prevent or strive to prevent the State Dairy and Food Commissioner, or any person or persons deputized by him, from inspecting and obtaining samples of concentrated commercial feeding stuffs, as provided for in this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of fifty dollars for the first offense, and in the sum of one hundred dollars for each subsequent offense. In all litigation arising from the purchase or sale of any concentrated commercial feeding stuff in which the composition of the same may be involved a certified copy of the official analysis signed by the State Dairy and Food Commissioner or the chemist authorized by the State Dairy and Food Commissioner to make such analysis, shall be accepted as prima facie evidence of the composition of such concentrated commercial feed stuff; provided, that nothing in this act shall be construed to restrict or prohibit the sale of concentrated commercial feed stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or as preventing the free, unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or to prevent the State Dairy and Food Commissioner or any person or persons deputized by the State Dairy and Food Commissioner, or the Minnesota Agricultural Experiment Station, or any person or persons in the employ of the Minnesota Agricultural Experiment Station, making experiments with concentrated commercial feeding stuffs for the advancement of the science of agriculture. (Id. § 3884.)

139. Sale of Certain Feeds Prohibited.—It shall be unlawful for any manufacturer, company or person to sell, offer or expose for sale or for distribution in this State any concentrated commercial feeding stuff as defined in section 10, chapter 260, Laws of 1919 [3883] used for feeding farm live stock, which shall contain any weed seeds in which the germ and life has not been destroyed; provided, that this section shall not be deemed to make unlawful any sale by a retailer, who was not able, by reasonable diligence, to ascertain before such sale, the presence in any such concentrated commercial feeding stuff sold of such noxious seeds. (§ 3886.)

140. Sale of Screenings Prohibited; Exceptions.—It shall be unlawful for any manufacturer, company or person to sell, offer or expose for sale, any screenings taken from any grain or seeds which shall contain any noxious or poisonous weed seeds the viability of which has not been destroyed; provided, that nothing in this section shall be construed to restrict or prohibit the sale of screenings to each other by jobbers, manufacturers or manipulators who mix or grind concentrated commercial feeding stuff for sale; provided, further, that nothing in this section shall prohibit the sale of screenings in closely woven and securely tied sacks to purchasers who feed same to sheep which are kept and fed within enclosures. (Id. § 3887.)

141. Penalties For Violation.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 and not more than \$100.00 or by imprisonment for not less than thirty days nor more than ninety days. (Id. § 3888.)

141a. Duty of Commissioner.—The State Dairy and Food Commissioner, his inspectors, assistants and employes shall enforce the provisions of this act, and in so doing shall have all the power and authority with relation thereto that are conferred upon them, and each of them, by chapter 260, laws of 1919,* and chapter 495, laws of 1921.† (Id. § 3889.)

NOTE: See also No. 28a.

Fish.

See Nos. 48 et seq., 141b et seq., 159 and 162.

Flour.

See No. 333.

*See Nos. 128-138.

†See No. 6 et seq.

Fruit Juices.

See No. 34 et seq.

Fruits, Vegetables, Etc.

141b. Who Are Dealers.—For the purposes of this act any person who shall buy or sell or contract to buy or sell, or who shall handle in wholesale lots for the purpose of resale, or who shall handle on account of or as an agent for another any produce as herein defined, and any person who shall similarly engage in the business of assembling and trucking produce without an established place of business, shall be deemed a dealer at wholesale. (L. 1927, c. 427, § 1.)

141c. Definitions.—The term "produce" as used in this act shall mean and include the natural products of the farm, except hay, grain, straw and live stock other than veal; the natural products of the orchard, vineyard, garden and apiary, raw and manufactured; the raw and finished products of the dairy, creamery, cheese, factory, condensery and dry milk factory; the products of live stock, including wool, mohair, skins, hides, and meats; veal; poultry and poultry products; game and fish; and the timber products of the farm produced upon farms and sold as part of the farming operations thereof.

(a) The term "person" shall mean an individual, firm, copartnership, corporation or association.

(b) The term "commissioner" shall mean the Commissioner of Agriculture of the State of Minnesota. (Id. § 2.)

141d. Dealer Must be Licensed.—No person shall engage in, or purport to be engaged in, or hold himself out as being engaged in the business of a dealer at wholesale, or as being a dealer at wholesale, as defined in this act, unless he shall be licensed to carry on such business by the commissioner. (Id. § 3.)

141e. Commissioner of Agriculture to Issue License—Bonds.—License to engage in the business of a dealer at wholesale within the State of Minnesota shall be issued by the commissioner to such reputable persons as shall apply therefor, pay the prescribed fee and comply with the conditions herein specified, to wit:

(a) The application shall be in writing, accompanied by the prescribed fee, and under oath and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired, the estimated amount of business to be done monthly, the amount of business done during the preceding year, if any, the full names of the persons constituting the firm, in case the applicant is a copartnership, the names of the officers of the corporation and where incorporated, if a corporation, and a financial statement showing the value and character in a general way of the assets and the amount of liabilities of the applicant.

(b) The applicant shall execute and file with the commissioner a bond to the State of Minnesota with sureties to be approved by the commissioner, the amount and form thereof to be fixed by the commissioner, conditioned for the faithful performance of his duties as a dealer at wholesale, for the observance of all laws relating to the carrying on of the business of a dealer at wholesale, for the payment when due of the purchase price of produce purchased by him, for the prompt settlement and payment of all claims and charges due the State of Minnesota for services rendered or otherwise, for the prompt reporting of sales, as required by law, to all persons consigning produce to the licensee for sale on commission and the prompt payment to the persons entitled thereto of the proceeds of such sales, less lawful charges, disbursements and commissions. Such bond shall cover all wholesale produce business transacted in whole or in part within the State of Minnesota, and the license, or a certified copy thereof, shall be kept posted in the office of the licensee at each place within the State where he transacts business. All licenses shall expire May 31 of each year. The fee for each license shall be five dollars, and for each certified copy thereof one dollar. Whenever the licensee shall sell, dispose of or discontinue his business during the lifetime of his license, he shall at the time such action is taken notify the commissioner in writing, and shall upon demand produce before the commissioner a full statement of all assets and liabilities as of the date of transfer or discontinuance of said business.

(c) The applicant shall file with the commissioner a schedule of his commissions and charges for services in connection with produce handled on account of or as agent for another. (Id. § 4.)

141f. Commissioner May Require Additional Bonds.—The commissioner, whenever he is of the opinion that any bond theretofore given by any licensee is inadequate for the proper protection of the public, may require the licensee to give additional bonds in such amounts as from time to time he may determine and direct,

with sureties to be approved by the commissioner and conditioned as heretofore set forth. For the purpose of fixing or changing the amount of such bonds the commissioner may require from a licensee verified statements of his business, and if the licensee fails to furnish such information or to furnish a new bond when directed by the commissioner so to do, the commissioner may forthwith suspend and after ten days' notice and opportunity to be heard revoke his license. (Id. § 5.)

141g. Persons Damaged May Sue on Bonds.—Any person claiming himself to be damaged by any breach of the conditions of a bond given by a licensee as hereinbefore provided may enter complaint thereof to the commissioner, which complaint shall be a verified statement of the fact constituting said complaint. Upon filing such complaint in the manner herein provided, the commissioner shall investigate the charges made, and at his discretion order a hearing before him, giving the party complained of notice of the filing of such complaint and the time and place of such hearing. At the conclusion of said hearing the commissioner shall report his findings and render his conclusion upon the matter complained of to the complainant and respondent in each case, who shall have 15 days following in which to make effective and satisfy the commissioner's conclusions. And if such settlement is not effected within the time aforesaid, either party, if aggrieved by any condition of the bond may upon first obtaining the approval of the commissioner commence and maintain an action against the principal and sureties on the bond of the party complained of as in any civil action, provided no action against the bondsmen of a licensee shall in any instance be maintained without the written approval of the commissioner, which shall be attached to and made a part of the original complaint in such action. Upon commencing such action a copy thereof shall be filed in the office of the commissioner. The record of the hearing before the commissioner shall be competent evidence in any court having jurisdiction. If such licensee has become liable to more than one person by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all persons entitled to the protection of the bond, the penalty of the bond as against the sureties shall be apportioned among the several claimants. In all cases where the liability of the licensee exceeds the amount of his bond, the commissioner shall commence an action for the recovery of the full amount of said bond and when recovered such amount shall be deposited with the commissioner who shall in the same action, subject to the approval of the court, pass upon and allow or disallow all claims which may be presented to him for payment or apportioned thereunder, and to effect the purposes herein may employ counsel, the expense thereof to be paid out of the amount recovered on such bond. (Id. § 6.)

141h. Commissioner to Establish Grades of Produce; Inspection.—The commissioner shall have power to establish grades on all produce as herein defined, and when deemed necessary, shall provide for inspecting and grading produce subject to sale, at such marketing points within the State as the commissioner may designate, and provide for the issuing of certificates of inspection showing the grade, quality and conditions of such produce, and may charge and collect a reasonable fee therefor, a schedule thereof to be adopted and published from time to time. Such certificates of inspection shall be prima facie evidence in all courts of this State as to the grade, quality and condition of such produce at the time such inspection was made. Whenever any person having produce desires to have it inspected he may apply to the commissioner for the service of an inspector or inspectors, and if it shall appear to the commissioner that the volume of such produce is sufficient to justify such request, he may grant such service upon terms and conditions to be fixed by him, provided, however, that any inspection service so ordered and maintained shall be self-supporting. The commissioner may require a deposit prior to the establishment of such inspection service in amount equal to the costs thereof as estimated by him, and he may further require that such deposits be renewed from time to time in such manner that a permanent account shall be maintained, sufficient at all times to pay the costs of such inspection service for a period of not less than 15 days in advance. Moneys placed in the hands of the commissioner for the purpose aforesaid shall be placed in a separate account to be known as the "produce inspection account" and the sums such persons shall contribute to each account shall be kept separate on the books of the commissioner. No moneys shall be paid from said account for inspection services rendered to any person in excess of the moneys on hand accredited to his account. Said money shall be deposited in the State treasury in the same manner as other departmental receipts are deposited and shall be credited to the account herein created and shall be paid out only upon order of the commissioner. Whenever any such agreement shall terminate by action of either party thereto, the commissioner shall withdraw from such account the full amount of all such bills payable for services rendered, and shall return to the depositor

any moneys remaining to his credit at the time such agreement terminates. Any sums deposited in the State treasury under the provisions of this act are hereby appropriated for the purposes set forth herein. (Id. § 7.)

141i. Filing of Brands and Labels.—Any person producing or manufacturing or handling in this State any of the products mentioned in this act, except cheese and butter, and preparing, packing and offering the same for sale, may file with the commissioner a brand or label which shall thereafter be the exclusive property of said applicant, and he may place upon said brand or label such descriptive or locative matter as shall be approved by the commissioner. The commissioner may issue to such applicant for brands and labels a permit to use the same subject to such regulations and restrictions as to quality of product so branded as the commissioner may determine. Said brand or label shall be recorded in the office of the commissioner, and any person who shall without authority of the commissioner use any such brand or label, or shall brand and label therewith products or commodities of a quality below the standard permitted under the brand or label, shall be subject to the penal provisions of this act. (Id. § 8.)

141j. Interested Party May Call for Inspection Certificates.—Whenever produce is ready for sale, or is on its way to market, the owner thereof or the conveyor, or the prospective buyer or any other interested party may call for and shall be entitled to inspection of said produce and to an inspection certificate as provided for in section 7 of this act. (Id. § 9.)

141k. Commissioner to Make Inspection.—Whenever produce is shipped to or received by a dealer at wholesale for handling, purchase or sale in this State at any market point therein giving inspection service as provided for in section 7 of this act, and said dealer at wholesale finds the same to be in a spoiled, damaged, unmarketable or unsatisfactory condition, unless both parties shall waive inspection before sale or other disposition thereof, he shall cause the same to be examined by an inspector assigned by the commissioner for that purpose, and said inspector shall execute and deliver a certificate to the applicant thereof stating the day and the time and place of such inspection and the condition of such produce, and mail or deliver a copy of such certificate to the shipper thereof. (Id. § 10.)

141l. Wholesale Dealers Shall Report to Shippers.—Whenever any dealer at wholesale to whom produce has been shipped or consigned for sale on a commission basis or on consignment or under any circumstances wherein the title to said produce remains with the shipper, has received the same, he shall within a reasonable time thereafter make a written report to the shipper, which report shall include the exact time of arrival, quantity, quality and price per unit of the produce, and at the same time he shall pay the shipper the net amount due him. (Id. § 11.)

141m. Complaints of Shippers to be Made to Commissioner.—Whenever a shipper after demand therefor, shall have received no remittance or report of sale, or shall be dissatisfied with the remittance, sale or report, he may complain in writing to the commissioner, who shall investigate the matter complained of. (Id. § 12.)

141n. Commissioner to Investigate Complaints.—Said commissioner is authorized to receive complaints against any persons dealing in, shipping, transporting, storing or selling produce, and shall have authority to make any and all necessary investigations relative to the handling of or storing, shipping or dealing in produce at wholesale, and he shall at all times have access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled or transacted. For the purpose of enforcing the provisions of this act, the commissioner shall have the authority, upon complaint being filed with him for any alleged violation of the provisions of this act or the regulations issued thereunder, or upon information furnished by an inspector of the Department of Agriculture, to forthwith suspend and upon ten days' notice and opportunity to be heard, revoke and cancel any license issued by him, and the commissioner shall have the power to revoke or cancel the license of any dealer who shall violate any of the provisions of this act. He shall have and is hereby granted full authority to issue subpoenas requiring the attendance of witnesses before him of books, papers and other documents, articles or instruments, and compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation, and shall have full authority to administer oaths, and to take testimony; and the commissioner shall thereafter give the complainant a written report of the investigation. Such report shall be prima facie evidence of the matters therein contained. All parties disobeying the orders of subpoenas of said commissioner shall be guilty of contempt as in proceedings in District Courts of the State and may be punished in like manner. (Id. § 13.)

141o. Rules and Regulations.—The commissioner shall have power and it shall be his duty from time to time to make and publish uniform rules and regu-

lations, not inconsistent with law, for carrying out and enforcing the provisions of this act and governing the rates charged by and the buying, selling, advertising and trading practices of dealers at wholesale, which rules and regulations shall be filed in the office of the commissioner, and published twice in a legal newspaper of general circulation published at the capital of the State, and from and after the tenth day succeeding the date of the last such publication, such rules and regulations shall have the force and effect of law. An affidavit of such publication shall be kept on file in the office of the commissioner. A copy of such rules and regulations, certified by the commissioner, shall be prima facie evidence of the facts therein contained, and of the due making and publication of such rules and regulations. (Id. § 14.)

141p. Commissioner May Co-operate With Other Agencies.—The commissioner may co-operate with the United States Department of Agriculture and with other Federal authorities, and with the State and municipal authorities of this and other States, and do and perform such acts and things as may be necessary and proper in carrying out the purposes of this act. (Id. § 15.)

141q. Violation; Penalties.—Any person subject to the provisions of this act who shall:

- (a) Operate or advertise to operate as a dealer at wholesale without license; or
- (b) Make any false statement or report as to the grade, condition, markings, quality or quantity of produce received or delivered, or act in any manner so as to deceive the consignor or purchaser thereof; or
- (c) Refuse to accept any shipment contracted for by him, unless such refusal is based upon the showing of a State inspection certificate secured with reasonable promptness after the receipt of such shipment showing that the kind and quality of produce is other than that purchased or ordered by him; or
- (d) Fail to account for produce or to make settlement therefor within the time herein limited; or who shall violate or fail to comply with the terms or conditions of any contract entered into by him for the purchase or sale of produce; or
- (e) Purchase for his own account any produce received on consignment, either directly or indirectly, without the consent of the consignor; or
- (f) Issue any false or misleading market quotations, or who shall cancel any quotations during the period advertised by him; or
- (g) Make or collect any commission or charge in excess of that shown in his schedule filed with the commissioner; or
- (h) Increase the sales charges on produce shipped to him by means of "dummy" or fictitious sales; or
- (i) Receive produce from foreign States or countries for sale or resale, either within or without the State, and give the purchaser the impression through any method of advertising or description that the said produce is of Minnesota origin; or
- (j) Whoever shall violate any provisions of this act or any rule or regulation made or published thereunder by the commissioner shall be guilty of a misdemeanor, and his license may be forthwith suspended, revoked or canceled by the commissioner upon ten days' notice and opportunity to be heard; but upon conviction of any such offense, or upon conviction of any Federal court for violation of the Federal statutes relative to the fraudulent use of the mails or of other criminal acts pertaining to the conduct of his business, it shall be the duty of the commissioner forthwith to revoke and cancel the license of the person so convicted. (Id. § 16.)

141r. Enforcement of Act.—The Commissioner shall be charged with the enforcement of the provisions of this act and of the rules and regulations made and published thereunder. Upon complaint made it shall be the duty of the county attorney to prosecute all cases arising in his county for violation of this act or of the rules or regulations made and published thereunder. (Id. § 17.)

141s. When Act Effective.—This act shall take effect and be in force from and after May 31, 1927. (Id. § 19.)

141t. Unfair Discrimination; Definitions.—The following words, terms and phrases shall, for the purpose of this act, be given the meanings hereinafter subjoined to them. (L. 1927, c. 252, § 1.)

141u. Same.—(a) The term "person" means an individual, firm, copartnership, corporation or association.

(b) The term "farm products" as used in this act shall mean and include butter, milk, cream, butter fat, cheese and other dairy products, honey, eggs, poultry and all live stock and products of live stock such as wool, mohair, hides and meats. (Id. § 2.)

141v. Unfair Discrimination Prohibited.—Any person engaged in the business of buying any such farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, cities or villages of this State by purchasing any such farm products at a higher price or rate in one locality

than is paid for such farm products of the same kind, quality and grade by such person in another section, locality, community, city or village, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture or sale, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. It shall not be unfair discrimination for any person, to pay, in any section, locality, community, city or village, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant. (Id. § 3.)

141w. Evidence of Violation of Act.—Proof that any person has paid a higher price for any such farm products in one section, locality, community, village or city than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of a violation of this act. (Id. § 4.)

141x. Enforcement of Act.—The Commissioner of Agriculture, his deputy, assistants, inspectors, agents and employees shall enforce the provisions of this act and in so doing shall have all the powers conferred upon them and each of them by the provisions of Chapter 21A, General Statutes, 1923, and all other laws heretofore enacted. (Id. § 5.)

141y. Commissioner of Agriculture to Investigate Complaints.—If complaint shall be made to the Commissioner of Agriculture that any person is guilty of unfair discrimination defined by this act, he shall investigate such complaint and the Commissioner of Agriculture may also upon his own initiative investigate whether or not this statute has been violated, and in either event for that purpose he may subpoena witnesses, administer oaths, take testimony, and if in his opinion sufficient ground exists therefor he may prosecute an action in the name of the State, in the proper court, to annul the act of incorporation or the existence of a corporation engaged in such business practice. If any corporation is adjudged by any court guilty of unfair discrimination as defined by this act such court may vacate the charter or revoke the authority of such corporation to do business in this State and may permanently enjoin it from transacting business in this State. (Id. § 6.)

141z. Penalty.—Any person violating the provisions of section 3 of this act shall, upon conviction thereof, be fined not less than \$50 for each offense, or, in default of the payment of such fine, by imprisonment in the county jail for not less than three months nor more than one year. (Id. § 7.)

141aa. Prosecuting Officers May Enforce Act.—The authority hereby extended to the Commissioner of Agriculture shall be considered as duties only and shall not be construed to preclude any prosecuting officer or any party interested from instituting proceedings, civil or criminal, for the enforcement of any of the provisions of this act. (Id. § 8.)

141bb. Application of Act.—Nothing in this act shall be construed as repealing any other act or part of any other act, but the remedies herein provided shall be cumulative to all other remedies provided by law. (Id. § 9.)

NOTE: See also No. 42 et seq.; No. 165 et seq.; Nos. 331 and 342-344.

Grain.

142. Grain Testing Laboratory at Agricultural College.—There shall be equipped and maintained under the direction and authority of the board of regents of the State University in some suitable building now situated upon the campus of the Agricultural College at St. Anthony Park, a laboratory for the purpose of testing wheat and other grain as to their physical and chemical properties and commercial value, and for the testing of flour made from wheat so tested as to its bread-making qualities. (G. S. 1923, § 3130.)

143. Tests, How Made; Monthly Bulletin.—Such tests shall be made by competent instructors in chemistry who are now or who may be hereafter employed as such instructors at the said College of Agriculture, and these tests shall be so made as to be educational in character and the results thereof shall be published in the regular monthly bulletin, or in a special bulletin if deemed necessary; provided, that all tests asked for and requested by the State Railroad and Warehouse Commission, the Grain Inspection Department, and the State Grain Inspection Board (boards of appeals) shall be made free of charge. (Id. § 3131.)

144. Board of Grain Appeals to Establish Minnesota Grades.—The two boards or a majority of the six members thereof shall meet annually in joint session on or before September 15, and establish the grades of all grain subject to State inspection to be known as the "Minnesota Grades," and all grain received

at any public warehouse shall be graded accordingly. Such grades shall not be changed before the next annual meeting without the concurrence of at least five members of such boards. In establishing the grades, in addition to the physical qualities of the grain, there shall be taken into consideration the milling and bread-producing quality of all grain products used as human food. Each of said boards shall determine the grade and dockage, if any, of all grain in all cases where appeals from the decisions of the chief inspector have been taken and for such purpose they may request fresh samples of such grain to be furnished direct to the board having the case under consideration. Dockage shall be considered as being of two classes: First, that having value, and second, that having no value. The two boards shall annually, at the joint sessions at which Minnesota Grades are established, ascertain and determine what dockage contained in grain is of value and publish a list thereof in connection with the publication of said Minnesota Grades. Any foreign content of the grain shall not be considered in establishing the grade. They shall also render assistance and advice to the chief inspector of grain so as to enable him to instruct the deputy inspectors of grain under his jurisdiction in accordance with the decisions and work of the boards. Whenever grain containing dockage of value is sold to any public, local warehouse or mill, terminal warehouse, or to any flour mill located in St. Paul, Minneapolis or Duluth, or any other point within the State of Minnesota, which is now or may hereafter be designated as a terminal point, such sale shall not be considered to include such dockage of value, but such dockage shall be paid for at its market value or shall be returned to the vendor of said grain at the option of the vendee. At the time of establishing "Minnesota Grades" it shall be the duty of said Boards of Grain Appeal to establish such rules and regulations as shall be deemed necessary for the carrying out of the provisions and purposes of this act, and to publish said rules in connection with the publication of the said "Minnesota Grades." (Id. § 5035, as amended L. 1925, c. 258.)

145. Standard Samples.—The Chief Inspector shall furnish standard samples of grain of each Minnesota grade to any grain warehouseman in the State, upon request and payment of the actual cost thereof. (G. S. 1923, § 5040.)

146. Certificates of Inspection to Set Forth Test of Weight.—Such inspector shall inspect and grade all grain received at or shipped from any terminal warehouse in carload lots or boatload lots, and give a certificate of the inspection to the persons entitled thereto. Their decision shall be conclusive as to the grade and dockage of such grain, and the certificate shall be evidence thereof, unless changed upon re-inspection and appeal. Every certificate of inspection so issued shall, in addition to other facts, set forth the test weight per bushel of the grain so inspected. (Id. § 5041.)

147. Appeals.—Any owner, consignee or shipper of grain, or any warehouseman, who is dissatisfied with the inspection of grain by any chief or deputy inspector, may appeal from his decision to the nearest grain inspection board by filing notice of such appeal with the chief deputy inspector and paying a fee, to be fixed by the commission, which shall be refunded if the appeal is sustained. Such deputy inspector shall forthwith transmit the notice to said board of appeals. The decision of said board, fixing the grade of such grain shall be final. (Id. § 5042.)

148. Standard Weights to be Used.—No person purchasing, selling or storing grain in any public local grain warehouse in this State, as the same is now or may be hereafter defined by law, shall use any other measure for such grain than the standard bushel, and no other number of pounds shall be used or called a bushel than the number of pounds provided by law as the standard weight of the kind of grain in question; provided, however, that during the months of October and November not exceeding eighty pounds and during the months of December and January not exceeding seventy-two pounds may be so used as the standard bushel of new ear corn. (Id. § 5067.)

149. Pooling to be Prohibited.—It shall be unlawful for any person, firm or corporation engaged in the buying, selling or handling of grain in any public local grain warehouse in this State, or for the local agent in charge of such warehouse, or any other agent of the person, firm or corporation, operating the same, to enter into any contract, agreement, combination or understanding, with any other person, firm or corporation, owning or operating any other public local grain warehouse at any railway station, their agent or agents, whereby the amount of grain to be received or handled by said warehouses, at such station, shall be equalized or pooled between said warehouses, or whereby the profits or earnings derived from said warehouses shall be divided or pooled, or apportioned in any manner, or whereby the price to be paid for any kind of grain at such station shall be fixed

or in any manner affected, and each day of the continuance of any such agreement, contract or understanding shall constitute a separate offense. (Id. § 5068.)

150. Penalties For Violations.—Any person, firm or corporation, or any officer or agent of any person, firm or corporation, who shall violate the provisions of section 10 of this act [5068] shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars or more than one hundred dollars, and by imprisonment in the county jail for not less than thirty days, or more than three months. The railroad and warehouse commission of this State shall have the power, and it shall be their duty, whenever they find, after a hearing, that the provisions of this act have been violated by any person holding a license to conduct a public local grain warehouse in this State, to revoke and annul such license, and in such case no new license shall be granted to the person whose license is so revoked nor to any one either directly or indirectly engaged with him in said business, for the period of one year. (Id. § 5069.)

151. Railroad and Warehouse Commission to Supervise Grain Markets.—The commission shall exercise general supervision over the grain interests of the State and of buying and selling, handling, inspection, weighing and storage of grain, and of the management of public warehouses and public grain markets, including chambers of commerce, boards of trade and grain exchanges, shall investigate on complaint, or upon its own motion, all cases of fraud and injustice in grain trade, unfair practices, or unfair discrimination in the buying or selling of grain, and shall have the power to compel the discontinuance of such unfair practices or unfair discrimination, and shall make all proper rules and regulations for carrying out and enforcing the provisions of this chapter, and of all laws of the State relating to such subjects. The expenses of supervision and investigations in carrying out the provisions of this section shall be paid from the Grain Inspection Fund. (Id. § 5084, as amended L. 1925, c. 266.)

152. Shipper to Affix Tags.—Every shipper of grain shall fasten upon the inside of each car shipped by him a card giving the number and initials or other distinctive mark of such car, the date of shipment, and the exact weight of the grain in such car, as claimed by the shipper. If he fail so to do, the official weight shall be prima facie evidence of the quantity of grain shipped in such car. (G. S. 1923, § 5085.)

153. Violation of Provisions of This Subdivision.—Any person who shall violate any of the provisions of this subdivision,* where no specific penalty is prescribed, shall be guilty of a gross misdemeanor, and punished by a fine of not less than fifty dollars nor more than five hundred dollars. Any corporation which shall violate any such provision shall forfeit to the State, for each violation, not less than fifty dollars nor more than five hundred dollars. (Id. § 5087.)

154. Grain Includes Flaxseed.—The term "grain" wherever used in this subdivision shall be held to include flaxseed. (Id. § 5088.)

155. Samples to be Furnished.—The Railroad and Warehouse Commission is hereby authorized to furnish, to persons entitled thereto, when requested by them, samples of grain from any or all cars from which samples are taken for inspection and grading. (Id. § 5089.)

156. Breaking of Seals.—No person shall knowingly break the seal on any car of grain subject to State inspection prior to the delivery thereof, except the employees of the railroad and warehouse commission, and the owner of said grain or his authorized agent under rules prescribed by the Railroad and Warehouse Commission. (Id. § 5090.)

157. Unlawful Discrimination in Sale or Purchase of Grain Prohibited.—Any person, firm, copartnership or corporation engaged in the business of buying grain, either for himself or others, who shall with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, communities or cities of this State, by purchasing such grain at a higher price or rate in one locality than is paid for grain of same grade and condition by said purchaser in another locality after making due allowance for the difference, if any, in actual cost of transportation from the locality of purchase, to the locality of manufacture, use, or distribution, shall be deemed guilty of unfair discrimination and upon conviction thereof shall be punished by a fine not exceeding \$500.00, or by imprisonment in the county jail not to exceed six months. (Id. § 5096.)

158. Fumigating Grain to Change Color; Penalty.—Any person who shall sell or offer for sale, or for shipment and sale, any barley or other grain, which shall have been subjected to fumigation, or other treatment by sulphur or other

*See Nos. 151-152.

material, or to any other chemical process, affecting the color thereof, shall be guilty of a felony, and punished by a fine of not more than five hundred dollars, or by imprisonment in the State Prison for not more than one year, or by both such fine and imprisonment; and shall also be liable to any person injured in treble damages; provided, that barley and oats may be purified by fumigation, or treatment with sulphur, under such restrictions, rules and regulations as the Railroad and Warehouse Commission shall prescribe for such purpose, and when so purified may be sold and marketed as "purified barley" or as "purified oats," and not otherwise. (Id. § 10527.)

Honey.

See Nos. 141b et seq. and 141t et seq.

Ice.

See No. 332.

Meat.

159. Protection of Meat.—Every dealer in meats, fish, fowl or game for human food, at the place of offering or exposing for sale, and in the transportation of such food from place to place to customers, shall protect the same from dust, flies and other vermin or substance which may injuriously affect it, by securely covering it while being so offered or exposed for sale or transported. Every violation of the foregoing provision shall be a misdemeanor. (G. S. 1923, § 3825.)

160. Veal.—No person shall sell, offer or expose for sale, or have in possession with intent to sell, the veal of calves killed when less than four weeks old. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than fifty dollars or by imprisonment for not less than sixty days. (Id. § 3826.)

161. Sale of Unwholesome Poultry, etc.—Every person who shall offer or expose for sale at retail, for human food, at any public market, store, shop, or house, or in or about any street or other public place, any domestic or wild fowls, or any slaughtered rabbits, squirrels, or other small animals, wild or tame, unless the entrails, crops, and other offensive parts are properly drawn and removed, shall be guilty of a misdemeanor. (Id. § 10251.)

162. Protection of Meat, etc.—Every dealer in slaughtered fresh meats, fish, fowl, or game for human food, at wholesale or retail, at any established place or as a peddler, in the transportation of such food from place to place to customers, shall protect the same from dust, flies, and other vermin or substance which may injuriously affect it, by securely covering it while being so transported. Every violation of the foregoing provisions shall be a misdemeanor, punishable by a fine of not less than ten dollars or by imprisonment in the county jail for not less than ten days. (Id. § 10252.)

163. Sale of Young Veal.—No person, firm or corporation shall sell, offer or expose for sale, or have in possession with intent to sell, the veal of calves killed when less than four weeks old. (Id. § 10253.)

164. Penalty.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall be fined not less than fifty dollars nor more than one hundred dollars, or by imprisonment for a period not to exceed ninety days. (Id. § 10254.)

164a. Dealers in Domestic Fowl to Keep Record of Purchases.—Every person who engages in the business of buying chickens, turkeys, or other domestic fowl of any kind shall keep and maintain a complete record of all such transactions in a ledger or other suitable book of account permanently bound, which for the purposes of this act shall be known as such dealer's register. In such register he shall enter a complete record of each purchase of chickens, turkeys, or other domestic fowl, to which he was a party; and shall show the name and address of the person from whom the same was bought, the date of such purchase, and the number, kind, species and a general description of all such chickens, turkeys or other domestic fowl involved in such transaction. (L. 1927, c. 319, § 1.)

164b. Record Constitutes Prima Facie Evidence.—Every register made or kept in compliance with the provisions of this act shall be prima facie evidence of the truth and accuracy of the facts therein stated or appearing as required by this act. And every such register shall at all times be open to inspection and examination by any peace officer or any public official charged with the duty of law enforcement as often as and whenever required by him. (Id. § 2.)

164c. Penalties.—Any person who fails to keep such record or causes to be entered or recorded, any false, untruthful, deceptive, or misleading statement or data in any register required to be kept by this act; or who changes, alters, destroys, mutilates, injures, secretes, conceals or withholds from inspection any such register, or any part thereof, shall be guilty of a misdemeanor. And such misdemeanor shall be deemed separate, apart from, and in addition to, any other crime or offense against the law committed by such person in connection with such transaction. (Id. § 3.)

NOTE: See also No. 48 et seq.; No. 141b et seq.; No. 141t et seq.; No. 165 et seq.

Sanitation.

165. Sanitary Food Law.—No person, firm or corporation shall operate any bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room or eating house, fruit box, or receptacle, fruit stand or vehicle of any kind, packing or slaughter house, ice cream plant or any place where any fruit or food products are manufactured, packed, stored, deposited, collected, prepared, produced or served for the purpose of sale or profit, or sold for any purpose whatever, if the same is in a filthy, unclean or unsanitary condition, or is permitted to be in a filthy, unclean or unsanitary condition. (G. S. 1923, § 3832.)

166. Removal of Insanitary Conditions.—If, in the opinion of the State Dairy and Food Commissioner, his assistants, inspectors or agents, or either of them, after an investigation thereof, any bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room or eating house, fruit box, receptacle, fruit stand or vehicle of any kind, packing or slaughter house, ice cream plant or any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced, served or sold for any purpose whatever, is operated in violation of section 43 of this act [3832], the Dairy and Food Commissioner, his assistants, inspectors or agents shall notify in writing the proprietor or proprietors, owner or owners, manager or managers of such bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room or eating house, fruit box or receptacle, fruit stand or vehicle of any kind, packing or slaughter house, ice cream plant or any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced, served or sold for any purpose whatever, to place the same in a clean and sanitary condition within a reasonable time to be stated in said notice, which time so stated shall in no case be less than two days, and failure to comply with such notice within the time so stated shall be deemed a violation of the provisions of this act. (Id. § 3833.)

167. Employment of Diseased Person.—It shall be unlawful for any person to work in or about any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced or sold, any person or persons whose condition is such that disease may be spread to his associates direct or through the medium of milk, cream, butter, other food or food products likely to be eaten without being cooked after handling, whether such condition be due to a contagious, infectious or venereal disease in its active or convalescent stages, or to the presence of disease germs, whether accompanied by or without any symptoms of the disease itself.

It shall be the duty of the State Dairy and Food Commissioner, his assistants, inspectors or agents, to report to the State Board of Health for investigation any person suspected to be dangerous to the public health, as provided for in this section, and immediately to exclude such person from such employment pending investigation and during the period of infectiousness, if such person is certified by the State Board of Health or its authorized agent to be dangerous to the public health. (Id. § 3834.)

168. Commercial Canneries.—All commercial vegetable and fruit canneries, located within this State, shall be under the supervision and regulation of the commissioner. For the purpose of this act, a commercial cannery is defined to be a place or buildings where vegetables and or fruits are packed in hermetically sealed cans, where sterilization by heat is used, and the products placed on the market for general consumption as human food; but shall not include private homes where farmers and or others or State or county institutions may pack or preserve vegetables and or fruits for their own use and make occasional sales of the surplus thereof. At such times as the commissioner may deem proper, he shall cause to be inspected all commercial canneries where vegetables and or fruits are packed

and or preserved, and shall require the correction of all insanitary conditions or practices found therein, and may search and enter all cupboards, closets, or any other places in such canneries for the purpose of discovering any chemical preservatives or adulterants which he has reason to believe are used or intended to be used in the canning or preserving of vegetables and or fruits, and for enforcing the provisions of this act. (Id. § 3835, as amended L. 1927, c. 177, § 1.)

169. Reports; Information Furnished.—The Dairy and Food Commissioner shall issue public bulletins of information, report and publish the conditions found in canning factories, furnish and disseminate information regarding the canning industry, and for that purpose may arrange for educational exhibits and demonstrations, public meetings and give instructions to processors and superintendents of canneries; such information shall be available to any person who is a resident of this State or those now engaged in the business of canning and to those who may hereafter engage therein who may properly apply therefor. (G. S. 1923, § 3836.)

170. Licenses.—No person shall operate a commercial cannery without having a license therefor from the commissioner, as hereinafter provided. Such license shall be granted under such reasonable rules and regulations as the commissioner may prescribe. Upon filing application for a license the commissioner shall issue a temporary permit, to be in effect only until a license shall have been issued or until the applicant shall have been notified of the denial of such application. Upon the filing of such application the commissioner shall cause an investigation to be made of the conditions of such cannery, for the purpose of determining whether or not a license should be granted. The application shall be in the form prescribed by the commissioner and shall give such information as he may require. Each application shall be accompanied by a license fee of one dollar. All licenses shall expire on the 31st day of December, next following the date of issue but may be renewed without inspection, on or before the first day of May of each year, upon application and payment of the licensee fee. The commissioner after reasonable notice and opportunity to be heard may by order revoke any license when the licensee has fully complied with all the provisions of the Minnesota Dairy and Food Law, or any rule or regulation promulgated, issued and published by the commissioner relating to the operation of commercial canneries; and he may reinstate any license when the licensee has fully complied with all the provisions of said law, rules and regulations. (Id. § 3837, as amended L. 1927, c. 177, § 2.)

171. Inspector of Canneries.—The Dairy and Food Commissioner shall appoint and assign, upon the passage of this act, an efficient and experienced food inspector who has passed required examinations, national or State, and who has a thorough knowledge of the canning business, either as processor, superintendent or as an inspector of food manufacturing factories, whose duties it shall be, in addition to his general work as food inspector, to have this inspection of canneries in charge, as required in this act; to visit and inspect canneries as often as may be required, superintend the work of and instruct inspectors stationed at canneries and make reports thereof to the commissioner. The commissioner may allow the person appointed as such inspector, a sum of not to exceed \$600.00 annually as additional compensation for his services, and may whenever he in his judgment deems it proper for the good of the canning industry, arrange for annual scoring prize contests, on products of Minnesota canneries and for such purpose expend not to exceed \$200.00 annually. (G. S. 1923, § 3838.)

172. Special Inspectors.—The commissioner shall, whenever he deems it necessary, furnish efficient inspectors at canneries while in operation, whose duties shall be to see that the canneries where assigned shall at all times comply with all food laws, national and State and all sanitary laws, rules and regulations; to superintend and see that nothing but proper raw materials, articles or substances are used with the necessary sterilization by heat in the packing and preservation of food. The commissioner, his inspector in charge of canneries or any local inspector assigned at such canneries shall be the judge of the quality of any raw material, articles or other substances used in canning, packing or preserving vegetables and/or fruits, and may, whenever they deem it necessary, condemn any such raw materials, articles or substances, as being unfit for use in the packing, canning or preservation of foods. (Id. § 3839, as amended L. 1927, c. 177, § 3.)

173. Rules and Regulations For Canneries.—Any and all power and authority in this act conferred upon the commissioner shall be applicable for the purpose of prescribing rules and regulations for the operation of canneries, and proper labels, standards and definitions of grades on products of canneries. (G. S. 1923, § 3840.)

174. Notice of Intention to Operate.—Any person owning or operating a canning factory shall, by written notice on or before June 1st of each year, notify

the commissioner whether or not such factory is to be operated during that season or year, giving kinds and varieties of products to be canned or manufactured that season. At least ten days prior to the beginning of operation of any canning factory, the commissioner shall be notified in writing of such intended operation. On or before November 15th of each year the owner, manager or superintendent of such factory shall furnish the commissioner, his agent, or inspector with a report giving such information concerning the factory as the commissioner may require. (Id. § 3841.)

175. Certificate of Inspection.—The commissioner shall furnish to each commercial cannery that shall have fully complied with the provisions of this act, a certificate of inspection that such cannery has been inspected and has complied with all laws, rules and regulations applying thereto. The commissioner may authorize the proprietor of such cannery to use the following or similar label or brand on his products: "Packed under regulations of, and in cannery inspected by Minnesota Dairy and Food Department," or such other label, trade-mark, device, brand or guarantee certificate, as the commissioner may designate or adopt. (Id. § 3842, as amended L. 1927, c. 177, § 4.)

176. Assessments.—The commissioner is hereby authorized and directed to collect from each commercial cannery, as herein defined, an assessment for inspection and services furnished, and for maintaining a bacteriological laboratory and employing a bacteriologist and such assistants as he may deem necessary, and a sufficient number of special inspectors to be assigned to canneries. The assessment to be made on each commercial cannery, for each and every packing season, shall not exceed one-half cent per case on all foods packed, canned or preserved therein, nor shall the assessment in any one calendar year to any one cannery exceed \$1,000. The commissioner may, whenever he deems it advisable, graduate and reduce the assessment to such sum as is required to furnish the inspection and laboratory services rendered. The assessment made and the sums so collected shall be deposited in the State treasury, as other departmental receipts are deposited, but shall constitute a separate account to be known as the "commercial canneries, inspection account," which is hereby created, and together with moneys now remaining in said account, is hereby set aside and appropriated as a revolving fund, to meet the expense of special inspection, laboratory and other services rendered, as herein provided. The amount of such assessment shall be due and payable on or before December 31 of each year and shall bear interest after that date at the rate of 7 per cent per annum, and if not paid on or before January 15, following, a penalty of 10 per cent on the amount of the assessment shall also be added and collected. (G. S. 1923, § 3843, as amended L. 1927, c. 177, § 5.)

177. Penalties.—Whoever shall, without permission of the commissioner, use any brand, label or device authorized by the commissioner, or who shall fail to furnish reports containing information required or within the time specified or who shall fail to obey any lawful direction of the commissioner given by him in carrying out the provisions of this act, or shall use any raw materials, articles or substances, forbidden to be used in canning, packing or preserving vegetables and or fruits, or shall violate or fail to comply with any of the provisions of this act or the rules or regulations made hereunder, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25 nor more than \$100 or by imprisonment for not less than 30 days nor more than three months for each offense. (G. S. 1923, § 3844, as amended L. 1927, c. 177, § 6.)

177a. Certain Laws Not Applicable.—The provisions of chapter 499, Laws of 1909; of chapter 581, Laws 1913, and of chapter 422, Laws of 1923,* relating to hours of employment of female employees, shall not apply to employees engaged in the seasonal occupation of preserving perishable fruits, grains or vegetables, where such employment does not continue over a longer period than 75 days in any one year. (L. 1927, c. 349.)

NOTE: See also the beverage law, No. 34 et seq.; the cold storage law, No. 48 et seq.; the dairy law, No. 63 et seq.; the meat law, No. 159 et seq. For hotel sanitation, see G. S. 1923, § 5910 et seq.

*These acts relate to the employment of females generally and are omitted herein.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

178. Selling Drugs, etc.—Whoever shall manufacture, give, or sell an instrument, drug or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony. (G. S. 1923, § 10177.)

178a. Obscene Literature.—Every Person Who.—

1. Shall sell, lend, give away, or offer to give away, show, have in his possession with intent to sell, give away, show, advertise, or otherwise offer for loan, gift, sale or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, picture, drawing, photograph, or any article or instrument of indecent or immoral character; or who shall design, copy, draw, photograph, print, utter, publish, or otherwise prepare such a book, picture, drawing, paper, or other article; or write or print, or cause to be written or printed a circular, advertisement, or notice of any kind, or give oral information stating when, where, or how, or of whom or by what means such an indecent or obscene article or thing can be purchased or obtained; or

2. Shall exhibit upon any public road, street, or other place within view of any minor any of the books, papers, or other things hereinbefore enumerated; or

3. Shall hire, use, or employ any minor to sell or give away, or in any manner distribute, or shall permit any minor in his custody or control to sell, give away, or in any manner distribute, any of the articles hereinbefore mentioned—

Shall be guilty of a gross misdemeanor, and be punished by imprisonment in the county jail for not more than one year nor less than ninety days, or by a fine not less than one hundred dollars nor more than five hundred dollars, or by both. (Id. § 10187.)

179. Indecent Articles, etc.—Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in his possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine, for the prevention of conception or for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, of whom, or by what means such article or medicines can be obtained or who manufactures it—shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both. (Id. § 10188.)

180. Mailing and Carrying Obscene Matter.—Every person who shall deposit or cause to be deposited in any postoffice in the State, or place in charge of any express company or other common carrier or person for transportation any of the articles or things specified in §§ 10187, 10188, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail, express, or in any other manner; or who shall knowingly or willfully receive the same with intent to carry or convey it, or shall knowingly carry or convey the same by express, or in any other manner except by United States mail—shall be guilty of a misdemeanor. But the provisions of this section and § 10188 shall not be construed to apply to an article or instrument used by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease. (Id. § 10189.)

181. Search Warrant; Destruction of Property.—Every municipal court and justice of the peace, upon complaint under oath that any person has in his possession or under his control any of the obscene books, papers, or other matter specified in §§ 10187-10189, shall issue a warrant directed to the sheriff or any constable of the county, therein directing him to search for, seize, and take possession of such obscene matter; and, upon conviction of the person in whose possession the same shall be found, shall cause such matter to be destroyed, and the fact to be entered upon the records of the court. (Id. § 10190.)

Dangerous Caustic or Corrosive Substances.

182. Definitions.—In this act, unless the context or subject-matter otherwise requires,

A. The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten per centum or more; (b) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in a concentration of ten per centum or more; (c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five per centum or more; (d) carbolic acid ($\text{C}_6\text{H}_5\text{OH}$), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five per centum or more; (e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of ten per centum or more; (f) any salt of oxalic acid and any preparation containing any such salt in a concentration of ten per centum or more; (g) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of twenty per centum or more; (h) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten per centum or more; (j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten per centum or more; (k) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of five per centum or more, and (l) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn," in a concentration of five per centum or more.

B. The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller, or distributor; (c) the word "POISON," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed Gothic capital letters, the letters to be not less than 24-point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance. (L. 1925, c. 187, § 1.)

183. Sale of Misbranded Packages Prohibited.—No person [shall] sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter, or exchange any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container being designed for household use. (Id. § 2.)

184. Misbranded Packages May be Seized.—Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use, that is being sold, bartered or exchanged, or held, displayed, or offered for sale, barter, or exchange, shall be liable to be seized and to be proceeded against in any court within the jurisdiction of which the same is found in manner and form as provided in the Minnesota Dairy and Food Law for seizure of and proceedings in case of food, and may be disposed of as therein provided. (Id. § 3.)

185. Violation a Misdemeanor.—Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by a fine of not less than \$25.00, or by imprisonment for not less than 30 days. (Id. § 4.)

186. Dairy and Food Commissioner to Enforce Act.—The Dairy and Food Commissioner shall enforce the provisions of this act, and he is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this act as may be submitted to him for that purpose and as may in his judgment conform to the requirements of this statute; provided, however, that in any prosecution under this act the fact that any brand or label involved in said prosecution has not been submitted to said commissioner for ap-

proval, or if submitted, has not been approved by him, shall be immaterial. (Id. § 5.)

187. Prosecuting Officers to Institute Proceedings.—Every prosecuting officer to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of this act shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided. (Id. § 6.)

188. Title of Act.—This act may be cited as the "Minnesota Caustic Alkali or Acid Act." (Id. § 7.)

Distribution of Samples.

189. Careless Distribution of Drugs, etc.—No person, or persons, either directly or indirectly, by agent or otherwise, shall scatter, distribute or give away any samples of any medicine, drugs or medical compounds, salve or liniment of any kind unless the same is delivered into the hands of an adult person, or mailed to such persons through the regular mail service. (G. S. 1923, § 10275.)

190. Penalty.—Any person violating any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by imprisonment in the county jail for a term not to exceed ninety days. (Id. § 10276.)

Insecticides.

191. Paris Green and Insecticides, Sale of Inaccurately Labeled, etc.; Penalty.—Whoever shall expose for sale or sell within this State any "Paris green" or other insecticide which does not conform to all the requirements of this act, or which is labeled or marked in any manner so as to tend to deceive the purchaser as to its nature or composition, or which is not accurately labeled as hereinafter required, shall be guilty of a misdemeanor and for each offense shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars, and not more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days. (G. S. 1923, § 3900.)

192. "Insecticide" Defined.—The term "insecticide" as used in this act shall include "Paris green" and any other substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all insects which may infest vegetation. (Id. § 3901.)

193. Formulas Prescribed.—Any insecticide labeled, marked or called "Paris green" shall contain at least fifty per cent of arsenious oxide in combination with copper, not more of water-soluble arsenic than the equivalent of three and one-half per cent arsenious oxide, and no substance that would injuriously affect its strength or quality. And any insecticide labeled and called lead arsenate or arsenate of lead must contain at least fifty per cent of actual lead arsenate, at least twelve and one-half per cent of arsenious oxide, no more water-soluble arsenic than the equivalent of one per cent of arsenic oxide and no added substances that would injuriously affect the quality or strength. (Id. § 3902.)

194. Statement on Label.—The label required by this act shall clearly and distinctly state the name and residence of the manufacturer of the "Paris green" or other insecticide, or the distributor thereof, or of the party for whom the same is manufactured and show the name, and with substantial accuracy, the percentage of each ingredient, both solid and liquid, contained therein; said label shall be printed in the English language in plain, legible type. (Id. § 3903.)

195. Possession Prima Facie Evidence.—The having in possession by any person, firm or corporation dealing in said articles, any article or substance hereinbefore described and not properly labeled, as provided in this act, shall be considered prima facie evidence that the same is kept by such person or firm, in violation of the provisions of this act, and punishable under it. (Id. § 3904.)

196. Duty of Commissioner.—The Dairy and Food Commissioner of the State is charged with the proper enforcement of all the provisions of this act. (Id. § 3905.)

197. Powers of Commissioner.—The said commissioner and the assistants, experts, chemists and agents shall be duly authorized for the purpose and shall have access and ingress to all the places of business, factories, stores and buildings used for the manufacture or sale of such "Paris green" or other insecticides. They shall also have power and authority to open any package, can or other receptacle

containing such "Paris green" or other insecticides that may be sold, manufactured or exposed for sale in violation of the provisions of this act. (Id. § 3906.)

Pharmacy, Poisons and Narcotics.

198. Membership of the State Board of Pharmacy.—The State Board of Pharmacy shall consist of five registered pharmacists actually engaged in the retail drug business of the State, appointed by the Governor, each for the term of five years and until his successor qualifies. Vacancies shall be filled by like appointment for the unexpired term. The membership of any person now a member or appointed as a member of said board, who shall cease to be actively engaged in the retail drug business or shall engage in any other business or avocation in the State of Minnesota, shall automatically terminate. The Minnesota State Pharmaceutical Association may recommend five names for each appointment to be made, from which list the Governor may select. The board shall elect annually one of its members as president, and a registered pharmacist, who may or may not be a member, as secretary. It may employ an attorney and other necessary assistants, and make rules for the conduct of its business. It may, by its duly authorized representative, enter and inspect any and all places where drugs, medicines and poisons are sold, given away, compounded, dispensed or manufactured. Any person refusing to permit or otherwise preventing such duly authorized representatives from entering such places, shall be guilty of a misdemeanor. It shall enforce and obey the provisions of this subdivision, and report its proceedings to the Governor annually, with such information and recommendations as it deems proper, giving the names of all pharmacists registered during the year, and the items of its receipts and disbursements. (G. S. 1923, § 5797.)

199. Per Diem of Members of State Board of Pharmacy.—Each member shall receive ten dollars a day for his actual services as such, and the necessary expenses of attending meetings. The secretary shall receive a salary, to be fixed by the board, and all expenses necessarily incurred by him in the performance of his duties; and he shall give such bond as the board may from time to time require. All fines and penalties paid or collected under any provision of this subdivision shall be paid over to the secretary of the board forthwith, the provisions of any statute, ordinance, or charter to the contrary notwithstanding. Such payments, and the fees hereinafter provided for, shall constitute the fund from which all salaries, per diem, and expenses of the board and its members shall be paid. (Id. § 5798.)

200. State Pharmacy Board; Fees for Examination.—The board shall meet at least once in every three months to examine applicants for registration and transact its other business, giving reasonable notice of all examinations, by mail, to known applicants therefor. The secretary shall record the names of all persons registered by the board, together with the grounds upon which the right of each to registration was claimed. The fee for examination shall be ten dollars. All registered pharmacists and assistants, while employed as such, shall be exempt from service as jurors. On hearing, the board may revoke any certificate of registration obtained by false representation or other fraud, or when the holder is addicted to the liquor or drug habit so as to unfit him for the practice of pharmacy, and may refuse registration to any person so addicted. (Id. § 5799.)

201. Qualifications For Examination For Registered Pharmacist.—To be entitled to examination by the board as a pharmacist, the applicant shall be at least twenty-one years old, shall have successfully completed the work of two (2) college years of not less than seven (7) months each at a college or school of pharmacy which in the judgment of the board maintains proper standards as such, and shall have had at least two years of practical experience in drug stores where physician's prescriptions are usually compounded; provided, however, that if the applicant shall have successfully completed a longer course than two (2) college years of seven (7) months each in such school or college of pharmacy, and [an] additional year or more so successfully completed, shall be equivalent to one (1) year of such practical experience. Provided, that any person who now is, or has been, actually employed in a drug store who shall file with the board a sworn statement of proof of that fact, or who is registered by said board as an assistant pharmacist, shall be exempt from the requirements of attendance at a college or school of pharmacy, but shall be entitled, if of the required age, to examination upon the completion of four (4) years' experience, as the same is herein defined; provided, further, that one (1) year of college work as herein defined shall be equivalent to one (1) year of experience. If upon examination the board finds him qualified, he shall be entitled to registration as such pharmacist. (Id. § 5800.)

202. Qualifications of Applicants.—An applicant for a certificate as assistant shall be eighteen years old or over and have had two years' practical experience in drug stores where physicians' prescriptions are usually compounded. Provided, however, if he be a graduate of a school of pharmacy whose course includes twelve months of laboratory work, but one year's experience shall be required. If upon examination the board finds him qualified, he shall be registered. His certificate shall entitle him to act as an assistant to a registered pharmacist and to compound and dispense drugs and medicines during the temporary absence of the registered pharmacist. (Id. § 5801.)

203. Registration of Pharmacists From Other States, and Fees.—The board, without examination, upon receipt of a fee of twenty-five dollars, may grant registration to any pharmacist licensed or registered by the Board of Pharmacy or a similar board of another State. (Id. § 5802.)

204. Display of Certificate; Removal.—Every holder of a certificate issued by the board shall display it conspicuously at his place of business. Upon changing his place of business he shall within ten days furnish the secretary with his new address. He shall not act as pharmacist or assistant for more than ten days after so notifying the secretary unless he shall receive notice which the secretary shall send him that the change is noted on the records of the board. Every person who shall violate any provision of this section shall be liable to a penalty of ten dollars. (Id. § 5803.)

205. Annual Fees to be Paid.—Every person registered by the board, while continuing in business, shall annually pay to the secretary a renewal fee, to be fixed by the board, and not to exceed three dollars for a pharmacist and two dollars for an assistant. A person who has once been registered and has defaulted in the payment of fees may be reinstated within two years of such default, without examination, upon payment of arrears. Every certificate and renewal shall expire at a time therein prescribed not later than one year from its date. (Id. § 5804.)

206. Definition of Drugs; Exceptions as to Sale.—Drugs, medicines and poisons, for the purposes of this sub-division, shall include all substances commonly kept in drug stores and used in compounding medicines or sold for medicinal purposes. Nothing in this sub-division, however, shall prevent a physician from compounding prescriptions for use in his practice or furnishing to his patients such articles as he deems proper or interfere with the making or vending of proprietary medicines with any exclusively wholesale business or with the sale by general retail dealers of the following articles: alum, blue vitriol, borax, carbonate of ammonia, carbonate of soda, castor oil, copperas, epsom salts, glauher salts, glycerin, gum arabic, gum camphor, licorice, log wood, rolled sulphur, saltpetre, senna leaves, sublimed sulphur, water of ammonia, arsenate of lead, sodium arsenite, London purple, arsenous oxide or Paris green, in sealed packages distinctly labeled "arsenate of lead," "sodium arsenite," "London purple," "arsenous oxide," "arsenate calcium and arsenite of zinc" or "Paris green," as the case may be, "poison." Nor shall any dealer whose shop is more than two miles from a drug store be thus prevented from selling any commonly used medicine or poison which has been put up for such sale by a registered pharmacist. (Id. § 5805.)

207. Wrongful Labeling.—A person engaged in the drug business, either on his own behalf or in the employ of another, who, in putting up drugs, medicines or prescriptions, willfully, negligently or ignorantly omits to label the package or receptacle, labels it untruly, substitutes an article different from the one ordered, or deviates from the terms of the order or prescription as to quantity or in any other manner, shall be guilty of a misdemeanor. (Id. § 5806.)

208. Physician's Prescriptions Required For Certain Drugs.—No person, otherwise than on a physician's written prescription, shall sell at retail aconite, belladonna, digitalis or nux vomica, or their preparations, the oils of bitter almonds, cedar, pennyroyal, savin or tansy, arsenic or any of its preparations, mercury or opium, or any of their poisonous preparations, carbolic acid, chloral hydrate, chloroform, creosote, croton oil, cyanide of potassium, hydrocyanic acid, lead acetate, morphine, the mineral acids, oxalic acid, strychnine, wood-naphtha or any other commonly recognized poison, without affixing to the package or receptacle containing the same a label conspicuously bearing the word "poison," and the name and business address of the seller, and satisfying himself that such poison is to be legitimately used. Any person who fails to comply with any requirement of this section shall be guilty of a misdemeanor. (Id. § 5807.)

209. Register to be Kept For Sale of Poisonous Drugs.—No person, either on his own behalf or while in the employ of another, except upon the written

prescription of a physician, shall sell or give away arsenic or its preparations (other than Paris green, arsenate of lead, sodium arsenite, London purple and arsenous oxide) "arsenate of calcium, arsenite of zinc," aconite, belladonna, or nux vomica, or their preparations, cyanide of potassium, hydrocyanic acid, morphine, mercury or its poisonous preparations, opium or the tincture thereof, the oils of pennyroyal, savin or tansy, or strychnine, without first recording, in a book kept for that purpose, the name and address of the person to whom and the amount and kind of poison delivered. Every person who shall violate any provision of this section, give a false name to be recorded to aforesaid, or, having custody of any such record book, shall refuse to produce it on demand for the inspection of any officer, shall be guilty of a misdemeanor. (Id. § 5808.)

210. Sale of Cocaine; Record.—No person shall sell or give away any cocaine, hydrochlorate, or any salts or compound of cocaine, or preparation containing cocaine, except upon the written prescription of a physician or dentist, or veterinarian, licensed under the laws of the State. No prescription containing cocaine shall be filled more than once and each shall have written plainly upon it the name and address of the patient, or owner of animal, and be filed and preserved by the pharmacist, who shall not give a copy thereof to the patient or owner of animal. This section shall not be so construed as to apply to sales at wholesale, in original packages, by any manufacturer or wholesale dealer, to a retail druggist, licensed physician or dentist or veterinarian when such vendor shall have affixed to each receptacle containing any such drug a label in the English language specifically setting forth the proportion of cocaine contained therein. (Id. § 5809.)*

211. Penalty For Violation.—Any person who shall sell or give away any of the articles mentioned in the preceding section in violation of this act, and any person who shall prescribe any of such articles to any one addicted to the habitual use of cocaine or any preparation or compound thereof in any form shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days nor more than 90 days, and if the person so offending shall be a licensed physician, dentist, veterinarian, pharmacist or assistant pharmacist, in addition to the penalty above described, such offender's license shall be revoked. (Id. § 5810.)*

212. Duty of County Attorney.—Upon complaint being made of the violation of the provisions of this act, the county attorney of the county where the offense is alleged to have been committed shall prosecute such complaint and to that end is hereby authorized to examine the books of any manufacturer or wholesale dealer within the State for the purpose of tracing the sale of any of the articles herein mentioned. (Id. § 5811.)*

213. Fines, How Disposed of.—All fines collected under the provisions under this act shall inure to the Minnesota State Board of Pharmacy. (Id. § 5812.)*

214. Penalty For Violation by Druggist.—Every proprietor or manager of a place where drugs are sold shall be responsible for the quality of all drugs, chemicals, and medicines sold by him, except proprietary medicines and other articles sold in the original packages of the manufacturers. Every person who, by himself or through another, shall willfully adulterate any drug, medicinal substance, or preparation authorized, or recognized by the United States Pharmacopœia, or National Formulary, or used or intended to be used in medical practice, or shall mix with any such article any foreign or inert substance for the purpose of weakening its medicinal power and effect or of cheapening it, or who shall sell the same knowing it to be so adulterated or mixed, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of fifty dollars. (Id. § 5813.)

215. Only Registered Pharmacists to Dispense Drugs.—No person not a registered pharmacist or a dealer employing and keeping such a pharmacist in active charge of his place of business, shall retail, compound or dispense drugs, medicines, or poisons, or keep or conduct a place for retailing, compounding, or dispensing drugs, medicines, or poisons, or falsely assume or pretend to the title of a registered pharmacist. No registered pharmacist or other person shall permit the compounding or dispensing of prescriptions or the vending of drugs, medicines, or poisons in his place of business, except under the supervision of a registered pharmacist or assistant. Every person violating any provision of this section where the death of a human being results from such violation shall be guilty of a felony. No person shall hereafter carry on, conduct, or transact business under a name which contains as a part thereof, the words, drugs, drug store, or

*But see the later law in No. 219 et seq.

pharmacy, or in any manner, by advertisement, circular, or poster, sign, or otherwise describe or refer to the place of business conducted by such person by the terms, drugs, drug store, or pharmacy, unless the place of business so conducted be at all times in charge of a registered pharmacist, or during the temporary absence of such registered pharmacist in charge of a registered assistant pharmacist. Every person violating any provision of this section shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of fifty dollars. (Id. § 5814, as amended L. 1925, c. 339.)

216. Board to Turn Over Certain Moneys to State Pharmaceutical Association.—The State Board of Pharmacy may each year turn over to the State Pharmaceutical Association for the advancement of the science and art of pharmacy, out of the annual fees collected by it, such sum, as it may deem advisable, but not to exceed one dollar for each pharmacist and one dollar for each assistant pharmacist, who shall have paid his renewal fee during such year. Said association shall annually report to said board on the condition of pharmacy in the State. (G. S., 1923, § 5815.)

217. Penalties; Prosecutions.—Every registered pharmacist or assistant who shall fail, while continuing in business, to pay the annual fee required in this sub-division, and every person who shall make any false representation to procure his name or that of another to be registered, or violate any other provision of this subdivision, when no punishment is specifically provided, shall be liable to a penalty of fifty dollars for each and every such offense. The penalties prescribed in this subdivision may be recovered in a civil action instituted by the board in the name of the State, or by a criminal prosecution upon complaint being made. In case any county attorney shall omit or refuse to conduct such proceedings, the board may employ another attorney for the purpose. (Id. § 5816.)

218. Opium Joints.—Every person who shall open and maintain, to be resorted to by other persons, any place where opium or any of its preparations shall be sold or given away to be smoked or used therein, or who at such place shall sell or give away opium or its preparations to be there smoked or otherwise used, and every person who shall visit or resort to any such place for the purpose of smoking or using opium or its preparations, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both. (Id. § 5817.)

219. Sale of Narcotics Prohibited; Exceptions.—On or after the 31st day of December, 1915, it shall be unlawful for any person to possess or sell or otherwise dispose of any opium or preparation or manufacture thereof; any morphine or salt or ester or other derivative thereof; any heroin or salt or ester thereof; any coca leaves except decocanized coca leaves; any preparation or manufacture of coca leaves except decocanized preparations or manufactures; any cocaine or salt or ester or other derivative thereof; any alpha or beta eucaine or salt or ester thereof; or any chloral or any salt, or ester thereof; or any synthetic substitute for any of the aforementioned substances. Provided that nothing contained in this section shall apply:

(a) To the possession of any of the aforementioned substances by legally licensed physicians or surgeons in connection with the practice of medicine or surgery, by legally licensed dentists in connection with the practice of dental medicine or surgery, by legally licensed veterinarians in connection with the practice of veterinary medicine or surgery, by legally licensed pharmacists or druggists in connection with the practice of pharmacy, by hospitals or similar institutions, when intended exclusively for the treatment of patients in said institutions, by manufacturers of any of the aforementioned substances, by wholesale dealers in any of the aforementioned substances, or by colleges, scientific or public institutions when intended exclusively for educational, scientific or public purposes.

(b) To the possession by common carriers of original packages of any of the aforementioned substances consigned to any of the persons enumerated in paragraph (a) of this section.

(c) To the possession by duly authorized officers of the law of any of the aforementioned substances seized in the performance of their official duties.

(d) To the possession by any person of any of the aforementioned substances which have been dispensed by a legally licensed physician, surgeon, dentist, veterinarian, pharmacist or druggist in compliance with this act, and are possessed in the form in which they are dispensed and in a container which is labeled in conformity with this act.

(e) To the possession by consumers, by common carriers or by retail dealers licensed by the Board of Pharmacy of bona fide medicinal preparations intended

for internal use which do not contain in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain of codeine or any salt thereof, or 120 grains of chloral or any salt or ester thereof, or of any bona fide medicinal preparation suitable for external use only which does not contain cocaine or any salt or derivative thereof, or any synthetic substitute therefor, or alpha or beta eucaine or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof.

(f) To the sale or other disposal of the aforementioned substances by manufacturers, wholesale dealers, legally licensed pharmacists or druggists to manufacturers, wholesale dealers, hospitals or similar institutions, colleges, scientific or public institutions, or legally licensed physicians, dentists, veterinarians, pharmacists or druggists; provided, that a record of such sale or disposal, showing the date of the transaction, the names and addresses of the parties thereto, the name and quantity of the substance transferred, be made and kept on file by both parties to the transaction for two years, open to inspection by duly authorized officers of the law; provided, that the making and preserving of any order and duplicate, or of any record required by any other law of this State or of the United States, which order, duplicate or record shall set forth the facts above required to be stated, shall be deemed a satisfactory compliance with the provisions of this paragraph. Whenever required to do so by the authorities charged with the duty of enforcing this act, any person selling or distributing the aforementioned substances shall render to such authorities requesting it a true and correct statement verified by affidavit setting out the quantity of such drugs received by him during a period immediately preceding the request, not exceeding three months, as the authorities may demand, the names of the persons from whom the said drugs were received, the quantity in each instance received from each of such persons and the date when received.

(g) To the sale or other disposal to a consumer of any of the aforementioned substances by a legally licensed pharmacist or druggist pursuant to the written prescription of a legally licensed physician, surgeon or dentist, provided that said prescription is dated as of the day on which it was signed by the prescriber, bears the signature and address of the prescriber and the name of the person for whose use the said substance is intended; and provided, that the said prescription be serially numbered and dated and filed in its appropriate place in the prescription file of the compounder and be retained on file for two years, open to inspection by any duly authorized officer of the law; and provided, further, that with the exception of any prescription for a preparation which, if for internal use, does not contain in one fluid ounce, [or] if a solid or semi-solid preparation in one avoirdupois ounce, separately, more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain of codeine or any salt thereof, or 120 grains of chloral or any salt or ester thereof, or if for external use, does not contain cocaine or any salt [or] derivative thereof or any synthetic substitute therefor, or alpha or beta eucaine or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof; such prescription shall be filled but once and no copy of such prescription shall be given to any person except to a duly authorized officer of the law for use in connection with the enforcement of this act or laws of the United States; and provided, further, that the medicine dispensed upon such prescription shall be delivered in a container which is labeled with the serial number of the prescription, the date upon which it is filled, the name of the person for whose use the medicine is intended, the name of the prescriber and the name and address of the dispenser.

(h) To the sale or other disposal of any of the aforementioned substances by a legally licensed pharmacist or druggist to a person authorized in writing by the prescriber to receive such substance on the written prescription of a legally licensed veterinarian; provided that such prescription is dated as of the day on which it was signed by the prescriber, bears the signature and address of the prescriber, the name of the person authorized to receive the medicine and the kind of animal for whose use the said substance is intended; and provided, that such prescription be identified, filed and preserved in the manner provided in the preceding paragraph; and provided, further, that with the exception of any prescription for a preparation for external use which does not contain any cocaine or any salt or derivative thereof or any synthetic substitute therefor, or any alpha or beta eucaine or any salt or derivative thereof, or any synthetic substitute therefor, or

any heroin or any salt or derivative thereof, such prescription shall be filled but once and no copy of such prescription shall be given to any person except to a duly authorized officer of the law for use in connection with the enforcement of this act or the laws of the United States; and provided, further, that the medicine dispensed upon such prescription shall be delivered in a container which is labeled with the serial number of the prescription, the date upon which it is filled, the name of the person authorized by the prescriber to receive the medicine, the kind of animal for whose use the medicine is intended, the name of the prescriber and the name and address of the dispenser.

(i) To the administration, sale or other disposal of any of the aforementioned substances by a legally licensed physician or dentist for or to a patient upon whom he is in professional attendance; provided, that said physician or dentist shall keep a record of the name and address of the patient, the date of the sale or other disposal, and the amount of the drug transferred; provided that the making and preserving of any record required by any other law of this State or of the United States, which record shall set forth the facts above required to be stated, shall be deemed satisfactory compliance with the provisions of this paragraph; and provided, further, that any of the aforementioned substances dispensed for the use of a patient by a legally licensed physician or dentist shall be delivered in a container labeled with the name of the patient, the date of the delivery and the name and address of the dispenser.

(j) To the administration of any of the aforementioned substances to a lower animal and not to a human being by a legally licensed veterinarian, or to the prescribing, sale or other disposal of the aforementioned substances for administration to a lower animal and not to a human being by a legally licensed veterinarian; provided, that said veterinarian when selling or delivering any of the aforementioned substances shall keep a record of the name and address of the person to whom he delivers any of the aforementioned substances, the kind of animal for whose use the aforementioned substances are delivered, the date of the delivery and the amount of the drug transferred in such instances as he may deliver of any of the aforementioned substances more than two full adult medicinal doses for the kind of animal specified; and provided, further, that any of the aforementioned substances delivered by a legally licensed veterinarian shall be delivered in a container labeled with the name of the person to whom the delivery is made, the kind of animal for whose use the medicine is intended, the date of delivery and the name and address of the dispenser.

(k) To the sale by manufacturers, wholesale dealers, legally licensed pharmacists, druggists, physicians, surgeons, dentists or veterinarians or by retail dealers licensed by the Board of Pharmacy to sell bona fide medicinal preparations intended for internal use, which do not contain in one fluid ounce, or if a solid or semi-solid preparation in one avoirdupois ounce, separately, more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain [of] codeine or any salt thereof, or 120 grains of chloral or salt or ester thereof, or of any bona fide medicinal preparation suitable for external use only which does not contain cocaine or any salt or derivative thereof or any synthetic substitute therefor, or alpha or beta eucaine or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof. (Id. § 10454.)

220. Physicians Forbidden to Prescribe For Habitual Users.—It shall be unlawful for any physician, surgeon or dentist to furnish to or prescribe for the use of any habitual user of the same any of the substances enumerated in section 1, chapter 260, Laws 1915 [see preceding section], unless such physician, surgeon or dentist can show that it is necessary to furnish or prescribe the same to such user in order to save his life. (Id. § 10455.)

220a. Penalty for Violation.—Any person who violates the foregoing provisions of this act (two preceding sections) shall be deemed guilty of a felony and for each violation thereof shall be punished on conviction thereof, by imprisonment in the penitentiary for not less than one year nor more than five years, or by a fine of not less than \$100.00 nor more than \$1,000.00, or both imprisonment and fine in the discretion of the court; provided, however, that a legally licensed pharmacist or druggist shall not be held liable for the innocent compounding and dispensing of any of the articles enumerated in section 1 of this act [10454], in consequence of a false, fraudulent or forged prescription which he in good faith believed to be a prescription of a licensed physician, licensed dentist or licensed veterinarian issued for a lawful purpose. (G. S. 1923, Appendix and Addenda, p. 77, Laws 1915, c. 260, § 3.)

220b. Licenses to Be Revoked on Second Conviction.—Whenever any legally licensed physician, surgeon, dentist, veterinarian, pharmacist, druggist, manufacturer, wholesale or retail dealer or institution, shall have been twice convicted in a court of proper jurisdiction of any felony under this act, the officer or board, having power to issue licenses to any such licensed person, may, after giving such licensee reasonable notice and opportunity to be heard, revoke the license of said licensee. (Id. § 4.)

220c. Construction of Term—The word "person" as used in this act shall be construed to mean and include a partnership, association, company or corporation, as well as a natural person. (Id. § 5.)

220d. Opium, Intoxicating Liquors, Firearms and Explosives Not to Be Taken to the State Prison—Penalties.—Any person who brings, sends or in any manner causes to be introduced into the State Prison or the State Reformatory or any other State institution, or within or upon the grounds belonging to any such institution, any opium, morphine, cocaine, or other narcotic, or any intoxicating liquor of any kind whatever, or any firearms, weapons, or explosives of any kind, without the consent of the State Board of Control, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State Prison for a term of not less than three years nor more than five years provided that the provisions of this act shall not apply to physicians carrying drugs into such institutions for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or fire arms as such officers in the discharge of their duties. (G. S. 1923, § 10803.)

Serum, Tuberculin, Etc.

221. Tuberculin and Mallein; Discrimination in Distribution Prohibited.—The Live Stock Sanitary Board of this State and all its officers are prohibited from making any distinction whatever in the furnishing and distribution of tuberculin and mallein among the licensed veterinarians of this State for use in making tests of cattle and horses. Said board shall furnish and distribute tuberculin and mallein to veterinarians in this State for such tests without regard to whether such veterinarians are graduates of a veterinary college or not. (G. S. 1923, § 5413.)

222. Applications; Record, etc.—Said board shall keep a record of all applications by licensed veterinarians for tuberculin and mallein showing the name of the applicant and date of receipt of application and amount desired, and shall furnish the same in the order of such applications without regard to whether the applicant is a graduate veterinarian or not. In case said board shall not have sufficient of such tuberculin or mallein to furnish all applicants for such, said board shall furnish the same pro rata among such applicants. (Id. § 5414.)

223. Penalty For Violation.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 5415.)

224. Tuberculin and Mallein; Sale; Report to Board.—Each and every druggist or vendor in drugs, wholesale or retail, or other person, who shall hereafter, in the State of Minnesota, sell, furnish or supply to any person any mallein or tuberculin shall on the same day of selling, furnishing or supplying the same report to the Live Stock Sanitary Board, giving name or names of person or persons to whom he shall sell, furnish or supply such mallein or tuberculin, the amount sold, furnished or supplied and the name and place of residence or business of each and every person for whom such mallein or tuberculin shall be purchased, sold, furnished or supplied. (Id. § 5422.)

225. Same; Penalty For Violation.—Every person or firm violating this act shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars or imprisonment for thirty days. (Id. § 5423.)

226. Price of Hog Cholera Serum to be Stated on Each Package.—The serum manufactured at the said plant shall be sold and distributed, as near as may be, at actual cost to any citizen who is a resident of this State and who applied for same as herein prescribed by the said State serum plant, and such selling price shall be stated on the package. (Id. § 5427.)

227. Surplus Serum May be Sold Outside of the State; Precautions to be Taken.—Surplus serum produced by said hog cholera serum plant above a reasonable reserve may be sold out of the State at not less than cost of production.

In case of need said State serum plant shall be authorized to purchase hog cholera serum, vaccine or other biological products which are deemed reliable and may sell the same at approximate cost in the same manner and under the same

regulations as prescribed for serum from the hog cholera serum plant of the State of Minnesota.

Provided, further, that the said State serum plant before selling or distributing any such hog cholera serum, vaccine or other biological products shall exercise all due precautions in purchasing from government licensed plants and shall conduct such inspection or tests of said hog cholera serum, vaccine or other biological products as may appear reasonably necessary to insure reliable preparation. (Id. § 5428.)

228. Veterinary Division to Establish Stations in Each County in the State.—The Veterinary Division of the State University shall establish in each county of this State, as necessity may demand, one or more distributing centers where such serum, vaccine or other biological products shall be had for sale, and such serum may be administered by any person upon his own hogs; but no person, except licensed veterinarians, shall administer said serum upon hogs of another unless authorized to do so by the State Live Stock Sanitary Board. Said Department of Agriculture shall provide instruction in the proper method of administering said serum, to persons who apply therefor and certify to the State Live Stock Sanitary Board for license, said persons when in the judgment of such department they have qualified themselves therefor. (Id. § 5429.)

229. Moneys Collected to be Paid into Operation Fund.—All moneys collected from the sale of said hog cholera serum, vaccine or other biological products as provided in sections three (3) [5427] and four (4) [5428] of this act shall be paid into an operation and maintenance fund, and the same is hereby appropriated for the operation of the hog cholera serum plant of the State of Minnesota. (Id. § 5430.)

230. Duties of Live Stock Sanitary Board.—It shall be the duty of the State Live Stock Sanitary Board of the State of Minnesota (hereinafter called the "board") and said board shall have power and authority to make and promulgate such rules and regulations governing the manufacture, sale and distribution of hog cholera serum, hog cholera virulent blood, hog cholera virus and other biological products for use upon domestic animals as it deems necessary to maintain the potency and purity of such serum, virulent blood, virus and biological products. (Id. § 5432.)

231. Definitions.—Wherever used in this act the word "person" shall include individuals, firms, partnerships, companies and corporations; the words "biological products" shall include and refer to hog cholera serum, virulent blood and virus; the word "manufacturer" shall include all persons engaged in the preparation in this State of biological products as herein defined at any stage of the process; the word "dealer" shall include all persons other than manufacturers engaged in the sale, dispensation or other distribution of biological products for profit, or who shall offer biological products for sale, dispensation or other distribution for profit, whether as principal or agent, provided that a regularly licensed veterinarian who has in his possession biological products for use in the practice of his profession, but not for sale to other veterinarians or permit holders shall not be considered a dealer as herein defined. (Id. § 5433.)

232. Must Have Permit.—No person shall manufacture, sell, offer for sale or otherwise distribute within the State any biological products unless he shall have been granted a permit by the board to manufacture or sell such products upon application as provided in this act. (Id. § 5434.)

233. Applications.—Applications for permission to manufacture, sell or otherwise distribute biological products shall give the applicant's name, his place of business and such other information as may be required by the board. (Id. § 5435.)

234. Must Have Government License.—Applications to manufacture biological products shall be accompanied by evidence satisfactory to the board that the applicant is the holder of a valid and unrevoked United States government license for the manufacture and sale of biological products. (Id. § 5436.)

235. Bonds.—Applications for dealers' permits shall be accompanied by an undertaking on the part of the applicant faithfully to comply with the law and the rules and regulations of the board governing the warehousing, handling, sale and distribution of biological products, and by a bond to the State of Minnesota in the penal sum of five thousand dollars (\$5,000) to be approved by the board for the use and benefit of all persons using the biological products sold by the permit holder, who may be damaged by reason of his negligence in the warehousing, handling or distribution of such products, and for the use and benefit of the State for all penalties adjudged against the principal thereon in any action instituted in the name of the State. (Id. § 5437.)

236. May Recover Damages From Dealers.—Any party damaged by the negligence of any dealer may recover damages against the dealer to the full amount suffered by such injured party by reason of negligence in the discharge of any of the duties imposed by this act or by the rules and regulations promulgated by the board thereunder or in the warehousing, handling, or distribution, as the case may be, of such biological products, and in the event of judgment being obtained upon any bond provided in this act the board may immediately revoke the permit issued, if in its judgment the conditions warrant such revocation, and shall in any event require a further bond, the amount of the penalty upon which shall be such as to afford the same security to all persons entitled thereto as is provided in bonds originally filed, and upon failure to furnish such additional bond the said permit shall be thereby revoked without further action by the board. (Id. § 5438.)

237. May Recover Damages From Manufacturers.—Any party damaged by the negligence of a manufacturer may recover damages to the full amount suffered by such injured party, by reason of negligence of such manufacturer in the discharge of any duty imposed by this act or by the rules or regulations promulgated by the board thereunder or in the manufacture, warehousing, handling or distribution, as the case may be, of such biological products. (Id. § 5439.)

238. Premises to be Inspected.—Before the issuance of an original permit to any manufacturer or dealer the board may cause the premises upon which it is proposed to manufacture or sell biological products to be inspected, and shall make such requirements regarding the physical condition and sanitation of such premises as in its judgment are necessary to insure the maintenance of the potency and purity of said products; and such premises shall be subject to inspection at such time and in such manner as the board may consider proper and necessary to insure compliance with its rules and regulations and the statutes relative thereto. (Id. § 5440.)

239. Fee to Accompany Applications.—A fee of twenty-five dollars shall accompany applications for manufacturer's permit for each plant where it is proposed to manufacture biological products, and a fee of fifteen dollars shall accompany applications for dealer's permit for each warehouse or distributing agency it is proposed to maintain. All permits shall be valid for one year from the date of issuance and renewals thereof shall be subject to like conditions, including fees, as are imposed in the case of original permits. (Id. § 5441.)

240. To Make Reports When Required.—All permit holders shall make such written report to the board as it may from time to time require. (Id. § 5442.)

241. Board May Revoke Licenses.—The board upon notice and after hearing may revoke any manufacturer's or dealer's permit issued by it for violation of the terms and conditions under which it was issued. (Id. § 5443.)

242. Must Hold Government License.—No biological products shall be sold, dispensed or otherwise distributed, or offered for sale, dispensation or other distribution, or be used in this State, except such as have been produced at a plant holding the United States government license for the manufacture of biological products. (Id. § 5444.)

243. Who May Sell Virus.—No person shall sell, offer for sale or otherwise distribute or offer for distribution virulent blood or virus from cholera infected hogs other than to holders of valid permits to use the same. (Id. § 5445.)

244. Must Have Permits to Administer Virus.—Written permits to administer virulent blood or hog cholera virus in infected territory shall be issued by the board to such persons as present satisfactory evidence that they are qualified to administer the same. The area within a radius of six miles from premises whereon hog cholera exists, or has existed within the preceding twelve months, shall constitute infected territory. Qualified licensed veterinarians may administer hog cholera virus in non-infected territory upon a receipt of a special permit to administer the same to hogs on an individual farm. All permits are subject to the quarantine regulations as provided by the Live Stock Sanitary Board. All permits issued may be canceled by the board upon it appearing that the holder thereof is no longer a proper person to administer such hog cholera virus. (Id. § 5446.)

245. Schools of Instruction.—Provision shall be made by the secretary of the board for instruction in the use of serum and virus in each county not oftener than once each year, and he is hereby authorized and directed to make all necessary arrangements for such instruction at a convenient time and place, when there are seven (7) or more applicants, who are residents of the county, for such instruction. Persons who desire to avail themselves of such course of instruction shall make application to the county agent. (Id. § 5447.)

246. Applications For Instruction.—The county agent, or one of the applicants, in case there is no county agent, shall forward such applications to the secretary of the board who shall notify the extension department of the College of Agriculture, University of Minnesota at the University Farm, St. Paul, and said department shall within thirty days send competent instructors to such county to hold a school of instruction. Such instructor or instructors shall give all instructions and demonstrations necessary, and conduct reasonable examinations and immediately report to the board the names and addresses of the persons passing the examinations.

Upon receiving such report the board shall, upon the receipt of two dollars, issue a permit to each person having passed examination. This permit shall entitle its holder to use virulent blood or hog cholera virus on his own hogs, in badly infected counties. This permit shall be good only for one year, but upon the payment of one dollar to the board, the board shall renew this permit for one year at the time without the applicant taking further examination.

Badly infected counties shall be counties that have so been designated by the live stock sanitary board, or counties that have reported to the live stock sanitary board at least five places in said county where hog cholera exists, or has existed during the last twelve months, and which has been diagnosed by a qualified licensed veterinarian.

All funds received under this act shall be placed to the credit of the live stock sanitary board for the purpose of carrying out the provisions of this act. (Id. § 5448.)

247. Schools Shall be Held at University Farm.—The board may hold such school of instruction at the University Farm at such times as they deem proper, and shall hold the same upon the application of ten (10) or more desiring to attend such schools and at such schools no fees shall be charged and permits shall be granted to those attending as provided in section 17 [5448], and the board shall hold two stated schools each year, one the first Monday of January and August respectively. (Id. § 5449.)

248. Samples May be Seized.—The board, or its duly authorized deputies, assistants or agents, may seize, at any time or place, for examination, samples of biological products manufactured or kept for use or sale within the State. (Id. § 5450.)

249. Powers of Board.—The board shall have power to seize, condemn or destroy any biological products which it deems unsafe for use. (Id. § 5451.)

250. Labels Must Not be Defaced.—No person shall remove or deface any label upon the bottles or packages containing any biological product, or change the contents from the original container except for immediate use. (Id. § 5452.)

251. Must Not Discriminate.—Manufacturers and dealers shall sell hog cholera serum and virus to all permit holders without discrimination as to price or otherwise subject to the rules and regulations of the board. (Id. § 5453.)

252. Violations and Penalties.—It shall be unlawful for any person authorized under this act to manufacture, sell or distribute serum or virulent blood or virus, to grant any rebate, either directly or indirectly, to any person or to sell said products at any other than a uniform price to all persons, and any person violating the provisions of this section shall forfeit his license to manufacture or sell such products and the same shall not be renewed for a period of one year. (Id. § 5454.)

253. Rebates Prohibited.—Any regularly licensed veterinarian who shall receive or collect directly or indirectly, any rebate or commission or compensation for the handling and sale or use of any hog cholera serum or virus other than his charges for services rendered in administering the same, unless said amount if requested is made known to the customer using the same in writing, shall be guilty of a misdemeanor. (Id. § 5455.)

254. Soliciting Applications Prohibited.—It shall be unlawful for any person licensed as herein provided to manufacture, sell or distribute hog cholera serum or virus, directly or indirectly, or by his agents or employees or representatives to solicit or attempt to induce farmers or others to make application for examination as provided in section 16 [5447] or 17 [5448] hereof, or in any way to assist or be interested in procuring applicants for permits as herein provided. Any person violating the provisions of this section, shall forfeit his license granted under this act. Hogs treated by any person authorized to administer treatment by the provisions of this act shall be properly quarantined for a period of at least twenty-one (21) days, under the rules and regulations of the board. (Id. § 5456.)

255. Penalties For Violation.—Any person who shall violate any of the preceding provisions of this act, or any of the rules or regulations of the board

legally promulgated, or who shall hinder or attempt to hinder the board or any duly authorized agent or official thereof in the discharge of his duty, upon conviction, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or in default of payment thereof, shall be imprisoned in the county jail for not less than thirty nor more than one hundred and fifty days. (Id. § 5457.)

255a. Purchase of Serum for Distribution Authorized.—The State Live Stock Sanitary Board, hereinafter called the board, hereby is authorized and directed from time to time as may be deemed necessary by the board, and within the limits of appropriations, to purchase through the Commission of Administration and Finance, and maintain on hand a supply of hog cholera serum and virus for sale and distribution to persons who hold valid permits to administer the same, issued under the provisions of sections 5432 to 5458, both inclusive, General Statutes, 1923.* (L. 1927, c. 250, § 1.)

255b. Holders of Permits May Purchase Serum.—The board shall sell and distribute such hog cholera serum and virus to licensed veterinarians holding such permits, and also to holders of special permits to administer hog cholera serum and virus to hogs on their individual farms, in amounts sufficient for use on their own farms, and no more. (Id. § 2.)

255c. Same.—Such hog cholera serum and virus shall be so sold and distributed only for cash paid in advance and at prices sufficient to cover the cost of acquisition, storing, handling, selling and distributing, with a reasonable addition for overhead expenses, including the compensation of additional employees, if any, required for carrying out the provisions of this act. (Id. § 3.)

255d. Cold Storage Facilities.—The board hereby is authorized to contract for the furnishing of cold storage facilities for the proper storage and refrigeration of such supply of hog cholera serum and virus, and to employ such additional employees, if any, as may be necessary for carrying out the provisions of this act. (Id. § 4.)

255e. Revolving Fund Created.—A revolving fund hereby is created to be known as the hog cholera serum and virus revolving fund, comprised of all appropriations made available for carrying out the provisions of this act and of all receipts from the sale and distribution by the Board of Hog Cholera Serum and Virus, and all such appropriations and receipts shall be and hereby are placed to the credit of the board for carrying out the provisions of this act, and shall be and hereby are appropriated therefor. (Id. § 5.)

255f. Appropriation.—The sum of \$30,000, available immediately and until expended, hereby is appropriated out of any moneys in the treasury not otherwise appropriated, to said board for the purpose of carrying out the provisions of this act. (Id. § 6.)

Venereal Disease Drugs.

256. Certain Medical Advertisements; Penalty.—Any person who shall advertise, in his own name or the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, or other written or printed paper, or the owner, publisher, or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by him, the treatment or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality," or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive sexual indulgence, or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months. (G. S. 1923, § 10191.)

257. Publication, etc.; Penalty.—Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter herein above prohibited shall be guilty of a misdemeanor and punished as prescribed in section 1 [10191] of this act. (Id. § 10192.)

258. Evidence.—The production of any advertisement or advertising matter published or distributed contrary to the provisions of this act shall be of itself

*See Nos. 230-255.

prima facie evidence of the guilt of the person or persons advertising to cure any such disease herein above mentioned, or of the publishers who publish any matter such as is herein prohibited. (Id. § 10193.)

Wood Alcohol.

259. Labeling of Wood Alcohol.—No person, by himself, his servant or agent, or as the servant or agent of another person or persons, shall sell, exchange, deliver or have in his custody or possession with intent to sell, exchange or deliver, or expose or offer for sale, exchange or delivery, any wood alcohol, or substance commonly known as wood alcohol, unless each package, bottle, cask, can or receptacle containing the said wood alcohol shall be plainly marked, stamped, branded or labeled on the outside and face of each said package, bottle, cask, can or receptacle of the capacity of less than one gallon, in legible type not smaller than large primer, and on the outside and face of each package, bottle, cask, can or receptacle of the capacity of one gallon or more, in legible letters of not less than one inch in length, the letters and words "wood.naphtha," "poison." (G. S. 1923, § 3944.)

260. Penalty For Violation.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and be punished by a fine of not less than fifty dollars and not more than one hundred dollars, for each and every offense, or by imprisonment in the county jail for not less than thirty days, or more than ninety days. (Id. § 3945.)

Intoxicating Liquors.

261. Definition of Intoxicating Liquors.—Wherever used in this act the terms "intoxicating liquor" and "liquor" shall include and mean ethyl alcohol and any distilled, fermented, spirituous, vinous or malt liquor or liquid of any kind potable as a beverage whenever any of said liquors or liquids contain one-half of one per cent or more of alcohol by volume; and shall also include and mean any liquor or liquid of any kind potable as a beverage which is in fact intoxicating.

In any action or proceeding under this act, civil or criminal, the fact that any such liquor or liquid which is potable as a beverage will, when drunk, produce an intoxicating effect, shall when established, be proof that such liquor or liquid contains one-half of one per cent or more of alcohol by volume and is intoxicating within the meaning of this act; the terms "sell" and "sale" shall include all barters, gifts and all means of furnishing liquor in violation or evasion of law; and the word "physician" shall include and mean any physician, surgeon, dentist or veterinarian, duly licensed to practice and practicing as such within this State, and no other person; the word "pharmacist" shall include and mean only any duly licensed and registered pharmacist or druggist actually carrying on business as such in good faith within this State; the word "person" shall include and mean natural persons and corporations whether acting by themselves or by servant, agent or employee; words of singular number shall include their plurals, and words of masculine gender shall include the feminine or neuter as the case may be.

Wherever an address or location is required to be given in this act, it shall be held and construed to require the giving of the State, county, town, village or city, street and street number of the residence, place or place of business as the case may be.

"Nuisance" shall include the premises and every place where liquor in any quantity is manufactured or sold or kept or had for sale, or where any order therefor is taken, received or solicited contrary to the constitution or law of the State or of the United States, or where there is any still, apparatus, implement, machine, device, contrivance, utensil or thing or any tablet, compound, substance or matter or material of any kind or nature whether liquid or solid, or any formula, receipt or direction, any of which is apparently designed or intended for use or used therein for or in or in connection with the manufacture or sale of intoxicating liquor or any violation of the constitution or law of this State or of the United States relating to intoxicating liquor, or where any of the things herein specified are kept, had or possessed or any act whatever done, in violation of any provision or part of the constitution or law of this State or of the United States relating to intoxicating liquor, and all liquor in every such place and every bar, bar fixture, vessel, jug, container or receptacle of any kind, and every still or other thing of any kind herein before mentioned, any of which is apparently designed or intended for use or used therein for or in or in connection with the manufacture or sale of intoxicating liquor, or any violation of any provision or part of the constitution

or law of this State or of the United States relating to intoxicating liquor. Any person who in any way assists in creating, keeping or maintaining a nuisance, or who sells any liquor, liquid or any tablet, compound, substance or matter or material of any kind or any formula, recipe or direction, or any still, apparatus, implement, machine, device, contrivance, utensil, or thing of any kind with knowledge or reason to believe that the same is to be used or intended for use for or in or in connection with a nuisance or the creation, keeping or maintenance thereof, or who knowingly permits any premises or place owned, managed or controlled by him to become or remain a nuisance, shall be held to be aiding in such nuisance.

The term "wholesale druggist" as used in this act is hereby declared to mean one who in good faith deals in drugs, chemicals and medicines in large quantities and who sells such drugs, chemicals and medicines chiefly to retailers thereof, who in turn retail the same in small quantities to the consumers. (G. S. 1923, § 3200.)

262. Manufacture, Sale and Transportation Prohibited Except Under Certain Conditions.—The manufacture, sale or transportation, or keeping or having in possession for sale or transportation of, or the taking, receiving or soliciting of any order for intoxicating liquor of any kind in any quantity whatever is prohibited within this State, and it shall be unlawful for any person not having a permit to manufacture liquor as provided by this act, to have or possess any still, except a still legally registered or the possession of which is expressly permitted under and by the terms and provisions of the law of this State or of the United States, or a rule or regulation made pursuant thereto, and authorized thereby, or any apparatus, implement, machine, device, contrivance or utensil, or any tablet or compound of any kind or nature whether liquid or solid, or any formula, recipe or direction, any of which is designed for use or used for or in or in connection with the manufacture of intoxicating liquor; and it shall be unlawful to manufacture, sell, have or possess any of the things herein specified or any substance or material of any kind, any of which is designed or intended for use or used in committing a violation of any provision or part of the constitution or law of this State or of the United States, relating to intoxicating liquor; and no property right shall exist therein or in any thereof; provided, that nothing in this act shall prevent the manufacture, sale, transportation of methyl or denatured alcohol; and provided, further, that nothing in this act shall prevent the manufacture, sale, transportation of ethyl alcohol for chemical, mechanical, medicinal, pharmaceutical, scientific or industrial purposes, or of liquor for medicinal purposes, or of wine for sacramental purposes, or the use of so much alcohol as is necessary for legitimate purposes of extraction, solution or preservation in the manufacture of anything other than a beverage, or the sale or transportation of liquor by pharmacists or wholesale druggists, all upon the conditions and under the restrictions herein prescribed and not otherwise; and provided, further, that nothing in this act shall prevent the manufacture of United States Pharmacopœia or National Formulary preparations, upon the conditions and under the restrictions herein prescribed, and not otherwise; provided, further, that the provisions of this section shall not be deemed to prohibit the importation and introduction into the State by any regularly appointed and ordained priest, minister or pastor of any church or established religious organization, of wine for sacramental purposes purchased without the State. (Id. § 3201.)

263. Permit to be Secured From Secretary of State.—(a) Any manufacturer of liquor or any wholesale druggist having a permit therefor from the Secretary of State as herein provided, may sell such liquor to any pharmacist upon affidavit of the pharmacist making the purchase as herein provided and not otherwise. Such affidavit shall be in the form and substance substantially as follows:

State of Minnesota, }
County of, } ss.

I, ..., being first duly sworn on oath, depose and say that I am a duly licensed and registered pharmacist, actually carrying on business as such at (give location), that my address is (give location), that I desire to purchase (state precisely the amount and kind of liquor) for sale for medicinal (or sacramental or other permitted purposes, as the case may be) purposes, that I will not use, nor sell, nor [nor] permit any other person to sell such liquor for any other purpose or except upon prescription or affidavit as required by law; that I now have in my possession and under my control (state precisely the amount and kind of liquor on hand) and no more.

(Signed)

Subscribed and sworn to before me this day of, 19....

(Signed)

(b) Any manufacturer of ethyl alcohol having a permit as herein provided may at the place of manufacture designated in such permit, or any pharmacist, or wholesale druggist having a permit as herein provided, may, at his place of business as such pharmacist or wholesale druggist, sell such alcohol for any chemical, mechanical, pharmaceutical, scientific or industrial purpose or for use for the purpose of extraction, solution or preservation in manufacture, as provided in this act, to any person having a permit to possess such alcohol upon the affidavit of the purchaser thereof as herein provided and not otherwise. Such affidavit shall be in form and substance substantially as follows:

State of Minnesota, }
County of } ss.

I, ..., being first duly sworn upon oath, depose and say that I reside at (give address); that I am more than twenty-one years of age and not of intemperate habits; that I desire to purchase (state amount) of alcohol, to be used by (give name of user), located at (give location of business and residence of user); for (specify particular purpose) purposes in (state particularly the use to be made of such alcohol); that I have a permit to possess such alcohol from (name of officer issuing permit), a duplicate of which permit is on file in the office of (name officer); that I will not use any part of said alcohol for beverage purposes or sell or put the same to any unlawful use or allow any other person so to do; that I have not violated any provision or part of the Constitution or law of this State or of the United States relating to intoxicating liquor.

(Signed)

Subscribed and sworn to before me this day of 19....

(Signed)

No more than one sale shall in any case be made upon any one affidavit, and then only for the amount and kind of liquor specified therein, and no sale shall be made on any affidavit after two weeks from the date of such affidavit. (Id. § 3202.)

264. Fee to be Paid and Permit Issued.—No manufacturer shall make or sell, nor shall any wholesale druggist sell alcohol or liquor without a permit therefor from the Secretary of State as herein provided. The Secretary of State may upon payment to him of the sum of twenty-five (\$25.00) dollars issue a permit to manufacture and sell alcohol or liquor in accordance with the provisions of this act, and not otherwise, to any manufacturer or wholesale druggist making written application therefor as herein provided. Such application shall be in the form prescribed by the Attorney-General, and shall state the name and address and business of the applicant, the location of his said business; that the applicant, if an individual is a resident and citizen of the State of Minnesota, and shall be subscribed and sworn to by the applicant, or if a corporation, by an officer thereof, making the application. All such applications shall be filed and preserved by the Secretary of State. Each such permit shall be in the form prescribed by the Attorney-General of this State, and shall state the name, address and business and business location of the person to whom the same is issued, and shall designate the location at which he is thereby authorized to manufacture and sell alcohol or liquor, and shall state that he is thereby authorized to manufacture or sell alcohol or liquor, as the case may be, at the location designated in such permit in accordance with the provisions of this act, and not otherwise. All such permits shall expire on July 1st of each year, unless sooner annulled. Conviction of the holder of any such permit of a second offense under the provisions of this act shall operate as an immediate annulment of any such permit, and thereafter for a period of two years, no such permit shall be issued to any holder so convicted. An exact duplicate of such permit so issued shall, by the Secretary of State, be kept on file in his office and at all times be open to public inspection. (Id. § 3203.)

265. Permits For Possession of Ethyl Alcohol.—Permits to possess ethyl alcohol for any chemical, mechanical, pharmaceutical, scientific or industrial purpose or for use for the purpose of extraction, solution or preservation in manufacture, as provided in this act, may be issued to any person residing in any municipality in this State by the clerk or recorder of such municipality and to any person residing outside of any municipality in any county in this State by the county auditor of such county, upon application as herein provided, and not otherwise. Each such permit shall state the name and address of the person to whom the same is issued, and that such person is authorized thereby to possess ethyl alcohol for any chemical, mechanical, pharmaceutical, scientific or industrial purpose, and not otherwise, and shall be in the form prescribed by the Attorney-General of this State. Every

such permit shall expire on July first of each year unless sooner annulled. Conviction of the holder of any such permit of an offense under the provisions of this act shall operate as an immediate annulment of any such permit, and thereafter for a period of two years no permit to possess ethyl alcohol shall be issued to any holder so convicted. An exact duplicate of every such permit shall be by the officer issuing the same kept on file in his office and at all times be open to public inspection. Any person desiring a permit to possess alcohol as herein provided shall file application therefor with the clerk or recorder of the municipality or with the auditor of the county authorized to issue the same. Such application shall state the name, business and business and residence location of the applicant; that the applicant desires a permit to possess ethyl alcohol for a chemical, mechanical, scientific, pharmaceutical or industrial purpose, as the case may be, and that he will not use as a beverage or sell any such alcohol or put the same to any unlawful use. Such application shall be in the form prescribed by the Attorney-General of this State and shall be subscribed and sworn to by the applicant if an individual, and if a corporation by an officer thereof making the application. A fee of two (\$2.00) dollars shall be paid by each applicant to the official issuing any such permit before the same shall be issued. Possession without a permit as herein provided of any such ethyl alcohol after the expiration of sixty (60) days after the taking effect of this act is hereby declared to be unlawful. (Id. § 3204.)

266. Blanks to be Furnished by Secretary of State.—The Secretary of State shall cause to be printed all necessary blank applications and permits in the form prescribed by the Attorney-General and affidavits in the form prescribed by this chapter, and supply the same to the various officers hereby authorized to issue permits and to manufacturers, wholesalers and pharmacists hereby authorized to make sales on affidavit as their needs may from time to time appear. (Id. § 3205.)

267. Medicinal Purposes.—Any pharmacist may sell intoxicating liquor for medicinal purposes upon bona fide prescription of a physician, written in ink or printed or typewritten, and not otherwise. Such prescription shall state the name and address of the person for whom the same is prescribed, the kind and quantity of liquor, directions for its use and that the illness for which said liquor is prescribed requires such prescription, and such prescription shall be signed in ink by the physician issuing the same, and shall bear the date of its issuance and delivery. No more than one pint of liquor may be sold upon any one prescription, and no prescription shall be filled more than once, nor after the expiration of one week from the date of its issuance and delivery. No physician shall prescribe for or issue or deliver to any person, nor shall any person receive more than one prescription for liquor within any period of ten days. (Id. § 3207.)

268. Affidavit to be Made.—Every affidavit and every prescription upon which any sale of alcohol or liquor is made, as provided herein, shall at the time of any such sale be taken from the purchaser of the alcohol or liquor by the seller thereof and by such seller, canceled by writing in ink across the face of such affidavit or prescription over his signature, the words: "Cancelled, the day of , 19 ," stating the date, and such affidavits and prescriptions shall be kept by the seller until filed by him with the clerk of the District Court as herein provided. All the affidavits and prescriptions so taken by any such seller shall be filed by him with the clerk of the District Court of the county wherein his business is located within five days after the first day of each and every month; and it shall be the duty of such clerk to number serially each such affidavit and each such prescription with a separate number and file each thereof in a separate envelope of suitable size numbered to correspond with the number of the affidavit or prescription filed therein, and such envelope, with the affidavits and prescriptions therein, respectively, shall be filed in order as numbered. It shall be the duty of such clerk of the District Court to prepare an index book of suitable size, every page of which shall be lined horizontally and vertically on columns. Such clerk of the District Court shall enter in such book in alphabetical order the name and address of each person selling liquor on any affidavit or prescription filed in his office. The name, address and file number of such affidavit or prescription shall in each instance be placed on one and the same line. Such clerk of the District Court shall also in like manner enter in said book the name and address of the person making such affidavit or named in any such prescription and opposite such name and address on the same line therewith, the file number of such affidavit or prescription. Such clerk of the District Court shall keep and preserve in his office all such affidavits and prescriptions so filed for two years from the date of the filing thereof, and the same shall at all times be open to public inspection. The person filing such prescription or affidavit, as herein provided for, shall pay the clerk of court a fee of ten cents for each such prescription or affidavit so filed. (Id. § 3208.)

269. Prosecution.—Whenever a nuisance exists in any county of this State, the county attorney thereof or the Attorney-General or his assistants or any citizen of this State may, or in case such nuisance is found in any criminal action to exist in any such county, the county attorney thereof shall maintain an action in the District Court in the name of the State upon complainant's relation to perpetually enjoin and abate the same, and to enjoin the owner or agent or any other person creating, keeping or maintaining the same, or aiding therein, from further so doing. (Id. § 3209.)

270. Transportation and Receiving Prohibited.—No person shall sell, or knowingly transport, receive or deliver any liquor within this State unless there appear[s] on the outside of the container or package containing such liquor, a printed label in large letters, pasted on or attached to such package, or container, and visible and unconcealed, truly stating the amount and kind of liquor therein.

Every common carrier shall keep a true record of all liquors received for shipment or shipped by such carrier, the amount and kind thereof, and the names and addresses of the consignor and consignee in each case. The books, records and way-bills of any such common carrier handling such liquors may be examined at any time by any sheriff or police officer for the purpose of tracing such liquors. (Id. § 3222.)

271. Penalties For Violation.—(a) Any person who shall manufacture or sell liquor, or any pharmacist who shall sell liquor in violation of this act shall, except as herein provided in subdivision (f), upon conviction for a first offense be punished by imprisonment in the county jail for not less than thirty days, nor more than ninety days, and by a fine of not less than \$150, nor more than \$300, and for a second and each subsequent offense shall be punished by imprisonment in the county jail for not less than six months, nor more than one year, and by a fine of not less than \$250, nor more than \$1,000.

(b) Any person who shall create, keep or maintain a nuisance shall be guilty of a misdemeanor, and be punished by a fine of not less than \$50, nor more than \$100, or by imprisonment in the county jail not less than thirty days, nor more than ninety days.

(c) Any physician who shall knowingly give false prescription for intoxicating liquor or any prescription therefor containing a false statement, or who shall give a prescription for liquor for any other than medicinal purposes or to any person who is not in fact suffering from any illness requiring such prescription, shall, upon conviction thereof, be punished by a fine of not less than \$50, nor more than \$300, and by imprisonment in the county jail for not less than thirty days, nor more than ninety days.

(d) Any person who shall knowingly present any false, fraudulent, forged or altered prescription or affidavit provided for or required by this act, or who shall forge or alter any such prescription or affidavit, upon conviction thereof shall be punished by a fine of not less than \$50, nor more than \$300, and by imprisonment in the county jail for not less than thirty nor more than ninety days.

(e) Any person who shall willfully fail or neglect to perform any duty imposed by this act or who shall violate any of the provisions thereof, for which no special penalty or forfeiture is prescribed herein shall, upon conviction thereof, for a first offense be punished by imprisonment in the county jail for not less than thirty days, nor more than ninety days, and by a fine of not less than \$50 nor more than \$300, and for a second and each subsequent offense shall be punished by imprisonment in the county jail for not less than sixty days nor more than six months, and by a fine of not less than \$100 nor more than \$500.

(f) Any person who shall sell liquor to anyone under 21 years of age in violation of this act, shall be guilty of a felony. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead prior conviction in any complaint, information or indictment against him.

(g) Any sheriff, deputy sheriff, constable, marshal, policeman or other peace officer who shall maliciously and without probable cause procure a search warrant to be issued and executed, and every such sheriff, deputy sheriff, constable, marshal, policeman or other peace officer, who in executing a search warrant, shall willfully exceed his authority, or exercise it with unnecessary severity, or fail to make, file and serve an inventory as required by law, shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment in the county jail for not less than six months, or by both such fine and imprisonment. (Id. § 3225.)

272. For Enforcement of Amendment to Constitution.—This act is intended to provide for the enforcement of Article XVIII of the Constitution of the United States of America, under the concurrent power clause thereof, and the provisions of the act of Congress of November 21, 1918, "commonly known as War Pro-

hibition" and shall take effect from and after January 16, 1920, and in case the sale of intoxicating liquor shall, prior to January 16, 1920, become unlawful in this State by the terms and provisions of any act of Congress, or pursuant to the proclamation of the President of the United States issued by virtue of any act of Congress, then and in such case, this act shall thereupon take effect and be in force and continue in force during such time prior to January 16, 1920, as such sale of intoxicating liquor shall continue to be unlawful by reason of any such act of Congress or proclamation of the President of the United States, but in any event shall be in full force and effect from and after January 16, 1920, and all laws and parts of laws, ordinances and charter provisions inconsistent herewith shall be thereafter suspended.

All laws and parts of laws, ordinances and charter provisions inconsistent herewith are hereby suspended and made inoperative during such period prior to January 16, 1920, as this act may become and remain in force by reason of the sale of intoxicating liquor being unlawful by and under the terms and provisions of any act of Congress, or, pursuant to the proclamation of the President made by virtue of any act of Congress, but, if prior to January 16, 1920, the sale of intoxicating liquors shall cease to be unlawful under any such act of Congress or any such proclamation, then and in such case all laws or parts of laws of this State, ordinances and charter provisions suspended during such period, shall again become operative and be in force and shall so continue until January 16, 1920, and provided, further, that in case the said article 18 to the Constitution of the United States shall at any time become void by final decision of the Supreme Court of the United States, or be repealed by amendment to the Constitution of the United States, then this act shall become and be suspended and inoperative, and all laws and parts of laws, ordinances and charter provisions inconsistent herewith and hereby suspended, shall again become operative and be in full force and effect. (Id. § 3228.)

273. License Regulation For Non-Intoxicating Beverages Given to Councils.—There is hereby conferred upon each city, borough and village in the State the authority by ordinance to license and regulate the business of vendors at retail of non-intoxicating beverages, to impose such reasonable license fee therefor as may be prescribed by such ordinance and to provide for the punishment of any violation of such ordinance according to the provisions of law. (Id. § 3236.)

274. Certain Acts Declared to be Murder.—Any person who shall unlawfully sell intoxicating liquor which, when drunk, causes the death of the person drinking the same shall be guilty of murder in the third degree. (Id. §§ 3237 and 10071.)

275. Selling or Giving Away Intoxicants Felony in Certain Cases.—Any person who shall unlawfully sell intoxicating liquor which when drunk causes permanent physical or mental injury to the person drinking the same shall be guilty of a felony. (L. 1925, c. 221, § 1.)

PART IV.

Miscellaneous Laws.

False Advertising.

276. False Statement in Advertisements.—Any person, firm, corporation or association who, with intent to sell or in any wise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly to the public, for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates or places before the public or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in this State in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor. (G. S. 1923, § 10390.)

277. Enforcement.—The duty of a strict observance and enforcement of this law and prosecution for any violation thereof is hereby expressly imposed upon the Dairy and Food Commission of the State of Minnesota, and it shall be the duty of the county attorney of any county wherein a violation of this act shall have occurred, upon complaint being made to him, to prosecute any person violating any of the provisions of this act. (Id. § 10391.)

Flag Desecration.

278. Unlawful Use of Red Cross.—Every person, who, for exhibition or display, shall cause to be placed upon or affixed to any flag, standard, color or ensign of the United States or this State, or upon one purporting to be either of said flags, standards, colors or ensigns, any inscription, design, device, symbol, name, advertisement, words, characters, marks or notice whatsoever, or who shall display or exhibit any such flag, standard, color or ensign having upon or affixed to it any such inscription, design, device, symbol, name, advertisement, words, characters, marks or notice whatever; or who shall publicly mutilate, trample upon, deface or defy any such flag, standard, color or ensign shall be guilty of a misdemeanor; but such flags, standards, colors or ensigns used in the service of the United States or of this State may have inscriptions, names of actions, words, marks or symbols placed thereon pursuant to law or authorized regulations; provided, that the placing of the names of donors to the Red Cross fund upon the flag by any regularly organized Red Cross society shall not be construed as a violation of this section. (G. S. 1923, § 10509.)

Gift Enterprises.

279. Gift Enterprises Prohibited.—All gift enterprises, as hereinafter defined, and all trade practices carried on in connection therewith are hereby prohibited and declared to be unlawful. (G. S. 1923, § 10492.)

280. Gift Enterprises Defined.—Whenever two or more persons enter into any contract, arrangement or scheme whereby for the purpose of inducing the public to purchase merchandise or other property of one of the parties to said scheme any other party thereto, for a valuable consideration and as a part of such scheme, advertises and induces or attempts to induce the public to believe that he will give gifts, premiums or prizes to persons purchasing such merchandise or other property of such other party to said scheme, and that stamps or tickets will be given by the seller in connection with such sales entitling the purchaser of such property to receive such prizes or gifts from any other party to such scheme, the parties so undertaking and carrying out such scheme shall be deemed to be engaged in a "gift enterprise," unless the articles or things so promised to be given as gifts or premiums with or on account of such purchases shall be definitely described on such stamp or ticket and the character and value of such promised prize or gift fully made known to the purchaser of such merchandise or other property at the time of the sale thereof, and unless the right of the holder of such stamp or ticket to the gift or premium so promised becomes absolute upon the completion upon the delivery thereof without the holder being required to collect any specified number of other similar stamps or tickets and to present them for redemption together, and the right of the holder of such stamp or ticket to the prize or gift so offered is absolute and does not depend on any chance, uncertainty or contingency whatever. (Id. § 10493.)

281. Engaging in Gift Enterprise, etc.; Penalty.—Any person who engages in a gift enterprise such as is defined in this act or who advertises the same in any manner, or who in furtherance of such scheme as an inducement to purchasers issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite article not described thereon only when presented with a collection of other stamps or tickets of like kind by some other party to such scheme, and which unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a misdemeanor. (Id. § 10494.)

282. "Person" Defined.—The word "person" as used in this act may in proper cases in order to make the intent and meaning of the law effective, be construed to mean firm or corporation. (Id. § 10495.)

283. Gift Enterprises Prohibited.—All gift enterprises as hereinafter defined and all trade practices carried on in connection therewith are hereby prohibited and declared to be unlawful. (Id. § 10496.)

284. Gift Enterprises Defined.—Whenever any person for the purpose of inducing the public to subscribe for or buy any newspaper, magazine or periodical, for a valuable consideration, offers and advertises to give a premium, gift or prize, or offers and advertises any contest whatever whereby a premium, gift or prize is to be given to any person or persons procuring such sale or subscription, the person so undertaking and carrying on such scheme or contest and offering such gift, premium or prize shall be deemed to be engaged in a "gift enterprise," unless such premium, gift or prize is absolute and does not depend upon any chance or contingency whatever. (Id. § 10497.)

285. Penalty.—Any person who engages in a gift enterprise such as is defined in this act or who offers or advertises the same in any manner shall be guilty of a misdemeanor. (Id. § 10498.)

286. "Person" Defined.—The word "person" as used in this act, may in order to make the intent and meaning of this law effective be construed to mean firm or corporation. (Id. § 10499.)

Matches.

286a. Manufacture, Storage or Sale of Certain Matches, Prohibited.—No person, association, or corporation, shall manufacture, store, offer for sale, sell or otherwise dispose of, or distribute, white phosphorous, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches"; nor manufacture, store, sell, offer for sale, or otherwise dispose of, or distribute, white phosphorous, double-dipped, strike-anywhere matches or any other type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition non-ignitable on an abrasive surface; nor manufacture, store, sell, offer for sale or otherwise dispose of, or distribute, matches which will ignite in a laboratory oven at a temperature of less than 200 degrees F. when subjected in said oven to a gradually increasing heat and maintained at the before stated continuous temperature for a period of not less than eight hours; nor manufacture, store, offer for sale, sell or otherwise dispose of, or distribute, Blazer, or so-called wind matches, whether of the so-called safety or strike-anywhere type. (G. S. 1923, § 6019.)

286b. Brands and Trade-Marks—Retail Stores—Warehouses, Etc.—How Packed, Etc.—No person, association or corporation, shall offer for sale, sell or otherwise dispose of, or distribute any matches, unless the package or container in which such matches are packed, bears plainly marked on the outside thereof, the name of the manufacturer and the brand or trade-mark under which such matches are sold, disposed of, or distributed; nor shall more than one case of each brand of matches of any type or manufacture be opened at any one time in any retail store where matches are sold or otherwise disposed of; nor shall loose boxes, or paper wrapped packages, of matches be kept on shelves or stored in such retail stores at a height exceeding five feet from the floor; all matches, when stored in warehouses, excepting manufacturer's warehouse at place of manufacture, when such warehouse contains automatic sprinkler equipment, must be kept only in properly secured cases, and not piled to a height exceeding ten feet from the floor; nor be stored within a horizontal distance of ten feet from any boiler, furnace, stove or other like heating apparatus, nor within a horizontal distance of twenty-five feet from any explosive material kept or stored on the same floor; all matches shall be packed in boxes or suitable packages, containing not more than seven hundred matches in any one box or package; provided, however, that when more than three hundred matches are packed in any one box or package, the said matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions; and all boxes containing three hundred and fifty or more matches, shall have placed over the matches a center holding or protecting strip, made of chip board, not less than one and one-quarter inches wide, said strip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it. (Id. § 6020.)

286c. Containers or Cases—Number of Boxes or Packages—How Marked.—All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case, shall not exceed the following number:

<i>No. of Boxes</i>	<i>Numerical Number of Matches Per Box.</i>
½ gross	700
1 gross	500
2 gross	400
3 gross	300
5 gross	200
12 gross	100
20 gross. Over 50 and under	100
25 gross. Under	50

No shipping container or case constructed of fibre board, corrugated fibre-board, or wood, nailed or wire-bound, containing matches, shall have a weight, including its contents, exceeding seventy-five (75) pounds; and no lock-cornered wood case containing matches shall have a weight, including its contents, exceeding eight-five (85) pounds; nor shall any other article or commodity be packed with matches in any such container or case; and all such shipping containers or cases containing strike-anywhere matches, shall have plainly marked on the outside thereof the words "STRIKE-ANYWHERE MATCHES" and all shipping containers or cases containing "Strike on Box" matches shall have plainly marked on the outside thereof the words "STRIKE ON BOX MATCHES." (Id. § 6021.)

286d. Penalty for Violation.—Any person, association, or corporation, violating any of the provisions of the act, shall be fined for the first offense, not less than five dollars (\$5.00), nor more than twenty-five dollars (\$25.00); and for each subsequent violation, not less than twenty-five dollars (\$25.00). (Id. § 6022.)

Tobacco—Tobacco Products.

287. Sale to Person Under Eighteen Years Prohibited.—It shall be unlawful for any person and any clerk, servant, employee or agent of any person, directly or indirectly upon any pretense, or by any device to sell, exchange, barter, dispose of or give away to any person below the age of eighteen (18) years of age, any cigarettes, cigarette paper, or cigarette wrappers, or any paper made or prepared for the purpose of being used for or in the making or manufacturing of cigarettes. (G. S. 1923, § 3240.)

288. Smoking by Person Under Eighteen Misdemeanor.—The smoking of cigarettes within this State by any person below the age of eighteen (18) years is hereby prohibited and any person of such minor age found smoking cigarettes shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten (\$10) dollars or by imprisonment in the county jail of not more than five (5) days, such fine or imprisonment only to be imposed in the discretion of the court. (Id. § 3241.)

289. Licensing of Sale of Cigarettes, etc.—It shall be unlawful for any person and any clerk, servant, employee, or agent of any person, directly or indirectly upon any pretense or by any device, to manufacture, sell, exchange, barter, dispose of or give away, or keep for sale any cigarettes, cigarette paper or cigarette wrappers or any paper made or prepared for the purpose of making cigarettes without first having obtained a license therefor, as hereinafter provided. (Id. § 3242.)

290. License to be Secured of Dairy and Food Commissioner; Fee.—License for the manufacture, sale, exchange, barter, disposition of or giving away or keeping for sale of cigarettes, cigarette paper or cigarette wrappers for the making of cigarettes may be granted by the State Dairy and Food Commissioner, who shall provide a suitable blank form of application for the use of applicant. The fee for such license shall be twelve (12) dollars and shall expire on December 31, next after its issue, and no license shall be issued for a longer term than one year, and shall not be transferable from one person to another person or from the ownership to whom issued to another ownership. Provided, that a license issued for a less term than one year, the fee for same shall be computed at the rate of one dollar for each calendar month or fractional part of such month. A penalty of fifty per cent of the license fee shall be imposed if license is not applied for within the same calendar month that first sale of cigarettes is made. (Id. § 3243.)

291. Written Application to be Filed.—Every person desiring a license under this act shall file with the State Dairy and Food Commissioner, his inspectors or agents, a written application therefor, stating the person or firm for whom, place and building for which, it is to be issued, and shall deposit therewith the amount of the license fee. (Id. § 3244.)

292. When License is Not to be Granted.—No license shall be granted in or for any city, village or county, if the governing body of such city, village or county shall by ordinance or resolution prohibit the sale of cigarettes, and a certified copy of such ordinance or resolution is filed with the State Dairy and Food Commissioner. (Id. § 3245.)

293. Dairy and Food Commissioner to Enforce Provisions of Act.—The state Dairy and Food Commissioner, his inspectors and assistants and employees, shall enforce the provisions of this act, and in so doing shall have all the powers and authority with relation thereto, that are conferred upon them and each of them by chapter 21, Revised Laws of 1905, and the provisions of sections 1736, 1738, 1776, 1777, 1778, and 1779, Revised Laws of 1905, shall be deemed a part thereof in the enforcement of this act and accomplishments of its purposes. (Id. § 3247.)

294. Fees to be Paid Into State Treasury.—The fees collected under the provisions of this act shall be paid into the State treasury by the Dairy and Food Commissioners. The State Treasurer shall transmit such license money semi-annually to the treasury of the city, village or county from which the license is issued. (Id. § 3248.)

295. Violation a Misdemeanor.—Any person violating any of the provisions of this act, except as herein provided for violation of section 2 [3241] hereof, shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars or by imprisonment in the county jail of not less than fifteen (15) days nor more than ninety (90) days. (Id. § 3249.)

296. Use of Tobacco by Minors.—Every person under the age of eighteen years, and every minor pupil in any school, college, or university, who shall smoke or use cigarettes, cigars, or tobacco in any form on any public road, street, alley, park, or other lands used for public purposes, or in any public place of business, shall be guilty of a misdemeanor, and punished for each offense by a fine of not more than ten dollars, or by imprisonment in the county jail for not more than five days; and every person who shall furnish any cigarettes, cigars, or tobacco in any form to any such minor person, or who shall permit any such minor person to frequent any premises owned, held, or managed by him, for the purpose of indulging in the use of cigarettes, cigars, or tobacco in any form, shall be guilty of a misdemeanor, and punished by a fine of not more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, for each offense. (Id. § 10144.)

297. Minors; Sale of Tobacco to.—Any person within this State who sells, gives to, or in any way furnishes any cigarettes, cigars or tobacco in any form to any person under eighteen years of age, or to any minor pupil in any school, college or university, shall be punished by a fine not to exceed fifty dollars or imprisonment in the county jail not to exceed thirty days for each offense. (Id. § 10145.)

298. Use of Tobacco in Public Place; Arrest; Penalty; Evidence.—Any person under eighteen years of age, any minor pupil, as described in section two [10145] of this act, who shall smoke or use cigarettes, cigars or tobacco in any form on any public highway, street, alley, park or other lands used for public purposes, or in any public place of business, shall be arrested by an officer of the law, who may be cognizant of such offense; and further, it shall be the duty of all such officers, upon complaint of one citizen, to arrest such offenders and take them before the proper court. The court shall impose a punishment at its discretion in the sum of not to exceed ten dollars, or imprisonment in the county jail not to exceed five days for each offense; provided, if said minor person shall give information which may lead to the arrest of the person or persons violating section two [10145] of this act, in giving or selling to, or in any way furnishing said minor person tobacco, and shall give evidence as a witness in such proceedings against said party or parties, the court shall have power to suspend sentence against such minor person. (Id. § 10146.)

299. Harboring, etc.—Any person who harbors or grants to persons under eighteen years of age, or to minor pupils as described in section two [10145] of this act, privilege or [of] gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be held in the same penalty as provided for in section two [10145] of this act; provided, that no part of this act shall be so construed as to interfere with the rights of parents or lawful guardians in the rearing and management of their minor heirs or wards, within the bounds of their own private premises. (Id. § 10147.)

300. Powers of Grand Jury.—Be it further enacted that grand juries shall have inquisitorial powers over offenses committed under this act. (Id. § 10148.)

301. Adulterated Cigarettes.—Every person who shall manufacture, sell, give away, or use any cigarette containing any substance deleterious to health, other than tobacco, shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days. (Id. § 10456.)

302. Same.—Any person within the State who manufactures, sells or gives to any one, or uses any cigarette containing any substance foreign to tobacco, shall be punished by a fine of not more than fifty dollars or imprisonment in a county jail for not more than thirty days. (Id. § 10457.)

Trade-Marks, Etc.

303. Record of Name, Mark, etc.; Duty of Secretary of State; Certificate.—Any person engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, Weiss beer, beer, white beer, malt extract, other beverages, milk, cream, ice cream or butter in any kind of receptacle having the name of such person or other mark or device printed, stamped, engraved, etched, blown, impressed, riveted or otherwise produced or permanently fixed upon the same, may file in the office of the Secretary of State for record a description of the name, mark or device so used and cause such description to be printed once in each week for three successive weeks in a newspaper published in the county in which the principal place of business of such person is located, or if the principal place of business of such person is located in another State, then in the county wherein the principal office or depot within the State of Minnesota is located. It shall be the duty of the Secretary of State to issue to the person so filing for record a description of such name, mark, or device in his office a duly attested certificate of the record of the same for which he shall receive a fee of one dollar. Such certificate in all prosecutions under this act shall be prima facie evidence of the adoption of such name, mark or device, and of the right of the person named therein to adopt and use the same. (G. S. 1923, § 8330.)

304. Use of Receptacles Without Consent Prohibited; Obliterating Name, etc.; Penalty.—It shall be unlawful for any person other than the one named in the certificate issued by the Secretary of State as provided in section 1 [8330] of this act, without the written consent of the person named in such certificate to fill any receptacle bearing a name, mark or device recorded as provided in section 1 [8330] of this act with soda water, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, Weiss beer, beer, white beer, malt extract, other beverages, milk, cream, ice cream or butter, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark, or device on any such receptacle, or to buy, sell, give, take, dispose of in any way, or traffic in any receptacle bearing any such name, mark or device. Any person offending against any provision of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than ten days nor more than ninety days, or by a fine of not less than ten dollars or more than one hundred dollars, and each such receptacle so unlawfully dealt with as herein set out shall be deemed and held to be a separate offense. (Id. § 8331.)

305. Receptacles to be Delivered on Demand; Penalty.—Any person having in possession or under control any receptacle bearing any name, mark or device recorded as provided in section 1 [8330] of this act, and not holding a written transfer or bill of sale therefor from the person named in the certificate issued by the Secretary of State as provided in section 1 [8330] of this act or other authority in writing from such person, upon demand shall deliver such receptacle to the person named in such certificate or to the authorized agent of such person; and any person failing or refusing to so deliver the same when demanded shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be punished by imprisonment in the county jail for not less than ten days nor more than ninety days, or by a fine of not less than ten dollars nor more than one hundred dollars. (Id. § 8332.)

306. Recovery of Receptacles; Search Warrant.—Whenever any person who has filed for record any such name, mark or device or who has acquired from such person in writing the ownership of such name, mark or device or the right to the exclusive use thereof, or any one representing such person, shall make oath before any magistrate that he has reason to believe and does believe that any receptacle

bearing such name, mark or device is being unlawfully used or filled or had in possession by any person such magistrate shall thereupon issue a search warrant to discover and obtain such receptacle; and may also cause the person in whose possession such receptacle shall be found to be brought before him and shall then inquire into the circumstances of such possession, and if it shall be found that such person is guilty of a violation of any section of this act he shall be punished as herein prescribed and the possession of the property taken upon such warrant shall be awarded to the owner thereof; but the remedy given by this section shall not be held to be exclusive, and offenders against any provision of this act may also be prosecuted as in case of other misdemeanors. (Id. § 8333.)

307. Receptacle and Other Terms Defined.—As used in this act, the term receptacle shall include not only bottles, siphons, tins, kegs, one-eighth barrels, quarter barrels, half barrels, barrels, boxes, cans and tubs, but all other receptacles used for holding any of the commodities in this act mentioned; the singular may include the plural and the plural may include the singular; the term person may include corporation; and the requirement for a written transfer, bill of sale, authority or consent means that it shall be signed by the person named in the certificate issued by the Secretary of State as provided by section 1 [8330] of this act, or by a transferee claiming under a written transfer signed by such person or by an agent whose authority is in writing signed by such person or such transferee. (Id. § 8334.)

308. Taking Deposit.—The requiring or taking of any deposit for any purpose upon such receptacle shall not be deemed nor held to be a sale either optional or otherwise in any proceeding under this act. (Id. § 8335.)

309. Counterfeiting Trade-Mark, Brand, etc.; How Punished.—Every person who shall knowingly and willfully forge or counterfeit, or procure to be forged or counterfeited, any representation, likeness, similitude, copy or imitation of the private stamp, brand, wrapper, label or trade-mark usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman to or upon his goods, wares, merchandise or preparation, with intent to pass off any work, goods, manufacture, compound or preparation to which such forged or counterfeited representation, likeness, similitude, copy or imitation is affixed or intended to be affixed, as the work, goods, manufacture, compound or preparation of such mechanic, manufacturer, druggist, merchant or tradesman, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not less than six nor more than twelve months, or by a fine of not more than five thousand dollars. (Id. § 10340.)

310. Possession of Dies, Plates, etc.; How Punished.—Every person who, with intent to defraud any person or corporation, shall have in his possession any die, plate, brand, engraving or printed label, stamp, imprint, wrapper or trade-mark, or any representation, likeness, similitude, copy or imitation of the private stamp, brand, wrapper, label or trade-mark usually affixed by a mechanic, manufacturer, druggist, merchant or tradesman to or upon articles made, manufactured, prepared or compounded by him for the purpose of making impressions or selling the same when made, or using it upon any other article made, manufactured, prepared or compounded, and passing the same off upon the community as the original goods, manufactures, preparations or compounds of any other person or corporation, or who shall wrongfully and fraudulently sell or use the genuine stamp, brand, imprint, wrapper, label or trade-mark with intent to pass off any goods, wares, merchandise, mixtures, compounds or other articles not the manufacture of the person or corporation to whom such stamp, brand, imprint, wrapper, label or trade-mark properly belongs, as genuine and original, shall be guilty of a gross misdemeanor and punished by imprisonment in the county jail for not less than six nor more than twelve months, or by fine of not more than five thousand dollars. (Id. § 10341.)

311. Selling Goods Having False Stamp; How Punished.—Every person who shall sell or keep for sale any goods, wares, merchandise, mixture or preparation upon which any forged or counterfeit stamp, brand, imprint, wrapper, label or trade-mark shall be placed or affixed, and intended to represent the said goods, wares, merchandise, mixture or preparation as the genuine article of any other person, knowing the same to be counterfeit, shall be guilty of a gross misdemeanor and punished by a fine of not more than five hundred dollars for each offense. (Id. § 10342.)

312. Affixing False Stamps; How Punished.—Every person who, with intent to defraud any person or corporation, shall knowingly affix or cause to be affixed to or upon any bottle, case, box or package containing any goods, manufacture, mixture, preparation or compound any stamp, brand, label, wrapper, imprint or trade-mark containing words or characters which shall appear, either

wholly or in part, the same to the eye or in sound to the ear as the words or characters, or some of them, used by any other person for designating any similar goods manufactured or prepared by or for such other person, or who shall knowingly sell or expose, or offer for sale, any such bottle, case, box or package with any such stamp, brand, label, wrapper, imprint or mark affixed to or upon it shall be guilty of a gross misdemeanor and punished by imprisonment in the county jail for not less than six nor more than twelve months or by a fine of not more than five thousand dollars. (Id. § 10343.)

313. False Branding by Manufacturer.—Every person who, with intent to defraud or enable another to defraud any person, shall manufacture or knowingly sell or cause to be manufactured or sold any article marked, stamped or branded, or incased or inclosed in any box, bottle or wrapper having thereon any engraving or printed label, stamp, imprint, mark or trade-mark, which articles are not the manufacture, workmanship or production of the person named, indicated or denoted by such mark, stamp or brand, or by or upon such engraving, printed label, stamp, imprint, mark or trade-mark, shall be guilty of a gross misdemeanor. (Id. § 10344.)

314. Trade-Mark; When Deemed Affixed.—A trade-mark shall be deemed to be affixed to any goods, wares, merchandise, mixture, preparation or compound whenever it is in any manner placed in or upon either the article itself or a box, bale, barrel, bottle, case, cask or other vessel or package, or a cover, wrapper, stopper, brand, label or other thing in, by or with which the goods are packed, inclosed or otherwise prepared for sale or disposition. (Id. § 10345.)

314a. Trade-marks of Workmen's Unions.—Whenever any person or any association or union of workmen, shall have adopted or used any label, trade-mark, term, design, device, or form of advertisement for the purpose of designating, making known, or distinguishing any product of labor as having been made, produced, prepared, packed, or put on sale by such person, association, or union, or by a member thereof it shall be unlawful to counterfeit or imitate the same, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device, or form of advertisement. (Id. § 10346.)

314b. Counterfeiting or Dealing in Counterfeits—How Punished.—Every person who shall counterfeit or imitate any such label, trade-mark, term, design, device, or form of advertisement, or shall sell, offer for sale, or in any way utter or circulate any counterfeit or imitation thereof; or who shall keep, or have in his possession with intent that the same shall be sold or disposed of, any product of labor to or upon which any such counterfeit or imitation is attached, affixed, or impressed; or who shall knowingly sell or dispose of any product of labor contained in any box, case, can, or package to or upon which any such counterfeit or imitation is attached, affixed, or impressed; or who shall have in his possession, with intent that the same shall be sold or disposed of, any product of labor in any box, case, can, or package to which or upon which any such counterfeit or imitation is attached, affixed or impressed—shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars. (Id. § 10347.)

314c. Registration.—Every such label, trade-mark, term, device, design, or form of advertisement may be filed for record in the office of the Secretary of State on payment of a fee of one dollar each. In so filing the same, two copies, counterparts, or facsimiles thereof shall be left with such secretary, together with a sworn statement specifying the names of the persons, association, or union in whose behalf the same is filed, the class and description of the goods or products of labor to which it is or is intended to be appropriated, that the party in whose behalf the same is filed has the sole right to its use, and that the counterparts of facsimiles filed are correct. But no label, trade-mark, term, design, device, or form of advertisement shall be so filed or recorded which could reasonably be mistaken for one theretofore filed. (Id. § 10348.)

314d. Fraudulent Registration or Use—Penalty.—Every person who shall for himself, or on behalf of any other person, association, or union, procure the filing of any label, trade-mark, term, design, device, or form of advertisement with such secretary under the foregoing provisions by any fraudulent means, and every person who shall use the name or seal of any such person, association, or union, or officer thereof in or with reference to the sale of goods or products of labor, not being authorized to use the same, shall be guilty of a misdemeanor. (Id. § 10349.)

314e. Certificates—Illegal Use—Penalty.—Such secretary shall deliver to the person, association, or union filing any such label, trade-mark, term, design, device, or form of advertisement such number of certificates of the record thereof

as shall be applied for, on payment of a fee of one dollar for each certificate, and such certificates shall in all cases be prima facie evidence of the adoption of such label, trade-mark, term, design, device, or form of advertisement. Every person who, without authority of the owner thereof, shall use or display the genuine label, trade-mark, term, design, device, or form of advertisement of any such person, association, or union, shall be guilty of a misdemeanor. (Id. § 10350.)

314f. Incriminating evidence.—No testimony or evidence given or produced in a civil action, or on any reference or other proceeding in said action, by any party thereto or any witness therein, shall be used in any criminal prosecution against such witness or party under the provisions of this sub-division; nor shall any party or witness refuse to testify or produce books or papers as evidence in any civil action by reason of such provisions. (Id. § 10351.)

NOTE: See also Nos. 40e and 82 et seq.

Weights and Measures.

315. Department Created; Jurisdiction of Railroad and Warehouse Commission.—There is hereby created a department to be known as the department of "Weights and Measures," hereafter referred to as the department, and it shall be under the jurisdiction of the Railroad and Warehouse Commission, hereafter referred to as the commission, which shall have supervision and control over all weights, weighing devices and measures in the State. (G. S. 1923, § 5270.)

316. Commissioner of Weights and Measures; Deputies and Employees.—The commission shall appoint a Commissioner of Weights and Measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter, and fix their compensation. The Commissioner of Weights and Measures and the deputies shall give a bond in a sum to be fixed and approved by the commission. The commission shall provide for such examinations as it may deem necessary to determine the qualifications and fitness of appointees. (Id. § 5271.)

317. Commissioner of Weights and Measures Salary \$2,500 and Deputies \$1,500.—The salary of the Commissioner of Weights and Measures shall be paid twenty-five hundred (\$2,500.00) dollars per annum, and all deputies not to exceed fifteen hundred (\$1,500.00) dollars per annum. (Id. § 5272.)

318. Fees to be Paid Into State Treasury.—All moneys collected by the department for special services, fees and penalties shall be paid into the State treasury, and credited to a fund known as the weights and measures fund, and available for the use of the Department of Weights and Measures. (Id. § 5273.)

319. Rules and Regulations.—The commission shall prescribe and adopt such rules and regulations as it may deem necessary to carry out the provisions of this chapter, and it may change, modify or amend any or all rules whenever deemed necessary, and the rules so made shall have the force and effect of law. (Id. § 5275.)

320. Duties and Powers of Department; Standard of Weights and Measures.—The department shall take charge of, keep and maintain in good order the standard of weights and measures of the State and submit them to the Bureau of Standards of Washington, D. C., for certification when it is deemed necessary; and shall keep a seal so formed as to impress the letters "MINN" and the date of sealing upon the weights and measures that are sealed; it shall test, correct and seal, when found to be accurate, at least once every year and as much oftener as may be necessary, all the copies of the standards used throughout the State for the purpose of testing the weighing or measuring apparatus used in the State, and keep a record thereof; it shall have general supervision of the weights, measures and weighing or measuring devices offered for sale, sold or used in the State; and shall, upon the written request of any person, test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the State; it shall keep a complete record of the standards, balances and all testing and sealing apparatus owned by the State, and shall annually during the first fifteen (15) days of January make a report of its actions to the Governor of the State. (Id. § 5276.)

321. Inspecting, Testing, Sealing; Incorrect Weights, Measures, etc.—The department or any of its employees shall have power to inspect and test all weights, scales, beams and measures of every kind, instruments and mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments for measurement that are kept, offered or exposed for sale, or sold or used or employed within this State by any person in determining the size, quantity, extent, area or measurement of quantities, things, produce, articles for distribution

or consumption, offered or submitted by any person for sale, hire or reward; and it shall at least once in each year, and as much oftener as may be deemed necessary, see that the weights, measures and all apparatus used in the State are correct. In the general performance of this duty the department or any of its employees may enter or go into and upon any stand, place, building or premises to stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon or any dealer whatsoever and require him, if necessary, to proceed to some place which the scaler may specify for the purpose of making proper tests. Scales, weights, measures or weighing or measuring instruments that are found upon inspection to correspond with the standards in the possession of the department shall be sealed with proper devices to be approved by the commission. Any employee shall condemn, seize and destroy incorrect weights, measures or weighing or measuring devices which, in the judgment of the department, cannot be satisfactorily repaired, and such as are incorrect and yet may be repaired shall be marked as "condemned for repair" in the manner to be prescribed by the department. The owners or users of any scales, weights, measures or weighing or measuring instrument[s] which have been so disposed of shall have the same repaired or corrected within thirty (30) days, and the same shall not be used or disposed of in any way without the consent of the department. (Id. § 5277.)

322. Offenses and Penalties, etc.—Any person who shall offer or expose for sale, sell or use, or have in his possession a false scale, weight or measure, or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed within one year, as provided by this law, or use the same in the buying or selling of any commodity or thing; or who shall dispose of any condemned weight, measure or weighing or measuring device, or remove any tag placed thereon by any authorized employee of the department, or shall sell or offer or expose for sale less than the quantity he represents; or sell or offer or expose for sale any such commodities in the manner contrary to law; or shall sell or offer for sale or have in his possession for the purpose of selling, any device or instrument to be used to, or calculated to, falsify any weight or measure, or shall refuse to pay any fee charged for testing and sealing or condemning any scale, weight or measure, or weighing or measuring device, shall be guilty of a misdemeanor, and shall, upon conviction, be fined a sum not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) or by imprisonment for not less than ten (10) days nor more than ninety (90) days, and the costs of such proceeding. No scale, weight, measure, or weighing or measuring device that has been sealed by the department shall be used, sold or exposed for sale until the fee charged for the service has been paid. (Id. § 5278.)

323. Hindering Official a Misdemeanor.—Any person hindering, impeding or restricting in any way any employee of the department while in the performance of his official duty shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine of not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) or by imprisonment for not less than ten (10) days nor more than ninety (90) days for each offense. (Id. § 5279.)

324. Powers as Special Policemen.—The said department and all authorized employees under the provisions of this act are hereby made special policemen and are authorized and empowered to arrest, without formal warrant, any violator of the statute in relation to weights and measures, and to seize for use as evidence and without formal warrant, any false weight, measure, or weighing or measuring device or package or kind of commodity found to be used, retained or offered or exposed for sale or sold in violation of law. (Id. § 5280.)

324a. Duty of Treasurers.—The State Treasurer and the county treasurers of the various counties shall deliver to the department all standards of weights and measures, balances, testing apparatus and sealing equipment now in their possession within ninety (90) days after the passage of this act. (Id. § 5281.)

325. Abolishing Fee For Inspection of Weights and Measures.—No fee shall be charged for the regular annual inspection of scales, weights, measures and weighing or measuring devices. At all other times, the cost of the inspection shall be paid by the owner when the same is performed at his request; and when made at the request of some other person the cost shall be paid by the owner, if the scale, weight, measure and weighing or measuring device is found to be incorrect; otherwise by the person making the request. The commission shall have power to fix the fees and expenses for all special services. The sum of ten thousand dollars (\$10,000.00), together with the sum in the weights and measures fund, is hereby appropriated for the payment of salaries of employees and expenses of said department for the fiscal year ending July 31st, 1915, and thirty thousand dollars (\$30,000.00) annually for the fiscal years ending July 31st, 1916 and 1917,

and the same or so much thereof as may be necessary, shall be allowed and paid by the State upon the approval of a member of the Railroad and Warehouse Commission, and the State Auditor. All moneys collected by the department for special services, fees and penalties shall be paid into the State treasury, and credited to the State revenue fund. (Id. § 5282.)

326. Construction of "Person."—The word "person" shall be construed to mean person or persons, corporation, partnership, stock company, or the agent or employee thereof. (Id. § 5283.)

327. State Treasurer to Keep Standards.—The State Treasurer shall keep weights, measures, and scales which shall conform to the standards established by law, and shall test thereby all weights, measures, and scales presented to him by any county sealer, and, when he finds them accurate, shall stamp upon them, with a seal kept for that purpose, the letters "Min." (Id. § 7019.)

327a. County Sealers—Deputies—Fees.—Every county treasurer shall be the sealer of weights and measures for his county. He shall keep a full set of weights, measures, and scales, and in January, 1910, and in every fifth January thereafter, and whenever new ones are procured, shall cause the same to be tested and sealed by the State Treasurer; and he shall test thereby all weights, measures, and scales presented to him, and, when he finds them accurate, shall stamp upon them, with a seal kept for that purpose, the letters "Min." He shall receive five cents for every weight, measure, or scale tested. He may appoint deputy sealers, whose appointments shall be filed with the register of deeds. (Id. § 7020.)

328. Dry Measures.—The standard measure of capacity for commodities sold by dry measure, shall be the bushel containing 2150.42 cubic inches. The half bushel, peck, half peck, quarter peck, quart and pint shall be derived by successively dividing that measure by two. (Id. § 7021.)

329. Liquid Measure.—The standard measure of capacity for liquids shall be the wine gallon, containing 231 cubic inches; and 31.50 gallons shall constitute a barrel, except for fermented malt liquors, which shall be a barrel of 31 gallons, and 63 gallons a hogshead. (Id. § 7022.)

330. Hundredweight.—In contracts for the sale of goods or commodities, the term "hundredweight" shall mean 100 pounds avoirdupois. (Id. § 7024.)

331. Standard Weight of Bushel, etc.—In contracts for the sale of any of the following articles, the term "bushel" shall mean the number of pounds avoirdupois herein stated: Corn, in ear, 70; beans (except lima beans, scarlet runner pole beans and white runner pole beans, and broad windsor beans), smooth peas, wheat, clover seed, Irish potatoes and alfalfa, 60; broom corn seed and sorghum seed, 57; shelled corn (except sweet corn), rye, lima beans, flaxseed and wrinkled peas, 56; sweet potatoes and turnips, 55; onions and rutabagas, 52; buckwheat, hempseed, rapeseed, beets, green apples, walnuts, rhubarb, hickory nuts, chestnuts, tomatoes, scarlet runner pole beans and white runner pole beans, 50; barley, millet, Hungarian grass seed, sweet corn, cucumbers and peaches, 48; broad windsor beans, 47; carrots, timothy seed and pears, 45; parsnips, 42; spelt or splits, 40; cranberries, 36; oats and bottom onion sets, 32; dried apples, dried peaches and top onion sets, 28; peanuts, 22; blue grass, orchard grass and red-top seed, 14; plastering hair, unwashed, 8; plastering hair, washed, 4; lime, 80; but if sold by the barrel the weight shall be 200 pounds. (Id. § 7025.)

332. Standard Weight of Coal, Charcoal and Ice.—In all contracts for the sale of coal, charcoal, and ice, the term "ton" shall mean 2,000 pounds. A sale of coal, charcoal and ice, except by weight is hereby prohibited. (Id. § 7027.)

333. Standard Weight of Flour.—In all contracts for the sale of flour, the term "barrel" shall mean 196 net pounds avoirdupois. (Id. § 7028.)

334. Fractional Parts.—All contracts for the sale of a fractional part of a bushel, barrel, ton or cord of any article or commodity on which the legal weight or measurement per bushel, barrel, ton or cord has been established, shall require and mean a like fractional part of the legal and established weight or measurement per bushel, barrel, ton or cord. (Id. § 7029.)

335. Penalty For Violation.—Whoever, in buying, shall take any greater number of pounds or cubic feet to the bushel, barrel, ton or cord, as the case may be, than is herein allowed and provided, or in selling, shall give any less number, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100), or by imprisonment for not less than ten (10) days nor more than ninety (90) days in the county jail, and the cost of such proceeding. (Id. § 7030.)

336. Variations; Duty of Railroad and Warehouse Commission.—The railroad and warehouse commission shall establish uniform tolerances or reasonable

variation to take care of unavoidable shrinkage, and of scale variations in handling and weighing of any of the articles mentioned in this act. (Id. § 7031.)

337. Sealing.—Every person engaged in any business requiring the use of weights or measures shall cause those used by him to be tested and sealed by the county sealer. Every person who shall buy, sell, or dispose of any goods or commodities by an unsealed weight, measure, or scale kept by him, or shall knowingly use any such weight, measure, or scale which has been sealed, but is incorrect, shall be guilty of a misdemeanor; but no contract of sale shall thereby be rendered void. (Id. § 7032.)

338. Testing Upon Request.—Upon written request of any person aggrieved, and payment of one dollar, and mileage at the rate of twenty cents per mile going and returning, the county sealer or his deputy shall test any weights, measures, or scales used in his county, whether already sealed or not. If such sealer or deputy shall give to the person complained of prior notice of such testing, he shall be guilty of a misdemeanor. (Id. § 7033.)

339. Neglect to Procure Standards.—Whenever a county treasurer is requested in writing to procure any standard of weight or measure required by law to be kept by him, he shall procure the same within twenty days thereafter, or forfeit to the county one hundred dollars, at the suit of any interested person. (Id. § 7034.)

340. Fines.—All fines collected under the provisions of this chapter shall be paid to the county treasurer for the benefit of the school fund of the county where the action is brought. (Id. § 7035.)

341. Using False Weights and Measures.—Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly delivering less than the quantity he represents; or who shall retain in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the foregoing provisions of this section; or who shall knowingly mark or stamp false or short weights or false tare on any cask or package, or knowingly sell or offer for sale any cask or package so marked—shall be guilty of a misdemeanor. (Id. § 10401.)

342. Containers For Small Fruits to be of Legal Size.—It shall be unlawful for any person to sell, offer for sale, or give away, any containers for the distribution of berries or small fruits in less quantities than one bushel, unless said containers are of the capacity of one quart, one pint, or one-half pint, or multiples of a quart, standard dry measure, and all sales of raspberries, blackberries, blueberries, currants, gooseberries, strawberries, and similar berries, and all plums, cherries and similar small fruit, in less quantities than one bushel shall be by dry measure, or in containers as above specified. The possession of containers for berries or small fruit shall be presumptive evidence that they were to be used for distribution. (Id. § 10402.)

343. Not to be Refilled.—In no case shall said containers be refilled for use in the sale of berries or small fruits of any kind whatsoever. (Id. § 10403.)

344. Penalty For Violation.—Any person violating the provisions of this law shall be guilty of a misdemeanor and punished by a penalty of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days. (Id. § 10404.)

NOTE: See also No. 5; the bread law, No. 41 et seq.; the dairy law, No. 63 et seq.; the grain law, No. 142 et seq.; the match law, No. 286a et seq.

PART V.

Cases.

1. General Food and Drug Law.

Cooking Oil—Adulteration: See *Meshbesh v. Channellene Oil & Manufacturing Co.*, 107 Minn. 104, 119 N. W. 428, 131 Am. St. Rep. 441 (1909).

Drugs—Statement in Circular by One Manufacturer that Product of Another is Non-Genuine—Action for Libel: *Landon et al. v. Watkins*, 61 Minn. 137, 63 N. W. 615 (1895).

Food License—Application Refused: *State ex rel. Ratner v. City of Minneapolis et al.*, 164 Minn. 49, 204 N. W. 632 (1925).

2. Special Food Laws.

Baking Powder—Labeling: *Stolz v. Thompson, 44 Minn. 271, 46 N. W. 410 (1890); *State v. Sherod, *State v. Horrigan, *State v. O'Grady, 80 Minn. 446, 83 N. W. 417, 50 L. R. A. 660, 81 Am. St. Rep. 268 (1900). *In re Ware, 53 Fed. 783 (1892).

Beverages—Flavoring Extracts: W. T. Rawleigh Co. v. Rutkowski et al., 168 Minn. 108 (1926).

Butter—Adulteration: State v. Eidsvold Creamery Co., 156 Minn. 27, 194 N. W. 17 (1923).

Confectionery—Sale in Another State: State v. Gruber, 116 Minn. 221, 133 N. W. 571, 45 L. R. A. (N. S.) 591 (1911).

Cream—Minimum Fat Standard: *State v. Crescent Creamery Co., 83 Minn. 284, 86 N. W. 107, 54 L. R. A. 466, 85 Am. St. Rep. 464 (1901); *State v. Tetu, 98 Minn. 351, 107 N. W. 953 (1906), taxation of costs set aside in Same, 98 Minn. 351, 108 N. W. 470 (1906).

Dairy Products—Locality Discrimination in Purchase or Sale: *State v. Bridgeman & Russell Co., 117 Minn. 186, 134 N. W. 496, Ann. Cas. 1913 D, 41 (1912); *State v. Fairmont Creamery Co., 162 Minn. 146, 202 N. W. 714, 42 A. L. R. 548 (1925); *Same, 168 Minn. 378, 210 N. W. 163, 608 (1926), reversed in *Fairmont Creamery Co. v. State of Minnesota, 47 S. Ct. 506 (1927).

Dairy Products—Monopoly: State v. Minneapolis Milk Co. et al., 124 Minn. 34, 144 N. W. 417, 51 L. R. A. (N. S.), 244 (1913).

Lard—Lard Substitutes—Labeling: *State v. Aslesen, *Same v. Bassett, 50 Minn. 5, 52 N. W. 220, 36 Am. St. Rep. 620 (1892); *State v. Hanson, 84 Minn. 42, 86 N. W. 768, 54 L. R. A. 468 (1901).

Markets: See *Meat—License; Vegetables—License.*

Meat—Use of Borax Preservative: State v. Rumberg, 86 Minn. 399, 90 N. W. 1055 (1902); State v. Wagenhals, 86 Minn. 399, 90 N. W. 1133 (1902).

Meat—Inspection Before Slaughter: *Swift v. Sutphin, 39 Fed. 630 (1889), writ of error dismissed in Sutphin v. Swift, 140 U. S. 699, 11 S. Ct. 1029, 35 L. Ed. 593 (1890); *Minnesota v. Barber, 136 U. S. 313, 10 S. Ct. 862, 34 L. Ed. 455 (1890), affirming *In re Barber, 39 Fed. 641 (1889).

Meat—License: *City of St. Paul v. Colter, 12 Minn. 41, 90 Am. Dec. 278 (1866).

Milk—Cream—Testing Apparatus: Cobb v. French, 111 Minn. 429, 127 N. W. 415 (1910).

Milk—Dairy Herds—Inspection—License: City of St. Paul v. Peck, 78 Minn. 497, 81 N. W. 389 (1900); *State v. Elofson, 86 Minn. 103, 90 N. W. 309 (1902). See also: *Milk—Dairy Herds—Tuberculin Test.*

Milk—Dairy Herds—Tuberculin Test: *State v. Nelson, 66 Minn. 166, 68 N. W. 1066, 34 L. R. A. 318, 61 Am. St. Rep. 399 (1896); *Nelson et al. v. City of Minneapolis et al., 112 Minn. 16, 127 N. W. 445, 29 L. R. A. (N. S.) 260 (1910). See also: *Schulte et al. v. Fitch et al., 162 Minn. 184, 202 N. W. 719 (1925); *Same, 166 Minn. 498, 207 N. W. 639 (1925).

Milk—Dairymen—License: See the two preceding paragraphs.

Milk—Skimmed Milk—Labeling: See Sloggy v. Crescent Creamery Co., 72 Minn. 316, 75 N. W. 225 (1898).

Oleomargarine: *Butler v. Chambers, 36 Minn. 69, 30 N. W. 308, 1 Am. St. Rep. 638 (1886); *State ex rel. Weideman v. Horgan, 55 Minn. 183, 56 N. W. 688 (1893); *State v. Hammond Packing Co., 105 Minn. 359, 117 N. W. 606 (1908); *State v. Hanson, 118 Minn. 85, 136 N. W. 412, 40 L. R. A. (N. S.) 865, Ann. Cas. 1913 E, 405 (1912). *In re Gooch, *State v. Gooch, 44 Fed. 276 (1890); *Armour Packing Co. v. Snyder et al., 84 Fed. 136 (1897); *Minnesota v. Brundage, 180 U. S. 499, 21 S. Ct. 455, 45 L. Ed. 639 (1901), reversing *In re Brundage, 96 Fed. 963 (1899).

Sanitation—Protection of Fruits and Candy From Flies and Dust: *State ex rel. Bacigalupo v. O'Connor, 115 Minn. 339, 132 N. W. 303, Ann. Cas. 1912 D, 955 (1911). See also: State ex rel. Ratner v. City of Minneapolis et al., 164 Minn. 49, 204 N. W. 632 (1925).

Vegetables—License: City of St. Paul v. Traeger, 25 Minn. 248, 33 Am. Rep. 462 (1878).

3. Special Drug Laws.

Narcotics: State v. Whipple, 143 Minn. 403, 173 N. W. 801 (1919); *State ex rel. Whipple v. Martinson, 144 Minn. 206, 174 N. W. 823 (1919), affirmed in *State of Minnesota on the Relation of Whipple v. Martinson, Sheriff of Hennepin County, Minnesota, 256 U. S. 41, 41 S. Ct. 425, 65 L. Ed. 819 (1921).

Pharmacy: *State v. Donaldson, 41 Minn. 74, 42 N. W. 781 (1889); State v. Robinson, 55 Minn. 169, 56 N. W. 594 (1893); *State ex rel. Childs et al. v. Griffen, 69 Minn. 311, 72 N. W. 117 (1897); State v. Currie, 72 Minn. 403, 75 N. W. 742 (1898); *State v. Hovorka, 100 Minn. 249, 110 N. W. 870, 8 L. R. A. (N. S.) 1272 (1907); *Minnesota State Pharmaceutical Association v. State Board of Pharmacy et al., 103 Minn. 21, 114 N. W. 245 (1907).

Pharmacy—Patent Medicines—Domestic Remedies—Sale by Merchants: *State v. Donaldson et al., 41 Minn. 74, 42 N. W. 781 (1889).

Poisons: State v. Mayo, 118 Minn. 336, 136 N. W. 849 (1912). See also: Osborne v. McMasters, 40 Minn. 103, 41 N. W. 543, 12 Am. St. Rep. 698 (1889); McCrossin v. Noyes Bros. & Cutler, Inc., 143 Minn. 181, 173 N. W. 566 (1919).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Confectionery—"Electric Sparkler Suckers": Schmidt v. Capital Candy Co. et al., 139 Minn. 378, 166 N. W. 502 (1918).

Drugs: Osborne v. McMasters, 40 Minn. 103, 41 N. W. 543, 12 Am. St. Rep. 698 (1889); Moehlenbrock v. Parke, Davis & Co. et al., 141 Minn. 154, 169 N. W. 541 (1918); Moehlenbrock v. Parke, Davis & Co., Rosenwald et al., Appellants, 145 Minn. 100, 176 N. W. 169 (1920). See also: Martinson v. Neubert et al., 150 Minn. 263, 185 N. W. 651 (1921).

Food: Meshbesh v. Channellene Oil & Manufacturing Co., 107 Minn. 104, 119 N. W. 428, 131 Am. St. Rep. 441 (1909); Bark v. Dixon et al., 115 Minn. 172, 131 N. W. 1078, Ann. Cas. 1912 D, 775 (1911). See also: Ryder v. Neitge, 21 Minn. 70 (1874); Hanson v. Hartse, 70 Minn. 282, 73 N. W. 163 (1897); Sloggy v. Crescent Creamery Co., 72 Minn. 316, 75 N. W. 225 (1898); Neiman v. Channellene Oil & Manufacturing Co., 112 Minn. 11, 127 N. W. 394, 140 Am. St. Rep. 458 (1910).

Hair-Dye: Wilson v. Goldman, 133 Minn. 281, 158 N. W. 332 (1916).

Insecticide: McCrossin v. Noyes Bros. & Cutler, Inc., 143 Minn. 181, 173 N. W. 566 (1919).

5. Miscellaneous.

Gift Enterprise: State v. Moren, 48 Minn. 555, 51 N. W. 618 (1892); *Kanne v. Segerstrom Piano Manufacturing Co., 118 Minn. 483, 137 N. W. 170 (1912); State v. Powell et al., 212 N. W. 169 (1927).

Trade-Marks: Allen et al. v. McCarthy, 37 Minn. 349, 34 N. W. 416 (1887); Cigar-Makers Protective Union v. Conhaim et al., 40 Minn. 243, 41 N. W. 943, 3 L. R. A. 125, 12 Am. St. Rep. 726 (1889); Watkins v. Landon et al., 52 Minn. 389, 54 N. W. 193, 19 L. R. A. 236, 38 Am. St. Rep. 560 (1893); J. R. Watkins Medical Co. v. Sands et al., 80 Minn. 89, 82 N. W. 1109 (1900); Same, 83 Minn. 326, 86 N. W. 340 (1901); Citizens Wholesale Supply Co. v. The Golden Rule, 147 Minn. 248, 180 N. W. 95 (1920). See also: Rickard et al. v. Caton College Co. et al., 88 Minn. 242, 92 N. W. 958 (1903); Nesne et al. v. Sundet et al., 93 Minn. 299, 101 N. W. 490, 106 Am. St. Rep. 439 (1904); Sheffield-King Milling Co. v. Sheffield Mill & Elevator Co., 105 Minn. 315, 117 N. W. 447, 127 Am. St. Rep. 574 (1908); Northwestern Knitting Co. v. Garon, 112 Minn. 321, 128 N. W. 288 (1910); Rodseth v. Northwestern Marble Works et al., 129 Minn. 472, 152 N. W. 885, Ann. Cas. 1917 A. 257 (1915); Jordan Sulphur Springs & Mud Bath Sanitarium Co. v. Mudbaden Sulphur Springs Co. et al., 135 Minn. 123, 160 N. W. 252 (1916); Yellow Cab Co. v. Cooks Taxicab & Transfer Co., 142 Minn. 120, 171 N. W. 269 (1919); Thompson Lumber Co. v. Thompson Yards, Inc., 144 Minn. 298, 175 N. W. 550 (1919).

Trading Stamps: *State ex rel. Simpson v. Sperry & Hutchinson Co., 110 Minn. 378, 126 N. W. 120, 30 L. R. A. (N. S.) 966 (1910). See also: *Kanné v. Segerstrom Piano Manufacturing Company, 118 Minn. 483, 137 N. W. 170 (1912).

Weights and Measures: *State v. Armour & Co., 118 Minn. 128, 136 N. W. 565 (1912); *State ex rel. Stone v. Eck, 121 Minn. 202, 141 N. W. 106, Ann. Cas. 1914 C, 678 (1913); *State v. People's Ice Co., 124 Minn. 307, 144 N. W. 962 (1914); State v. Washed Sand & Gravel Co., 136 Minn. 361, 162 N. W. 451, L. R. A. 1917 D, 1127 (1917); State v. Ahlgren, State v. I. A. Grant Co., 158 Minn. 334, 197 N. W. 738 (1924). See also: Bisbee et al. v. McAllen, 39 Minn. 143, 39 N. W. 299 (1888); Eagle Roller-Mill Co. v. Dillman et al., 67 Minn. 232, 69 N. W. 910 (1897); State v. Shippman, 83 Minn. 441, 86 N. W. 431 (1901); Northwestern Elevator Co. v. Great Northern Railway Co., 121 Minn. 321, 141 N. W. 298 (1913).

MISSISSIPPI.*

PART I.

General Food and Drug Law.

1. When Drugs Deemed Adulterated.—A drug shall be deemed adulterated:

(a) If when sold under a name recognized in the United States pharmacopœia it differ from the standard of strength, quality or purity laid down therein;

(b) If, when sold under a name not recognized in said pharmacopœia, but which is found in some other pharmacopœia or other standard work on materia medica, it differ from the standard of strength, quality, or purity laid down in such work; or

(c) If its strength, quality, or purity fall below the professed standard under which it is sold. (Annotated Code 1917, § 4654.)

1a. Drugs; Definition.—All medicines for internal or external use for man or beast. (Id. § 1344.)

1b. Adulterated Food and Drugs Forfeited.—If any person shall sell, keep, or offer for sale any adulterated food or drug, the whole of the adulterated article shall be forfeited to the county. (Id. § 4664.)

2. Inspectors of Food Appointed.—The board of supervisors of every county, and the mayor and board of aldermen of every city, town, and village, respectively, may appoint and commission a suitable person to be inspector of food, and said boards may direct, from time to time, what kinds of food shall be inspected. (Id. § 4655.)

3. Regulations Adopted; Penalties.—The said boards may respectively make and publish all needful regulations for the government of the inspectors, and of dealers in food, and may enforce such regulations by proper penalties, and they may prescribe and regulate the compensation of the inspector and his fees and perquisites, and define his duties. (Id. § 4656.)

3a. Oath and Bond of Inspector.—Every inspector of food, before he enters on his duties, shall take and subscribe the following oath, to be attached to his commission: "I, A B, do swear [or affirm] that, as inspector of food for the _____, I will not knowingly or willfully injure any person, or suffer any injury to be done by others, with my knowledge or consent; and I will, at all times and in all things, well and truly perform all the duties of the inspector of food for the _____ according to law, to the best of my ability, without fear, favor, or partiality. So help me God." And he shall give bond, with sufficient sureties, payable to the county, city, town, or village, in the sum of five hundred dollars, conditioned for the faithful performance of his duties. (Id. § 4657.)

4. Inspectors Liable as Other Officers.—Every inspector of foods shall be liable, civilly and criminally, as other officers are, for fraud and any malfeasance or misfeasance in office, and shall be liable on his bond for the safe-keeping and accounting for the standards of weights and measures. (Id. § 4658.)

5. Penalty For Opposing the Inspector.—Any person who shall oppose or obstruct any inspector of foods in the discharge of his official duties, shall, for every such offense, forfeit and pay two hundred dollars, and shall, moreover, be liable to an action for any injury or damage that may be sustained by any such opposition or obstruction. (Id. § 4661.)

6. Prohibiting Manufacture and Sale of Adulterated, Misbranded or Insufficiently Labeled Foods.—It shall be unlawful for any person, persons, firm or corporation, within this State, to manufacture for sale, produce for sale, knowingly expose for sale, have in his or their possession for sale or sell any article of food which is adulterated, misbranded or insufficiently labeled within the meaning of this act,† and any person, persons, firm or corporation who shall manufacture for sale, produce for sale, expose for sale, have in his or their possession

*CITATIONS: "Annotated Code 1917" refers to Hemingway's Annotated Mississippi Code, 1917. "Annotated Code Supplement 1921" refers to the 1921 supplement thereto. "L." refers to the session laws of the year cited.

†Laws 1910, c. 132, included in Nos. 6-17 herein.

for sale, or sell any article of food which is adulterated, misbranded or insufficiently labeled within the meaning of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars, nor more than five hundred dollars, or be imprisoned not to exceed ninety days, or both such fine and imprisonment; provided it shall be lawful to sell any article named in this act which is up to the standard required by the national pure food law or any federal statute regulating or governing the manufacture or sale of such article. (Id. § 4665.)

7. What the Term Food Shall Include.—The term "food" as used in this act shall include every article used for, or entering into the composition of, or used or intended for use in the preparation of food or drink for man, whether simple, mixed or compound. (Id. § 4666.)

8. Articles Deemed Adulterated.—For the purpose of this act an article of food shall be deemed to be adulterated:

First—If any substance be mixed or packed with it so as to reduce or lower or injuriously affect its quality, strength or purity.

Second—If any substance be substituted, wholly or in part, for the article.

Third—If any valuable constituent of the article has been, wholly or in part, abstracted; or if the product be below that standard of quality, strength or purity represented to the purchaser or consumer.

Fourth—If it be mixed, colored, or changed in color, coated, polished, powdered, stained or bleached, whereby damage or inferiority is concealed, or so that it may mislead the purchaser or consumer, or if by any means it is made to appear better or of greater value than it is, or if it is colored or flavored in imitation of the genuine color or flavor of another substance.

Fifth—If it contains any added boric acid or borates, salicylic acid, or calisylates, formaldehyde, sulphurous acid or sulphites (except minute residual amounts of sulphurous acid and sulphites which can not be removed after clarifying sugar cane juice in the preparation of syrup), hydrofluoric acid or fluorides, fluoborates, fluosilicates or other fluorine compounds, dulcine, glucine, saccharin, betanaphthol, hydronaphthol, abristol, asaprol, oxides of nitrogen, nitrous acid or nitrites, compounds of copper, or other added ingredients not specifically mentioned in this paragraph and which is [are] deleterious to health; or if, in the case of confectionery, it contains any of the substances mentioned in this paragraph or any mineral substance, alcoholic liquor or any other substance, deleterious to health; provided, however, that nothing in this act shall be construed to prohibit the use of common salt, sugar, wine, vinegar, cider vinegar, malt vinegar, sugar vinegar, distilled vinegar, spices and other essential oils, alcohol (except in confectionery), edible oils, edible fats, or wood smoke applied directly or generated, or proper refrigeration.

Sixth—If it contains of or is manufactured, in whole or in part, from a diseased, contaminated, filthy or decomposed substance, either animal or vegetable, or an animal or vegetable substance produced, stored, transported or kept in a condition that would render the article diseased, contaminated, filthy or unwholesome, or if it is any part of a diseased animal, or the product of an animal that has died otherwise than by slaughter, or that has been fed upon the offal from a slaughter-house, or if it is the milk from an animal fed upon a substance unfit for food or dairy animals; provided, that any article of food which is not adulterated under the provisions of paragraph[s] four, five and six of section 3 [4667] of this act, and not misbranded or insufficiently labeled within the meaning of this act, and which does not contain any filler or ingredient which debases without adding food value, may be manufactured or sold if the same be labeled, branded or tagged [so] as to show the true character and the true composition thereof. All labeling of packages required in any provisions of this act shall be on the main label of each package and in such character and size of type as shall be in such position and terms as may be plainly seen and read and understood by the purchaser or consumer. Provided, further, that nothing in this act shall be construed as requiring or compelling the proprietors, manufacturers or sellers of proprietary foods, which contain no added deleterious substance, substances, or ingredient or ingredients, to disclose their trade formulas, except in so far as the provisions of this act require to secure freedom from adulteration, imitation or misbranding. (Id. § 4667.)

9. Articles Deemed Misbranded.—For the purpose of this act an article shall be deemed to be misbranded:

First—If it be an imitation of or offered for sale under the name of another article.

Second—If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package.

Third—If the package containing it or its label shall bear any statement, design or device regarding the ingredients of the substances contained therein, which statement, design or device shall be false in any particular. (Id. § 4668.)

10. Articles Deemed Mislabeled.—For the purpose of this act an article shall be deemed to be mislabeled or misbranded:

If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package. (Id. § 4669.)

11. State Chemist to Fix and Publish Standards of Purity.—It shall be the duty of the State Chemist to fix and publish standards of purity for food products, which standards shall be those promulgated by the Secretary of Agriculture, the Secretary of the Treasury, and the Secretary of Commerce and Labor of the United States. When no standards have been promulgated as aforesaid, they shall be fixed by the State Chemist. (Id. § 4670.)

12. State Chemist Charged With Enforcement of Law.—The State Chemist is hereby charged with the proper enforcement of this act, and the inspection, collection, examination and analysis of specimens of food to determine whether such articles are adulterated, misbranded or insufficiently labeled shall be carried out under his supervision. Such inspectors and chemist [s] as are absolutely necessary for maintaining an inspection of goods manufactured, sold, offered or kept for sale, shall be appointed by the president and board of trustees of the Agricultural and Mechanical College on his [their] recommendation and all necessary expenses connected with the inspection, the making and publication of analysis, and the keeping of records shall be paid out of the funds of the chemical department under the direction of the board of trustees of the college. The State Chemist shall have the authority to publish from time to time in bulletins and also in newspapers of the State, the results of the inspection of foods, whether found to be adulterated or not, and to establish such rules and regulations not inconsistent with this act, as will best carry its provisions into effect. (Id. § 4671.)

13. How Adulterated Article Dealt With; Notice to Person, Firm, From Whom Sample Received—District Attorney to Proceed Against Same.—When it shall appear from examination or analysis that a specimen or sample of food manufactured, sold, offered or exposed for sale in this State is adulterated, misbranded or insufficiently labeled within the meaning of this act, due notice thereof shall be given the person, firm or corporation from whom the specimen or sample was obtained and such person, firm or corporation shall be given an opportunity to be heard and if it appears that any of the provisions of this act have been violated, the State Chemist shall certify the facts to the proper district attorney, with a copy of the results of the examination and analysis duly authenticated by the chemist or officer making such examination under the oath of such chemist or officer. The certificate of the chemist or other officer making the analysis and making the examination, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified. It is provided, however, that in case it shall appear, that the violations of this act is [are] properly a subject of interstate commerce or otherwise comes under the supervision and jurisdiction of the United States, the State Chemist may certify the case to the United States District Attorney in whose district the violations may have been committed. (Id. § 4672.)

14. District Attorney to Institute Proceedings.—It shall be the duty of every district attorney to whom the State Chemist shall report any violation of this act to cause proceedings to be commenced and prosecuted by the fines and penalties prescribed in such cases. (Id. § 4673.)

15. Samples and Specimens to be Taken in Unbroken Packages, if Possible.—Samples or specimens for analysis shall be taken by duly qualified and sworn inspectors, whenever practicable, samples shall be taken in original unbroken packages, and where it is impracticable to take a sample in an unbroken package, the inspector shall draw a sample in the presence of the seller or of his agent, place it in a suitable receptacle, and seal with his official seal upon wax. Samples in unbroken packages are to be also sealed by inspectors. (Id. § 4674.)

16. Inspectors to Have Free Access to Places Where Foods are Sold.—In the execution of his duties, an inspector shall have free access at all reasonable hours to any place where foods are sold, and in calling for and taking a sample of any food, he shall tender the market price asked for it. (Id. § 4675.)

17. Interference With Inspector Subject to Penalty.—Any person or dealer who shall impede, obstruct, hinder, prevent or attempt to prevent an inspector in

the performance of his duties, shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than fifty dollars or be imprisoned in the county jail not more than ninety days, at the discretion of the court. (Id. § 4676.)

Miscellaneous General Provisions.

18. Adulteration of Food, Drugs, Candy, Confects, and Sweetmeats.—If any person shall manufacture, sell, or keep or offer or exhibit for sale any adulterated food or drug, as defined by law; or if any person shall manufacture, sell, or keep or offer or exhibit for sale any candy, confection, or sweetmeat, in making which any preparation of lime or other deleterious substance is used, he shall, upon conviction, be fined not exceeding five hundred dollars, or be imprisoned in the county jail not more than six months, or both. (Annotated Code 1917, § 753.)

19. Provisions and Produce; Selling Unwholesome as Good Food.—Any person who shall knowingly and wilfully sell, or hold or offer for sale, any tainted, putrid, unsound, unwholesome, unmerchantable flour, or other provisions, as sound and good; or shall practice any fraud or deception, to put off and sell any damaged, unsound, or unmerchantable provisions, shall, upon conviction, be punished by fine not exceeding five hundred dollars, or imprisonment in the county jail not more than thirty days, or both. (Id. § 1072.)

20. Sale of Unsound Provisions; Penalty For.—If any person shall knowingly sell, keep, or offer for sale as sound and wholesome, any tainted, putrid, unsound, unwholesome, or unmerchantable provisions, as human food, or shall practice any fraud or deception whereby any such provisions are put off or sold, the whole of such provisions, if of value for any purpose, shall be forfeited to the county wherein the same may be offered or kept for sale. (Id. § 4662.)

21. Food—Definition.—Every article used as food or drink by man. (Id. § 1347.)

PART II.

Special Food Laws.

Beverages.

See Nos. 62, 104 et seq. and 136.

Bread.

See No. 62.

Confectionery.

See Nos. 8 and 18.

Cottonseed Meal.

See No. 44 et seq.

Dairy Products—Substitutes for Dairy Products.

22. "Milk," "Cream," Definition.—The term "milk," within the meaning of this act, is the fresh, clean lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within ten days before and five days after calving, and contains not less than 8.5 per cent. of solids not fat, and not less than 3 per cent. of milk fats and not less than 11.75 per cent. of total solids; and that the term "cream" within the meaning of this act is that portion of milk rich in milk fats, which rises to the surface of milk on standing, or is separated from it by centrifugal force, if fresh and clean, and contains not less than 18 per cent. of milk (butter) fat. (Annotated Code Supplement 1921, § 4166a.)

23. Adulterated Milk and Cream; Penalty Against.—Any person who shall sell or offer for sale any adulterated milk or cream, or any milk or cream having

therein any foreign substance or coloring matter, or any chemicals or preservatives, whether for the purpose of increasing the quantity of milk or cream or for improving its appearance, or for the purpose of preserving the condition of sweetness thereof, or for any other purpose whatsoever, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than \$100 or confined in jail not more than sixty days, or both; provided, that nothing in this act shall be construed to prohibit the sale of pasteurized milk or cream, to which viscogen or sucrate of lime has been added solely for the purpose of restoring and [of] viscosity, if the same be labeled in such manner as to advise the purchaser of its true character; provided, this shall not apply to sales of less than one-half pint of pasteurized milk. (Id. § 4166b.)

24. "Unsanitary" Premises and Utensils Defined.—All premises and utensils used in the handling of milk or cream and the by-products of same, and all premises and utensils used in the preparation, manufacture, sale or offer for sale of any food product for man from milk or cream, or the by-products of same, which shall be kept in an unclean, filthy or noxious condition, are hereby declared to be unsanitary.

Any person, firm or corporation within this State who receives in cans, bottles or other vessels any milk or cream, ice cream or other dairy products intended for human food, when such vessels are to be returned, shall cause the said cans, bottles, jugs or other vessels to be thoroughly washed and cleaned before returning.

The liners of ice cream cans must be removed from the cans, the cans washed, and returned to owner, or delivered to express company, or other transporting concern for return not to exceed seven days after receipt of same.

Any one failing to comply with this act shall be guilty of a misdemeanor and upon conviction shall be punished as prescribed in section 2 [4166b] of this act. (Id. § 4166c, as amended L. 1922, c. 253.)

25. Sale of Unsanitary Products; Penalty For.—It shall be unlawful for any person engaged in the business of handling or sale of milk or cream or the by-products of same, or in the preparation, manufacture, sale or offer of [for] sale of any food product for man from milk or cream, or the by-products of same to maintain his premises or utensils in an unsanitary condition, or to knowingly sell, offer for sale, or keep for sale milk or cream drawn from sick or diseased cows, or cows kept in an unsanitary place or cows fed on unwholesome feeds or slops, or cows furnished unwholesome or unclean water to drink.

The commissioner, his agents or assistants shall have free access to any barn or stable where milch cows are kept or milked, or to any factory, building, dairy or premises where any dairy product is manufactured, handled, stored or sold, or where they suspect that oleomargarine or other substance designed to be used as a substitute for butter, or imitation butter, or imitation cheese are being manufactured, kept, sold, delivered, transported or stored in violation of this act.

It shall be unlawful for any person, or the agent of any person, firm or corporation to prevent or interfere with the duly authorized inspector or agent of the State Commissioner of Agriculture from entering or inspecting any place or premises where milk or milk products or where oleomargarine or imitation butter or cheese or renovated butter or any substance designed to be used as a substitute for butter, are purchased, manufactured, prepared, sold, kept for sale, furnished or served, or to prevent or to interfere with such inspector or agent in the event he deems it advisable to secure samples of milk or milk products, or oleomargarine, or imitation butter or cheese or renovated butter or any substance designed to be used as a substitute for butter, at or from any such place or person, for the purpose of ascertaining whether this act is being violated, or to interfere with or prevent any such inspector or agent from examining any records or books required by the provisions of this act.

Any one failing to comply with this act shall be guilty of a misdemeanor and upon conviction shall be punished, as prescribed in section 2 [4166b] of this act. (Id. § 4166d.)

26. Testing Apparatus; License Must be Secured From Commissioner of Agriculture.—It shall be unlawful for any person to operate a milk or cream testing apparatus to determine the percentage of milk fat in milk or cream for the purpose of purchasing same, either for himself or another, without first securing a license from the State Commissioner of Agriculture, who shall issue such license, upon a form prepared by him, upon payment of a fee of \$1.00 for a period of twelve months; provided, the applicant for license shall pass a satisfactory personal examination that shall satisfy said commissioner that he is competent and qualified to operate and use such apparatus and make an accurate test with same, which license may be revoked by the commissioner when it shall be shown that

such licensed person is incompetent or unreliable. The testing of each lot of milk or cream by any unlicensed person shall constitute a separate offense under this act; provided, that any licensed person may for a valid reason satisfactory to said commissioner appoint a substitute for a period not to exceed fifteen days, and subject to the approval of said commissioner. Any person violating the requirement of this section shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 2 [4166b] of this act. (Annotated Code Supplement 1921, § 4166e.)

27. Falsifying Tests; Penalty For; Standard Test Prescribed.—It shall be unlawful for any person, either for himself or another, to falsely manipulate, or under-read or over-read, take inaccurate samples or make any false determinations by Babcock test or any other contrivance used to determine the quantity of fat in milk or cream or value of milk or cream delivered to a creamery, cheese factory, condensory, ice cream plant, milk plant or milk depot, or when sold or purchased. The test shall be clear oil, free from sediment, solids, or other foreign substance, and must be read at a temperature of 125°-140° F. Cream tests must be weighed. The scales must be sensitive and accurate. The tester and owner or owners are jointly responsible for their accuracy. For the purpose of providing official supervision of the operation of the Babcock test in all licensed receiving stations conducted for the purchase of butter fat either in the form of cream or milk, to promote fair competition, and to protect the producer of butter fat, thereby giving more confidence to the producer in the system of determining the per cent of butter fat in cream or milk, the following regulation is hereby promulgated:

All individuals, corporations and partnerships authorized by license or permit to conduct the Babcock test in the State of Mississippi shall retain in a cool, clean, sanitary place and in tightly stopped bottles or tightly covered jars the exact, properly labeled samples of cream or milk from which the butter fat test has been conducted, until 6 P. M. of the day following the application of the test where daily testing is practiced, and until 6 P. M. of the second day following the application of the test where composite testing of individual deliveries is practiced. In case of Sundays and legal holidays intervening the samples shall be held one additional day.

Upon such occasions as may be determined wise, this department or its inspectors may order any sample or samples held for a longer period than provided for by these regulations.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in section 2 [4166b] of this act. (Id. § 4166f, as amended L. 1922, c. 253.)

28. Test Bottles and Pipette Must be "Sealed"; Requirements For, Authority of Commissioner of Agriculture.—All bottles and pipette[s] used in measuring milk or milk products for making determination of the per cent. of fat in said milk or milk products, shall have clearly blown or otherwise permanently marked in the side of the bottle or pipette the word "sealed," and in the side of the pipette or the side or bottom of the bottle of the name, initials or trade-mark of the manufacturer and his designating number, which designating number shall be furnished by the State Commissioner of Agriculture upon application by the manufacturer and upon the filing by the manufacturer of a bond in the sum of \$1,000.00 with sureties to be approved by said commissioner, conditioned upon conformance with the requirements of this section. A record of the bonds furnished, the designating number, and to whom furnished, shall be kept in the office of said commissioner. Any manufacturer who sells Babcock, or other, milk, cream or butter test bottles or milk pipettes, to be used in this State, that do not comply with the provisions of this section, shall suffer a penalty of \$500, to be recovered by the Attorney General of the State in an action in the name of the State upon the bond of such manufacturer and any dealers who uses [use], for the purpose of determining the per cent. of milk fat in milk or milk products, any bottles or pipettes purchased after six months from the date of [when] this act shall take effect, that do not comply with the provisions of this section relating thereto, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 2 [4166b] of this act. (Annotated Code Supplement 1921, § 4166g.)

29. "Unit of Graduation" Defined; Violations; Duty of Commissioner of Agriculture.—The State Commissioner of Agriculture shall prescribe specifications with which the glassware mentioned in this [act] shall comply. The unit of graduation for all Babcock or other glassware shall be the true cubic centimeter, or the weight of one gram of distilled water at four degrees Centigrade [Centigrade]. The said commissioner shall from time to time make tests of individual bottles and pipettes used by the various firms in the State in order to ascertain whether the

above provisions are being complied with, and shall report any violations found to the Attorney General. (Id. § 4166h.)

30. Cream Buying Stations, Etc.; License Must be Secured For; Fee and Conditions Under Which to Be Granted.—The operator of a cream buying station or skimming station—a station where milk or cream is bought, collected or separated for transportation to another plant, shall secure a license from the State Commissioner of Agriculture before beginning operation. Said commissioner shall inspect the station before granting license. The station shall be used for no other purpose than to receive and handle milk and cream, shall have no direct connection with a meat market, grocery store or any other place of business from which disagreeable odors might enter. It shall have concrete floor, with proper drainage and sewerage for the disposition of all waste water. It shall be equipped with running water, steam and other equipment necessary for the thorough washing and sterilization of all cans, pails, separator parts and anything that may come in direct contact with the milk or cream.

A fee of \$10.00 shall be charged for a license to operate such station. It shall be the duty of said commissioner to see that each such station conforms to the requirements of this act before granting license. Such license shall be procured during the month of May each year and shall be valid until May 1st next thereafter. No license shall be issued for less than \$10, except where same is issued for a business started after the month of May; and, in that case, a fee of \$1 per month may be paid for each month during which such business is operated prior to the first of May thereafter, including the month in which same is started. The commissioner may revoke said license at any time he may find such station in an unduly unsanitary condition. (Id. § 4166i.)

31. Creamery Butter; Pasteurization Required.—All milk and cream used in the manufacture of creamery butter and ice cream must be pasteurized to a temperature of 145° F. for 25 minutes or to 150° F., and held 20 minutes using the intermittent system of pasteurization, or shall be heated 170° with the flash (or continuous) system of pasteurization.

Unlawful cream shall consist of cream that is very old, rancid, moldy, dirty, or curdy, and such cream shall not be purchased, sold or used for food purposes.

Butter is the clean, unrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt or added coloring matter, and contains not less than eighty-two and five-tenths (82.5) per cent. of milk fat with an allowance or tolerance of not to exceed two and five-tenths (2.5) per cent. of said butter or mass so that in no case or event shall the milk fat content of said butter or mass be less than eighty (80) per cent.

Any person manufacturing creamery butter, who does not comply with this section, shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in section 2 [4166b] of this act. (Id. § 4166j, as amended L. 1922, c. 253.)

32. Ice Cream and Adulteration of Defined; Penalty.—Ice cream, within the meaning of this act, is the frozen product made from cream, milk and sugar, with or without a normal flavoring, and contains not less than 8 per cent. of milk fat; and fruit ice cream, the frozen product made from cream, milk and sugar, and sound, clean, mature fruit, and not less than 8 per cent. of milk fat; and nut ice cream, the frozen product made from cream, milk and sugar, and sound, non-rancid nuts, and contains not less than 8 per cent. of milk fat.

Custard ice cream is the frozen product made from cream, sugar, eggs with or without flavoring and must contain not less than 8 per cent. fat. Any frozen product other than ice cream shall be designated and sold as sherbet or water ice.

No person, for himself or another shall sell, offer or expose for sale, or have in his possession with intent to sell, ice cream adulterated within the meaning of this act. (Id. § 4166k.)

33. When Ice Cream Deemed Adulterated.—Ice cream shall be deemed to be adulterated within the meaning of this act. First: If it shall contain boric acid, formaldehyde, saccharin, or any other added substance or compound that is deleterious to health. Second: If it shall contain salts or [of] copper, iron oxide, or fats other than milk fats, or any coloring substance deleterious to health; provided, that this shall not be construed to prohibit the use of harmless coloring matter in ice cream, when not used for fraudulent purposes.

Third: If it shall contain any deleterious flavoring matter, or flavoring matter not true to name.

Fourth: If it be an imitation of, or offered for sale under the name of another article.

Nothing in this act shall be construed to prohibit the use of fresh eggs, and not exceeding one-half of one per centum of pure gelatin, gum tragacanth [tragacanth] or other vegetable gums.

It shall not be lawful for any person to sell, offer for sale, or keep for sale, any ice cream in any container which is falsely labeled or branded as to the name of the manufacturer thereof; or to misrepresent, in any way, the place of manufacture of ice cream of the manufacturers thereof.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in section 2 [4166b] of this act. (Id. § 4166l.)

34. Act Does Not Apply to Person Who Does Not Sell.—Nothing in said chapter 191, Laws of 1918,* as hereby amended, shall be construed to apply to any person who does not sell his milk, cream, butter, or other products mentioned in said act, to others. (L. 1922, c. 253, § 6.)

35. "Renovated Butter," Term Defined; Restrictions on Sale of.—No person shall sell, offer to sell, or keep for sale, or exchange, renovated butter, or butter which has been melted and its rancidity removed or masked, and which has been regregrated, colored and prepared in imitation of or in semblance of genuine creamery butter, unless the substance shall have the words "renovated butter" conspicuously stamped, labeled or marked in English, in plain Gothic letters at least three-eighth [s] of an inch square, so that the words can not be easily defaced, upon two sides of each and every tub, firkin, box or package containing said renovated butter, and if such butter is exposed for sale uncovered, or not in a case or package, a placard containing said words in the same form as above described in this section, shall be attached to the mass in such a manner as to be easily seen and read by the purchaser; and when renovated butter is sold from such packages or otherwise at retail, in print, roll or other form, before being delivered to the purchaser it shall be wrapped in wrappers plainly stamped on the outside thereof with the words "renovated butter" of the size required above. Hotels, restaurants, lunch counters, boarding houses and other places of public entertainment using such butter for food shall hang cards opposite the tables of the places where guests are served, at least ten by fourteen inches in size, which cards shall be white, and shall have printed upon them in black, in letters the size required above, the words "substitute for butter used here," without other words or figures.

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 2 [4166b] of this act. (Annotated Code Supplement 1921, § 4166l.)

36. Fees; Commissioner of Agriculture to Pay Into State Treasury.—All fees collected by the Commissioner of Agriculture under this act shall be paid into the State treasury as other fees collected by him, and shall be placed to his credit and added to the sum appropriated for the proper execution of his office. (Id. § 4166m.)

37. Substitutes For Butter or Cheese; How May be Sold.—A substitute for butter and cheese may be manufactured and sold, provided the tub, firkin, box or other container in which same shall be kept for sale or shipment shall be plainly marked or stamped on the side or top thereof with the words "substitute for butter," or "substitute for cheese," as the case may be, in English, with letters the size required by the last section.† Hotels, restaurants, lunch counters, boarding houses and other places of public entertainment using such butter or cheese as food, shall hang cards opposite the tables or other places where guests are served, of the size required of them by the last section,† upon which shall be printed the words, "substitute for cheese used here," or "substitute for butter used here," as the case may be, in English, without other words or figures, with letters the color and size required of them by the last section.† (Id. § 4166n.)

38. Monopolies Prohibited; Destruction of Competition; Penalty.—Any person doing business in the State of Mississippi and engaged in the production, manufacture, sale or distribution of any dairy products, that shall, for the purpose of destroying the business of a competitor in any locality, or creating a monopoly, discriminate between different sections, localities, communities, cities or towns of the State, by selling such commodity at a lower rate or price in one section, locality, community, city or town than such commodity is sold by such person in any other section, locality, community, city or town, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of the transportation

*See Nos. 22-41.

†See No. 35.

from the point of production or purchase, if a raw product, to the place of sale, storage or distribution, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared unlawful; provided, however, that prices made to meet competition in such section, locality, community, city or town shall not be in violation of this act.

Any person doing business in the State of Mississippi, and engaged in the business of purchasing for manufacture, storage, sale or distribution, any dairy product, that shall for the purpose of destroying business of a competitor or creating a monopoly, discriminate between different sections, localities, communities, cities or towns in the State, by purchasing such commodity at a higher rate or price in one section, locality, community, city or town than is paid for such commodity by such person in any other section, locality, community, city or town, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale or distribution or storage, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful; provided, however, that prices made to meet competition in such locality, section, community, city or town shall not be a violation of this act.

Any person convicted of a violation of this section, shall be fined not less than \$500.00 nor more than \$5,000.00, or be imprisoned in jail not more than twelve months, or both. (Id. § 4166o.)

39. Creameries and Plants Report Amount of Milk or Cream Purchased; Penalty for Failure.—Creameries, ice cream plants, milk plants (and cream and milk stations when buying cream or milk for plants operating outside the State) shall report annually on or before the 1st day of January of each year the amount of milk or cream or both purchased during the last year with the amount of fat in the milk or cream and price paid for same. Any other data or statistics desired by the Commissioner of Agriculture shall be reported to him by said parties, firms or corporations according to and on blanks furnished by said commissioner. The above concerns shall keep complete and accurate records of their business, and the commissioner shall have free access to all such records.

Any creamery, ice cream plant, milk plant or cream or milk station named in this section, which shall wilfully violate the requirements of same, shall be guilty of a misdemeanor, and upon conviction, be punished as provided by section 2 [4166b] of this act. (Id. § 4166p.)

40. "Person," Definition of Term.—The term "person" in this act includes firms, partnerships, associations and corporations, foreign or domestic, and shall be construed as reading "person, firm, partnership, association or corporation, foreign or domestic." (Id. § 4166q.)

41. Authority of State Board of Health Not Repealed.—Nothing in this act shall be construed as limiting or repealing any authority now vested by law in the State Board of Health. (Id. § 4166r.)

42. Oleomargarine and Other Imitation Food to be Branded.—A person who sells or manufactures, exposes or offers for sale as an article of food, any oleomargarine or other substance in imitation of any article of food, without disclosing the imitation by a suitable and plainly visible mark or brand, indicating and naming what the substance really is, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail not exceeding one month, or both. (Annotated Code 1917, § 1049.)

43. Oleomargarine, Dealers in.—[An annual tax on privileges is levied as follows, to wit:] On each wholesale dealer or distributor of oleomargarine or other manufactured butter, or each agent for such dealer or distributor, for each place where sold \$100.00. Same, on each retail dealer in oleomargarine or other manufactured butter, and this shall apply even though such dealer has paid all other taxes due by him, for each place where sold \$5.00. (L. 1926, c. 118, § 89.)

NOTE: See also No. 8.

Feeding Stuffs.

44. Packages of Feeding Stuffs to be Labeled.—The correct name and true net weight of the contents of each and every hogshead, barrel, box, cask, bale, sack or package of flour, corn meal, cotton-seed meal and of any and all other kinds of feeding stuff made from cereals of any kind, whether pure, mixed or adulterated, and whether sold in single packages or lots, shall be plainly marked, branded or stenciled in large, legible letters and figures, upon the exterior of such hogsheads, barrel,

box, cask, bale or package, and it shall be unlawful for any person, firm or corporation or the agent, employee or representative of any person, firm or corporation to sell or exchange or offer for sale or exchange any of such mill products, so packed or contained, until the provisions hereof have been complied with. (Annotated Code 1917, § 3358.)

45. Adulterated Products to be Branded.—It shall be unlawful for any person, firm or corporation, or the agent, employee or representative of any person, firm or corporation to sell or exchange or offer for sale or exchange, whether in single packages or lots, any mill products composed of mixed cereals of any kind or any cereal adulterated in any manner, unless the word "adulterated" is plainly marked, printed or stenciled diagonally across the other marks or brands, if any, on the hogshead, barrel, box, bale, cask, sack or package containing the same, or in case there are no other marks thereon, then across such hogshead, barrel, box, bale, cask, sack or package in a conspicuous place, in large legible letters and figures. (Id. § 3359.)

46. Penalty For Violation of Preceding Sections.—If any person shall violate the provisions of the two preceding sections he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in the sum of not less than twenty-five dollars nor more than one hundred dollars. (Id. § 3360.)

47. Commercial Feed Stuff, Definition.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains; the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo; whole hays, straws, cotton-seed meal, cotton-seed hulls, and corn stover when unmixed with other materials; together with all other materials containing sixty per cent. or more of water. (Id. § 3973.)

48. All Packages to be Tagged or Labeled.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or exchange or distributed within this State shall have fixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade-mark;
- (c) The name and principal address of the manufacturer, or the person responsible for placing the commodity on the market;
- (d) The minimum per centum of crude protein;
- (e) The minimum per centum of crude fat;
- (f) The maximum per centum of crude fiber;
- (g) The specific name of each ingredient used in its manufacture.

The crude protein, crude fat and crude fiber shall be determined by the methods in force at the time by the Association of Official Agricultural Chemists of the United States. (Id. § 3974.)

49. Dealers Must File Certified Statements of Brands.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs, he or they, shall file each year or season with the State Chemist and also the Commissioner of Agriculture and Commerce a certified copy of the statement specified in section 2 [3974] for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the State Chemist or Commissioner of Agriculture and Commerce shall so request, by a sealed package containing at least one pound of the commercial feeding stuffs to be sold, offered or exposed for sale or distributed in this State, and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative of the commercial feeding stuffs offered for registration. Before the Commissioner of Agriculture and Commerce may accept any certified copy as provided for in this section, he must charge and collect a fee of two dollars for each certified copy received and registered by him, and this fee is to be paid by the person, firm or corporation filing such certified copy. The fee so collected shall be deposited monthly in the State treasury. (Annotated Code Supplement 1921, § 3975.)

50. Inspection Tax to be Paid by Dealers.—Each and every manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling any commercial feeding stuffs, as defined in section 1 [3973] of this act, shall pay to the Commissioner of Agriculture and Commerce an inspection tax, or fee, of twenty cents per ton on all commercial feeding stuffs sold, offered or exposed for sale, or distributed in this State, and shall affix to or accompany each lot shipped in bulk, and to each parcel of commercial feeding stuffs a tag, stamp or label to be furnished by the Commissioner of Agriculture and Commerce, stating that all

charges specified in this section have been paid. Whenever any commercial feeding stuffs, as defined in section 1 [3973], is offered or exposed for sale, in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section 2 [3974], and when such feeding stuff is sold at retail, in bulk or in packages belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser with sufficient tax tags or stamps to cover the sale, and, upon request, with a card or cards upon which appears the statement required by the provisions of section 2 [3974]. The Commissioner of Agriculture and Commerce shall deposit monthly with the State Treasurer all funds received by him for tax tags or stamps sold, and, by act of the legislature, such funds shall be used for defraying the cost of the inspection and analysis of feeding stuffs, as provided by this act. (Annotated Code 1917, § 3976.)

51. State Chemist and Commissioner May Refuse to Register Misleading Brands.—The State Chemist and Commissioner of Agriculture and Commerce shall have power to refuse to register any commercial feeding stuffs under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each and all ingredients used in the manufacture are not stated. He shall also have the power to refuse to register more than one commercial feeding stuff under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be registered in this State, and it is afterward discovered that this registration is in violation of any of the provisions of this act, the State Chemist or the Commissioner of Agriculture and Commerce shall have power to cancel such registration. The State Chemist shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeding stuffs during the term for which registered unless satisfactory reasons are presented for making such change or changes. (Id. § 3977.)

52. Statement and Fee to be Required But Once.—Whenever a manufacturer, importer, jobber, firm, association, corporation or person manufacturing or selling a brand of commercial feeding stuffs shall have filed the statement required by section 3 [3975], and paid the inspection tax or fee, as required by section 4 [3976] of this act, no other agent, importer, jobber, firm, association, corporation or person shall be required to file such statement or pay such tax or fee upon such brand. (Id. § 3978.)

53. Inspectors to be Appointed; Duties and Powers of Same.—The Commissioner of Agriculture and Commerce shall appoint a sufficient number of inspectors, upon nomination by the State Chemist, and he and his authorized inspectors shall have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs, and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and upon tender and full payment of the selling price of said sample to take therefrom, in the manner prescribed in section 8 [3980], samples for analysis, and the State Chemist shall annually cause to be analyzed at least one sample so taken of every commercial feeding stuffs that is found sold, offered or exposed for sale, or distributed in this State. (Id. § 3979.)

54. Samples of Each Brand to be Secured in Presence of Witnesses.—A representative sample of each brand of commercial feeding stuffs found sold, offered or exposed for sale shall be taken by the said Commissioner of Agriculture and Commerce, or his duly authorized inspectors, in the presence of at least one witness. No action shall be maintained for a violation of the provisions of this act, based upon the analysis of a sample of not less than five separate original packages, unless there be less than five separate original packages in the lot, in which case portions of the official sample shall be taken from each original package; if the commercial feeding stuffs is in bulk, portions shall be taken from not less than five different places in the lot; provided that this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required it shall be mixed and quartered until a sample of suitable size remains. Said sample shall be divided into two parts and shall be placed in packages and sealed in the presence of said witness, one of said packages so sealed shall be tendered, and if accepted, delivered to the person apparently in charge of such feeding stuffs; the other package the

State Chemist shall analyze, or cause to be analyzed, and the results of such analysis, together with such additional information as the said State Chemist may deem advisable, shall be transmitted to the manufacturer or person responsible for the placing of the commodity on the market, and shall be published in reports or bulletins from time to time by the Commissioner of Agriculture and Commerce. If the manufacturer or person responsible for the placing of any commodity so sampled upon the market be unable to secure the sample delivered to the person apparently in charge of the feeding stuffs sampled, he shall, upon request to the State Chemist, be furnished with a portion of the official sample referred to in this section. The methods of analysis shall be those of [in] force at the time by the Association of Official Agricultural Chemists of the United States. (Id. § 3980.)

55. Procedure in Cases of Violation of This Act.—If it appears that any of the provisions of this act have been violated the Commissioner of Agriculture and Commerce shall certify the facts to the proper district or county attorney and furnish such officer with a copy of the results of the analysis or other examination of such feeding stuffs, duly authenticated by the analyst or other officer making the determination, under the oath of such officer; provided that if it shall appear from any such examination that any of the provisions of this act have been violated, the Commissioner of Agriculture and Commerce shall cause notice to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the Commissioner of Agriculture and Commerce before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this act the certificate of analysis, bearing the seal of the State Chemist, shall be prima facie evidence of the fact or facts therein certified. It is also further provided that the Commissioner of Agriculture and Commerce may delegate the enforcement of these provisions of this section to the State Chemist. (Id. § 3981.)

56. Penalty For Offering Goods Without Proper Tags or Labels.—Any manufacturer, importer, jobber, firm, association, corporation or person who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs without having attached thereto, or furnished therewith, such tax stamps, labels or tags as required by the provisions of this act, or who shall use the required tax stamps, labels or tags a second time, or use a counterfeit of such tax stamps, labels or tags, or who shall impede, obstruct, hinder, or otherwise prevent, or attempt to prevent said Commissioner of Agriculture and Commerce, or his authorized inspectors, in the performance of their duty in connection with provisions of this act, or who shall sell, offer or expose for sale, or distribute in this State any commercial feeding stuffs, as defined in section 1 [3973], without complying with the requirements of the provisions of this act, or who shall sell, offer or expose for sale, or distribute in this State any commercial feeding stuffs which contain a smaller per centum of crude protein or crude fat or a larger per centum of crude fiber than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture shall be deemed guilty of a violation of the provisions of this act, and upon conviction thereof shall be fined not more than one hundred dollars (\$100) for the first violation and not less than one hundred dollars (\$100) and not more than two hundred and fifty dollars (\$250) for each subsequent violation, and any contract, agreement, or note made by any farmer or other purchaser for the payment of such feeding stuff shall be collectible for one-half the amount agreed upon, and, if payment has been made already, [the] person, firm or seller shall return to the purchaser injured one-half the amount paid. Any manufacturer, importer, jobber, firm, association, corporation or person who shall mix or adulterate any feeding stuff with any substance or substances injurious to the health of live stock or poultry shall be deemed guilty of a violation of the provisions of this act, and in addition to the penalties provided in this section, the lot of feeding stuffs shall be subject to seizure, condemnation and sale as the court may direct; the proceeds from such sale to be covered into the State treasury. The court may, in its discretion, release the feeding stuffs so seized when the requirements of the provisions of this act have been complied with, and upon payment of all costs and expenses incurred by the State in any proceedings connected with such seizure. (Id. § 3982.)

57. Commissioner Empowered to Enforce This Act.—The Commissioner of Agriculture and Commerce, except as otherwise provided, is hereby empowered to enforce the provisions of this act, and to prescribe the form of tags, stamps or labels to be used to show that the inspection tax or fee has been paid, and with the advice and consent of the State Chemist to prescribe and enforce such rules:

and regulations relating to the sale of commercial feeding stuffs as he may deem necessary to carry into effect the full intent and meaning of this act. (Id. § 3983.)

58. State Chemist Appointed; Analyses to be Under His Direction.—The professor of chemistry at the Agricultural and Mechanical College is hereby made State Chemist, and is the official chemist under the provisions of this act, and all analyses of feed stuffs shall be under his direction. Such analytical chemists as are necessary for making the analyses as provided herein shall be appointed by the board of trustees of the Agricultural and Mechanical College on recommendation by the State Chemist. (Id. § 3984.)

59. Unconstitutionality of Part Not to Affect Entire Act.—If any section or provision of this act be declared unconstitutional, then such unconstitutionality shall apply only to such section and shall not invalidate any other section or provision of the act. (Id. § 3985.)

60. Cottonseed Hulls, Meal, Not Affected by This Act.—Nothing in this act shall be construed so as to require an analysis and branding of cotton-seed, cottonseed hulls, and cotton-seed meal or any mixture thereof. (Id. § 3987.)

61. Cottonseed Meal; Adulterated to be Branded.—It shall be unlawful for any person or corporation to adulterate any cottonseed meal with sawdust or anything else, without noting such adulteration in plain and legible characters on each sack, and it shall be unlawful for any person to sell or barter in this State any cotton-seed meal adulterated with sawdust or anything else, without such adulteration being noted in plain and legible characters on each sack or receptacle thereof. Any person or corporation violating the foregoing provisions of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined in a sum not less than one hundred nor more than one thousand dollars. (Id. § 1050.)

Flour, Meal, Etc.

See Nos. 19, 44 et seq., 126 and 137.

Fruits and Vegetables, Etc.

61a. Grades and Standards.—The Commissioner of Agriculture is hereby authorized to establish grades and standards from time to time for farm products grown or produced in this State, provided that any grade or standard on any farm product which may be established by the United States Department of Agriculture under authority of Congress shall also be established by the Commissioner of Agriculture as the standard for this State. (L. 1924, c. 274, § 1.)

61b. Grades and Standards May be Established.—The Commissioner of Agriculture is hereby authorized to investigate and certify to shippers and other financially interested parties, the grade, quality or condition of farm products in accordance with the standard established by him. Provided that the certificates issued by the Commissioner of Agriculture pursuant to this act shall be received in all counties of this State as prima facie evidence of the truth of statements contained therein. That for this service the Commissioner of Agriculture may charge reasonable fees designed to cover the cost of these services and which may be expended for the purpose of this act. (Id. § 2.)

61c. Commissioner of Agriculture to Issue Certificates.—The Commissioner of Agriculture is hereby authorized to co-operate with the Secretary of the United States Department of Agriculture or any of his authorized agents or representatives in carrying out the purpose of this act. (Id. § 3.)

NOTE: See also No. 126.

Meat—Meat Products.

62. Provisions and Produce; Selling Meat of Animal Not Slaughtered, or Unwholesome Bread or Drink.—Any butcher or other person who shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or any baker, brewer, distiller, or other person, who shall knowingly sell unwholesome bread or drink, shall, on conviction thereof, be punished by imprisonment in the penitentiary not more than five years nor less than one year. (Annotated Code 1917, § 1071.)

63. Provisions and Produce; Sale of Flesh of Dead, Diseased, and Unclean Animals—Punishment For.—If any person shall sell or offer for sale as human

food, the flesh of any animal which shall have died a natural death, or been killed or injured by any accident; or shall sell, or offer for sale, or ship for sale, as human food, the flesh of any diseased animal, or of any dog, cat, or other like unclean animal, such person shall be fined, on conviction, not less than one hundred dollars and imprisoned not less than thirty days. (Id. § 1073.)

NOTE: See also Nos. 8 and 137.

Mill Products.

See No. 45.

Molasses.

See No. 126.

Oysters.

64. Standard of Measure.—A standard measure for oysters is hereby established, which said measure shall consist of a tub or other round vessel of the following dimensions, to wit: It shall measure seventeen inches in diameter inside at the bottom and twenty-one and one-half inches inside at the top, and fourteen and one-half inches inside from bottom to top, the unit of such tub or measure to be in the shape of inverted frustrum of a cone. Two of these measures filled to the top shall make one barrel, and all oysters bought or sold in this State in the shell shall be measured in a measure of this dimension or measure holding a fraction or multiple thereof, and it shall be unlawful for any person to have in his possession any measure for oysters in the shell which shall differ in size from the measure herein provided for, or to demand or require a greater or less measure in buying or selling; and no vessel or measure shall be used in buying or selling oysters until it has been measured and stamped by the oyster inspector with a metal tag or stamp, showing the quantity of oysters such measure will hold. It shall be the duty of the oyster inspector to make such measurements and to visit for that purpose each place where oysters are bought and sold as required, not to exceed once in each month during the canning season, and shall keep a book in which shall be recorded the dimensions of all vessels so measured. And for each stamp, the chief inspector shall receive the sum of twenty-five cents from the person, persons, or corporation to whom it is issued. The chief inspector shall keep a book to be known as the "Oyster measure record," in which he shall register the names of each person, firm or corporation to whom he has issued such stamp and the date of issuance; and said record shall be open for the inspection of the public during business hours; and for every false or fraudulent issuance of said stamp or for every stamp issued without a record thereof being kept, in the "oyster measure record," the chief inspector shall be guilty of a misdemeanor and shall, on conviction, be fined the sum of fifty dollars, one-half of which shall be paid to the person or persons informing on the chief inspector. (Annotated Code 1917, § 6159.)

65. Oysters in the Shell.—It shall be unlawful for any person to take oysters in the shell out of the State of Mississippi by means of any transportation except that oysters in the shell may be shipped out of the State by express. Any person violating the provisions of this section shall, on conviction, be fined in a sum not exceeding five hundred dollars or imprisonment in the county jail not exceeding six months, or both, at the discretion of the court. (Id. § 6160.)

Sorghum.

See No. 126.

Syrup.

See No. 8.

Sanitation.

See the dairy law, No. 22 et seq.

For the hotel law, see Annotated Code 1917, § 2062 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

65a. Obscenity, Indecent Prints.—A person who sells, lends, gives away, or shows, or has in his possession with intent to sell or give away, or to show or advertise, or otherwise offers for loan, gift, sale, or distribution, any obscene or indecent book, writing, paper, picture, drawing, or photograph, or any article or instrument of indecent or immoral use, or who designs, copies, draws, photographs or otherwise prepares such a book, picture, drawing or other article, or writes or prints, or causes to be written or printed a circular, advertisement, or notice of any kind, or gives information orally, stating when, where, how, by whom, or by what means such an indecent or obscene article or thing can be purchased or obtained is guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not over five hundred dollars or imprisonment in the county jail for not more than six months, or both. (Annotated Code 1917, § 1025.)

66. Obscenity; Indecent Articles.—A person who sells, lends, gives away, or in any manner exhibits, or offers to sell, lend, or give away, or has in his possession with intent to sell, lend, or give away, or advertises or offers for sale, loan, or distribution any instrument or article, or any drug or medicine, for the prevention of conception, or for causing unlawful abortion; or who writes or prints, or causes to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or gives information orally, stating when, where, how, of whom, or by what means such article or medicine can be purchased or obtained, or who manufactures any such article or medicine, is guilty of a misdemeanor, and, on conviction, shall be punished by fine not less than twenty-five dollars nor more than two hundred dollars, and by imprisonment in the county jail not exceeding three months. (Id. § 1026.)

Embalming Fluid.

See No. 101.

Pharmacy, Poisons and Narcotics.

67. Profession of Pharmacy; License.—Every person who desires to practice pharmacy must obtain a license to do so as hereinafter provided; but this section shall not apply to those now holding license to practice pharmacy, the same having been recorded as required by law; nor to physicians who have been regularly licensed to practice medicine by the laws of this State and are regularly in the practice of medicine. (Annotated Code 1917, § 6338.)

68. Registered Pharmacists; Who Are.—Registered pharmacists, in the meaning of this act, shall comprise all persons who have secured license to practice pharmacy prior to the passage of this act, and all persons over twenty-one years of age, who are graduates of a recognized college or school or [of] pharmacy, and who are of good moral character, and who shall pass a satisfactory examination before the State Board of Pharmacy. (Annotated Code Supplement 1921, § 6339.)

69. Assistant Pharmacist; Who May Be.—Assistant pharmacists in the meaning of this act shall comprise all persons over the age of nineteen years who shall have had not less than two years' practical experience in a drug store where physicians' prescriptions are compounded and dispensed, and who shall pass a satisfactory examination before the State Board of Pharmacy. An assistant pharmacist shall not be permitted to conduct or manage a pharmacy store or shop on his own account or assume the management of such business for others, except during the temporary absence of the registered pharmacist for a period of not longer than ten days. (Id. § 6340.)

70. University Diploma to be Recognized.—Any person who holds a diploma from the department of pharmacy of the University of Mississippi may present such diploma to the State Board of Pharmacy with his written application and the required fee, and if such persons be otherwise qualified, he shall be granted license as a registered pharmacist without further examination. (Annotated Code 1917, § 6341.)

71. State Board of Pharmacy Created.—The State Board of Pharmacy is hereby created to consist of five practicing pharmacists [who] have [had] not less than five years of practical experience as retail pharmacists, and who shall be in addition graduates of a recognized college of pharmacy, and who shall be appointed by the Governor from a list of twenty names submitted by the Mississippi State Pharmaceutical Association, and whose qualifications be as set out above and whose term of office shall expire with that of the Governor appointing them. (Id. § 6342, as amended L. 1922, c. 251.)

72. How Members to Qualify.—Each person appointed as a member of the State Board of Pharmacy shall qualify by taking the oath prescribed by the constitution for State officers, and shall file a certificate thereof in the office of the Secretary of State within fifteen days of his appointment. (Annotated Code, 1917, § 6343.)

73. Meeting and Organization of Board.—After the members of the State Board of Pharmacy have qualified they shall meet at the capitol of the State, in pursuance of a call to be made by the Governor, and organize by electing a president and secretary of the board from among themselves. (Id. § 6344.)

74. Applications and Examinations for License.—Every person who desires to practice pharmacy must apply, in writing, to the board of pharmacy for a license to do so; and, unless exempted by the provisions of this act, must appear before the board and be examined by it touching his learning and skill in pharmacy; and if he be found to possess sufficient learning and skill therein, and to be of good moral character, the board shall immediately issue to him a license to practice pharmacy as a registered pharmacist or assistant pharmacist, as he shall be entitled, and which shall be signed by each member of the board who attends the examination and approves the issuance of the license. (Id. § 6345.)

75. Time and Place For Examinations.—The State Board of Pharmacy shall meet at the capitol of the State on the first Tuesday in January and July of each year for the purpose of examining applicants for such license, who present themselves before ten o'clock of the first day and their examinations have been approved or disapproved. All examinations, except as to character, shall be upon written questions and answers, and three members of the board are a quorum for business. (Id. § 6346, as amended L. 1922, c. 251.)

76. Pharmacists of Other States; How Licensed.—The State Board of Pharmacy may issue a license to practice as pharmacists in the State of Mississippi without examination to such persons as have been legally registered or licensed as pharmacists in other States; provided, that an applicant for such license shall present satisfactory evidence of qualifications equal to those required from licentiates in this State, and that he is of good moral character and was recognized or licensed by examination in such other State, where the standard of competency required in such other State is not lower than that required in this State; and, provided, also, that the board of pharmacy is satisfied that such other State accords similar recognition to the licentiates of this State. Applicants for license under this section shall, with their applications, pay to the board the same fee as is required of other applicants. (Annotated Code 1917, § 6347.)

77. Examination Fee.—All applicants for license to practice pharmacy must each pay a fee of ten dollars to the State Board of Pharmacy as a condition precedent to the examination, which fee shall be distributed among the members of the board as their compensation, in such proportion as the board may allow. (Id. § 6348.)

78. Temporary License; How Issued.—Any member of the Board of Pharmacy may examine applicants orally or in writing, and issue a temporary license to them to practice pharmacy, which shall authorize such practice and be valid until the next succeeding meeting of the board. Only one temporary license shall ever be issued to the same applicant. (Id. § 6349.)

79. License to be Filed With Circuit Clerk and Recorded.—Every person who receives a license to practice pharmacy must file it for record in the office of the clerk of the Circuit Court of the county in which he resides within thirty days after its issuance, and if he fails to do so he shall thereafter be liable for practicing as a pharmacist without license so long as the same shall remain unrecorded. When such license shall be filed, the clerk shall record the same in a book, in which the licenses of physicians are recorded, upon payment to him of the lawful fee; and, when recorded, the original shall be delivered on demand of the licensee. (Id. § 6350.)

80. License to be Recorded in County in Case of Removal.—Whenever the licensee shall change the county of his residence and of usual practice, he must, under like penalty, file the original or a certified copy of the license, or of the

record thereof, in the office of said clerk, in the county into which he shall move and practice, within thirty days of the time of such removal, to be there recorded in like manner and under like penalty. (Id. § 6351.)

81. If License Lost, New One Issued.—If a license to practice pharmacy be issued, and be lost or destroyed, the board of pharmacy may issue another in lieu of it, upon satisfactory proof of the loss or destruction. (Id. § 6352.)

82. Secretary of Board to Keep Record of All Licenses.—It is the duty of the board to cause its secretary to keep a complete record of its acts and proceedings, separate lists of all registered pharmacists, and assistant pharmacists, and to preserve all papers, documents, and correspondence received by the board and relating to its duties and office. (Id. § 6353.)

83. Governor May Remove Members of Board.—The Governor may remove any or all of the members of the Board of Pharmacy for conduct unbecoming an officer of the State, or for failure to perform the duties of their office, and appoint another or others in place of such as may be removed; and may fill by appointment any vacancy that may occur on the board. (Id. § 6355.)

84. Penalty For Practicing Without License.—If any person other than those qualified under this act shall compound and dispense physicians' prescriptions, or practice as a pharmacist, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the county jail not exceeding thirty days. (Id. § 6356.)

85. Proprietor Not to Employ Unlicensed Pharmacist.—Any proprietor of a pharmacy, or other person, who shall permit the compounding and dispensing of physicians' prescriptions except by a registered pharmacist, or assistant pharmacist, as provided in this act, in any store or pharmacy owned, controlled or managed by him, or any person who shall wilfully make any false representation or procure for himself or others registration under this act, shall be guilty of a misdemeanor, and for each and every offense shall, on conviction, be fined not more than five hundred dollars; provided, that nothing in this act shall in any manner interfere with the business of any physician in regular practice, or prevent him from supplying his patient such articles as may to him seem proper. (Id. § 6357.)

86. Unlawful Sale of Morphine; License Revoked For.—Any pharmacist convicted before any court of competent jurisdiction for unlawfully selling morphine, cocaine or any habit-forming drug or intoxicating liquors, shall be deemed of not good moral character, and the State Board of Pharmacy shall revoke his license. (Id. § 6358.)

87. "Recognized College" Revised.—By a "recognized college" as used in this act is meant a college holding membership in the "American Association of Colleges of Pharmacy" or, formerly known as "American Conference or Pharmaceutical Faculties," a college which maintains a course of study equal in every respect to the standards required of members of the "American Association of Colleges of Pharmacy;" and the standing of the college at the time of graduation of any student shall govern the eligibility of such student to take the examination required by the State Board of Pharmacy. (Id. § 6359, as amended L. 1926, c. 307, § 1.)

88. World War Veterans May Take Examination; When.—Any person who is a World War veteran and who during the World War was in service of the United States of America, and received an honorable discharge, and who is a graduate of a reputable college of pharmacy, shall be eligible to take the examination required by the State Board of Pharmacy, and if he make the required average on such examination, he shall be issued a license to practice as a registered pharmacist. (L. 1926, c. 307, § 2.)

89. Sale of Patent Medicines Not Affected.—Nothing in this act shall be construed to prohibit the sale of patent or proprietary medicines sold by dealers, merchants or agents not licensed throughout the State. (Annotated Code 1917, § 6360.)

90. No Property in Cocaine Kept in Violation of Law.—There shall be no property in any cocaine kept or offered for sale in violation of the law, or in any of the vessels or appliances used in connection therewith. (Id. § 622.)

91. Search Warrant May be Issued on Proper Affidavit; Service of Writ.—Upon the affidavit of any credible person that he has reason to believe and does believe that cocaine is being kept or offered for sale, or bartered, or sold or bartered, or that it is being kept to be given away, or that it is being given away to induce trade, in violation of law, in any room or building designated in the affidavit, it shall be the duty of any justice of the peace of the county in which the place is situated to issue a search warrant, directed to the sheriff or any constable of the county, or if in a municipality, to the sheriff, or any constable, or

marshal, or policeman therein, commanding him to enter the room or building designated, by breaking, if necessary, and search for and seize such cocaine, and all vessels or appliances used in connection therewith, and hold the same as disposed of according to law. The writ shall be returnable at a time to be stated therein, not earlier than five days. (Id. § 623.)

92. Claim of Ownership on Seizure; How Tried.—If any person claims the cocaine seized, he shall, on or before the return day, make affidavit as to his ownership, and that it was not kept and offered for sale, or barter, or that it was not kept to be given away and was not being given away in violation of law, and file the same with the justice, and if the cocaine seized be not over the value of two hundred dollars, the justice shall try the claim. If the value thereof be over two hundred dollars, the justice shall send the claim to the Circuit Court of the county for trial. If any person claims the vessels or appliances seized, he shall, within the same time, make affidavit as to his ownership thereof, and that they were not used with his knowledge or consent in connection with any keeping or disposition of cocaine in violation of law. Such claim shall be tried by the justice of the peace, or the Circuit Court as the case may be, as in the case of cocaine seized and claimed. In all cases the person who made the affidavit under which the cocaine or vessels or appliances were seized may be admitted to prosecute the suit. (Id. § 624.)

93. Goods Destroyed if Not Claimed or if Illegally Kept; Jury May be Demanded—Fees and Costs of Trial.—If, on or before the return day, no claim be filed, the justice shall order the cocaine and the vessels and appliances seized to be destroyed, and the officers shall forthwith execute the order. If a claim be filed, the justice or the Circuit Court, as the case may be, shall try the same, and if it shall be found that the cocaine was kept or offered for sale or barter, or that it was kept to be given away in violation of law, an order for the destruction of the cocaine and of the vessels and appliances shall be entered and executed as required when no claim is filed. Either party may demand a jury, and shall be entitled to appeal as in other cases, but pending the appeal the cocaine and appliances seized shall be held to abide the final judgment of the court. The justice shall be entitled to one dollar for issuing the writ, and the officer executing and returning the same to one dollar; but if a claim be filed, costs shall be taxed as in other cases, and if the cocaine or appliances be condemned to be destroyed, the sum of ten dollars, as costs against the claimant, shall be paid to the officer who executed the writ, and execution shall issue therefor and for all costs. (Id. § 625.)

94. Presumptive Evidence of Guilt.—The fact that any person not authorized by law to sell or purchase cocaine shall be found in possession of cocaine, or of appliances adapted to its sale, shall be presumptive evidence that the person in whose possession the cocaine or appliances may be found is engaged in keeping the same for sale. (Id. § 626.)

95. Morphine and Cocaine; Sale of Regulated; Scarlet Wrapper and Label.—If any druggist, or other person whosoever shall sell, offer for sale, or give away any sulphate or other preparation of morphine, or cocaine, in any bottle, vial, envelope, or other package without having the same wrapped in a scarlet paper or envelope, and labeled with a scarlet label, lettered in white letters, plainly naming the contents of the bottle, vial, envelope, or package, he shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than fifty dollars. (Id. § 627.)

96. Cocaine; Sale of Prohibited.—No druggist, apothecary, physician or other person shall sell or give away cocaine, opium, morphine or their derivatives or compounds in any quantity whatever, except to regularly licensed physicians or dentists, or upon prescriptions of such physicians which shall not be used more than once or refilled, but this shall not interfere with the use of the same by such physicians or dentists in their practice.

The provisions of this act shall not be construed to apply to the sale, distribution, giving away, dispensing or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them.

Provided, that such remedies and preparations are sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intentions and provisions of this act.

Any person violating the provisions of this section shall, upon conviction before a court of competent jurisdiction, be imprisoned in the penitentiary not more than ten years nor less than one year. (Id. § 628, as amended L. 1924, c. 248.)

97. Unlawful Sale of Cocaine; Indictment; Proof of More Than One Offense.—On trial of all indictments for the unlawful selling of cocaine, opium, morphine, or their derivatives [derivatives] or compounds or the unlawful keeping of cocaine, opium, morphine, or their derivatives [derivatives] or compounds for sale, the State shall not be confined in the proof to a single violation, but under the indictment charging a single offense, may give in evidence any one or more offenses of the same character committed anterior to the date laid in the indictment and not barred by the statute of limitation; but in such cases after conviction or acquittal on the merits, the accused shall not be again liable to prosecution for any offense of the same character committed anterior to the date laid in the indictment. (Annotated Code 1917, § 629, as amended L. 1924, c. 249.)

98. Poisons; Sales and Gifts of Regulated.—It shall not be lawful for any apothecary, druggist, or other person to sell or give away any article belonging to the class of medicines usually denominated poisons, except in compliance with the two following sections. (Annotated Code 1917, § 1056.)

99. Poisons; Register to be Kept, Label.—Every druggist, apothecary, or other person, who shall sell or give away, except on the written prescription of a physician, any article of medicine belonging to the class usually known as poisons, shall be required to register in a book kept for that purpose, the name, place of residence, age, sex, and color of the person obtaining such poison, the quantity sold, the purpose for which it was required, the day and date on which it was obtained, and the name and place of abode of the person for whom the article is intended; and he shall carefully mark the word "poison" upon the label or wrapper of each package. (Id. § 1057.)

100. Poisons; Arsenic to be Mixed With Soot or Indigo.—A druggist, apothecary, or other person shall not sell or give away, except to physicians, any quantity of arsenic less than one pound without first mixing soot or indigo therewith in the proportion of one ounce of soot or half an ounce of indigo to the pound of arsenic. (Id. § 1058.)

101. Poisons; Arsenic or Other Deadly Poison Not to be Used in Embalming Fluid.—A druggist, apothecary, or other person shall not sell or give away any embalming fluid for embalming the dead, which contains arsenic or other deadly poisons; nor shall any embalmer use any fluid containing arsenic or other deadly poison in embalming the dead. (Id. § 1059.)

102. Poisons; Penalty For Violation of the Three Preceding Sections.—Any person who shall violate the provisions of either [any] of the three preceding sections, on conviction, shall be fined not exceeding five hundred dollars, or confined in the county jail thirty days, or both. (Id. § 1060.)

103. Poisons; Not to be Sold to Minors.—A druggist, apothecary, or other person shall not sell or give away any poison to any minor and for so doing he shall be punished as for a misdemeanor. (Id. § 1061.)

Intoxicating Liquors.

104. Penalty For Selling or Giving Away Liquor.—If any person shall sell or barter, or give away to induce trade, or keep for sale, or barter, or to be given away to induce trade, any vinous, alcoholic, malt, intoxicating or spirituous liquors, or intoxicating bitters, or other drinks, which if drank to excess will produce intoxication, such person, and all others who may have owned or had any interest at the time in the liquors, bitters or drinks sold or bartered, or given away to induce trade, or kept for sale or barter, or to be given away to induce trade contrary to law, shall, on conviction, be punished as follows:

(a) By a fine of not less than fifty dollars nor more than five hundred dollars, or to be imprisoned in the county jail not less than one week nor more than three months, or both, for the first conviction for an offense committed after the passage of this act.*

(b) By a fine of not less than one hundred dollars nor more than five hundred dollars, and by imprisonment in the county jail not less than sixty days, nor

*Laws 1912, c. 214.

more than six months, if the conviction is for an offense under this act, committed after a conviction and punishment for a former offense hereunder.

(c) By imprisonment in the State Penitentiary not less than one year nor more than five years, if the conviction is for an offense under this act committed after the person convicted has been convicted and punished for two former offenses hereunder. (Annotated Code 1917, § 2086.)

105. Sale of Intoxicating Proprietary or Patent Medicines.—The sale or giving away of any proprietary or patent medicine by whatsoever name called, which, if drunk to excess, will produce intoxication, shall be deemed and held to be a sale of intoxicating liquors, unless there shall be a printed label attached to each bottle or other receptacle containing the same, a facsimile of a certificate issued by the Commissioner of Internal Revenue of the United States to the effect that such medicine has been examined by him or under his direction and that it does not contain such percentage of alcohol as to make the sale of same unlawful without an internal revenue license for the sale of liquors. (Id. § 2102.)

106. Prohibition Against Manufacture, Sale or Giving Away of Intoxicating Liquors—Home-made Wines Excepted.—It shall be unlawful for any person, firm, corporation or association within this State to manufacture, to sell or barter, or give away to induce trade, or keep for sale or barter, or to be given away to induce trade any vinous, alcoholic, malt, intoxicating or spirituous liquors or intoxicating bitters or other drinks, which, if drunk to excess, will produce intoxication, except as hereinafter provided. But this section shall not be construed to prohibit the making of home-made wine for domestic or household uses only. (Id. § 2113.)

107. How Licensed Druggists May Sell Alcohol.—Any licensed retail druggist in this State may sell in the manner herein set out pure alcohol for medicinal purposes only; grain alcohol to chemists and bacteriologists actually engaged in scientific work and for the purpose of being used only in such work; and wine to be used for sacramental purposes only; provided that wholesale druggists domiciled and doing business in this State may sell pure alcohol in quantities not less than one gallon to licensed retail druggists, and to licensed and practicing physicians, and to public or charity hospitals, and to medical or pharmaceutical colleges, but all wholesale druggists shall make and preserve for two years after such sales a complete record of sales of alcohol which shall at all times be open for inspection to any conservator of the peace of the county; and provided further, that nothing in this act* shall be construed to prohibit the manufacture or sale of wood and denatured alcohol for art, scientific and mechanical purposes. A person shall not be deemed a licensed retail druggist within the meaning of this act by reason of being a licensed physician or pharmacist. (Id. § 2114.)

108. No Sale of Alcohol Except on Physician's Certificate.—No sale of pure alcohol for medicinal purposes shall be made except upon the written prescription of a licensed and practicing physician of this State, who, before writing such prescription, shall have made an actual examination of the patient for whom the prescription is issued, which prescription shall be dated and signed by the physician and shall be in substantially the following form:

State of Mississippi, ... County. I, ..., a regularly licensed and practicing physician under the laws of this State, do hereby certify that I have examined, a patient in my charge, and hereby prescribe for the use of said patient of pure alcohol, and I certify that the use thereof is necessary to alleviate or cure the illness or disease from which such patient is suffering. Dated

....., M. D.

No prescription shall be filled hereunder except upon the day upon which it is issued or the following day, and no more than half a pint of alcohol shall be furnished on any one prescription, and when such prescription is filled it shall not be refilled, but shall be delivered to the druggist filling the same, and at the end of the month in which the same is filled shall be filed by such druggist in the office of the circuit clerk of the county. In towns having a population of 1,000 or more the physician's prescription shall not be filled at any drug store of which he is the proprietor, or in which he has a financial interest, either as partner, stockholder, or otherwise.

Any person purchasing alcohol for any purpose set out in this act, for which a prescription is not required herein, shall first sign a written or printed statement properly dated and deliver the same to the druggist, stating his name, residence and occupation, and the purpose for which he intends to use said alcohol. (Id. § 2115.)

*Laws 1908, c. 113. See Nos. 106-110.

109. Statements of Sales of Alcohol to be Kept for Two Years on File by Circuit Clerk.—All statements or prescriptions required by this act shall be delivered at the end of the month in which they were given or within five days thereafter to the circuit clerk of the county in which the sale was made and shall be filed and preserved by the circuit clerk in his office for a period of not less than two years, and shall moreover be promptly listed and indexed in a book kept for that purpose, which shall show the name of the druggist making the sale, the name of the purchaser, the date of the statement or prescription and the quantity of alcohol purchased. The original statement or prescription with the certificate of the circuit clerk endorsed thereon, showing that it has been registered, or a certified copy of such record, shall be prima facie evidence in any prosecution, suit or proceeding of the facts recited therein. The circuit clerk for filing and registering each statement or prescription, shall be entitled to a fee of ten cents, which shall be paid by the druggist filing the same. (Id. § 2117.)

110. Fraudulent Evasions of This Act by Physicians or Druggists Punishable by Fine and Imprisonment.—Any person who violates any provision of this act shall be guilty of a misdemeanor. Any physician who signs or issues any prescription containing any false statement, any druggist who shall sell any alcohol or shall fill any prescription for alcohol in anywise other than herein allowed, or who shall refill any prescription for alcohol or who shall fail to file a prescription filled by him in the office of the circuit clerk within the time prescribed, any person who shall obtain alcohol or wine for any purpose authorized herein and who shall convert the same to any other use, shall be guilty of a misdemeanor and shall, on conviction, be fined not less than fifty dollars, nor more than five hundred dollars, or be imprisoned in the county jail not less than one week, or more than three months, or both. But in no case of a conviction of any person for an offense under this section committed after a conviction and punishment for a former offense hereunder, shall the punishment be less than a fine of one hundred dollars nor more than provided in this section, or imprisonment in the county jail for not less than sixty days nor more than six months, or both, in the discretion of the court. (Id. § 2118.)

111. Exceptions; Liquors Kept, When Lawful.—Nothing in this act* shall make it unlawful:

Sacramental Purposes.—(1) For any minister or priest of any religious order or congregation to order, purchase, and have shipped, transported and delivered, wine for sacramental purposes, nor for any common carrier to ship, transport, carry or deliver wine for said purpose to any such minister or priest, nor for any such minister or priest to have received control or possess wine for sacramental purposes, but the said wine shall remain in the possession of such minister or priest save when the wine is being administered in the sacramental service or in the service in commemoration of the Lord's Supper.

Alcohol, Conditions for Purchase and Possession, According to Laws of 1908, Chapter 113.†—(2) For any practicing physician, who is the sole proprietor of a drug store, any licensed druggist, wholesale druggist, pharmacist, manufacturer, college, medical or pharmaceutical college, public or charity hospital, or State institution or chemist or baeteriologists, to order, purchase and have shipped and delivered, or to have, receive and possess, nor for any common carrier to transport, ship and deliver to any of said persons, firms, corporations or institutions grain or pure alcohol for any purpose now permitted by the laws of the State, to any such person, college, hospital, or institution, and to be used only for medicinal, mechanical, and scientific purposes not contravening in any way the prohibition laws of this State. Nor for any dentist to order, purchase, nor for any dentist to have control, receive and possess alcohol as is now provided in the case of a physician, by the laws of this State, and by chapter 113, Laws of 1908.†

Carriers to Keep Records of Deliveries of Excepted Liquors Filed With Circuit Clerk.—(3) But, records shall be kept by the carrier or delivery party, of such wines for sacramental purposes, and of all such alcohol and statement thereof shall be filed with the clerk of the Circuit Court as provided by this act* and by law.

Wines for Domestic Purposes.—(4) Nothing in this act shall make it unlawful to manufacture or to make or to have, keep, control or possess home-made wine for domestic or household purposes as now provided by law, upon one's premises.

Denatured Alcohol.—(5) Nothing in this act shall affect or limit the manufacturing or shipping or receiving of wood or denatured alcohol which cannot be used for beverage purposes, and which can only be used for scientific or mechanical purposes. (Annotated Code Supplement 1921, § 2163n.)

*Laws 1918, c. 189. See Nos. 111-113.

†See Nos. 106-110.

112. Violations of Act; Penalty.—Any person, firm or corporation violating any of the provisions of this act, except as otherwise expressly provided herein, shall, upon conviction, be punished by a fine of not less than one hundred dollars and not more than five hundred dollars for each offense, or by imprisonment in the county jail not more than thirty days or by both such fine and imprisonment. (Id. § 2163s.)

113. Manufacture; Penalty.—Any person, firm or corporation, who shall, within this State, make, manufacture or distill any spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind, shall be guilty of a felony, and, upon conviction, shall be punished by imprisonment in the penitentiary for not more than three years, provided nothing in this section shall be construed to prohibit the making of home-made wine for domestic and household purposes only. (Id. § 2163t.)

114. Alcoholic Preparations; Unlawful to Sell or Keep Certain Preparations; Except When.—It shall be unlawful for any person, firm, corporation or association, to sell, barter, or give away, or keep for such purposes any sweet spirits of nitre, liquid ginger preparation, elixir of orange peel, pear extract, or any like drug, compound, bitters, elixir or preparation of any kind whatsoever, which when drunk to excess, in the form sold, will produce intoxication, except when the same is kept, sold, bartered or given away for either medicinal, or household purposes, or for uses in cooking, baking, and purposes incidental to the treatment of disease. (L. 1926, c. 201, § 1.)

115. Permit to be Secured.—No person, firm or corporation, or any association whatsoever, except traveling salesmen engaged in selling exclusively to wholesale and retail merchants shall sell, barter or give away or keep for such purposes, or solicit or take orders therefor, any of the preparations, compounds, bitters, elixirs or extracts mentioned in section 1, hereof, until a permit so to do shall be granted by the mayor and board of aldermen or mayor and councilmen of any incorporated city, town or village within which said business is or may be proposed to be carried on, or the board of supervisors of the county if the same is or proposed to be carried on without the corporate limits of any city, town or village. Such permits may be granted by said authorities upon written application of the person, firm or corporation desiring to deal in such preparation, and the permit, if granted, shall be in writing, shall be spread at large upon the minutes of the proceedings of the mayor and board of aldermen or councilmen or the board of supervisors, as the case may be, giving the name of the dealer, or dealers, the preparation or commodities which it covers, and shall be for a period of one year from the date of its being granted. The granting of a permit to any person, firm or corporation, to barter, sell, give away, keep for sale, or solicit orders for the sale of same shall be in the discretion of the mayor and board of aldermen or the board of supervisors, as the case may be, and they shall likewise have full authority and power, in their discretion, to revoke the same. (Id. § 2.)

116. Complete Record to be Kept.—Every such person, firm, or corporation, selling, bartering or giving away, keeping for sale or soliciting orders for any of the preparations mentioned in section 1, hereof, shall keep a complete record of such preparations so purchased, including invoice or freight bill, which record shall be open to the inspection of any member of the mayor and board of aldermen or the board of supervisors, as the case may be, or any peace officer of the State. (Id. § 3.)

117. Penalty for Violation of Act.—Any one violating the provisions of this act, shall be guilty of a misdemeanor and on conviction shall be fined not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or be imprisoned in the county jail not more than six months, or both, at the discretion of the court, and may have his permit to sell revoked for a period of twelve months. (Id. § 4.)

118. Provisions Accumulative.—The provisions of this act are accumulative and in addition to all laws or parts of laws dealing with said subject matter and is not intended to repeal, and does not repeal any of the existing prohibition laws of the State of Mississippi. (Id. § 5.)

PART IV.

Miscellaneous Laws.

Flag Desecration.

119. Flags; Desecration of the Nation and State Prohibited.—Any person, who, in any manner, for exhibition or display, shall, after this act takes effect, place or cause to be placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color or ensign of the United States or State flag of the State of Mississippi, or ensign or Confederate flag, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign, upon which, after this act takes effect, shall be attached, appended, affixed or annexed any word, figure, mark, picture, design or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away or have in possession for sale or to give away, or for use for any purpose, any article or substance, being an article of merchandise, or a receptacle of merchandise, or article or things for carrying or transporting merchandise upon which, after this act takes effect, shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard color or ensign, to advertise, call attention to, decorate, mark or distinguish the article or substance, on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon or cast contempt, either by word or act, upon any such flag, standard, color or ensign, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days, or both, in the discretion of the court; and shall also forfeit a penalty, in the discretion of the court, of not more than fifty dollars for each such offense, to be recovered with costs in a civil action or suit, in any court having jurisdiction, and such action or suit may be brought by and in the name of any citizen of this State, and such penalty when collected, less the reasonable cost and expense of action or suit, shall be paid into the treasury of this State; and two or more penalties may be sued for and recovered in the same action or suit. The words "flag," "standard," "color" or "ensign," as used in this subdivision or section, shall include any flag, standard, color, ensign or any picture or representation of either thereof, made of any substance, or represented on any substance, and of any size, evidently purporting to be, either of said flag, standard, color or ensign of the United States of America or a picture or a representation of either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation, may believe the same to represent the flag, colors, standard or ensign of the United States of America or of the State of Mississippi or Confederate flag. (Annotated Code 1917, § 903.)

Tobacco—Tobacco Products.

120. Children; Tobacco Not to be Sold or Given.—If any person sell, barter, deliver or give any cigar or cigars, cigarette or cigarettes, smoking tobacco, or snuff to any child under the age of eighteen years, unless previously authorized in writing by the parent or guardian of such child, he shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than twenty dollars nor more than one hundred dollars, or imprisoned in the county jail not less than one week nor more than three months, or both. (Annotated Code 1917, § 809.)

Trade-Marks, Etc.

121. Trade-Marks; Counterfeiting and Forging of.—Every person who shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, any representation, likeness, similitude, copy, or imitation of the private stamp, wrappers, or labels usually affixed by any mechanic or manufacturer to, and used by such mechanic or manufacturer on, in, or about the sale of any goods, wares, or merchandise whatsoever, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the county jail not less than three months nor more than one year. (Annotated Code 1917, § 1123.)

122. Trade-Marks; Possession of Plates, Dies, for Counterfeiting.—Every person, who shall have in his possession any die, plate, engraving, or printed label, stamp, or wrapper, or any representation, likeness, similitude, copy, or imitation of the private stamp, wrapper, or label usually fixed by any mechanic or manufacturer to, and used by such mechanic or manufacturer, on, in, or about the sale of any goods, wares, or merchandise, with intent to use or sell the said die, plate or engraving, or printed stamp, label, or wrapper, for the purpose of aiding or assisting in any way whatever, in vending any goods, wares, or merchandise in imitation of or intended to resemble and be sold for the goods, wares, or merchandise of such mechanic or manufacturer, shall be guilty of a misdemeanor, and, upon conviction, be punished by fine not exceeding five hundred dollars, or imprisonment in the county jail not less than three months nor more than one year. (Id. § 1124.)

123. Trade-Marks; Selling Articles Bearing Counterfeit.—Every person who shall vend any goods, wares, or merchandise having thereon any forged or counterfeited stamp or label, imitating, resembling, or purporting to be the stamp or label of any mechanic or manufacturer, knowing the same to be forged or counterfeited, and resembling or purporting to be imitations of the stamps or labels of such mechanic or manufacturer, without disclosing the fact to the purchaser thereof shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment in the county jail not exceeding three months, or by a fine not less than fifty nor more than five hundred dollars, or both. (Id. § 1125.)

Trading Stamps.

124. Trading Stamps.—[An annual tax on privileges is levied as follows, to wit:] On each person, firm or corporation engaged in the business of selling to merchants trading stamps, premium stamps, or stamps or certificates of like nature or character, to be by them issued to their customers and redeemed in money or goods, for each exhibition parlor or store\$250.00. (L. 1926, c. 118, § 195.)

125. Trading Stamps, Redeeming in Money.—On each person, firm, or corporation engaged in the business of redeeming in money or goods such trading stamps, premium stamps, or stamps or certificates of like nature or character, as are herein mentioned, when said stamps or certificates shall have been sold to merchants by some person, firm, or corporation other than the person, firm, or corporation redeeming the same, for each exhibition parlor or store\$250.00.

Provided, that when any person, firm or corporation shall be engaged in both selling and redeeming stamps and certificates within the meaning of this act, only one privilege tax shall be collected therefrom for each exhibition parlor or store. (Id. § 196.)

Weights and Measures.

126. Weights and Measures.—The standards of the weights and measures of this State as given below shall be deposited with the Secretary of State and also at the different State institutions of learning, and the Secretary of State and the proctors of those institutions are authorized to confirm and seal all weights and measures brought to them, and to receive the fees therefor. And on all sales by weight of the agricultural products hereinafter named the number of pounds per bushel or the number of pounds per gallon as stated in the following schedule shall be the true and legal standard weight, viz:

Wheat, per bushel	60 pounds
Corn, in the ear	72 pounds
Corn, shelled, per bushel	56 pounds
Rye, per bushel	56 pounds
Buckwheat, per bushel	48 pounds
Barley, per bushel	48 pounds
Oats, per bushel	32 pounds
Peas, per bushel	60 pounds
White beans, per bushel	60 pounds
Castor beans, per bushel	46 pounds
Irish potatoes, per bushel	60 pounds
Sweet potatoes, per bushel	54 pounds
Onions, per bushel	57 pounds
Turnips, per bushel	55 pounds

Dried peaches, per bushel	33 pounds
Dried apples, per bushel	26 pounds
Clover seed, per bushel	60 pounds
Flaxseed, per bushel	56 pounds
Millet seed, per bushel	50 pounds
Hungarian grass seed, per bushel	50 pounds
Timothy seed, per bushel	45 pounds
Blue grass seed, per bushel	14 pounds
Hemp seed, per bushel	44 pounds
Salt, per bushel	50 pounds
Corn meal, per bushel	48 pounds
Ground peas, per bushel	24 pounds
Malt, per bushel	38 pounds
Bran, per bushel	20 pounds
Stone coal, per bushel	80 pounds
Lime, unslacked, per bushel	80 pounds
Sorghum seed, per bushel	42 pounds
Corn meal, bolted, per bushel	44 pounds
Corn meal, unbolted, per bushel	48 pounds
Flour, in barrels, per barrel	196 pounds net
Flour, in half barrels	98 pounds net
Flour, in one-fourth-barrel sacks	48 pounds net
Flour, in one-eighth-barrel sacks	24 pounds net
Meal, in barrels	200 pounds net
Sorghum, per gallon	11 pounds
Louisiana cane molasses, per gallon	11 pounds
(Annotated Code, 1917, § 3346.)	

127. **Penalty for Using Short Weights or Measures.**—It is hereby made a misdemeanor for any person or corporation to sell or buy any of the foregoing commodities on short weights in violation of the above schedule of rates and any such person or corporation upon conviction shall be punished by a fine of not less than five nor more than fifty dollars. (Id. § 3347.)

128. **Contracts Construed With Reference to.**—All contracts for work or labor done, or anything to be sold and delivered, will be construed to have been made according to the standards, unless the parties stipulate to the contrary. (Id. § 3348.)

129. **Counties and Cities; How Supplied.**—The board of supervisors of every county, and the mayor and board of aldermen of every city, may procure the standards of weights and measures, duly sealed by the Secretary of State or some proctor, and consisting of one weight of fifty pounds, one of twenty-five pounds, one of fourteen pounds, and one of seven pounds; two of four pounds, two of two pounds and two of one pound, avoirdupois; one measure of one yard and one of one foot, cloth measure; one measure of half a bushel, one of one peck, and one of one-half peck, dry measure; one measure of one gallon, one of a half-gallon, one of one quart, one of one pint, and one of one gill, wine measure. (Id. § 3349.)

130. **What Officer to Keep the Standards.**—The inspector of provisions appointed by the county or city shall be the keeper of the standards of weights and measures, and shall seal by such standards all measures brought to him; but if there be no such officer, the clerk of the Circuit Court and clerk of the city shall be respectively keepers of the standards for the county and city, and shall seal weights and measures brought to them, and receive the fees allowed. (Id. § 3350.)

131. **Stamps for Sealing Measures.**—The boards of supervisors and mayors and boards of aldermen shall respectively provide the proper stamps or brands with which to seal weights and measures. (Id. § 3351.)

132. **Weight of Cottonseed.**—Unless otherwise agreed upon a bushel of cotton-seed shall be thirty-two pounds avoirdupois. (Id. § 3352.)

133. **Dealers to Have None But Sealed Measures.**—When the county or city is supplied with the standards of weights and measures every dealer therein shall have none but sealed weights and measures, and the weights shall be so sealed as that the removal of any part of the filling will destroy or deface the seal; and every dealer having, in such case, any weight or measure which has not been duly sealed shall be guilty of a misdemeanor and shall, moreover, forfeit ten dollars for every day he may have any unsealed weight or measure. (Id. § 3356.)

134. **Selling by False Weights or Measures.**—If any person shall sell any thing by any false weight or measure, whereby another shall be cheated; or if any person shall sell any lightweight loaf or package, calling the same a pound

or other quantity, or if any person shall sell any under-capacity bottle or other vessel, calling it a pint, quart or other quantity, he shall be guilty of a misdemeanor and fined not less than ten dollars, and imprisoned not less than ten days. (Id. § 3357.)

135. The Inspector is Keeper of the Standards of Weights and Measures.—The inspector of food of any county, city, town, or village shall be keeper of the standards of weights and measures, and shall seal all weights and measures brought to him conforming or conformed to the standard. (Id. § 4659.)

136. Instruments for Gauging Liquors.—In case it be necessary or proper the board of supervisors, or the board of mayor and aldermen, shall supply the inspector with all the necessary instruments for gauging and ascertaining the contents of vessels of liquor; and such boards may direct and regulate the inspection, gauging, and marking or branding [of] packages of liquors, and enforce such regulations. (Id. § 4660.)

137. Under-weight Barrels of Flour, Meal, Pork and Beef Forfeited.—If any person shall sell, keep or offer for sale any barrel of flour, meal, pork or beef as a barrel thereof, containing less than the standard weight net, he shall forfeit to the county all of such under-weight flour, meal, pork or beef which he may have in his possession. (Id. § 4663.)

138. Millers to Keep Sealed Measures and Toll-Dish.—Every owner or occupier of a mill grinding for toll shall keep and use therein sealed measures of half-bushel and peck, and a sealed toll-dish, and shall measure all grain by strike-measure, under penalty of paying five dollars for every such failure, recoverable, with costs, before a justice of the peace, to the use of the informer; but this shall not apply to plantation mills. (Id. § 5681.)

NOTE: See also Nos. 4 and 10; the dairy law, No. 22 et seq.; the oyster law, No. 64 et seq.

PART V.

Cases.

1. Special Food Laws.

Beverages—Bottlers—Privilege Tax: Bay St. Louis v. Milner, 140 Miss. 592, 105 So. 480 (1925).

Beverages—Coca Cola, Etc.—Privilege Tax: *Coca-Cola Company v. Skillman, 91 Miss. 677 (1907). See also: Carney v. Hamilton, 89 Miss. 747, 42 So. 378 (1906).

Beverages—Flavoring Extracts: McConnon & Co. v. Meadows, 138 Miss. 342, 103 So. 7 (1925); Reeves Grocery Co. v. State, 103 So. 425 (1925). See also the Payne case, post.

Beverages—Jamaica Ginger: Bertrand v. State, 73 Miss. 51, 18 So. 545 (1895); Payne v. State et al., 125 Miss. 896, 88 So. 483 (1921); Young v. State, 137 Miss. 188, 102 So. 161 (1924); Billington v. State, 140 Miss. 179, 105 So. 457 (1925); Brown v. State, 142 Miss. 104 So. 381 (1926); Dempsey v. State, 111 So. 295 (1927).

Beverages—Malt Liquor: Purity Extract and Tonic Company v. Lynch, 100 Miss. 650, 56 So. 316 (1911), affirmed in Same, 226 U. S. 192, 33 S. Ct. 44, 57 L. Ed. 185 (1912).

Feeding Stuffs: *Alcorn Cotton Oil Co. v. State, 100 Miss. 299, 56 So. 397 (1911).

Meat—Animals for Slaughter: State v. Edwards, 115 Miss. 704, 76 So. 635 (1917).

Meat—License: Porter v. Water Valley, 70 Miss. 560 (1893).

Milk—Examination of Cows: *Hawkins v. Hoyer et al., 108 Miss. 282, 66 So. 741 (1914), suggestion of error overruled in Same, 66 So. 1015 (1915).

Oysters—Privilege Tax on Canneries: *Barataria Canning Co. v. State, 101 Miss. 890, 58 So. 769 (1912).

2. Special Drug Laws.

Narcotics: Develling v. State, 97 Miss. 11, 52 So. 484 (1910); Miller v. State, 105 Miss. 777, 63 So. 269 (1913).

Patent Medicines—Privilege Tax: Haas v. State, 107 Miss. 439, 65 So. 502 (1914).

Pharmacy—Prescription—Refusal to Return: White v. McComb City Drug Store, 86 Miss. 498, 38 So. 739 (1905).

Poison: See Meyer v. King, 72 Miss. 1, 16 So. 245, 35 L. R. A. 474 (1894); Victory Sparkler & Specialty Co. v. Price, 111 So. 437 (1927).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Drugs: Meyer v. King, 72 Miss. 1, 16 So. 245, 35 L. R. A. 474 (1894).

Feeding Stuffs: Dunagin-Whitaker Co. v. Montgomery, 117 Miss. 666, 78 So. 580 (1918); Pease & Dwyer Co. v. Somers Planting Co., 130 Miss. 147, 93 So. 673 (1922); John Wade & Sons v. Batesville Hog Co., 139 Miss. 434, 104 So. 145 (1925); Royal Feed and Milling Co. v. Thorn, 142 Miss. 92, 107 So. 282 (1926). See also: Dulaney et al. v. Jones & Rogers, 100 Miss. 835, 57 So. 225 (1911).

Fire-Works Containing Yellow Phosphorus: Victory Sparkler & Specialty Co. v. Price, 111 So. 437 (1927).

Food: Jackson Coca-Cola Bottling Co. v. Chapman, 106 Miss. 864, 64 So. 791 (1914); Rainwater v. Hattiesburg Coca-Cola Bottling Co., 131 Miss. 315, 95 So. 444 (1922); Jackson Coca-Cola Bottling Co. v. Renna, 97 So. 674 (1923); Grapico Bottling Co. et al. v. Ennis, 140 Miss. 502, 106 So. 97 (1925); Jackson Coca-Cola Bottling Co. v. Grubbs, 108 So. 732 (1926); Coca-Cola Bottling Works v. Lyon, 11 So. 305 (1927). See also: D. Rosenbaum's Sons et al. v. Davis & Andrews Company et al., 111 Miss. 278, 71 So. 388 (1916).

Tobacco: Pillars v. R. J. Reynolds Tobacco Co. et al., 117 Miss. 490, 78 So. 365 (1918); R. J. Reynolds Tobacco Co. v. Loftin, 99 So. 13 (1924).

4. Miscellaneous.

Trade-Marks: Wright v. Correro, 93 Miss. 306, 47 So. 379 (1908).

Trading Stamps: Sperry & Hutchinson Co. v. Harbison, 123 Miss. 674, 86 So. 455 (1920).

Weights and Measures: See *Gaines et al. v. Coates, 51 Miss. 335 (1875); Planters' Compress Association v. Hanes, 52 Miss. 469 (1876); Miller v. Winston County Warehouse Company, 94 Miss. 348, 47 So. 501 (1908).

MISSOURI.*

PART I.

General Food and Drug Law.

1. Food and Drugs Not to be Adulterated or Misbranded.—No person or persons, firm or association of persons, company or corporation shall, within this State, manufacture, produce, sell, offer or expose for sale, or have in his, their or its possession, with intent to sell, any article of food or drug which is adulterated or misbranded within the meaning of this article, or cause or procure the same to be done by others. (R. S. 1919, § 5664.)

2. "Drug" and "Food" Defined.—The term "drug," as used in this article, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease in man or animals. The term "food," as used in this article, shall include all articles used for food, drink, confectionery or condiment by man or animal, whether simple, mixed or compound. (Id. § 5665.)

3. Drugs, When Deemed Adulterated.—A drug shall be deemed to be adulterated within the meaning of this article: 1. If, when sold under or by a name recognized in the latest revised edition of the United States Pharmacopœia or National Formulary, it differs from the standard of strength, quality or purity prescribed therein. 2. If its strength, quality or purity fall below the professed standard under which it is sold: provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary. (Id. § 5666.)

4. Food, When Deemed Adulterated.—Food shall be deemed to be adulterated: 1. If any substance or substances have been mixed with it so as to lower or depreciate or injuriously affect its strength, quality or purity. 2. If any substance or substances have been substituted wholly or in part for the article. 3. If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it. 4. If it is mixed, colored, coated, polished, powdered or stained in a manner whereby damage or inferiority is concealed; or if, by any means, it is made to appear to be better or of greater value than it really is. 5. If it contain any added substance which is poisonous or injurious to health: provided, that when in the preparation of food products for shipment they are preserved by any external application, applied in such a manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package, the provisions of this article shall be construed as applying only when said products are ready for consumption. 6. If it consist wholly, or in part, of a diseased, filthy, decomposed, putrid, infected, tainted or rotten animal or vegetable substance, or any part or portion of an animal diseased or otherwise unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or of an animal that has died otherwise than by slaughter, and in case of meats, oysters or fish, sold or offered for sale in the fresh state, if such meats, oysters or fish shall have been inoculated, dusted, powdered, sprayed, rubbed, anointed, washed, sprinkled, fumigated, or in any other manner treated with any of the substances declared deleterious or dangerous by this article, or any antiseptic or chemical preservative or dyestuff whatsoever, whose use and apparent purpose is to mask decomposition, or to give to the meat, oysters or fish a false appearance

*CITATIONS: "R. S. 1919" refers to the Revised Statutes of the State of Missouri, 1919, published by authority of the legislature. See Article V, Chapter 57.) "L." refers to the session laws of the year cited.

of freshness or quality. And in the case of dairy products, if any such product be drawn or produced from cows fed on unhealthy or unwholesome food, or on waste, slops, refuse, leavings or residue of any nature or kind from distilleries, breweries or vinegar factories, or on food in a state of putrefaction, or from cows diseased in any way. 7. If it contains methyl or wood alcohol in any of its forms. 8. If it be an imitation or sold as for another article. 9. If, in the case of confectionery, it contains terra alba, barytes, arsenic, talc, chrome yellow or other mineral substances, a poisonous color or flavor, or other ingredients deleterious or detrimental to health, or vinous, malt or spirituous liquor or narcotic drug, or, 10. If it does not conform to the standard of strength, quality and purity now or hereafter to be established by the United States Department of Agriculture. (Id. § 5667.)

5. The Term "Misbranded" Defined.—The term "misbranded," as used in this article, shall apply to all drugs and articles of food, or articles which enter into the composition of drugs or food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to State, territory or country, in which it is made, manufactured, produced or grown, or as to the person, firm or corporation by whom it is made, manufactured, produced or grown. (Id. § 5668.)

6. Id. Drugs.—In case of drugs, an article shall also be deemed to be misbranded: 1. If it be an imitation of, or offered for sale under the name of, another article. 2. If the contents of the package, as originally put up, shall have been removed in whole or in part, and other contents shall have been placed in such package. 3. If the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, heroin, cocaine, eucaine (alpha or beta), chloroform, cannabis indica, chloral hydrates, acetanilide or any derivative or preparation of any substance contained therein: provided, that subdivision 3 of this section shall not apply to any drug prepared or sold on the prescription of a duly licensed physician, or prepared by a duly licensed pharmacist for immediate sale upon an order therefor. 4. If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article, or any of the ingredients or substances contained therein, which is false and fraudulent. (Id. § 5669.)

7. Id. Food.—In the case of food as herein defined, an article shall also be deemed to be misbranded:

1. If it is an imitation of, or is offered for sale or sold under the distinctive name of another article.

2. If it be labeled or branded, tagged, stenciled or marked so as to deceive the purchaser, or purport to be a foreign product when not so.

3. If the contents of the package as originally put up shall have been removed in whole, or in part and other contents shall have been placed in such package.

4. If it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, heroin, cocaine, eucaine (alpha or beta), chloroform, cannabis indica, chloral hydrate, acetanilide or any derivative or preparation of any such substance contained therein.

5. If in package form and the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count: provided, however, that reasonable variations as to small packages shall be established by rulings and regulations made by the State Food and Drug Commissioner, as provided by section 5732 of the Revised Statutes, 1919.*

6. If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, device or design shall be false or misleading in any particular: provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed misbranded in the following cases, viz.: (1) In the case of mixtures or compounds which may now or from time to time hereafter be known as articles of food under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the factory or place where said article has been manufactured or produced. (2) In the case of articles labeled, branded, stenciled or tagged so as to plainly indicate that they are mixtures, compounds, imitations or blends, and the word "mixture," "compound," "imitation" or "blend," as the case may be, is plainly stated on the package or container in which they are offered for sale: Provided, that the term "blend," as

*See No. 18.

used herein, shall be construed to be a mixture of like substances, not excluding harmless coloring and flavoring ingredients used for the purpose of coloring and flavoring only: and provided, further, that nothing in this article shall be construed as requiring or compelling manufacturers of proprietary foods which contain no unwholesome ingredient or substance added to increase the bulk or weight of the finished product to disclose their trade formulas, except in so far as the provisions of this article may require to secure freedom from adulteration or misbranding.

7. If in the case of articles which are mixtures, compounds, imitations or blends, the word "mixture," "compound," "imitation" or "blend" be not plainly stated on the package or container in which they are offered for sale. (Id. § 5670.)

8. **Statement of Ingredients.**—If a statement of any of the ingredients of an article of food or drink, or of an article entering into food or drink is required by law to be stated upon the label or package of such article, or is stated upon the label of such article whether required by law or not, such statement and the name and address of the manufacturer or vendor of the article shall be distinctly and conspicuously printed on the label or package in straight parallel lines of plain, uncondensed legible type, well spaced, on a plain ground. The statement of ingredients shall be clearly separated from and not interspaced or confused with other matter, shall specify each and every ingredient by its ordinary name and shall be in the English language. The letters of said type shall be as large as any printed matter on the label or package (except the name of the compound or chief article named therein, which may be in larger type), and shall not be smaller than 8-point Gothic caps: provided, that in case the size of the package does not allow the use of type of such size, then the size may, with the approval of the Dairy and Food Commissioner be proportionately reduced. The required label shall be firmly attached to or printed on the exterior of the package or envelope of the said article, on the top or side thereof, and in plain sight; but the Dairy and Food Commissioner may, in writing, approve specific labels not strictly in accordance with the above provisions if it is his opinion that the information is set forth thereon clearly enough for the reasonable protection of the purchaser. (Id. § 5671.)

9. **When Deemed Misbranded.**—Drugs or foods labeled in violation of the provisions of sections 5668, 5669, 5670 and 5671 shall be deemed to be misbranded within the meaning of this article. (Id. § 5672.)

10. **Labels Not to be Defaced or Removed.**—No person, firm, association of persons or corporation shall deface, erase or remove any label or mark provided for in this article with intent to mislead, deceive or violate any of the provisions of this article, nor cause the same to be done by others. (Id. § 5673.)

11. **Samples to be Furnished For Analysis.**—Every person, firm, association of persons or corporation manufacturing, offering or exposing for sale, or delivering to a purchaser any drug or article of food included in the provisions of this article, upon application of any person or an inspector, analyst or other officer or agent of the State, and tender to such person, firm, association or corporation of the value thereof, shall furnish a sample for analysis of any such drug or article of food which is not in his or their possession. (Id. § 5674.)

12. **Dealer Not to be Prosecuted if Guaranty Established.**—No dealer shall be prosecuted under the provisions of this article when he can establish a guaranty, as provided for in the National Food and Drug Act, approved June 30, 1906, or a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the State of Missouri, or who shall have filed in the office of the Dairy and Food Commissioner a designation of the name and residence of some competent person being and continuing a resident of this State, process served on whom shall be valid and acceptable as personally served upon such party in any suit or proceeding under this article, from whom he purchased such articles, to the effect that the same are not adulterated or misbranded in the original unbroken packages within the meaning of this article. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this article. (Id. § 5675.)

13. **Article, How Construed.**—When construing and enforcing the provisions of this article, the act, omission or failure of any officer, agent or other person acting for or employed by any person, corporation, firm or association, within the scope of his employment or office shall in every case be deemed to also be the act, omission or failure of such employer. (Id. § 5676.)

14. **Penalties.**—Any person, firm, association or corporation who shall, within this State, manufacture or produce, offer or expose for sale or shall sell or deliver or have in his or their possession with intent to sell any drug or food as

defined in this article, which is adulterated or misbranded within the meaning of this article, or who shall fail or refuse, upon the application of a proper person and the tender to him of the value thereof, to deliver to such person a sample, sufficient for analysis, of any drug or article of food in his or their possession, as required by this article, or who shall violate any of the provisions of this article, shall be guilty of a misdemeanor, and upon conviction thereof be punished for every such offense by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail not to exceed six months, or both such fine and imprisonment, and shall in addition be adjudged to pay all costs and expenses incurred in inspecting and analyzing such food or drug. (Id. § 5677.)

15. Food and Drug Commissioner to be Appointed; Term; Vacancy.—Within thirty days after this Article shall take effect the Governor, by and with the advice and consent of the Senate, shall appoint a suitable person to be Food and Drug Commissioner, which office is hereby created, and which commissioner so appointed shall hold office until the first day of February, 1913, and until his successor is appointed and qualified. At the regular session of the Legislature in 1913, and every four years thereafter, the Governor, by and with the advice and consent of the Senate, shall appoint a Drug and Food Commissioner, who shall hold office for a term of four years from the first day of February of the year of his appointment and until his successor is appointed and qualified. Said commissioner shall be subject to removal by the Governor for cause, and in case of vacancy in said office from any cause, the Governor shall appoint another person to fill the same for the unexpired term. (Id. § 5729.)

16. Oath; Bond; Salary.—Before entering upon the duties of his office the person appointed as food and drug commissioner shall make and subscribe and file in the office of the Secretary of State the oath of office prescribed by the constitution, and shall give bond to the State in the sum of ten thousand dollars, with sureties to be approved by the Governor, conditioned for the faithful performance of his duties. Said commissioner shall receive a salary of two thousand dollars a year, payable in monthly installments, and his actual necessary traveling expenses while in the discharge of his official duties. (Id. § 5730.)

17. Powers and Duties; Deputy.—The said commissioner shall have power to appoint a deputy, who shall have the same powers as the commissioner, and who shall receive a salary of twelve hundred dollars a year, payable monthly, and necessary traveling expenses. Said commissioner shall be allowed clerk hire to an amount not to exceed fifty dollars per month, and may also appoint, from time to time, such inspectors as the proper performance of the duties of his office may require, not exceeding six in number. They shall be paid at the rate of one thousand dollars per year for time actually employed, payable monthly, and actual expenses incident to the discharge of their duties. The persons so appointed shall have power to administer oaths in matters relative to the food and drug laws, and shall have the same right of access to the places to be inspected as the said commissioner or his deputy. The said deputy and inspectors shall hold office during the pleasure of the commissioner, and shall take and subscribe the oath of office and give bond to the State in such sum and with such sureties as may be approved by the commissioner, conditioned for the faithful performance of their respective duties. The necessary chemical work of the office shall be done by or under the supervision of the chemist of the State Experiment Station. (Id. § 5731.)

18. To Inspect Foods and Drugs; to Make Rules.—It shall be the duty of the Food and Drug Commissioner to enforce all laws that now exist or that may hereafter be enacted regarding the production, manufacture or sale of any food products, or any ingredients that are used in the preparation of foodstuffs, or the misbranding of the same; and personally, or by his assistants, inspect any article of food or drug made or offered for sale in this State which he may, through himself or his assistants, suspect or have reason to believe is impure, unhealthful, adulterated or misbranded, and shall have power to arrest and prosecute, or cause to be arrested and prosecuted, any person or persons engaged in the manufacture or sale of foods or drugs or any food ingredients contrary to the laws of this State. Said commissioner shall make rules and regulations for carrying out the provisions of this article, and such rules and regulations shall conform as nearly as practicable to the rules and regulations at present established and which may hereafter be established for the enforcement of the act of Congress, approved June 30, 1906, and known as the food and drug act. (Id. § 5732.)

19. To Make Purchase of Foods or Drugs Offered For Sale and Make Analysis; By Whom Tested; Penalty For Obstructing Inspection.—The Food and Drug Commissioner, his deputy, or any one by him appointed, is hereby authorized and empowered to enter during business hours, in the performance

of his duties, any factory, store, salesroom, warehouse, laboratory, drug store or any other place where food or drugs are stored or exposed for sale, or place where they have reason to believe such foods or drugs are kept or offered for sale; and he may, in lawful manner, procure samples of the said articles of food or drugs, or imitation thereof, suspected of being made or sold in violation of law, and cause the same to be analyzed or satisfactorily tested by the chemist of the State Experiment Station; and such analysis or test shall be recorded and preserved as evidence, and the certificate of such analysis or test, when sworn to by such chemist, shall be admitted as evidence of the facts therein contained in all prosecutions that may result from such violations, and it shall be the duty of said commissioner to make complaint of such violation in the proper county and furnish the prosecuting attorney with the evidence thereof, and obtain a conviction for the offense charged. And in the discharge of his duties said commissioner, his deputy and assistants shall have power to open any cask, tub, jar, bottle or package containing, or supposed to contain, any article of food or drugs, and examine, or cause to be examined, the contents thereof, and take therefrom samples in the presence of at least one witness; and he shall, in the presence of such witness, mark or seal such samples, and shall tender, at the time of taking, to the manufacturer or vendor of such food or drug, or to the person having the custody of the same, the value thereof; samples may be purchased in the open market or at the factory, and if in bulk, the marks, brands or tags upon the package, carton, wrapper or other container and the accompanying printed or written matter shall be noted. The collector shall also note the names of the vendor and agent through whom the sale was actually made, together with the date of the purchase. Samples shall be divided into three equal parts; each part shall be labeled with identifying marks. One of the parts shall be delivered to the person from whom the purchase was made, or, if a guaranty has been given, such part shall be delivered to the guarantor. One of the parts shall be sent to the chemist of the State Experiment Station and one part shall be held under seal by the commissioner. The parts of the sample so divided shall be sealed by the collector with a seal provided for that purpose. Any person who shall obstruct the commissioner, or any of his assistants, by refusing to allow him entrance to any place which he desires to enter in the discharge of his official duty, or refuse to deliver to him a sample of any article of food or drug made, sold, offered or exposed for sale by such person when the same is requested and when the value thereof is tendered, shall be guilty of a misdemeanor, punishable by a fine of not exceeding fifty dollars for the first offense and not exceeding five hundred dollars, nor less than fifty dollars for each subsequent offense. (Id. § 5733.)

20. Duty of Prosecuting Attorney.—It shall be the duty of the prosecuting attorney in any county or city in the State, when called upon by the commissioner, or any of his assistants, to render any legal assistance in his power to execute the laws and to prosecute cases arising under the provisions of this article. (Id. § 5734.)

21. Notice of Finding; Hearing; Judgment; Sale; Appeal; Costs.—When the examination of the samples of the food and drugs mentioned in section 5733, of this article and chapter, shows that the provisions of this article and of article 1,* have been violated, the said commissioner shall first cause notice of such fact, together with a copy of the findings, to be given to the party or parties from whom the sample was obtained, and to the party, if any, whose name appears upon the label as manufacturer, packer, wholesaler, retailer, or other dealer. The parties so notified shall be given opportunity to be heard under such rules and regulation as may be prescribed by the State Food and Drug Commissioner. The notice shall specify the date, hour, and place of the hearing. The hearing shall be private, and shall take place at the office of the commissioner, or some other place in the State designated by him, and the parties interested therein, may appear in person or by attorney. If the party whose name appears upon the label resides without the State, he shall be entitled to reasonable notice by mail at the address given upon the said label, or at such address as the commissioner may be able to obtain. If, after such hearing, it appear to the said commissioner that the said food or drug is adulterated or misbranded, or is a substitute or imitation, within the meaning of any law providing against the adulteration, misbranding, imitation or substitution of food or drugs, the said commissioner or his deputy, or any person by him duly authorized, shall make complaint before any justice of the peace having jurisdiction in the city, village, or township, if the value of the

*Reference is to Article 1 of Chapter 38 of the Revised Statutes, which includes sections 5664-5684. See Nos. 1-14, 33-37 and 181-182.

goods from which the said sample is taken, shall not be greater than the amount within the jurisdiction of the said justice, and the said justice shall thereupon issue his summons to the person in possession of the said goods directing him to appear, not less than five nor more than ten days from the date of issuing the said summons, and show cause why said goods shall not be condemned and disposed of. If the said persons cannot be found, said summons shall be served upon the person then in possession of the goods. The said summons shall be served at least five days before the time for appearance mentioned therein. If the said persons cannot be found, and no one can be found in possession of the said goods, and the defendant shall not appear on the return date, then the said justice of the peace shall proceed in the said cause, and in the same manner, as provided by law where a writ of attachment is returned not personally served upon any of the defendants, and none of the defendants appear upon the return day, unless cause to the contrary thereof be shown, or if said goods shall be found upon trial to be in violation of any of the provisions of this article or other laws which may now exist or which may be hereafter enacted, and it shall be the duty of the said justice of the peace to render judgment that the said property be forfeited to the State of Missouri, and that said goods be destroyed or sold for any purpose other than to be used as food. The mode of proceeding before said justice of the peace shall be the same as, or as near as may be, in civil proceedings before justices of the peace. Either party may appeal to the Circuit Court as appeals are taken from justices' courts but it shall not be necessary for the State to give an appeal bond. The proceeds arising from the sales shall be paid into the State treasury and credited to the general fund; Provided, that if the owner or party claiming the property or goods declared forfeited, can produce and prove a written guarantee of purity, signed by the wholesaler, jobber, manufacturer or other person residing in this State, from whom said articles were purchased, then the proceeds of the sale of such articles, over and above the cost of forfeiture and sale, including witnesses fees, shall be paid over to such owner or claimant, to reimburse him to the extent of such surplus for his actual loss resulting from such forfeiture as shown by the invoice. Where the value of the said goods from which the samples are taken exceeds the jurisdiction of the justice of the peace, complaint shall be made to the Circuit Court having jurisdiction in the city, village or township, and the proceedings thereafter shall be the same as those thereinbefore mentioned before the justice of the peace. Either party shall have the right to appeal from any ruling made by the said court as provided by the statutes of Missouri regulating appeals from the said courts, but it shall not be necessary for the State to give an appeal bond. All proceedings under this section shall be brought in the name of the State of Missouri, and all sales of said goods found upon trial to be in violation of the provisions of the laws of this State which now exist, or may hereafter be enacted, shall be made by the constable of said district, in the event of the proceeding being brought before the justice of the peace or by the sheriff of the county where the judgment is rendered by the Circuit Court. A reasonable charge may be allowed by the said justice or Circuit Court for the storage of the said goods pending a final judgment, and which shall be taxed as costs in the cause. (Id. § 5735.)

22. Notice by Publication.—After judgment of the court, notice by publication shall be given in such manner as may be prescribed by the rules and regulations aforesaid. If an appeal be taken from the judgment of the court before such publication, notice of that fact shall accompany the publication. (Id. § 5736.)

23. Commissioner to Report, to Whom.—The commissioner shall make an annual report to the Governor, on or before the first day of January of each year, which report shall be printed and published. Such report shall cover the work of his office for the preceding year and shall show, among other things, the number of specimens of food products analyzed, and the report of the analyst upon each one when the analysis indicates the same to be contrary to law; the number of complaints entered against persons for violations of law relative to adulteration and misbranding of food and drugs; the number of convictions had and the amount of fines imposed therefor; an account of the money received and expended by him and his assistants, together with such recommendations relative to the statutes in force as his experience may justify. The commissioner may also prepare, print and distribute a monthly bulletin containing the results of inspections, the results of analyses made, or caused to be made, with proper explanations of the same, and such other information as may come to him in his official capacity relating to the adulteration and misbranding of foods and drugs so far as he may deem of benefit and advantage to the public; also, a brief summary of the work done during the month by the commissioner and his assistants in the enforcement of the laws of the State; but not more than ten thousand copies of each of the monthly bulletins

shall be printed, which printing shall be done by the State printer, and shall be paid for in the same manner as other State printing. (Id. § 5737.)

24. Commissioner to Inspect Food and Drug Manufactories; to Prescribe Rules and Regulations For Sanitary Conditions of Such.—It shall be the duty of the Food and Drug Commissioner to inspect all places where food products or drugs are manufactured or are kept for sale, and prescribe rules and regulations for the sanitary conditions of such factories and places where food products and drugs are kept for sale, and [he] shall have power to enforce all laws of this State relating to food and drugs, and in the discharge of his duties shall have the same power to serve criminal processes and make arrests as are now given to the sheriffs and marshals of this State. (Id. § 5738.)

25. Disposition of Articles on Hand.—All articles, foods and drugs in the hands of the retailer and jobber when this law goes into effect may be sold in the condition in which they are found; Provided, such articles are branded to the effect that the same were on hand July 1, 1909. (Id. § 5739.)

26. Term and Duties of Commissioner and His Deputy; Inspectors; Duties, Tenure, Etc.—The term of office of the State Food and Drug Commissioner shall expire on the first day of June, 1923, and thereafter the official term of the State Food and Drug Commissioner shall be four years. The State Food and Drug Commissioner shall have and exercise general supervision of enforcement of the food and drug laws of this State and direct the work of his deputy and the inspectors of his department. The tenure of office of the deputy food and drug commissioner shall be the same as that of the State Food and Drug Commissioner. The inspectors of the food and drug department shall hold office during the pleasure of the State Food and Drug Commissioner. The State Food and Drug Commissioner, his deputy and inspectors respectively shall have and receive the salaries now or hereafter fixed by law, and, in addition thereto, shall be reimbursed for expenses incurred while traveling in the necessary performance of official duty within or without this State, and the State Food and Drug Commissioner, his deputy or any inspectors designated by him shall be entitled to reimbursement for expenses incurred in attendance upon any meeting of food and drug officials held anywhere in the United States. (Id. § 5740.)

27. Moneys Collected Paid Into General Revenue Fund; Salaries and Expenses, How Paid.—All moneys collected by the State Food and Drug Commissioner, his deputy, or inspectors shall be paid into the State Treasury, there to constitute a part of the general revenue fund. The State Auditor is hereby directed to issue his warrant monthly upon the State Treasurer for the payment of the salaries and expenses of the State Food and Drug Commissioner, his deputy and inspectors. A detailed statement of the expenses incurred by the State Food and Drug Commissioner, his deputy, and inspectors, approved by the State Food and Drug Commissioner, shall be filed with the State Auditor before warrant is drawn for the payment of same by the State Auditor. (Id. § 5741.)

Miscellaneous General Provisions.

28. Use of Impure Barrels, Etc., Prohibited.—It shall be unlawful for any person, firm or corporation to use any barrel, lard tierce, preserve or butter tub, having been once used, for the purpose of packing or storing any article of human food therein, unless such barrel, lard tierce, preserve or butter tub has been thoroughly cleaned or scoured before its subsequent use. (R. S. 1919, § 3628.)

29. Penalty.—Any person violating the provisions of the foregoing section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five dollars or more than twenty dollars for each offense, and by the using of any single article as before mentioned shall constitute a separate offense. (Id. § 3629.)

30. Adulterating Food or Drink.—Every person who shall fraudulently adulterate, for the purpose of sale, anything intended for food or drink, or any drugs or medicine, shall be deemed guilty of a misdemeanor. (Id. § 3630.)

31. Certain Substances Not to be Used in Compounds of Food.—It shall be unlawful for any person or corporation doing business in this State to manufacture, sell or offer to sell, any article, compound or preparation, for the purpose of being used or which is intended to be used in the preparation of food, in which article, compound or preparation there is any arsenic, calomel, bismuth or ammonia. (Id. § 3641.)

32. Penalty for Violation of Preceding Section.—Any person or corporation violating the provisions of section 3641 shall be deemed guilty of a misdemeanor,

and shall, upon conviction, be fined not less than one hundred dollars, which shall be paid into and become a part of the public school fund of the county in which said fine is collected. (Id. § 3642.)

NOTE: See also No. 180.

PART II.

Special Food Laws.

Apples.

See No. 311.

Beverages.

33. Non-Alcoholic Drinks Not to be Adulterated or Misbranded.—It shall be unlawful for any person, firm or corporate body, by himself, herself, itself or themselves, or by his, her, its or their agents, servants or employees, to manufacture, sell, offer for sale, expose for sale, or have in possession with intent to sell, any article of non-alcoholic drink which is adulterated or misbranded, within the meaning of this article. (R. S. 1919, § 5678.)

34. Definition of Term "Non-Alcoholic Drink" as Used Herein.—The term "non-alcoholic drink," as used herein, shall include carbonated beverages of all flavors, sarsaparilla, ginger ale, soda water of all flavors, lemonade, orangeade, root beer, grape juice, and all other non-intoxicating drinks. (Id. § 5679.)

35. Non-Alcoholic Drink Adulterated, When.—A non-alcoholic drink shall be deemed to be adulterated, within the meaning of this article, if it contains any added boric acid or borates, salicylic acid or salicylates, formaldehyde, sulphurous acid or sulphides, hydrofluoric acid or fluorides, fluoborates, fluosilicates, or other fluorine compounds, dulcin, glucin, betanaphthol, hydronaphthol, abarastrol, asaprol, oxides of nitrogen, nitrous acid or nitrates, compounds of copper, pyroligenous acid, or other added substance deleterious to health. (Id. § 5680.)

36. Non-Alcoholic Drink Misbranded, When.—For the purpose of this article, a non-alcoholic drink shall be deemed to be misbranded:

First. If it be an imitation of, or offered for sale under, the distinctive name of another article, or if it is colored or flavored in imitation of the genuine color or flavor of another substance.

Second. If it is labeled or branded or tagged so as to deceive or mislead the purchaser.

Third. If the bottle or receptacle containing it be one bearing the name or brand of a manufacturer other than the one using it, whether or not the latter attaches a label to said bottle or receptacle so bearing a name or brand.

Fourth. If the bottle or receptacle containing it be sealed or capped with a seal or cap bearing the name or brand of a manufacturer other than the one using such seal or cap.

Fifth. If the bottle or receptacle containing it, or its label, shall bear any statement, design or device, regarding the ingredients or the substance contained therein, which statement, design or device shall be false or misleading in any particular; provided, that any non-alcoholic drink which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded under the following conditions:

A. In the case of mixtures or compounds which may be now, or from time to time hereafter, known as non-alcoholic beverages under their own distinctive names, and not an imitation of, or offered for sale under, the name of another article.

B. In the case of non-alcoholic beverages which are labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation," or "blends," as the case may be, is plainly stated on the container in which it is offered for sale; provided, that the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients not prohibited by this article, and used for the purpose of coloring or flavoring only. (Id. § 5681.)

37. Penalty.—Any person who shall violate any of the provisions of sections 5678 to 5681 shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than twenty-five (25) dollars, nor more than one hundred (100) dollars, or not more than six months in jail, or both. (Id. § 5682.)

38. "Soft Drink" Inspection.—The State Beverage Inspector* of this State shall cause to be inspected by chemical analysis samples of all non-intoxicating liquors or beverages or so-called "soft drinks" of every kind manufactured or sold in this State, which shall be understood to include those containing less than one-half of one per cent of or no alcohol, including ginger ale, ginger beer, hop ale, soda water, bevo, unfermented grape juice, cider, carbonated beverages, coca-cola, unfermented cereal or malt beverages, all non-intoxicating beverages and flavored beverages, seltzer water, mineral waters, and all other waters used and sold for beverage purposes, and also all fountain syrups, flavors and extracts intended for use in the preparation and concoction of so-called "soft drinks." (Id. § 5961.)

39. Manufacturing or Bottling; Use of Impure Substances Prohibited.—No person, persons, firm or corporation engaged in the manufacture or bottling within this State of any non-intoxicating beverage or so-called "soft drinks," as designated in section 5961, or of fountain syrups, flavors or extracts intended for use in the preparation or concoction of such beverages or "soft drinks," shall use any substance, material or chemical in the manufacture or preparation of such beverages which is not pure, clean and wholesome. (Id. § 5962.)

40. Samples to be Submitted for Inspection.—Every person, persons, or corporation who shall erect or maintain a plant, factory, or establishment, for the manufacture, preparation or bottling of any such non-intoxicating beverages or so-called "soft drinks," or of fountain or other syrups, flavors and extracts intended for use in the preparation or concoction of such beverages or "soft drinks," for the purpose of offering the same for sale to persons in the State, shall cause samples of same to be inspected by the State Beverage Inspector of this State, and when so inspected as herein required the same may be sold in this State. Every such person, persons, or corporation shall furnish to such inspector upon demand by him from time to time such samples for inspection as he may deem necessary. (Id. § 5963.)

41. Affidavit of Purity of Products; Inspection, Fees.—Every person, persons, or corporation who shall receive for sale or offer for sale any such non-intoxicating beverages, "soft drinks," fountain or other syrups, flavors or extracts other than those manufactured, prepared or bottled in this State, shall upon receipt of same and before offering for sale, notify the inspector, who shall be furnished with a sworn affidavit subscribed by an officer authorized to administer oaths, from the manufacturer or bottler, or other reputable person having actual knowledge of the composition of said beverages or syrups, that no material which is not pure, clean and wholesome was used in the manufacture of, same; upon the receipt of said affidavit the inspector shall inspect samples of said beverages or syrups, flavors or extracts for which service he shall receive like fees as those imposed upon the manufacturers or bottlers of said beverages, syrups, flavors or extracts, in this State, and when so inspected as herein required the same may be sold in this State. (Id. § 5964.)

42. Fees Entitled to for Inspecting.—The inspector shall be entitled to receive for inspecting three-fifths cent for each gallon of non-intoxicating liquid beverage manufactured or sold in this State; five cents per gallon for all fountain syrups, three-fourths of a cent per ounce for all flavors or extracts used in the manufacture or concoction of beverages not otherwise inspected. All fees received by the inspector shall be paid into the State Treasury. (Id. § 5965, as amended L. 1921, p. 402, § 1.)

43. Records to be Kept.—The inspector appointed under this article shall provide himself with an office, and shall record on books kept for that purpose the names and places of business of all persons engaged in the manufacture, preparation or bottling of any or all non-intoxicating beverages or "soft drinks," or syrups, flavors, or extracts as described in section 5961. He shall keep a record of all such non-intoxicating beverages or "soft drinks," manufactured, prepared or bottled and the amount produced by each manufacturer or bottler or sold by dealer, and shall keep a record of all inspections made. He shall keep a record of all fees collected and all expenditures incurred, and shall make a full and complete report of the same to the Governor upon the first day of each year. (R. S. 1919, § 5966.)

44. Labels to Certify Inspection.—It shall be the duty of such inspector to cause to be inspected samples of all such non-intoxicating beverages, "soft drinks," syrups, flavors and extracts as in this article described, manufactured, prepared or

*By the Laws of 1923, page 228, the office of the State Beverage Inspector was abolished and all rights, powers and duties pertaining to his office conferred upon and vested in the Food and Drug Commissioner. The sections hereunder should be corrected accordingly.

bottled or sold in this State, and if he shall find that such non-intoxicating beverages, "soft drinks," syrups, flavors or extracts have been made from and contain only pure, clean and wholesome material and ingredients, to furnish to the manufacturer, wholesaler or dealer upon payment for same labels to be placed upon the package containing such non-intoxicating beverages, "soft drinks," syrups, flavors or extracts certifying that the same has been inspected and found to be made from pure, clean and wholesome ingredients. (Id. § 5967.)

45. Violations; Penalty.—Any person who shall sell any non-intoxicating beverages, "soft drinks," syrups, flavors or extracts as described in this article within this State which has not been inspected according to the provisions of this article, or contained in packages which shall not have upon them the certificate of the State Inspector, or any person who shall fail to destroy said certificate or label after contents of said packages are disposed of, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the county jail for a period of not less than six months. (Id. § 5968.)

46. Inspection Free; Exports.—All non-intoxicating beverages, "soft drinks," syrups, flavors or extracts as in this article described, manufactured, prepared or bottled in this State and exported outside of the State for sale, shall be inspected as other non-intoxicating beverages, "soft drinks," syrups, flavors or extracts designated in this article, but said inspection shall be free of cost to the manufacturer or bottler. (Id. § 5969.)

47. Manufacturers or Wholesalers or Dealers May Keep Records and Report, etc., in Lieu of Stamp.—Manufacturers or wholesalers or dealers in bottled soft drinks, syrups, flavors, or extracts, who so desire may in lieu of placing a stamp on each package keep an accurate account of their sales and make a report under oath at the end of each month to the State Beverage Inspector with a remittance to cover all sales for the month. The books of such manufacturers, wholesalers or dealers shall at all times be open to examination by the State Beverage Inspector or his deputies or bookkeepers. (Id. § 5970.)

48. State Treasurer to Provide Certificates and Labels; Returns; Records.—It shall be the duty of the State Treasurer to provide suitable and inimitable State certificates and labels for this inspection and labeling, having on each proper places for countersigning by the State Treasurer and Inspector, and shall safely keep the same together with the plates used in making them, when not in actual use. The State Treasurer shall from time to time, on demand, deliver the aforesaid labels to the inspector, taking therefor his receipt, and shall charge said inspector with the same; and shall from time to time as said inspector makes returns of money collected in the course of his inspection credit said inspector's account with such sums, and shall keep a true and correct book account of his dealings with said inspector. (Id. § 5971.)

49. Misuse of Certificate or Labels a Felony.—It shall be unlawful for any person to attempt to make or make, to attempt to sell or sell, to attempt to use or use any of the certificates or labels or both provided by this article, or imitations thereof, except such persons as by law are allowed to make, sell and use the same, and any person so offending shall be deemed guilty of a felony, and, upon conviction, be punished by imprisonment in the penitentiary for a term not to exceed five years. (Id. § 5972.)

50. Expenses and Salaries, How Paid.—The expense of said office, including the salaries of the inspector and his deputies, clerical help and traveling expenses, shall be paid monthly out of the amount appropriated by law from the general revenue fund on warrants drawn by the State Auditor on vouchers approved by the inspector, and all fees received by the inspector under the provisions of this chapter shall, on or before the last day of each month, be paid into the State Treasury by said inspector and shall be placed to the credit of the general revenue fund. (Id. § 5973.)

51. Penalty for Failure of Inspector to Perform Duty.—If any inspector shall fail to perform any of the duties imposed upon him by this article, or shall in any manner violate any of the provisions thereof, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for not less than thirty days and by a fine not exceeding one thousand dollars (\$1,000.00) and upon conviction such inspector may be removed from office by the Governor. (Id. § 5974.)

52. Prosecutions, How Conducted; Fines, How Apportioned.—All prosecutions for fines and penalties under the provisions of this article shall be either by indictment or information in any court of competent jurisdiction, and when collected shall be paid one-fourth to the informer and three-fourths into the fund for the

construction of public roads and highways in the county in which said offense may have been committed and prosecution begun. (Id. § 5975.)

53. Duplicate Bills of Lading Required.—Every railroad, express or transportation company shall, when requested, furnish to the inspector a duplicate bill of lading or receipt showing the name of the consignor and consignee, date, place received, destination and quantity of soft drinks, syrups, extracts or flavors received by them for shipment to any point within this State. Upon failure to comply with the provisions herein, said railroad, express or transportation company shall forfeit and pay to the State of Missouri, the sum of fifty dollars (\$50.00) for each and every failure, to be recovered in any court of competent jurisdiction. The inspector herein provided for is hereby authorized and empowered to sue in his own name at the relation and to the use of the State. The penalties collected shall be paid into the State Treasury. (Id. § 5976.)

54. Inspection of Beer and Malt Products.—The State Beverage Inspector and his deputies and clerks shall enforce all the provisions of the law relating to inspection of beer and malt products and collect the fees therefor and turn same into State Treasury. (Id. § 5977.)

55. Beverage Inspector to Continue Inspection of Beer and Collect Fees.—It shall be the duty of any person, persons, firm or corporation who conduct any business affected by the law relating to the inspection of beer or malt products and have heretofore been required to submit same to the State Beer Inspector and to pay him fees for the inspection of same to submit same to the State Beverage Inspector and pay him the same fees for the inspection of same that they have formerly paid to the State Beer Inspector. (Id. § 5978.)

56. Persons Manufacturing Beer to Cause Same to be Inspected.—Every person, persons or corporation who shall erect or keep a brewery for the manufacture or brewing of beer or other malt products within this State, for the purpose of offering the same for sale, shall cause the same to be inspected by the said State Inspector. (Id. § 5979.)

57. Substances to be Used in the Manufacture of Beer.—No person, persons or corporation, engaged in the brewing or manufacture of beer or other malt liquors, shall use any substance, material or chemical in the manufacture or brewing of beer or other malt liquors, other than pure hops or pure extract of hops, or of pure barley, malt or wholesome yeast, or rice. (Id. § 5980.)

58. Inspection of Imported Beer.—Every person, persons or corporation who shall receive for sale or offer for sale any beer or other malt liquors other than those manufactured in this State shall, upon receipt of same, and before offering for sale, notify the inspector, who shall be furnished with a sworn affidavit, subscribed by an officer authorized to administer oaths, from the manufacturer thereof, or other reputable person having actual knowledge of the composition of said beer or other malt liquors, that no material other than pure hops or the extract of hops, or pure barley, malt or wholesome yeast, or rice, was used in the manufacture of same; upon the receipt of said affidavit, the inspector shall inspect and label the packages containing said beer or malt liquors, for which services he shall receive like fees as those imposed upon the manufacturers of beer and malt liquors in this State. (Id. § 5981.)

59. Inspector's Office; to Keep Records.—The inspector appointed under this article shall provide himself with an office, and shall record on books kept for that purpose the names and places of business of all persons engaged in the manufacture, brewing and sale of beer and malt liquors. He shall keep a record of all beer or malt liquors manufactured, brewed or sold and the amount produced by each brewery or manufacturer, or sold by dealer. He shall keep a record of all fees collected and all expenditures incurred, and shall make a full and complete report of the same to the Governor upon the first day of each year. (Id. § 5982.)

60. Duty of Inspector; to Affix Label.—It shall be the duty of such inspector to cause to be inspected all beer or other malt liquors brewed or manufactured or sold in this State, and if he shall find that such beer or other malt liquor has been made from pure hops or the pure extract of hops, or of pure barley, malt or wholesome yeast, or rice, to place upon the package containing such beer or malt liquor his label, certifying that the same has been inspected and made from wholesome ingredients. (Id. § 5983.)

61. State Treasurer to Furnish Certificates and Labels; to Keep Accounts.—It shall be the duty of the State Treasury to provide suitable and inimitable State certificates and labels for this inspection, gauging and labeling, having on each proper places for countersigning by the State Treasurer and Inspector, and shall safely keep the same, together with the plates used in making them, when not in actual use. The State Treasurer shall from time to time, upon demand, deliver the

aforesaid labels to the inspector, taking therefor his receipt, and shall charge said inspector with the same; and shall from time to time as said inspector makes returns of moneys collected in the course of his inspection credit said inspector's account with such sums, and shall keep a true and correct book account of his dealings with said inspector. (Id. § 5984.)

62. Penalty for Counterfeiting Labels.—It shall be unlawful for any person to attempt to make or make, to attempt to sell or sell, to attempt to use or use any of the certificates or labels or both provided for by this article, or imitations thereof, except such persons as by law are allowed to make, sell and use the same. and any person so offending shall be deemed guilty of a felony, and, upon conviction, be punished by imprisonment in the penitentiary for a term not to exceed five years. (Id. § 5985.)

63. Fees for Inspection.—The inspector shall be entitled to receive for inspecting and gauging one-half a cent for each gallon contained in each package, and one cent for labeling each package. All fees received by the inspector shall be paid into the State Treasury. The word "package," as used in this article, shall be construed to mean any vessel of any kind other than pint and quart bottles in which any beer or malt liquor may be placed for sale containing eight gallons or less; when said beer or malt liquors are placed in pint or quart bottles, a package, as used in this article, shall be construed to mean not to exceed forty-eight pint bottles or twenty-four quart bottles of beer or malt liquors, which, when manufactured and so bottled must, before sale, be placed in suitable cases containing said number and size of bottles for stamping by said State Inspector; and when said beer or malt liquors shall be placed in vessels containing more than eight gallons, the word package shall be construed to mean each eight gallons or fractional part thereof so contained in said vessel. (Id. § 5986.)

64. Expenses of Inspection and Salaries to be Paid, How; Fees to be Paid Into Treasury.—The expense of said office, including the salaries of the inspector and his deputies, shall be paid monthly out of the amount appropriated by law from the general revenue fund on warrants drawn by the State Auditor on vouchers approved by the inspector, and all fees received by the inspector under the provisions of this article shall, on or before the last day of each month, be paid into the State Treasury by said inspector and shall be placed to the credit of the general revenue fund. (Id. § 5987.)

65. Penalty for Sale Before Inspection.—Any person who shall sell any beer or malt liquor within this State which has not been inspected according to the provisions of this article, or contained in packages which shall not have upon them the certificate of the State Inspector, or any person who shall fail to destroy said certificate or label after the contents of said package are disposed of, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a period of not less than six months, and in addition thereto shall have his license or other authority giving him the right to manufacture or sell said liquors in this State revoked, and shall not again receive any such license or other authority for a period of two years thereafter. (Id. § 5988.)

66. Penalty for Failure of Inspector to Perform Duty.—If any inspector shall fail to perform any of the duties imposed upon him by this article, or shall in any manner violate any of the provisions thereof, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for not less than thirty days and by a fine not exceeding one thousand dollars, and if any said inspector shall fail to faithfully perform the duties enjoined upon him by this article he may be removed from office by the governor. (Id. § 5989.)

67. Prosecutions, How Conducted; Disposition of Fines Collected.—All prosecutions for fines and penalties under the provisions of this article shall be either by indictment or information in any court of competent jurisdiction, and when collected shall be paid one-fourth to the informer and three-fourths into the fund for the construction of public roads and highways in the county in which said offense may have been committed and prosecution begun. (Id. § 5990.)

68. Beer for Export to be Inspected Free of Cost.—All beer or other malt liquors manufactured in this State and exported outside of the State for sale, shall be inspected as other liquors designated in this article, but said inspection shall be free of cost to the manufacturer. (Id. § 5991.)

69. Duties of Carriers; Penalty.—Every railroad, express or transportation company shall, when requested, furnish to the inspector a duplicate bill of lading or receipt showing the name of the consignor and consignee, date, place received, destination and quantity of beer or malt liquors received by them for shipment to

any point within this State. Upon failure to comply with the provisions herein, said railroad, express or transportation company shall forfeit and pay to the State of Missouri the sum of fifty dollars for each and every failure, to be recovered in any court of competent jurisdiction. The inspector herein provided for is hereby authorized and empowered to sue in his own name at the relation and to the use of the State. (Id. § 5992.)

69a. Adulteration of Liquors.—Any person who shall adulterate, by the use of strychnine or other poisonous liquids or ingredients, any spirituous, fermented, malt or vinous liquors, or shall sell any such liquors by retail or wholesale, knowing the same to be adulterated as aforesaid by or with strychnine or other poisonous liquids or ingredients, shall be deemed guilty of a felony, and upon conviction thereof be punished by imprisonment in the penitentiary not exceeding five years. (Id. § 3633.)

69b. What Used in Manufacture of Beer.—No substitute for hops or the pure extract of hops, or of pure barley malt or wholesome yeast, shall be used in the manufacture of ale or beer in this State, and all ale or beer shown to contain any substance used as a substitute for hops, or pure extracts of hops, or pure barley malt or wholesome yeast, is hereby declared adulterated. Whoever manufactures for sale any ale or beer adulterated as referred to in this section, or sells or offers to sell any such ale or beer, knowing it to be adulterated as aforesaid, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than five hundred and not more than five thousand dollars, or by imprisonment in the county jail not less than one month nor more than six months, or by both such fine and imprisonment. (Id. § 3643.)

69c. Duty of Grand Jury.—The grand jury may send for persons or papers in cases where they may be of the opinion that any person or persons have been guilty of violating any of the provisions of sections 3633, 3634,* 3643, . . . (Id. § 3649.)

NOTE: See also Nos. 180, 188 et seq., 256 et seq., and 302 et seq.

Bread and Bakery Products.

See Nos. 180, 188 et seq., and 205 et seq.

Canneries.

See No. 188 et seq.

Cold Storage.

See Nos. 148-150 and 188 et seq.

Confectionery.

70. What Ingredients Prohibited in Manufacture of Candies.—No person shall, by himself, his servant or agent, or as the servant or agent of any other person or corporation, manufacture for sale or knowingly sell or offer to sell any candy adulterated by the admixture of terra alba, barytes, talc or any other mineral substance, by poisonous colors or flavors, or other ingredients deleterious or detrimental to health. (R. S. 1919, § 3634.)†

71. Penalty.—Whoever violates any of the provisions of section 3634 shall be punished by a fine of not exceeding one hundred dollars nor less than fifty dollars. The candy so adulterated shall be forfeited and destroyed under direction of the court. (Id. § 3635.)

72. Duty of Prosecuting Attorney.—It is hereby made the duty of the prosecuting attorneys of this State to appear for the people and to attend to the prosecution of all complaints under section 3634 in all the courts in their respective counties. (Id. § 3636.)

NOTE: See also Nos. 4, 188 et seq., and 205 et seq.

Dairy Products—Substitutes For Dairy Products.

73. Creating a State Bureau of Dairying.—There is hereby created and established a bureau, to be known and styled "The State Bureau of Dairying,"

*See No. 70.

†See No. 69c.

which shall be under the direction and supervision of the State Board of Agriculture, and the chief of such bureau shall be known and styled as the State Dairy Commissioner. (R. S. 1919, § 11973.)

74. Duties of Dairy Commissioner.—It shall be the duty of the State Dairy Commissioner to inspect, or cause to be inspected, all creameries, public dairies, butter and cheese factories, milk depots, milk and cream collecting stations, market houses and buildings where dairy products, or any imitation thereof are sold by wholesale or retail dealers in milk, cream, butter or cheese, or imitation thereof, in this article referred to; all wagons or vehicles used for the disposition of milk or cream, or other dairy products or imitation thereof; and railroad cars, boats, or other means of transporting milk, cream, or other dairy products, or any imitation thereof, to market, at least once a year; to prescribe such reasonable rules and regulations for their operation as he deems necessary to fully carry out the provisions of this article, or any other law relative to the production, manufacture, transportation, sale or consumption of dairy products, or imitations thereof, which rules and regulations shall be published in bulletins issued by the State Dairy Commissioner for the promotion and maintenance of the public health and safety, and the further maintenance of the public dairy industry in this State. (Id. § 11974.)

75. Shall Inspect and License Buying and Receiving Stations.—The State Dairy Commissioner shall inspect and license milk or cream gathering, buying and receiving stations within this State, and it shall be unlawful for any person, firm, association or corporation engaged in the business of buying milk within the State for the purpose of shipping same to any city, town or village in this State for consumption or to be used for the manufacture of butter, cheese, condensed milk, or other human food, unless such business shall be transacted at a legally licensed office or station within the State, as in this article provided. (Id. § 11975.)

76. Application for License; How Made.—Every person, firm, association or corporation, before engaging in the business of buying milk for the purposes in the foregoing sections set forth, shall annually, on or before the first day of August, file an application with the State Dairy Commissioner for a license to engage in such business. Said application shall state the nature of the business, the full name of the person, firm, association or corporation applying for the license, and if the applicant be an unincorporated firm or association, the application shall state the full name and address, including street and number, of each member of such firm or association; the city, town or village where such business is to be conducted, and such other facts as the State Dairy Commissioner shall require concerning the character, financial responsibility and good faith of the applicant, and shall be accompanied by an annual license fee of two dollars. It shall be the duty of the State Dairy Commissioner to act promptly upon all applications, and issue license to all applicants whose applications he shall approve, and return all rejected applications and remittances accompanying same; provided, that no license shall be issued to any applicant who, during the year preceding, has been found by the State Dairy Commissioner or by any court to have been guilty of violating any of the provisions of this article, or whose place of business does not, in all respects, meet the requirements of this article. The term "station" or "milk gathering station" or "milk buying station," as used in this article, shall be held to include any established office or place where the business of buying milk or cream is carried on, whether with or without a place or premises in connection therewith for the physical handling of milk. And it shall be unlawful for any person, persons, company, association or corporation, or any employee or agent thereof, to handle milk, cream, butter, ice cream or other dairy products in an unclean or unsanitary place, or in an unsanitary manner, and the State Dairy Commissioner, or any deputy State dairy commissioner, shall have the power and they are hereby authorized to forbid the handling of cream, milk, butter, ice cream or other dairy products in any such place or places as in his judgment are unsanitary and unclean and will affect the purity and wholesomeness of such dairy products. It shall be unlawful for any person, persons, firm, partnership, company, corporation or association to handle, test or ship milk, cream or ice cream or other dairy products in unclean or unsanitary vessels, or to expose milk, cream or ice cream or other dairy products to flies or other contaminating influences liable to convey pathogenic or other injurious bacteria to such milk, cream, ice cream or other dairy products; and it shall be unlawful for any common carrier to neglect or fail to remove or ship from any railroad depot, on the day of its arrival there for shipment, any milk, cream or other dairy products left at such depot for transportation; and it shall be unlawful for any person, firm, partnership, company, corporation or association using cans in which milk or cream is shipped to allow the same

to remain at a railroad depot longer than one day from the date of their arrival, or to allow them to stand more than one day without the covers and inverting the cans in pure air. It shall be unlawful to use, lend or lease for use any cream or milk can or ice cream packer or container for any other purpose than the handling, storing or shipping of milk, cream or ice cream. (Id. § 11976.)

77. Milk or Cream Testing; How Regulated.—It shall be the duty of the State Dairy Commissioner to license the use or operation of milk or cream testing apparatus, to determine the percentage of butter fat in milk or cream. And it shall be unlawful for any person to operate, or use any milk or cream testing apparatus for himself, or as the agent of any person, firm, association or corporation, to determine the percentage of butter fat in milk or cream for the purpose of fixing the value of such milk or cream for the purpose of purchasing the same, either for himself, or any other person, firm, association or corporation, or who shall take samples for that purpose of milk or cream without first securing a license from the State Dairy Commissioner, as in this article provided, authorizing the use and operation of such milk or cream testing apparatus, such license to run from the first day of August to the thirty-first day of July; provided, that nothing herein contained shall be so construed as to impose a license tax upon any person using a Babcock tester in testing milk taken from his own cows for the purpose of determining the milk producing value of such cows. All applications for the license in this section required shall be made to the State Dairy Commissioner on a blank form provided by him. Every such application shall be accompanied by an annual license fee of two dollars. A license issued under the provisions of this section shall also authorize the licensee to buy milk, cream and other dairy products mentioned in section 11976 of this article without additional license therefor, but no person shall operate more than one station under the same license. (Id. § 11977.)

78. Commissioner May Revoke License, When.—The State Dairy Commissioner shall have authority, and is hereby required to revoke any license issued by him for the operation of milk buying stations, or milk gathering stations, or milk gathering depots, or for the use and operation of any milk or cream testing apparatus when he shall find that the licensee has violated any of the provisions of this article, or any other law of this State pertaining to the production, manufacture, transportation, sale, use or consumption of dairy products, or imitations thereof, or upon the filing with him of a certificate of the clerk of any court in this State, showing that the licensee has been convicted of the violation of any such law or laws since the date of his license. (Id. § 11978.)

79. Public Meetings; Creameries, Cheese Factories, Etc., How Encouraged.—The State Dairy Commissioner shall, at least once each year, hold a public meeting at each creamery, public dairy, butter or cheese factory in this State, and at such meetings shall co-operate with the producers in the adoption of proper methods to be employed in the production of milk and the care thereof, the proper manner in which to stable, feed and care for cows; the best methods of raising forage crops suitable for dairy purposes, the mixing of improved or balanced rations for feeding dairy cattle, and such other methods as he shall deem advisable for the advancement of the dairying industry in this State, and it shall be the duty of the owner, or owners of such creamery, public dairy, butter or cheese factory, when called upon by the State Dairy Commissioner so to do, to notify its patrons of the time of such meeting. On petition of twenty persons in each locality who are interested in dairying, or the establishment of a creamery or cheese factory, the State Dairy Commissioner shall speedily appoint a meeting for such locality, which he shall attend, and if, in his judgment, the circumstances are favorable, he shall advise and encourage the formation of such dairy, creamery or cheese factory. (Id. § 11979.)

80. Shall Publish Statistics; Employees; Accounts.—The State Dairy Commissioner shall compile and publish annually statistics and information concerning all phases of the dairying industry of this State, and from time to time, as frequently as he deems expedient, shall issue bulletins thereon. He shall co-operate with the State Board of Agriculture in holding farmers' institutes, special dairy meetings, and work for the promotion and development of the dairying industry throughout the State. He shall appoint not to exceed one deputy and one stenographer at annual salaries to be fixed by the State Board of Agriculture, as hereinafter provided. He shall preserve in his office all correspondence, records, documents and property of the State which shall come into his possession, care or custody, and turn the same over to his successor in office. He shall devote his whole time to the duties of his office, and during his term shall hold no other official, business or professional position. The State Dairy Commissioner, his deputies and employees shall receive salaries

fixed by the State Board of Agriculture, not exceeding twenty-five hundred dollars per annum for the State Dairy Commissioner, fifteen hundred dollars per annum for his deputy and stenographer, and, necessary traveling expenses in the discharge of official duties, payable out of the funds provided for the maintenance of the State Dairy Department. The State Dairy Commissioner, his deputies and employees shall each render an itemized account to said Board of Agriculture of all the traveling and incidental expenses incurred in working under this law. Said account or accounts shall be audited, and if found to be correct and a legal charge, shall be allowed as is now or hereafter may be provided by law. (Id. § 11980.)

81. Commissioner Authorized to Inspect Factories and Seize Samples; Procedure.—In the performance of official duties, the State Dairy Commissioner is hereby authorized and empowered to enter, during business hours, all creameries, public dairies, butter and cheese factories, milk depots, milk and cream collecting stations, market or other places where dairy products or any imitation thereof are sold or kept for sale, or any railroad cars, wagons, boat or other vehicle used in the transporting of dairy products or imitation thereof, or any barn, stable or enclosure where dairy cattle or dairy products are kept or produced, or any factory or building where ice cream or renovated butter, process butter or any other articles of human food made from dairy products or imitation thereof are manufactured, for the purpose of inspecting the same. He may take samples anywhere of any dairy product or imitation thereof suspected of being made or sold in violation of law, and cause same to be sent to the laboratory of the State Food and Drug Commissioner to be analyzed, and such analysis or test shall be recorded and preserved as evidence, and the certificate of said test, when sworn to by the chemist making the analysis, shall be admitted in evidence in all civil suits that may result under the provisions of this article. He may require the owner, agent or manager of every creamery, public dairy, butter and cheese factory, milk depot, milk and cream collecting stations, market houses and other places where dairy products or imitation thereof are sold or kept for sale, to report annually, on or before September 1st of each year, for the year ending July 1st, on blanks to be furnished by the State Dairy Commissioner, full and accurate information concerning the quantity of milk or cream bought, sold or used, the average price of the same, the quantity of butter or cheese or imitation thereof produced or sold, and the average price of same, the number of cows used in or contributing to the operation of such creameries, dairies and factories; and the number, name and address of the patrons of each creamery, public dairy, butter or cheese factory, and the number of cows owned or milked by each of said patrons; and the number of gallons of milk sold to such creamery, public dairy, butter or cheese factory by each of the patrons thereof; and such other information as shall to the State Dairy Commissioner seem expedient and necessary for the proper tabulation of accurate and complete statements of the extent and magnitude of the dairy industry and dairy products of the State; and for this purpose he may examine, under oath, or otherwise, any person whom he may believe has knowledge concerning the operation of any creamery, public dairy, butter or cheese factory, or any factory manufacturing any imitation of dairy products; may issue subpoena requiring the appearance of witnesses and the production of books and papers, and may administer oath with like effect as is done in courts of law in this State, and any witnesses so summoned and examined shall receive the same fees therefor as is now provided for like services in justice courts. And it shall be the duty of any Circuit Court, or the judge thereof, upon the application of said commissioner, to issue an attachment for such witnesses and compel him or them to attend before the commissioner and give testimony upon such matters as he or they shall be lawfully required by such commissioner, and said court or judge shall have power to punish for contempt as in other cases of refusal to obey the orders and processes of the court. (Id. § 11981.)

82. Definitions.—The terms "creameries," "public dairies," "butter and cheese factories," "milk gathering stations," "milk buying stations," "market houses," for the purposes of this article, shall be construed to mean such as produce or manufacture dairy products, or are dealers in or distributors thereof, either genuine or imitation, for sale, either at wholesale or retail, to the general public, and shall not include farmers and others who produce a small surplus of such products in excess of their family use, but shall include the barns and premises of all farmers or others who produce milk or cream for shipment to any central creamery, public dairy, butter or cheese factory, milk gathering station or milk buying station or market houses. (Id. § 11982.)

83. State Standards.—Pipettes shall, for milk, have a capacity of seventeen and six-tenths centimeters; and the State standard test tube or bottles for milk

shall have a capacity of two centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale marked on the necks thereof; for cream, eighteen drams shall be used, and the standard test tube or bottles for cream shall have a capacity of six centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and thirty on the graduated scale marked on the necks thereof; and it is hereby made a misdemeanor to use any other measure, pipette, test tube or bottle to determine the per cent of butter where milk or cream is purchased by, or furnished to, any creamery or cheese factory where the value of said milk is determined by the per cent of butter fat contained in the same. And it shall be unlawful for any manufacturer, merchant, dealer or agent in this State who shall offer for sale, or sell a milk or cream pipette, or measure or test tube, or bottle which is not correctly marked or graduated as herein provided for,* shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided by law. (Id. § 11983.)

84. Misdemeanor to Manipulate Test or Falsify Record Thereof.—It shall be unlawful for any manager, owner, agent or any employee of a creamery or cheese or butter factory to manipulate or under-read or over-read the Babcock test, or any other contrivance used for determining the quality or value of milk or cream, or to run any such machine at a speed of less than six hundred revolutions per minute for a period of less than eight consecutive minutes, or to falsify the record thereof, or to pay for such milk on the basis of any measurement except the true measurement as thereby determined. Whoever shall be guilty of violating this section shall be deemed guilty of a misdemeanor and punished as provided by law. (Id. § 11984.)

85. Standards of Purity.—For the purposes of this article the following definitions and standards of purity for dairy products are hereby established:

1. Milk is the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains not less than eight and one-half per cent of solids not fat, and not less than three and one-quarter per cent of milk fat.

2. Blended milk is milk modified in its composition so as to have a definite and stated percentage of one or more of its constituents.

3. Skim milk is milk from which a part or all of the cream has been removed, and contains not less than nine and one-quarter per cent of milk solids.

4. Pasteurized milk is milk that has been heated below boiling but sufficiently to kill most of the active organisms present, and immediately cooled to fifty degrees Fahrenheit or lower.

5. Sterilized milk is milk that has been heated at the temperature of boiling water or higher for a length of time sufficient to kill all organisms present.

6. Condensed milk, evaporated milk, concentrated milk, is the product resulting from the evaporation of a considerable portion of the water from the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains, all tolerances being allowed for, not less than twenty-five and five-tenths per cent (25.5%) of total solids and not less than seven and eight-tenths per cent (7.8%) of milk fat.

7. Sweetened condensed milk, sweetened evaporated milk, sweetened concentrated milk, is the product resulting from the evaporation of a considerable portion of the water from the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained fifteen days before and ten days after calving, to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than twenty-eight per cent (28.0%) of total milk solids and not less than eight per cent (8.0%) of milk fat.

8. Condensed skimmed milk, evaporated skimmed milk, concentrated skimmed milk, is the product resulting from the evaporation of a considerable portion of the water from skimmed milk, and contains, all tolerances being allowed for, not less than twenty per cent (20.0%) of milk solids.

8a. Sweetened condensed skimmed milk, sweetened evaporated skimmed milk, sweetened concentrated skimmed milk, is the product resulting from evaporation of a considerable portion of the water from skimmed milk to which sugar (sucrose) has been added. It contains, all tolerances being allowed for, not less than twenty-eight per cent (28.0%) of milk solids.

*So in the law.

8b. Dried milk is the product resulting from the removal of water from milk, and contains, all tolerances being allowed for, not less than twenty-six per cent (26.0%) of milk fat and not more than five per cent (5.0%) of moisture.

8c. Dried skimmed milk is the product resulting from the removal of water from skimmed milk, and contains, all tolerances being allowed for, not more than five per cent (5.0%) of moisture.

8d. Malted milk is the product made by combining whole milk with the liquid separated from a mash of ground barley malt and wheat flour, with or without the addition of sodium chloride, sodium bicarbonate and potassium bicarbonate in such a manner as to secure the full enzymic action of the malt extract by removing water. The resulting product contains not less than seven and one-half per cent (7.5%) of butter fat and not more than three and one-half per cent (3.5%) of moisture.

9. Buttermilk is the product that remains when butter is removed from milk or cream in the process of churning.

10. Goat's milk, ewe's milk, et cetera, are the fresh, clean, lacteal secretions, free from colostrum, obtained by the complete milking of healthy animals other than cows, properly fed and kept, and conform in name to the species of animal from which they are obtained.

1. Cream is that portion of milk, rich in fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean, and contains not less than eighteen per cent (18.0%) of milk fat.

2. Evaporated cream, clotted cream, is cream from which a considerable portion of water has been evaporated.

3. Three grades of cream are hereby established, to be known and described as follows: Extra. Extra grade cream is sweet cream suitable for table use, and such as will not curdle in hot water, tea or coffee. First grade. First grade cream shall consist of cream that is clean to the taste and smell, slightly sour, containing not to exceed four-tenths of one per cent acid, and to contain not less than twenty-five per cent butter fat, and shall be free from lumps, curd, dirt and of foreign matter. Second grade. Second grade cream is cream that is too sour to grade as first grade and having curdy or undesirable flavors or odors. Cream that is old, rancid, molded, dirty or curdy, or that is produced by unclean separators or stored, handled or transported in unclean cans, or that has been produced, handled, separated, stored or transported in violation of this article and all other creams not coming within any of the three grades above established is hereby declared to be illegal, and its production, transportation and sale for human food is hereby prohibited. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and punished as provided by law.

1. Milk fat, butter fat, is the fat of milk, and has a Reichertmeissl number not less than twenty-four and a specific gravity of not less than 0.905 40°C.

1. Butter is the clean, non-rancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt, and contains not less than eighty-two and five-tenths per cent of milk fat, and may also contain added coloring matter.

2. Renovated butter, process butter, is the product made by melting butter and reworking, without the addition or use of chemicals or any substance except milk, cream or salt, and contains not more than sixteen per cent of water and at least eighty-two and five-tenths per cent of milk fat.

1. Cheese is the sound, solid and ripened product made from milk or cream by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning, and contains in the water-free substance not less than fifty per cent of milk fat and may also contain added coloring matter.

2. Skim milk cheese is the sound, solid and ripened product made from skim milk by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning.

3. Goat's milk cheese, ewe's milk cheese, et cetera, are the sound, ripened products made from the milks of the animals specified by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning.

1. Whey is the product remaining after the removal of fat and casein from milk in the process of cheese-making.

2. Kumiss is the product made by the alcoholic fermentation of mare's or cow's milk.

The State Dairy Commissioner shall have the power and he is hereby authorized to adopt and promulgate revised standards of dairy products in

this section mentioned: provided, such standards shall be in accordance with the standards now in force or which may hereafter be established and in force by the United States Department of Agriculture for such products, and shall have the approval of the State Board of Agriculture. (Id. § 11985.)

86. Standards Established; to be Stamped or Labeled.—It shall be unlawful for any person, firm or corporation, by himself or itself, his or its servant or agent, or as the servant or agent of another, to manufacture, sell or exchange or have in possession with the intent to sell or exchange, any condensed or evaporated milk which shall not conform at least to the minimum standards as set forth in section 11985 of article IV, chapter 109, Revised Statutes of Missouri, 1919, [see preceding section] and which if contained in hermetically sealed cans do not bear, stamped or labeled thereon, the name and address of the manufacturer or jobber thereof. It shall be unlawful to sell, or offer or expose for sale, anywhere in this State, any milk or cream containing any foreign substance, or preservative of any kind whatsoever, injurious to health, or shall* sell or offer for sale or deliver to another, for domestic or palatable use or to be converted into any product for human food, any unclean, impure, adulterated or unwholesome milk, or milk from which has been held back what is commonly known as strippings, or milk taken from any animal having tuberculosis, garget or other contagious or infectious disease; or any animal afflicted with any ulcer, lumpjaw, abscess or running sore; or milk that has been taken from any animal within fifteen days before or ten days after parturition, or from any animal that has been fed on any refuse from distilleries, glucose or starch factories or other waste and refuse products, or upon any feed in a rotten or unwholesome state. (Id. § 11986, as amended L. 1923, p. 124 et seq.)

87. Fat or Oil Other Than Milk Fat Prohibited.—It shall be unlawful for any person, firm or corporation, by himself or itself, his or its agent or servant, or as the servant or as agent of another, to manufacture, sell or exchange, or have in possession with the intent to sell or exchange, any milk, cream, emulsified cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives thereof, or any of them, to which has been added any fat or oil other than milk fat, either under the name of said product or articles of the derivatives thereof, or under any fictitious or trade name whatsoever. (R. S. 1919, § 11986-a, as added L. 1923, p. 125 et seq.)

88. "Filled Milk" Defined.—The term "filled milk" means any milk, cream or skim milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream or skim milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, which has been melted or refined by heating, boiling or mixing. Provided, that the above definition shall not include any distinctive proprietary food compound, not readily mistaken in tests for milk or cream, or for evaporated, condensed or powdered milk or cream; provided, however, that such compound is prepared and designed for feeding infants and young children and customarily used on the order of a physician; is packed in individual cans containing not more than sixteen and one-half ounces and bearing the label in bold type, that the contents is [are] to be used only for said purposes; is shipped in interstate or foreign commerce exclusively to physicians, wholesale or retail druggists, orphan asylums, child welfare associations, hospitals and similar institutions and generally distributed by them. (Id. § 11986-b.)

89. "Emulsified Cream" Defined.—The term "emulsified cream" means any milk, cream or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, to which has been added that which is commonly known as process butter, or butter which has been clarified or refined by heating, boiling or by mixing under pressure, or otherwise, so that the resulting product is in imitation or semblance of pure cream arising from pure fresh milk. (Id. § 11986-c.)

90. Emulsified Cream and Filled Milk.—It shall be unlawful to use the article known as emulsified cream in milk, or in any milk product, for any purpose whatsoever. It is hereby declared that filled milk, and emulsified cream as herein defined, are adulterated articles of food injurious to the public health and its sale constitutes a fraud upon the public. It shall be unlawful for any person, firm or corporation to manufacture or ship or deliver to any person within this State any filled milk or emulsified cream. (Id. § 11986-d.)

*So in the law.

91. Penalty.—Any person violating any provision of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of one thousand dollars, or imprisonment in the county jail of not more than one year, or by both such fine and imprisonment; except that penalty shall be enforced for any such violation occurring within ninety days after this act becomes a law. When construing and enforcing the provisions of this act, the act, omission, or failure of any person acting for or employed by any individual, partnership or corporation, or association, within the scope of his employment or office, shall in every case be deemed the violation of this act by such individual, partnership, corporation, or association, as well as the act of such person. (Id. § 11986-e.)

92. Penalty for Interference With Commissioner or His Deputies, or For Failure to Conform to Rules.—Any person or persons, firm or corporation who shall hinder or obstruct or in any manner interfere with the State Dairy Commissioner or his deputies while discharging the duties of inspection, or who shall refuse or fail to make the report provided for by this article, or who shall refuse or neglect to conform to the rules and regulations of the State Dairy Commissioner, which have been published as provided for herein, regarding the care or condition of any animal kept for dairy purposes or for the sanitary conditions of any building in which such animals are kept, or the sanitary condition of any room, building or place where dairy products are kept, either for storage or for the purpose of sale and distribution, or who shall in any other way obstruct or hinder said Dairy Commissioner from carrying out the full meaning and intent of this article, shall be guilty of a misdemeanor, and upon conviction thereof punished as provided by law. (R. S. 1919, § 11987.)

93. Prosecutions, How Instituted.—All prosecutions for violation of the provisions of this article shall run in the name of the State of Missouri, and may be brought in any court of competent jurisdiction, and it shall be the duty of the prosecuting attorney of the county in which any violation of the provisions of this article may occur, to proceed against and prosecute all such violator or violators in his county, and any prosecuting attorney who shall fail to promptly prosecute all such cases shall be deemed guilty of a misdemeanor, and it shall be the duty of the circuit judge of the district in which such prosecuting attorney resides to appoint some member of the bar in such district to prosecute such prosecuting attorney therefor, and to suspend such prosecuting attorney from office. (Id. § 11988.)

94. Must Label Cheese "Not Full Cream Cheese."—No person or persons, corporation, company or other association or congregation of individuals shall manufacture, sell or offer for sale, directly or indirectly, at retail or at wholesale in this State any article to be known or denominated cheese, not made from pure cream or unskimmed milk or cream of the milk, unless such person, or persons, corporation, company or association of individuals manufacturing the same, or offering the same for sale, or selling the same, shall brand or label such cheese or articles so offered for sale denominated a cheese, with black letters not less than one inch in length in a conspicuous place and of large size in the English language, as follows: "Skimmed milk cheese," or with the words "not full cream cheese," giving the true name of such article called cheese so manufactured or offered for sale, clearly and indelibly branded, marked or labeled thereon, so that the same can be distinctly read and fully comprehended, at all stores or places or factories where the same may be offered for sale. (Id. § 11989.)

95. Cheese Must Contain Three Per Cent Butter Fat.—All cheese manufactured, sold or offered for sale in this State at retail or wholesale made from milk or cream of the same, which tests not less than three per cent of butter fat, shall be deemed to be a full cream cheese; and all cheese manufactured, sold or offered for sale at any place or in any manner by any person or persons in this State at retail or wholesale made from milk or cream of the same testing less than three per cent of butter fat shall be deemed "skimmed milk cheese," or cheese not made from pure unskimmed, unadulterated milk or cream of the same. (Id. § 11990.)

96. Shipments of "Skimmed Milk Cheese" Must be so Labeled.—No person by himself or another shall ship, consign or forward by any common carrier, whether public or private, any substance designed to be used as cheese, not made from pure, unskimmed milk or cream of the same, testing at least three per cent butter fat, unless such cheese is marked or labeled "skimmed milk cheese," or with the words "not full cream cheese" labeled thereon, or labeled as in this article hereinafter prescribed. (Id. § 11991.)

97. State Board of Agriculture to Co-operate.—It shall be the duty of the State Board of Agriculture and each member thereof to co-operate with the State Dairy Commissioner in the enforcement of this article and to inform the State Dairy Commissioner of all violations of the provisions of this article of which they may have knowledge. (Id. § 11992.)

98. Certificates of Analysis Evidence of Fact.—Certificate of analysis of any dairy product or adulteration thereof in this article mentioned, when duly signed by the chemist of the State Food and Drug Department making the analysis and acknowledged before any person authorized to administer oaths, shall be received in the courts of this State as prima facie evidence of the facts stated therein in all civil actions under this article. (Id. § 11993.)

99. False Application for License a Felony.—Every application for license under any of the provisions of this article shall be signed and sworn to by the applicant, his, or its, authorized agent, and any person who shall willfully or knowingly make any false statement in any such application, shall be deemed guilty of a felony, and upon conviction thereof, shall be punished as provided by law. (Id. § 11994.)

100. False Testimony a Felony.—Any person, who under oath shall give any false testimony at any hearing conducted by the State Dairy Commissioner or any of his deputies, shall be deemed guilty of a felony, and upon conviction thereof, punished as provided by law. (Id. § 11995.)

101. Deputy State Dairy Commissioner May Act; Necessary Travel Pay Allowed; Records to be Kept.—For the purpose of making and holding meetings, in this article required, the deputy of the State Dairy Commissioner, when so directed by the State Dairy Commissioner, shall have, and is hereby invested with, the power and authority of the State Dairy Commissioner, and the State Dairy Commissioner and his deputies shall, in addition to their respective salaries, be allowed their actual and necessary expenses when traveling over the State on official business. And it shall be the duty of the State Dairy Commissioner to keep all records and correspondence pertaining to the State Bureau of Dairying, and to sign his name to all licenses, certificates and documents necessary to the enforcement of this Article. (Id. § 11996.)

102. Deputy to Give Bond.—The Deputy State Dairy Commissioner, before entering upon his duties, shall give bond in the sum of ten thousand dollars, conditioned upon the faithful performance of his duties, with sureties approved by the State Dairy Commissioner. (Id. § 11997.)

103. State Dairy Commissioner, How Elected; Term of Office, Duties, Etc. Within twenty days after this article shall go into effect, the State Board of Agriculture shall elect some suitable person to the office of State Dairy Commissioner, and the person so elected shall have a practical knowledge of and experience in the manufacture of dairy products, and shall hold his office for a period of four years, subject to removal by the State Board of Agriculture for inefficiency or neglect or violation of his official duties. He shall give bond in the sum of ten thousand dollars, conditioned on the faithful performance of his duties, with sureties to be approved by the State Board of Agriculture. He shall make an annual report to the State Board of Agriculture at its first meeting following the end of its fiscal year, and, with the consent and approval of the State Board of Agriculture, shall provide suitable offices for the transaction of the business of the State Bureau of Dairying. (Id. § 11998.)

104. Fees.—All fees collected by the State Dairy Commissioner or his deputies under the provisions of this Article shall be turned into the State treasury for the general revenue fund. (Id. § 11999.)

105. Penalties.—Any person who shall violate any of the provisions of this article, for which no other punishment is prescribed, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be punished as provided by law. (Id. § 12000.)

106. Who Cannot Maintain Action.—No action can be maintained on account of any sale or other contract made with the manufacturer or person offering any cheese for sale in violation of or with intent to violate sections 11989 to 11991 of this article by or through any person who is knowingly a party to such wrongful sale, or other contract for the sale of unbranded skimmed milk cheese or cheese not full cream cheese. (Id. § 12001.)

107. Effacing Label a Misdemeanor.—Whoever shall efface, erase, cancel or remove any marks or label on any such article or cheese, provided for by sections 11989 to 11991 of this article, with intent to mislead, deceive or to violate any of the provisions of said sections, shall be deemed guilty of a misdemeanor, and,

on a conviction, be fined in a sum not less than fifty dollars or more than five hundred dollars. (Id. § 12002.)

108. State Board of Agriculture to Enforce Article.—The State Board of Agriculture shall be and is hereby charged with the enforcement of the six preceding sections of this article:* Provided, that all fines collected under the provisions of said sections shall be paid into the State treasury. Action under said sections may be brought by information or indictment in any court of competent jurisdiction. (Id. § 12003.)

109. Imitation Butter Defined.—For the purpose of sections 12004 to 12016 of this article, every article, substitute or compound, other than that produced from pure milk, or cream from the same, made in the semblance of butter and designed to be used as a substitute for butter made from pure milk, or cream from the same, is hereby declared to be imitation butter. (Id. § 12004.)

110. Coloring of Imitation Butter Prohibited.—No person shall combine any animal fat or vegetable oil or other substance with butter, or combine therewith or with animal fat or vegetable oil or combination of the two, or with either one, any other substance or substances whatever, any annatto or compound of the same, or any other substance or substances, for the purpose or with the effect of imparting thereto a yellow color, or any shade of yellow, so that such substitute shall resemble yellow or any shade of genuine yellow butter, nor introduce any such coloring matter or such substance or substances into any of the articles of which the same is composed: Provided, nothing in said sections 12004 to 12016 shall be construed to prohibit the use of salt and harmless coloring matter for coloring the substitutes for butter manufactured for export or sale outside the State. No person shall, by himself, his agents or employees, produce or manufacture any substance in imitation or semblance of natural butter, nor sell, nor keep for sale, nor offer for sale, any imitation butter made or manufactured, compounded or produced in violation of this section, whether such imitation butter shall be made or produced in this State or elsewhere. This section shall not be construed to prohibit the manufacture and sale, under the regulations hereinafter provided, of substances designed to be used as a substitute for butter, and not manufactured or colored as herein prohibited. (Id. § 12005.)

111. Vessels Containing Imitation Butter to be Marked, How.—Every person who lawfully manufactures any substance designed to be used as a substitute for butter shall mark, by branding, stamping or stenciling upon the top and side of each tub, firkin, box or other package in which such article shall be kept, and in which it shall be removed from the place where it is produced, in a clean and durable manner, in the English language, the words "substitute for butter" in printed letters, in plain Roman type, each of which shall not be less than one inch in length and one-half inch in width. (Id. § 12006.)

112. Imitation Butter to be Shipped Under Its True Name.—No person, by himself or another, shall ship, consign or forward by any common carrier, whether public or private, any substance designed to be used as a substitute for butter, and no carrier shall knowingly receive the same for the purpose of forwarding or transporting, unless it shall be manufactured and marked as provided in the preceding section of this article, and unless it be consigned by the carrier and receipted for by its true name: provided, that said sections 12004 to 12016 shall not apply to any goods in transit between foreign States across the State of Missouri. (Id. § 12007.)

113. Not to Mix Oleomargarine With Butter.—No person shall mix oleomargarine, suine, butterine, beef fat, lard or other foreign substance with any butter or cheese intended for human food without distinctly marking or stamping or labeling the article or package containing the same with the true and appropriate name of such article, and the percentage in which such oleomargarine or other such substance enters into its composition. Every person offering for sale must inform the purchaser of contents and make-up of article. Whoever shall violate the provisions of this section shall be punished as provided for by section 12012. (Id. § 12008.)

114. Renovated Butter to be Branded.—No person, firm or corporation, agent or employee shall sell, offer or expose for sale or deliver to any purchaser any boiled, process or renovated butter, unless the words "renovated butter" shall be plainly branded in bold face letters, at least three-fourths of an inch in length, on the top and side of each tub or box or pail or other kind of case or package, or on

*"In the revision of 1899, there were only six preceding sections in this article. Sec. 11973 puts the whole article now under the supervision of the State Board of Agriculture." (Note by compiler.)

the wrapper or prints or rolls of bulk packages in which it is put up. If such butter is exposed for sale uncovered or not in a case or package, a placard containing a label so printed shall be attached to the mass of butter in such a manner as to be easily seen and read by the purchaser. The branding or marking of all packages shall be in the English language and in a conspicuous place so as to be easily read by the purchaser. Whoever shall violate the provisions of this section shall be punished as provided for by section 12012. (Id. § 12009.)

115. Possession of Substitute for Butter; Presumption.—No person shall have in his possession or under his control any substance designed to be used as a substitute for butter unless the tub, firkin, box or other package containing the same be clearly and durably marked, as provided by section 12007 of this article: provided, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves and family. Every person having in possession or control any substance designed to be used as a substitute for butter which is not marked as required by the provisions of sections 12004 to 12016 of this article, shall be presumed to have known, during the time of such possession or control, the true character and name as fixed by said sections of this article of such product. (Id. § 12010.)

116. Offering Imitation Butter for Sale.—No person, by himself or another shall sell or offer for sale any substance designed to be used for a substitute for butter under the name of or under the pretense that the same is butter. (Id. § 12011.)

117. Penalties for Violation of Law.—Every person, firm or corporation who shall violate any of the provisions of sections 12005, 12006, 12007, 12010 and 12011 of this article shall forfeit and pay to the State of Missouri, for the use of the school fund, for every such violation, the sum of fifty dollars and costs of suit, to be recovered by civil action in the name of the State of Missouri on the relation of any person having knowledge of the facts before any justice of the peace of the city or county where such violation occurs or any other court of competent jurisdiction, subject to appeal to the Circuit Court, as in other cases; and it is further enacted that every person, firm or corporation who shall violate the provisions of sections 12004 to 12016, inclusive, of this article, in addition to the civil liability to the State of Missouri herein provided, shall be deemed guilty of a misdemeanor, and shall for the first offense be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment not exceeding thirty days, and for each subsequent offense by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the court. (Id. § 12012.)

118. Certificate of Professor of Chemistry Prima Facie Evidence.—A certificate of an analysis of any dairy product or adulteration or imitation thereof, when duly signed by a professor of chemistry connected with any of the departments of the State University or Experiment Station, shall, when acknowledged before any person authorized to administer an oath, be received in the courts of this State as prima facie evidence of the facts stated therein, in all civil actions, as provided for in section 12012 of this article. (Id. § 12013.)

119. Who May Not Maintain Action.—No action can be maintained on account of any sale or other contract made in violation of or with intent to violate sections 12004 to 12016, inclusive, of this article, by or through any person who was knowingly a party to such wrongful sale or other contract. (Id. § 12014.)

120. Effacing Mark a Misdemeanor.—Whoever shall efface, erase, cancel or remove any mark provided for by sections 12004 to 12016 of this article, with intent to mislead, deceive or to violate any of the provisions of said sections, shall be deemed guilty of a misdemeanor. (Id. § 12015.)

121. State Board of Agriculture to Enforce Article.—The State Board of Agriculture shall be and is hereby charged with the enforcement of said sections of this article. Actions under said sections of this article shall be brought in any court of competent jurisdiction. (Id. § 12016.)

122. Receptacles Kept Clean.—Every person delivering milk, cream, or ice cream to creameries, cheese factories, common carriers, or any person, persons, copartnership, association or corporation, in cans, bottles or other vessels, shall have such cans, bottles or other vessels free from deleterious substances, filth or rust, and in a wholesome condition for containing such milk, cream or ice cream. (Id. § 12017.)

123. Receptacles Emptied, Cleaned and Returned to Common Carriers.—Every person receiving milk, cream or ice cream from a common carrier in cans, bottles or other vessels which are to be returned to the shipper shall cause such

vessels to be promptly emptied, cleansed and delivered to the common carrier to be returned to the shipper, and it shall be the duty of such common carrier receiving the same to have said cans, bottles or other vessels in transit within not to exceed twenty-four hours after receiving the same. (Id. § 12018.)

124. Receptacle Cleaned and Returned to Owner.—Every person receiving milk, cream or ice cream from a manufacturer or distributor of the same in cans, bottles or other vessels which are to be returned to the manufacturer or distributor, shall cause such vessels, after being emptied, to be promptly cleansed and returned. (Id. § 12019.)

125. Receptacles for Milk, Cream, Etc.; Brands; Certificate.—Any person engaged in manufacturing, bottling, or selling milk, buttermilk, cream or ice cream in any kind of receptacle, having the name of such person or other mark or device printed, stamped, engraved, etched, blown, painted or otherwise permanently fixed upon the same, may file in the office of the Secretary of State for record a description of the name, mark or device so used; and cause such description to be printed once each week for three successive weeks in a newspaper published in the county in which the principal place of business of such person is located, or if the principal place of business of such person is located in another State, then in the county wherein the principal office or depot of such person within the State of Missouri is located. It shall be the duty of the Secretary of State to issue to the person so filing for record a description of such name, mark or device in his office, to duly attest a certificate of the record of the same, for which he shall receive the fee prescribed by statute for the issuance of certificates. In all prosecutions under this article such certificate shall be prima facie evidence of the adoption and ownership of such name, mark or device and of the right of the person named therein to adopt and use the same. (Id. § 12020.)

126. Receptacles; Unlawful Use.—It shall be unlawful for any person other than the one named in the certificate issued by the Secretary of State as provided in the last preceding section, without the written consent of the person named in such certificate, to fill any receptacle bearing the name, mark or device recorded as provided in said section with milk, buttermilk, cream, ice cream or any other substance, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device on any such receptacle, or to buy, sell, give, take, dispose of in any way, traffic in or destroy any receptacle bearing any such name, mark or device. (Id. § 12021.)

127. Receptacles; Unlawful Possession.—Any person having in possession or under control any receptacle bearing any name, mark or device recorded as provided in the second preceding section, and not holding a written transfer or bill of sale therefor from the person named in the certificate provided for in said section or other authority in writing from such person shall upon demand deliver such receptacle to the person named in such certificate or to the authorized agent of such person, and any person failing or refusing to so deliver the same when demanded shall be deemed guilty of a misdemeanor. (Id. § 12022.)

128. Search Warrants; Prosecution.—Whenever any person who has filed for record any such name, mark or device, or who has acquired from such person in writing the ownership of such name, mark or device, or the right to the exclusive use thereof, shall make oath before any justice of the peace or police judge that he has reason to believe and does believe that any receptacle bearing such name, mark or device is being unlawfully used or filled or had in possession by any other person, such justice of the peace or police judge shall thereupon issue a search warrant to discover and obtain such receptacle, and may also cause the person in whose possession such receptacle shall be found to be brought before him and shall then inquire into the circumstances of such possession, and if it shall be found that such person is guilty of violation of any section of this article he shall be punished in the manner herein prescribed and the possession of the property taken upon such warrant shall be awarded to the owner thereof, but the remedy provided by this section shall not be held to be exclusive, and offenders against any provision of this article may be prosecuted as in case of other misdemeanors. (Id. § 12023.)

129. Penalty.—Any person offending against any provision of the seven preceding sections of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than five dollars nor more than twenty-five dollars, and each receptacle unlawfully dealt with as herein provided shall be deemed and held to constitute a separate offense. (Id. § 12024.)

130. Definitions; Instructions.—As used in this article, the term "receptacle" shall include not only bottles, siphons, tins, kegs, barrels of all sizes, boxes, ice

cream cabinets, cans and tubs, but all other receptacles used for holding any of the commodities named in this article, the singular may include the plural and the plural may include the singular term; "person" may include corporation, and the requirements for written transfer, bill of sale, authority or consent, means that it shall be signed by the person named in the certificate issued by the Secretary of State as herein provided, or by a transferee thereof claiming under a written assignment from such person, or by an agent whose authority is in writing, signed by such person or such transferee. (Id. § 12025.)

131. "Sale" Construed.—The requiring or taking of any deposit for any purpose upon such receptacle shall not be deemed nor held to be a sale either optionally or otherwise in any proceeding under this article. (Id. § 12026.)

132. Selling Oleomargarine; Label.—Whoever manufactures out of any oleaginous substances, or any compounds of the same, resembling butter in appearance, manufactured from cattle fat or hog fat, or such substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine and neutral, all lard extracts and tallow extracts, and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, vegetable oil, annatto and other coloring matter, intestinal fat and offal fat, other than that produced from unadulterated milk, or cream from the same, any article designed to take the place of butter or cheese, produced from pure, unadulterated milk, or cream of the same, or any article made in imitation of butter, or when so made calculated, or intended to be sold as butter or for butter, unless said manufacturers shall pack said imitation substitute in firkins, tubs or wooden or paper packages, with the true name of said imitation substitute clearly and indelibly branded, marked or labeled thereon, or whoever shall sell or offer for sale the same as an article of food, unless said imitation substitute is properly packed in firkins, tubs or wooden or paper packages, with the true name of said imitation substitute clearly and indelibly branded, marked or labeled thereon, shall be guilty of a misdemeanor, and shall on conviction thereof be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, or both. (Id. § 3631.)

133. Oleomargarine Unlabeled.—Any hotel or boarding house keeper in this State who shall set before his guests at any meal any compound resembling butter in appearance, manufactured from cattle fat or hog fat, or such other articles, known to the trade as oleomargarine and shall not clearly and legibly mark the vessel in which such compound is served with the words "oleomargarine," or "impure butter," shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than one hundred nor more than five hundred dollars. (Id. § 3632.)

134. Defining Ice Cream.—Ice Cream is a dairy product and a frozen mixture made of milk and cream or the products thereof; with sugar, stiffeners, flavors or extracts, and with or without certified coloring and containing not less than eight per cent milk fat. Ice cream, as in this section defined, and the various ingredients thereof, shall be free from filth, manure or other harmful or disease-bearing germs or any element, ingredient or constituent deleterious to health. The manufacture or sale in this State of ice cream having a milk fat content less than required by this article, or containing any filth, manure or other harmful or disease-bearing germs or any element, ingredient or constituent deleterious to health shall be unlawful. (Id. § 5714.)

135. Manufacture Under Permit.—After the taking effect of this article it shall be unlawful to make, manufacture, or in any manner produce any ice cream without first obtaining a permit from the State Food and Drug Commissioner as in this article required. This article shall not be construed to prohibit the resale of ice cream by persons purchasing the same from any lawful holder of such permit, or to prohibit the sale of ice cream by persons purchasing the same from any manufacturer in any other State, whose factory, plant, building, premises, equipment and method of conducting business, conforms to the schedule adopted under authority of this article for inspecting and grading ice cream factories, plants, buildings, premises, equipment and method of conducting business (Id. § 5715.)

136. Permit Shall be Displayed; How Issued.—Every permit herein required shall, during the period for which same is issued, be conspicuously displayed in the office or place of business of the legal holder thereof. Applications for such permit shall be made to the State Food and Drug Commissioner on a blank prescribed by him for that purpose, accompanied by the State treasurer's receipt for the fee required by law. Such permits shall expire on the thirtieth day of June next following day of issuance thereof. Before issuing any permit, as herein authorized, the State Food and Drug Commissioner, one of his deputies or inspectors, shall inspect and grade the factory, plant, premises, buildings, equipment

and method of conducting the business of the applicant, and no permit shall be issued unless same shall score at least fifty points on the method employed, and twenty-five points on the equipment used, in accordance with any schedule which may hereafter be adopted as authorized by section 5718, for the inspection and grading of ice cream factories, plants, buildings, premises, equipment and method of conducting business. (Id. § 5716.)

137. Annual Fee Required of Manufacturers of Ice Cream; Proviso.—Each manufacturer of ice cream in cities or towns in this State which now have or may hereafter have a population of five thousand or over who manufacture ice cream for sale at wholesale shall pay an annual fee of one hundred dollars for a permit to conduct his business, and each manufacturer of ice cream in cities or towns in this State which now have or may hereafter have a population of five thousand or over who manufacture ice cream for sale at retail shall pay an annual fee of five dollars for a permit to conduct his business. Each manufacturer of ice cream in cities or towns of less than five thousand and more than two thousand population and in any suburban or rural part of the State of Missouri who manufacture ice cream for sale at wholesale shall pay an annual fee of forty dollars and in cities or towns of a population of two thousand and less "twenty dollars" for a permit to conduct his business and each manufacturer of ice cream in cities or towns of less than five thousand population and in any suburban or rural part of the State of Missouri who manufacture ice cream for sale at retail shall pay an annual fee of three dollars for a permit to conduct his business, such fees shall be paid into the State treasury, and there constitute a fund to be known as the "ice cream inspection fund" and shall as authorized by the General Assembly, be used by the State Food and Drug Commissioner, for the purpose of defraying the expenses necessary and incident to the enforcement of this article. Any surplus accruing to said "ice cream inspection fund" shall at the end of the biennium revert to the general revenue fund of the State. For the purpose of this article, the term "wholesale manufacturer" shall include every manufacturer of ice cream who sells at wholesale for resale, and the term "retail manufacturer" shall include every manufacturer who manufactures [manufactures] and sells ice cream at retail: Provided, that nothing in this article contained shall be so construed as to require a permit to authorize persons or committees not otherwise engaged in the manufacture of ice cream, to manufacture and make ice cream for their own use or for the purpose of sale at picnics, church socials or other entertainments of like character; all manufacturers of ice cream shall be subject to inspection by the State Food and Drug Commissioner, his deputy or inspectors during all reasonable hours, or any other officers under any law now or hereafter in force in this State. (Id. § 5717, as amended Act of Apr. 11, 1927).

138. State Food and Drug Commissioner to Grade and Regulate Factories.—The State Food and Drug Commissioner shall have power and he is hereby authorized to adopt a schedule for grading factories, plants, buildings, premises, equipment and method of conducting the business of ice cream manufacturers; provided, that, in the event of the adoption by the United States Department of Agriculture of a schedule for grading such factories, plants, buildings, premises, equipment and method of conducting the business of ice cream manufacturers, the State Food and Drug Commissioner may adopt the same, with such supplemental schedule not in conflict with that adopted by the United States Department of Agriculture as in the judgment of the State Food and Drug Commissioner may be necessary for the effectual enforcement of this article. (R. S. 1919, § 5718.)

139. Samples of Testing to be Furnished on Request.—It shall be the duty of every person, firm, company, co-partnership or corporation to whom this article applies, at the request of the State Food and Drug Commissioner, to furnish such samples of ice cream as the State Food and Drug Commissioner may require for the purpose of analysis. Every such sample shall be taken from an unbroken package, or at the factory or plant where manufactured or produced, and one-half thereof shall, under the seal of the State Food and Drug Commissioner, be kept, packed in salt and ice and frozen and in that condition, without unnecessary delay, delivered to the manufacturer at his office or place of business, or, if such manufacturer has no office or place of business in this State, to the person from whom taken, and the remaining half of such sample shall be retained by the State Food and Drug Commissioner and immediately placed in a sealed container under his seal and kept, packed and frozen in ice and salt until a test or analysis thereof can be made. All tests or analyses of such samples shall be made in the district where taken, by some chemist approved by the State Food and Drug Commissioner. (Id. § 5719.)

140. State Divided Into Three Inspection Districts.—For the effectual administration and enforcement of this law the State Food and Drug Commission

shall divide the State into three districts as nearly equal in area as practical, transportation facilities and the work to be performed in each of such districts considered, and shall assign to each of such districts a deputy or an inspector of the Food and Drug Department whose duty it shall be, under the direction of the State Food and Drug Commissioner, to aid in the enforcement of this article, and who shall possess and exercise the powers and duties of the State Food and Drug Commissioner, as he shall direct. (Id. § 5720.)

141. Must Conform to Fixed Standard.—It shall be unlawful for any person, firm, co-partnership, association or corporation to whom or to which this article applies to manufacture, sell or offer for sale in this State any frozen mixture as or for ice cream which does not conform to the standard prescribed in section 5714 of this article. (Id. § 5721.)

142. Penalty for Violation.—Whoever shall violate any of the provisions of sections 5714 to 5721 shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by imprisonment in the county jail for a period of not exceeding thirty days, or by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by both such fine and imprisonment. (Id. § 5722.)

143. Requiring Physical Examination and Tuberculin Test of Cattle in Herds of Five or More Before Disposing of Milk, Cream, Butter or Buttermilk.—No person, firm or corporation owning or in charge of any herd of cattle containing five head of cows or more after January 1st, 1922, shall sell, offer for sale, give away or deliver any milk, cream, butter or buttermilk from any of the cows of such herd, unless all the herd of cattle containing such five head of cows or more, owned by or in possession of such person, firm or corporation, have been duly inspected and tested and found free from tuberculosis and other communicable diseases, as determined by a physical examination and the tuberculin test by an official duly authorized by this State or by the Federal Government. Provided, that said examination and tuberculin test shall incur no expense whatever to the owner of said herd. (L. 1921, p. 145, et seq., § 1.)

144. Violation of Act a Misdemeanor.—Any person, firm or corporation, who violates any of the provisions of this act, shall be deemed guilty of a misdemeanor. (Id. § 2.)

144a. Sale of Neat Cattle for Breeding or Dairy Purposes Regulated; Penalty.—It shall be unlawful for any person to knowingly or willfully sell for breeding or dairy purposes any neat cattle affected with contagious abortion, tuberculosis, or any animal which has reacted to any recognized test for the same. Provided that any person, having in their care or possession a herd of cattle infected with contagious abortion or tuberculosis, and said person, makes no attempt at controlling the infection or infections, the said herd shall be considered a menace to the live stock industry of this State, and the State Veterinary Surgeon is empowered under section 12083 of the Revised Statutes of Missouri, 1919,* to place such herd under quarantine, and only permit the sale for breeding or dairying purposes, such animals from said herd which do not react to a recognized test for the disease considered to be a menace, provided, any person knowingly violating the provisions of this act shall be deemed guilty of a misdemeanor. (Act of Apr. 8, 1927, § 1.)

144b. Application of Act.—Nothing in this act shall be so construed as to apply to the sale of animals intended for feeding, grazing or slaughtering purposes. (Id. § 2.)

144c. Word "Person" Defined.—The word "person" as used in this act shall be construed to include both the singular and plural also inclusive of the term "firm," "company," "corporation," or association. (Id. § 3.)

145. Prohibiting, Selling, Exchanging or Possession of Adulterated Milk or Dairy Products.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant of another, to manufacture, sell or exchange or have in possession with intent to sell or exchange any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk or any of the fluid derivatives of any of them, to which has been added any fat or oil other than milk fat, either under the name of said products or articles or any of the derivatives thereof or under any fictitious or trade name whatsoever. (L. 1923, p. 229, et seq., § 1.)

146. Use of Words Butter, Creamery, etc., Prohibited in Sale of Butter or Dairy Substitutes.—It shall be unlawful for any person, firm or corporation to use in any way in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter the

*Relates to the power of the veterinary surgeon to direct quarantine of infected cattle, etc., omitted herein.

word "butter," "creamery" or "dairy," except as otherwise required by the laws of this State; or the name or representation of any breed of dairy cattle or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter. (Id. § 2.)

147. Violation of Act a Misdemeanor; Penalty.—Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for a term of not less than sixty days nor more than one year or by both such fine and imprisonment. (Id. § 3.)

148. Deemed Guilty of Unfair Discrimination, When.—Any person, firm, company, association or corporation, foreign or domestic, doing business in the State of Missouri and engaged in the business of buying milk, cream, butter fat, butter, poultry and eggs for the purpose of manufacture, sale or storage, that, for the purpose of destroying or injuring the business of a competitor shall discriminate between different sections, localities, communities, cities or towns of this State by purchasing such commodity or commodities at a higher price or rate in one section, locality, community, city or town than is paid for the same commodity by such person, firm, company, association or corporation in another section, locality, community, city or town, after making due allowance for the difference, if any, in the grade or quality of such commodity, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale or storage, together with the actual expenses of labor, storage or rent in purchasing the same at point of purchase, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful; provided, that the fact that any person, firm, company, association or corporation purchases any of the above-mentioned commodities at a higher price or rate in the one section, locality, community, city or town than is paid at the time for the same commodity by the same person, firm, company, association or corporation in another section, locality, community, city or town, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale or storage, shall be prima facie evidence that such higher price or rate was paid for the purpose of destroying or injuring the business of a competitor, and that such person, firm, company, association or corporation is guilty of unfair discrimination. (L. 1921, p. 287 et seq., § 1.)

149. Conviction for Unfair Discrimination; Penalty.—Any person, firm, company, association or corporation who shall be convicted of unfair discrimination, as defined by this act, shall be fined for each offense not less than one thousand dollars nor more than ten thousand dollars, and, in addition thereto, shall be enjoined, upon the application of the State of Missouri, from engaging directly or indirectly in the business of purchasing in any such commodities. (Id. § 2.)

150. Duty of Attorney-General of State to Institute Suit; Court Shall Issue Injunction, When.—It is hereby made the duty of the Attorney-General of the State of Missouri, upon being informed that any person, firm, company, association or corporation has been convicted of unfair discrimination, as defined in this act, immediately to institute suit in the name of the State of Missouri in any Circuit Court of this State where service may be had upon the defendant against such person, firm, company, association or corporation to enjoin such person, firm, company, association or corporation from engaging directly or indirectly in the business of buying any such commodities; and upon proof that any such person, firm, company, association or corporation has been convicted of unfair discrimination, the court shall issue such injunction. (Id. § 3.)

NOTE: See also Nos. 4, 28-29, 179a et seq., and 188 et seq.

Eggs.

151. Eggs Unfit for Human Food, When.—No person, firm or corporation shall sell, or have in his possession with intent to sell, offer or expose for sale, or traffic in, any egg unfit for human food, unless the same is broken in shell and then denatured so that it cannot be used for human food. For the purposes of this article, an egg shall be deemed unfit for human food if it be addled or mouldy, a black rot, a white rot, or a blood ring; or if it has an adherent yolk, or a bloody or green white; or if it be incubated beyond the blood ring stage; or if it consist in whole or in part of a filthy, decomposed or putrid substance. (R. S. 1919, § 5702.)

152. Regulation of Traffic; Definition of Terms.—No person, firm or corporation shall, in buying or selling eggs, take or give a greater or less dockage

for eggs unfit for food as defined in section 5702 than the actual dockage which has been determined by the careful candling of the eggs so purchased or sold; and he shall keep such candling records as may be required by the rules and regulations of the State Food and Drug Commissioner. All such records shall be open at all reasonable times for examination by the State Food and Drug Commissioner or inspectors of the State Food and Drug Department. The term "candling" as used herein shall be construed to mean the careful examination, in a partially dark room or place, of the whole egg by means of a strong light, the apparatus and method employed to be such as shall be approved by the State Food and Drug Commissioner. Every person, firm or corporation engaged in the business of buying eggs in this State for resale or consignment shall provide and maintain an adequate place for the accurate candling of eggs and a suitable place for the proper handling of eggs which are intended to be used for human food. (Id. § 5703.)

153. Candling Certificate Required.—There shall be placed on the top layer under the top flat of every case of candled eggs, by the person candling the same, a candling certificate. Such candling certificate shall be printed on cards or sheets of paper not smaller in size than two and three-eighths by four and one-fourth inches and shall give the date of candling the eggs, and the name of the State and the license number of the person, firm or corporation for which the eggs were candled. (Id. § 5704.)

154. Dealers Must be Licensed; How Procured.—For the purpose of enforcing the provisions of this article it is hereby required that ten days after this article takes effect any person, firm or corporation that shall engage in the business of buying, selling, dealing in or trading in eggs, including those retailers who buy direct from the producer and who sell in lots of one case or more, shall procure a license from the State Food and Drug Commissioner to conduct such business. Such officer upon receipt of proper application upon forms such as he may prescribe, accompanied by an annual license fee of two dollars (\$2.00) for a person, firm or corporation that shall engage in the business of buying, selling, dealing in or trading in eggs in lots of less than one carload shall thereupon issue to such person, firm or corporation an annual license to engage in such business; and such person upon receipt of a proper application upon forms such as he may prescribe, accompanied by a license fee of ten dollars (\$10.00) for a person, firm or corporation that shall engage in the business of buying, selling, dealing in or trading in eggs in lots of one carload or more, shall thereupon issue to such person, firm or corporation an annual license to engage in such business. (Id. § 5705.)

155. State Food and Drug Commissioner Shall Formulate and Enforce Rules.—The State Food and Drug Commissioner shall enforce the provisions of this article and shall make suitable rules and regulations for carrying out its provisions. He shall determine the conditions under which eggs previously candled shall be recandled before sale in order to safeguard the purchaser against buying as a part of a lot eggs unfit for human food. (Id. § 5706.)

156. Penalties.—Any person, firm or corporation failing to comply with the requirements of, or violating any of the provisions of sections 5702 to 5706, shall be guilty of a misdemeanor, and shall, upon conviction, for the first offense be fined not less than fifteen dollars nor more than fifty dollars. For the second offense he shall be fined not less than fifty nor more than one hundred dollars, and for the third or any subsequent offense, he shall be fined not less than one hundred nor more than two hundred dollars, and in addition to such fines, in the discretion of the court, for the first offense his license may be suspended for not more than thirty days; for the second offense not more than sixty days, and for the third or any subsequent offense his license may be revoked. (Id. § 5707.)

157. Words to Fit the Case.—The words used in this article shall be construed to import the plural or singular, as the case demands. (Id. § 5708.)

158. Unwholesome Eggs Shall Not be Shipped, Etc., Without Labeling; Breaking.—It shall be unlawful to ship or otherwise dispose of for manufacturing purposes or for food, in any kind of a container or in any other manner, any egg or collection of eggs, or any eggs known as yolks stuck to the shell, heavy blood rings, partially hatched, mouldy eggs, black spots, black rots or any other eggs of an unwholesome nature, unless the same are cased and labeled, or broken in the shells and then denatured so as to render them unfit for human food. All eggs, either in the shell or broken, as described in this section, not fit for human food, may be shipped to tanners under seal for manufacturing purposes only. (Id. § 5709.)

159. "Breaking Stock"; Certain Eggs Not to be Sold for Food Purposes.—Eggs, exclusive of the above named varieties, which are not intended for sale to

the trade in shell form, are hereby declared to be "breaking stock." "Breaking stock," when packed in cases, sealed with proper identifying strips that have been approved by the State Food and Drug Commissioner, may be shipped to licensed egg breaking establishments. Brokers and commission men or ordinary receivers of eggs who have eggs shipped to them in these breaking stock identified cases may break the seal and examine the stock, but they must reveal the identifying strip where it is cut with another identifying strip which carries their name and address, and the date upon which they inspected the eggs. They will be held responsible for any tampering with the contents of the identified cases. It shall be unlawful for any person, firm or corporation to have in his or its possession with intent to place them on the market for food purposes eggs known as yolks stuck to the shell, heavy blood rings, partially hatched, mouldy eggs, black spots, black rots, or any unwholesome eggs, unless the same are cased and labeled or broken in the shell and then denatured so as to render them unfit for human food. (Id. § 5710.)

160. Inspection Authorized; License Fee Fixed.—All persons, firms or corporations who engage in the business of removing eggs from their shells in the manufacture of frozen, liquid, desiccated or any form of whole eggs, yolks, whites or any mixture of yolks and whites for food or manufacturing purposes, whether without the addition of any other ingredients, shall, before engaging in such business, apply to the State Food and Drug Commissioner for the inspection to be made of his establishment. Thereupon, the State Food and Drug Commissioner or duly authorized inspectors shall inspect the establishment and equipment of said egg breaking establishment and they shall also ascertain if said establishment complies in method and equipment with the sanitary laws of this State and the rules and regulations that from time to time shall be made and established by the State Food and Drug Commissioner for the regulation of these establishments. If, after such inspection, it shall appear that the said establishment complies with the provisions of the sanitary law and the rules and regulations governing egg breaking establishments, then, upon payment to the State Food and Drug Commissioner of an inspection fee of fifty dollars, he shall issue a permit to the person, firm or corporation to conduct such establishment. All inspection fees under this article shall be paid into the State Treasury. Such permits shall begin on January first and expire on December thirty-first of each year and the inspection fee shall be prorated for the first year for every person, firm or corporation engaged in the business for the remainder of the year; and any person or persons engaging in business between January 1st and April 1st shall pay an annual inspection fee of fifty dollars; after April 1st and before July 1st an inspection fee of thirty-seven dollars and fifty cents; after July 1st and before October 1st, an inspection fee of twenty-five dollars; after October 1st an inspection fee of twelve dollars and fifty cents. Every permit shall be posted in a conspicuous place in the office or establishment of any person or persons holding such permit. (Id. § 5711.)

161. Egg-breaking or Manufacturing Establishments Regulated, How.—Every egg-breaking or manufacturing establishment when it has received its permit shall be furnished with an identifying establishment number. Said number shall be included as a part of the proper labeling of all cans, cases or other receptacles in which eggs whole, frozen or desiccated, or egg products, are offered for sale. The form and manner of placing said number on containers shall be under the rules and regulations promulgated by the State Food and Drug Commissioner. (Id. § 5712.)

162. Penalty.—Any person or persons who shall violate any of the provisions of sections 5709 to 5712, shall be deemed guilty of a misdemeanor. (Id. § 5713.)

NOTE: See also Nos. 148-150 and 179a et seq.

Feeding Stuffs.

163. Commercial Feed Stuffs Defined.—The term "commercial feeding stuffs" shall be held to include all feeding stuffs used for feeding live stock and poultry, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo, whole hays, straws, cottonseed hulls and corn stover when unmixed with other materials. Together with all other materials containing sixty per cent or more of water. (R. S. 1919, § 12151.)

164. Tags and Labels; to Show Contents.—Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this State shall have affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, clearly and truly certifying:

- (a) The net weight of the contents of the package, lot or parcel.
- (b) The name, brand or trade-mark.
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.
- (d) The minimum per centum of crude protein.
- (e) The minimum per centum of crude fat.
- (f) The maximum per centum of crude fibre.
- (g) The specific name of each ingredient used in its manufacture.

The crude protein, crude fat and crude fibre shall be determined by the methods in force at the time by the Association of Official Agriculture [Agricultural] Chemists of North America. (Id. § 12152.)

165. Sample to be Filed With State Board of Agriculture.—Before any manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs he or they shall file with the Missouri State Board of Agriculture a certified copy of the statement specified in section 12152, with the exception of sub-division (a), for each brand of commercial feeding stuffs; said certified copy to be accompanied, when the Missouri State Board of Agriculture shall so request, by a sealed package containing at least one pound of the commercial feeding stuffs to be sold, offered or exposed for sale or distributed in this State, and the company or person furnishing said sample shall thereupon make affidavit that the said sample is representative of the commercial feeding stuffs offered for registration. (Id. § 12153.)

166. Cards to be Furnished the Purchaser.—Whenever any commercial feeding stuffs as defined in section 12151 is offered or exposed for sale in bulk or otherwise stored, the manufacturer, importer, jobber, firm, association, corporation or person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section 12152, and when such feeding stuffs is sold at retail in bulk or in package belonging to the purchaser, the manufacturer, importer, jobber, firm, association, corporation or person shall furnish the purchaser, upon request, with a card or cards upon which appears the statement required by the provisions of section 12152. (Id. § 12154.)

167. Power of State Board of Agriculture.—The Missouri State Board of Agriculture shall have power to refuse to register any commercial feeding stuffs under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each and all ingredients used in its manufacture are not stated. It shall also have the power to refuse to register more than one commercial feeding stuffs under the same name or brand when offered by the same manufacturer, importer, jobber, firm, association, corporation or person. Should any commercial feeding stuffs be registered in this State, and it is afterwards discovered that such registration is in violation of any of the provisions of this article, the Missouri State Board of Agriculture shall have the power to cancel such registration. The Missouri State Board of Agriculture shall have the power to refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeding stuffs during the term for which registered, unless satisfactory reasons are presented for making such change or changes. (Id. § 12155.)

168. Statements to be Filed, How.—Whenever a manufacturer, importer, jobber, firm, association or person manufacturing or selling a brand of commercial feeding stuffs shall have filed the statement required by section 12153 of this article, no other agent, importer, jobber, firm, association, corporation or person shall be required to file such statement upon such brand. (Id. § 12156.)

169. State Board of Agriculture May Analyze, When.—The Missouri State Board of Agriculture is authorized, through its deputy, to have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs, and shall have the power and authority to open any parcel containing or supposed to contain any commercial feeding stuffs, and upon tender and full payment of the selling price of said sample, to take therefrom in the manner prescribed in section 12158, samples for analysis, and said Missouri State Board of Agriculture shall annually cause to be analyzed at least one sample so taken of every commercial feeding stuffs that is found, sold, offered or exposed for sale or distributed in this State. (Id. § 12157.)

170. Sample to be Taken in Presence of Witness; How Analyzed.—A representative sample of each brand of commercial feeding stuffs found, sold, offered or exposed for sale shall be taken by said Missouri State Board of Agri-

culture representatives in the presence of at least one witness. No action shall be maintained for a violation of the provisions of this article, based upon an analysis of a sample from not less than five separate original packages, unless there be less than five separate original packages in the lot, in which case portions for the official sample shall be taken from each original package; if the commercial feeding stuffs is in bulk, portions shall be taken from not less than five different places in the lot; provided, that this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable. If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. Said sample shall be divided into two parts, and shall be placed in packages and sealed in the presence of said witness; one of said packages so sealed shall be tendered, and if accepted, delivered to the person apparently in charge of such feeding stuffs; the other package the said Missouri State Board of Agriculture shall analyze or cause to be analyzed, and the result of such analysis, together with such additional information as the said Missouri State Board of Agriculture may deem advisable, shall be promptly transmitted to the manufacturer or person responsible for the placing of the commodity on the market, and shall be published in reports or bulletins from time to time. If the manufacture[r] or person responsible for the placing of any commodity so sampled upon the market be unable to secure the sample delivered to the person apparently in charge of the feeding stuffs sampled, he shall, upon request to the Missouri State Board of Agriculture, be furnished with a portion of the official sample referred to in this section. The methods of analysis shall be those in force at the time by the Association of Official Agricultural Chemists of North America. (Id. § 12158.)

171. State Board to Certify Violations to Prosecuting Attorney; Notice to Dealer.—If it appears that any of the provisions of this article have been violated, the Missouri State Board of Agriculture shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the results of the analysis or other examination of such feeding stuffs duly authenticated by the analyst or other officer making the determination, under the oath of such officer; provided, that if it shall appear from any such examination that any of the provisions of this article have been violated, the Missouri State Board of Agriculture shall cause notice to be given to the manufacturer or dealer from whom said sample was taken; any party so notified shall be given an opportunity to be heard in his defense under such rules and regulations as may be prescribed by the Missouri State Board of Agriculture before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this article, certificates of the analyst or other officer making the examination or analysis, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified. (Id. § 12159.)

172. Penalty.—Any manufacturer, importer, jobber, firm, association, corporation or persons who shall sell, offer or expose for sale, or distribute in this State, any commercial feeding stuffs without having attached thereto or furnished therewith such labels or tags as required by the provisions of this article, or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent said Missouri State Board of Agriculture or its authorized agents in the performance of their duty in connection with the provisions of this article, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs as defined in section 12151, without complying with the requirements of the provisions of this article, or who shall sell, offer or expose for sale or distribute in this State any commercial feeding stuffs which contains a smaller per centum of crude protein or crude fat or a larger per centum of crude fibre than is certified to be contained therein, or who shall fail to properly state the specific name of each and every ingredient used in its manufacture shall be deemed guilty of a violation of the provisions of this article and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00) for the first violation, and not less than one hundred dollars (\$100.00) for each subsequent violation. Any manufacturer, importer, jobber, firm, association, corporation or person who shall mix or adulterate any feeding stuffs with any substance or substances injurious to the health of live stock or poultry shall be deemed guilty of a violation of the provision of this article, and, in addition to the penalty provided in this section, the lot of feeding stuffs shall be subject to seizure, condemnation and sale as the court may direct; the proceeds from such sale to be conveyed into State Treasury. The court may, in its discretion, release the feeding stuffs so seized when the requirements of the provisions of this article have been complied with, and upon pay-

ment of all costs and expenses incurred by the State in any proceedings connected with such seizure. (Id. § 12160.)

173. State Board to Prescribe Rules.—The Missouri State Board of Agriculture is hereby empowered to enforce the provisions of this article and to prescribe and enforce such rules and regulations relating to the sale of commercial feeding stuffs as it may deem necessary to carry into effect the full intent and meaning of this article. (Id. § 12161.)

Fish.

See No. 4.

Flavoring Extracts.

See No. 257.

Flour, Meal, Grits, and Hominy.

174. Mixed Flour to be Branded.—No person shall sell or offer for sale any flour, meal, grits or hominy, made from the admixture or adulteration of grains, unless there shall have been first branded upon each of the barrels or packages containing the same, the kind of grains composing said admixture, the quality and weight thereof, and the name and place of business of the person manufacturing the same; provided, always, that the admixture of the several grades or kinds of wheat shall not be construed to be mixed or adulterated grains. (R. S. 1919, § 5723.)

175. Brands Not to be Altered.—No person shall deface, remove, obliterate or destroy, or cause the same to be done, any brand or mark placed upon any package or barrel of flour, meal, grits or hominy by the manufacturer thereof, with intent to replace the brand so erased and removed by another and different brand from that of the manufacturer; and it shall not be lawful for any person to re-brand any such package or barrel, so long as the contents thereof remain the same. (Id. § 5724.)

176. To be Recorded.—No person shall manufacture any flour, grits, hominy or meal until he shall have filed with the recorder of deeds of the county in which his business is conducted, and acknowledged the same as deeds to lands are required to be acknowledged, a facsimile of each of the brands he intends to use, which shall contain the colors to be used in applying the same, the weight and quality of the flour, grits, hominy or meal, and the name of the manufacturer thereof, or of some person in his employ, and the State or town or place and the mill where manufactured. Should any manufacturer claim any of his said brands, or any part of the same, as a trade-mark, the said recorder shall record his claim, and thereafter it shall not be lawful for any other person to use such brand; provided, always, that this section shall not be construed to interfere with the right to any brand or trade-mark copyrighted or patented in pursuance of an act of Congress. (Id. § 5725.)

177. The Using of Brands of Others Prohibited.—No person within this State shall use the name of a mill or a brand upon any barrel or package containing flour made from grains, or the admixture of grains, unless the same shall belong, bona fide, to the person using the same, nor unless the flour upon which the same may be used was manufactured by the owner of such mill or brand. (Id. § 5726.)

178. Recorder's Certificates, Evidence.—It shall be the duty of each recorder of deeds within the State to keep a book in his office, in which to record the flour brands provided for in section 5725, and a certified copy of any such record, by the recorder, shall be evidence in all courts of the making and filing and contents thereof. (Id. § 5727.)

179. Penalty.—Any person doing any of the acts in this article prohibited, or omitting to do any of the acts hereby commanded, shall be guilty of a misdemeanor, and for each and every offense shall be punished by a fine of not less than twenty nor more than two hundred dollars, one-half of which shall be paid to the person who shall be named as prosecuting witness. (Id. § 5728.)

NOTE: See also No. 312.

Fruits, Vegetables, Etc.

179a. Defining Terms and Words in This Act.—In this act the term "commissioner" means the Commissioner of the State Marketing Bureau of the Missouri State Board of Agriculture. "Agricultural products" shall include horticulture, viticultural, dairy, bee, and any farm product; the word "person" shall include

individuals, partnerships, corporations, associations, or two or more individuals having a joint or common interest; words used import the singular or the plural as the case may demand. (L. 1925, p. 105, § 1.)

179b. Power to Fix and Promulgate Standards Given Commissioner.—In order to promote, protect, further, and develop the agricultural interests of this State the commissioner is hereby authorized and empowered after investigation and public hearing to fix and promulgate official standards for grading and classifying any or all agricultural products grown or produced in this State and to fix and promulgate official standards for containers of farm products and change any of them from time to time. (Id. § 2.)

179c. Commissioner Authorized to Specify Dates When Standards Become Effective.—In promulgating the standards or any alterations or modifications of such standards the commissioner shall specify the date or dates when the same shall become effective and shall give public notice not less than 30 days in advance of such date or dates by such means as he deems proper, and he is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container. (Id. § 3.)

179d. Authorized to Co-operate With United States or Any Department.—The commissioner is authorized to fix and promulgate as the official standard for this State for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this act the commissioner is authorized to co-operate with the United States or any department thereof in accomplishing the matters and things provided for herein. (Id. § 4.)

179e. Employee or Agent of Marketing Bureau May be Designated; Fees May be Charged; Commissioner May Suspend or Revoke.—The commissioner is hereby authorized to designate any competent employee or agent of the marketing bureau, and upon satisfactory evidence of competency may license any other person, and charge and collect a reasonable fee for such license, to inspect or classify agricultural products in accordance with such regulations as he may prescribe at such places as the volume of business may be found to warrant the furnishing of such inspection service, at the request of persons having an interest in such products, and to ascertain and certify to such persons the grade, classification, quality or condition thereof, and such other pertinent facts as the commissioner may require. The commissioner is authorized to determine and fix, and receive or collect, or cause to be determined and fixed, received or collected, sufficient money as will defray the reasonable costs for such services when they are performed by employees or agents of the marketing bureau. Licensed inspectors may charge and collect as compensation for such services only such fees as may be approved by the commissioner, but no appropriation shall be made from the general revenue fund for the support of the department in carrying out the provisions of this act. The commissioner may suspend or revoke any license whenever, after an opportunity for hearing has been afforded to the licensee, the commissioner shall determine that such licensee is incompetent or has knowingly or carelessly failed to grade or classify any agricultural product in accordance with such standards, or has knowingly or carelessly failed to correctly certify the grade, classification, quality or condition of any agricultural product, or has violated any provision of this act or of the regulations made hereunder. Pending investigations the commissioner may suspend a license temporarily without a hearing. (Id. § 5.)

179f. May Appeal Question to Commissioner; Reasonable Fee May be Charged.—Whenever any quantity of any agricultural product shall have been inspected hereunder and a question arises as to whether the certificate issued therefor shows the true grade, classification, quality or condition of such product, any interested person, subject to such regulations as the commissioner may prescribe, may appeal the question to him and he is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and issue a finding of the true grade or classification of the product or of the quality or condition thereof. Whenever an appeal shall be taken to the commissioner under this act, he shall charge and assess and collect, or cause to be collected, a reasonable fee, to be fixed by him which shall be refunded if the appeal is sustained. (Id. § 6.)

179g. Certificate Shall be Accepted as Prima Facie Evidence of True Grade, Classification, Condition, or Quality.—A certificate when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any agricultural product, issued under this act and all certificates issued under authority of the Congress of the United States relating to the grade, classi-

fication, quality or condition of agricultural products shall be accepted in any court of this State as prima facie evidence of the true grade, classification, condition or quality of such agricultural product at the time of its inspection. (Id. § 7.)

179h. Costs of Shipping Point Inspections, How Paid; Shall Keep a Correct and Complete Record.—The Commissioner shall exercise due care to the end that, as intended in this act, costs of actual shipping point inspections made shall be paid from the moneys or fees contributed by those applying for the service, thereby constituting said direct services self-supporting and not a burden upon the State Treasury. And in carrying out the provisions of this act it shall be understood that all fees and moneys collected or received by employees or agents of the State Marketing Bureau, whether acting solely under the authority of said bureau or under the joint authority of the said bureau and the U. S. Department of Agriculture, do represent reasonable charges and costs for definite services rendered and are therefore not to be considered as revenue to be paid into the State Treasury under the meaning of the Constitution. All money representing such reasonable charges and costs for actual inspection services rendered at the request of the applicant therefor may be received by responsible employees or agents of the State Marketing Bureau and paid over to inspectors to compensate them for actual services performed as may be most convenient for the efficient conduct of the inspection service. And the commissioner shall keep a correct and complete record of moneys thus handled and services paid for and submit same annually to the State Board of Agriculture at its annual meeting, and keep a copy thereof on file in his office at all times for inspection. (Id. § 8.)

179i. May Appoint Employees and Agents to Assist in Carrying Out Provisions of Act; May Require Bond.—The commissioner may appoint employees and agents to assist in carrying out the provisions of this act, and may fix their compensation. The commissioner may require any such employee or agent and any inspector licensed under this act to execute and file with him a good and sufficient bond, payable to the State, in such sum, not exceeding \$1,000.00 dollars, and with such sureties, as he may prescribe conditioned upon the faithful performance of such employee agent or licensed inspector of his duties as such employee, agent or licensed inspector. Any person injured by the failure of such employee, agent or licensed inspector faithfully to perform such duties shall be entitled to sue on such bond in his own name in any court of competent jurisdiction for the recovery of such damages as he may have sustained by reason of such failure. (Id. § 9.)

179j. Dereliction of Duty, Knowingly, a Misdemeanor; Penalty.—Any employee or agent employed under this act or any inspector licensed hereunder who shall knowingly inspect, grade or classify improperly any agricultural product or shall knowingly give any incorrect certificate of grade, classification, quality or condition or shall accept money or other consideration directly or indirectly for any incorrect or improper performance or duty and any person who shall improperly influence or attempt to improperly influence any such agent, employee, or licensed inspector in the performance of his duty shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25.00 and not more than \$100.00. (Id. § 10.)

179k. Grade, Classification, Quality or Condition Must Not be Misrepresented; Penalty.—If any quantity of any agricultural product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate. Whenever any standard for the grading or classification of any agricultural product becomes effective under this act, it shall be unlawful, in or in connection with any transaction or transactions involving such product in commerce subject to the jurisdiction of this State or in any publication in this State of a price or prices for or in connection with such transaction or transactions for any person to indicate the grade of any agricultural product which is of or within the grades fixed in said standard for such product by any name, description or designation or any system of names, descriptions or designations not used in said standard. Whenever any standard for a container for an agricultural product becomes effective under this act, no person thereafter shall manufacture for commerce within the jurisdiction of this State, or sell, ship, or offer for sale in such commerce any container, either filled or unfilled, to which the standard is applicable which does not comply with such standard subject to such tolerances as may be permitted under this act. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$25.00 or not more than \$100.00. (Id. § 11.)

179l. Prosecutions, How Carried on.—Prosecutions under this act shall be begun and carried on in the same manner as other prosecutions for misdemeanors in this State. (Id. § 12.)

179m. Validity of Act Not to be Affected, When.—If any provision of this act or the application thereof to any person or circumstances is held invalid the validity of the remainder of the act and of the application of such provision to other persons or circumstances shall not be affected thereby. (Id. § 13.)

179n. Emergency.—The fact that there is no adequate law for inspection of agriculture, horticulture or viticultural products at point of origin and that the time for shipment of the products mentioned begins earlier than ninety days after the adjournment of the Legislature creates an emergency within the meaning of the Constitution; therefore this act shall take effect and be in full force from and after its passage and approval. (Id. § 14.)

179o. Terms Used Defined.—For the purpose of this article the words "farm products" shall include all agricultural, horticultural, vegetable and fruit products of the soil, marine food products, live stock, meats, poultry and poultry products, dairy products, wool, hides, furs, feathers, nuts, honey, packing house or mill products, fresh, dried, canned, prepared or processed fruits, meats or vegetables and every other product or thing of farm, orchard or garden designed for food purposes for man or animal or for farm use. The word "bureau" as used in this article shall be construed to mean the State Marketing Bureau. The word "board" as used in this article shall be construed to mean the Missouri State Board of Agriculture, or its successor at law. (R. S. 1919, § 12144, as amended L. 1925, p. 118 et seq.)

179p. State Board of Agriculture to Direct—Duties of Marketing Bureau.—It shall be the duty of the State Board of Agriculture or its successor at law to administer and direct the State Marketing Bureau. The State Marketing Bureau shall investigate the marketing of farm products, including the cost of production and distribution thereof, furnish advice and assistance to producers, distributors and consumers and promote effectual and economical methods of marketing farm products. The State Marketing Bureau shall have authority to establish, administer and in the course of its duties enforce the standards of grades, weights and measures established and/or recommended by the United States Department of Agriculture, except as otherwise provided by the laws of this State. The State Marketing Bureau shall have authority to conduct shipping point and terminal market grading and inspection service alone or in co-operation with the United States Department of Agriculture and to license inspectors, issue certificates on the products inspected, determine and collect and pay a reasonable service charge on the work done, and do each and every act necessary to render said grading and inspection service of greatest value to Missouri Agriculture. The State Marketing Bureau may publish bulletins containing information useful to the producer and consumer. The State Marketing Bureau may conduct exhibits and do everything necessary to provide ample material therefor. The State Marketing Bureau may conduct and/or co-operate in any kind of activity for fostering and promoting better handling, care, standardization and grading of farm products, and it may pay cash premiums from its appropriations in connection with agricultural exhibits, whenever in the judgment of the commissioner same is desirable. The State Marketing Bureau shall foster, encourage, and assist in the organization and development of co-operative associations and movement to aid in solving problems of marketing farm products. . . . (Id. § 12145.)

NOTE: See also No. 311.

Grain.

See No. 311 et seq.

Grits.

See No. 174 et seq.

Hominy.

See No. 174 et seq.

Honey.

See No. 179a et seq.

Meal.

See No. 174 et seq.

Meat—Meat Products.

180. Selling Unwholesome Food.—Every person who shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or shall sell the flesh as of one animal, knowing it to be that of another species, or shall sell unwholesome bread or drink without making the same fully known to the purchaser, and any butcher or other person who shall sell or offer to sell the meat of any calf which was killed before it had attained to the age of six weeks, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year. (R. S. 1919, § 3627.)

181. Sale of Horse and Mule Meat Prohibited Except When Labeled as Such Meat.—It shall hereafter be unlawful for any person, firm, association or corporation to sell or offer for sale, either in wholesale or retail lots, any horse or mule meat under the guise or name of beef or any other animal flesh under the guise or name of any meat or meat product except that which in fact and truth it may be, without having attached thereto, a tag or other mark for identification plainly and legibly setting forth the true name of the animal from which such meat or flesh was taken or without having prominently displayed over or in conjunction with such meat or flesh, a legible sign or placard containing the true name of the animal from which the same was taken and without also advising the purchaser thereof by verbal, written or printed notice of the true name of the animal from which such meat or flesh was taken. (Id. § 5683, as amended L. 1923, p. 229.)

181a. Goat Meat May be Sold Provided Same is Branded.—It shall hereafter be lawful for any person, firm, association, or corporation to sell or offer for sale either in wholesale or retail lots, goat meat, provided, the same is branded goat meat or chevron. (R. S. 1919, § 5683a, as added Act of Apr. 5, 1927.)

182. Penalty.—Any person violating the provisions of the preceding section shall be deemed guilty of a misdemeanor. (R. S. 1919, § 5684.)

183. Regulating the Sale of Kosher and Non-Kosher Meat.—Any person or persons, who, with intent to defraud, sells or exposes for sale any meat or meat preparation and falsely represents the same to be kosher, whether such meat or meat preparation be raw or prepared for human consumption, or as having been prepared under and of a product or products sanctioned by the orthodox Hebrew religious requirements; or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and non-kosher meat or meat preparations, either raw or prepared for human consumption, who fails to indicate on his window signs and all display advertising, in block letters at least four inches in height, "kosher and non-kosher meat sold here"; or who exposes for sale in any show window or place of business both kosher and non-kosher meat or meat preparations, either raw or prepared for human consumption, who fails to display over each kind of meat or meat preparation, so exposed, a sign in block letters at least four inches in height reading "kosher meat," or "non-kosher meat," as the case may be, shall be deemed guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars or more than five hundred dollars. (L. 1925, p. 239 et seq., § 1.)

183a. Offensive Slaughterhouses.—If any owner or owners, occupier or occupiers of any slaughterhouse wherein any hogs, beeves or other animals are slaughtered, either in the said slaughterhouse or on the premises of the said owner or owners, occupier or occupiers, shall permit the same to remain unclean to the annoyance of the citizens of this State, or any of them, every person so offending shall, upon conviction thereof, be fined for every such offense any sum not less than five nor more than fifty dollars; and, if said nuisance be not removed within five days thereafter, it shall be deemed a second offense against the provisions of this section, and every like neglect of each succeeding five days thereafter shall be considered an additional offense against the provisions of this section. (R. S. 1919, § 3589.)

183b. Offensive Soap and Other Factories.—If any owner or owners, occupier or occupiers of any soap factory, candle factory, oil factory, glue factory, hemp factory, varnish factory, pork house, sausage house or lard house, shall permit the same to remain unclean, to the annoyance of the citizens of this State, or any of them, to a greater extent than is required for the necessary prosecution of their business, every person so offending shall, on conviction thereof, be fined for every such offense

in any sum not more than fifty nor less than ten dollars; and if said nuisance be not removed within five days thereafter it shall be deemed a second offense against the provisions of this section, and every like neglect of each succeeding five days thereafter shall be considered an additional offense against the provisions of this section. (Id. § 3590.)

NOTE: See also Nos. 4, 28-29, 148-150, 179a et seq., and 188 et seq.

Mill Products.

See No. 179o.

Nuts.

See No. 179o.

Oysters.

See No. 4.

Syrups, Etc.

See No. 38 et seq.

Vinegar.

184. Adulterating Vinegar.—Any person who manufactures for sale or offers or exposes for sale as cider vinegar, any vinegar not the legitimate product of pure juice known as apple cider, or vinegar not made exclusively of said apple cider, or vinegar into which foreign substances, drugs or acids have been introduced, as may appear on proper tests, shall be deemed guilty of a misdemeanor and, upon conviction thereof, be punished for every offense by fine of not less than fifty dollars nor more than one hundred dollars, and the costs of prosecution, or by imprisonment in the county jail not to exceed ninety days. (R. S. 1919, § 3637.)

185. Vinegar Not to be Colored, Etc.—All vinegar sold or offered for sale, exchange or delivery shall be without artificial coloring or flavoring; and no person, by himself or his agent or employee, shall sell or offer for sale, exchange, deliver, or knowingly have in his custody or possession with intent to sell or exchange, or expose or offer for sale or exchange, any vinegar labeled or branded as cider vinegar, or as apple vinegar, which is not the legitimate product of pure apple juice, or that is not made exclusively from apple cider. (Id. § 3638.)

186. Vinegar Barrels to be Marked, How; Inspector's Duties.—Every person making or manufacturing apple cider or other fruit vinegar for sale shall brand on both heads of each cask, barrel or keg containing such vinegar, the name and location of the manufacturer or firm, and also the name of the fruit out of which the vinegar is made; and where there are inspectors of food products, vinegar shall be one of the articles under supervision of such inspector, with power to inspect and seize any that may be found fraudulent and in violation of sections 3637, 3638, 3639 and 3640. (Id. § 3639.)

187. False Marking of Barrels, Etc.; Penalty.—No vinegar shall be branded "fruit vinegar" unless the same be made wholly from apples, grapes or other fruits; and any person who shall knowingly brand, label or sell or offer for sale as such "fruit vinegar" any vinegar not made wholly from apples, grapes or other fruits, or who shall violate any one of the three foregoing sections, shall be deemed guilty of a misdemeanor and be punished as provided in section 3637. (Id. § 3640.)

NOTE: See also No. 257.

Sanitation.

188. To What Places Law Applies.—Every building, room, basement, or cellar occupied or used as a bakery, confectionery, cannery, packing house, slaughterhouse, restaurant, hotel, dining car, grocery, meat market, dairy, creamery, butter factory, cheese factory, or other place or apartment used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated and conducted with strict regard to the influence of such condition upon the health of the operatives, employees, clerks, or other persons therein employed, and the purity and wholesomeness of the food therein produced; and for the purpose of this article the term "food," as used herein, shall include all articles used for food, drink, confectionery condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof. (R. S. 1919, § 5685.)

189. Contents of Places and Utensils Used Must be Protected.—The floors, sidewalks [sidewalls], ceilings, lockers, closets, furniture, receptacles, implements, and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of food products, shall at no time be kept in an unclean, unhealthy or unsanitary condition, and for the purpose of this article, unclean, unhealthy and unsanitary conditions shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale, distribution or transportation is not securely protected from flies, dust, dirt and, as far as may be necessary, by all reasonable means from all other foreign or injurious contamination; and if the refuse, dirt and waste products, subject to decomposition and fermentation, incident to the manufacture, preparation, packing, storing, selling, distributing and transporting of food, are not removed daily; and if all trucks, trays, boxes, baskets, buckets and other receptacles, chutes, platforms, racks, tables, troughs, shelves and all knives, saws, cleavers and other utensils, and machinery used in moving, handling, cutting, chopping, mixing, canning and all other processes are not fairly cleaned daily; and if the clothing of operatives, employees, clerks or other persons therein employed is unclean. The placing of vinegar or other liquid, used as food or drink, in open vessels without covering the same is forbidden. The use of second-hand bottles for vinegar or other liquids, used as food or drink, is forbidden unless the same are first sterilized with live steam. The sidewalk display of food products is prohibited unless such products are enclosed in a show case or similar device, which will protect the same from flies, dust or other contamination; provided, that food products that necessarily have to be peeled, pared or cooked before they are fit for consumption may be displayed on the sidewalk; but the sidewalk display of meat or meat products is prohibited. (Id. § 5686.)

190. Further Sanitary Requirements.—The ceilings of every bakery, confectionery, hotel and restaurant kitchen shall be well plastered, wainscoted or ceiled with metal or lumber and shall be oil painted or kept well lime washed, and all interior woodwork in every bakery, confectionery, hotel, dining car, and restaurant kitchen shall be kept well oiled or painted with oil paints, and be kept washed clean with soap and water; and every building, room, basement or cellar, occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food shall have an impermeable floor made of cement or tile laid in cement, brick, wood or other suitable nonabsorbent material which can be flushed and washed clean with water. (Id. § 5687.)

191. Fly Screens Required.—The doors, windows and other openings of every food producing or distributing establishment, during the fly season, shall be fitted with self-closing screen doors and wire window screens of not coarser than 14-mesh wire gauze. (Id. § 5688.)

192. Toilet Rooms Provided.—Every building, room, basement or cellar, occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food, shall have convenient toilet or toilet rooms, separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other nonabsorbent material and shall be furnished with separate ventilating flush or pipes, discharging into soil pipes, or on outside of the building in which they are situated. Lavatories and wash rooms shall be adjacent to toilet rooms, and shall be supplied with soap, running water and towels, and shall be maintained in a sanitary condition. Operatives, employees, clerks and all other persons who handle the material from which food is prepared, or the finished product, before beginning work or after visiting toilets, shall wash their hands and arms thoroughly with soap and clean water. (Id. § 5689.)

193. Cuspidors Furnished.—Cuspidors for the use of operatives, employees, clerks or other persons shall be provided whenever necessary, and each cuspidor shall be thoroughly emptied and washed out daily with disinfectant solution and five ounces of such a solution shall be left in each cuspidor while it is in use. No operative, employee or other person shall expectorate on the floor or sidewalks [sidewalls] of any building, room, basement or cellar where the production, manufacture, packing, storing, preparation or sale of any food is conducted. (Id. § 5690.)

194. Not Used for Sleeping Purposes.—No person or persons shall be allowed to live or sleep in any room of a bake shop, kitchen, dining room, confectionery or place where food is prepared, served or sold. (Id. § 5691.)

195. Diseases Enumerated.—No employer shall require, permit or suffer any person to work, nor shall any person work, in a building, room, basement, cellar or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution and transportation of food, who is affected with any

venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis or consumption, bubonic plague, Asiatic cholera, eczema or other skin diseases, leprosy, eye disease, typhoid fever (epidemic), epidemic dysentery, measles, mumps, German measles (Rotheln), whooping cough, chicken pox or any other infectious disease. (Id. § 5692.)

196. Food and Drug Commissioner May Abate Violations.—The State Food and Drug Commissioner and his assistants or agents by him appointed, the State, county, city and town health officers shall have full power at any time to enter and inspect every building, room, basement or cellar, occupied or used, or suspected of being used, for the production for sale, manufacture for sale, storage, sale, distribution or transportation of food and all utensils, fixtures, furniture and machinery used as aforesaid, and if upon inspection any food producing or distributing establishment, conveyance, employer, operative, employee, clerk, driver or other person is found to be violating any of the provisions of this chapter, or if the production, cooking, preparation, manufacture, packing, storing, sale, distribution or transportation of food is being conducted in a manner detrimental to the health of the employees and operatives and the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector, making the examination or inspection, shall furnish evidence of said violation to the prosecuting attorney of the county in which the violation occurs, and it shall be the duty of all prosecuting attorneys to represent and prosecute, in behalf of the people, when called upon by the Food and Drug Commissioner to do so, all such cases of offenses arising under the provision of this chapter. When complaint is made by the said Food and Drug Commissioner, security for costs shall not be required of the complainant in any case at any time of the prosecution or trial. (Id. § 5693.)

197. Penalty.—Any person who violates any of the provisions of sections 5685 to 5693 shall be guilty of a misdemeanor, and, on conviction, shall be punished for the first offense by a fine of not less than ten (10) dollars nor more than one hundred (100) dollars, or be imprisoned in the county jail not exceeding thirty days, or both, in the discretion of the court. (Id. § 5694.)

198. Commissioner Authorized to Close Places Where They Constitute a Menace to Public Health.—It shall be the duty of the State Food and Drug Commissioner, and he is hereby authorized and empowered, to close any market place, grocery store, general store, bakery, confectionery, butcher shop, slaughterhouse, dining car, refrigerator car, cold storage plant or warehouse, hotel dining room or kitchen, cafe, restaurant, lunch counter, drug store, or any other place, or places, where articles or commodities intended for human food, or for human consumption as medicine, are manufactured, sold, stored or prepared for sale, or wherever food and drink is served, where such places shall, in the judgment of the State Food and Drug Commissioner, constitute a menace to the public health, by reason of dirt, filth, or other insanitary cause. (Id. § 5695.)

199. Order Shall Specify What; Revoked; Place May Reopen.—Any order issued by the State Food and Drug Commissioner for the closing of any place or places mentioned in section 5695, shall specify the cause or causes for which such order was issued, and the time during which same shall be in effect. The State Food and Drug Commissioner shall revoke such order before the time specified therein for its expiration; provided, that the cause for which such order was issued is removed, and if the State Food and Drug Commissioner is satisfied that such place or places may be reopened without endangering the public health. (Id. § 5696.)

200. Deputy and Inspectors Vested With Authority of Commissioner.—Any duty by this chapter imposed upon the State Food and Drug Commissioner may, with equal force and authority, be performed by any deputy State Food and Drug Commissioner, or any inspector of the State Food and Drug Department, as directed by the State Food and Drug Commissioner. (Id. § 5697.)

201. Definition of the Word "Close."—The words "close," as used in this chapter, shall be construed to mean a suspension of business, and it shall be unlawful for the proprietor, manager, or person having charge of any place mentioned in section 5695, to transact any business in violation of any order of the Food and Drug Commissioner closing same. (Id. § 5698.)

202. Liability of Common Carrier.—It shall be unlawful for any common carrier to, in any manner, make use, or permit the use, of any dining car, cafe car, kitchen car, or refrigerating car, in violation of any order of the Food and Drug Commissioner requiring the closing and discontinuing of any such car. (Id. § 5699.)

203. "Closed" Car to be Placed on Siding.—Whenever the State Food and Drug Commissioner shall issue an order closing any dining car, cafe car, kitchen car or refrigerator car in this article referred to, same shall be placed upon a siding until the cause or causes for which it was ordered closed have been removed and an order of the State Food and Drug Commissioner canceling such closing order has been issued. (Id. § 5700.)

204. Penalty for Violation.—Any person who shall fail, or refuse, to obey any order of the State Food and Drug Commissioner to close any place, or places, mentioned in section 5695, or who shall exhibit or expose for sale in any show window upon any sidewalk, any vegetables or other articles or commodities whatsoever intended for human food, in violation of any order of the Food and Drug Commissioner, or who shall, in any way, resist or interfere with the State Food and Drug Commissioner in the enforcement of this chapter, or any order of the State Food and Drug Commissioner made pursuant to the authority of this law, shall be deemed guilty of a misdemeanor. (Id. § 5701.)

205. Sanitation in Bakeries, Etc.—Every building or room occupied as a biscuit, bread or cake bakery or confectionery shop shall be drained and plumbed in a manner conducive to the proper healthful and sanitary condition thereof, and constructed with air shafts, windows or ventilating pipes sufficient to insure ventilation. Every room or rooms used as a bake shop or confectionery shop wherein foodstuffs are mixed, manufactured or baked, and all troughs, mixing boxes, steam boxes and other appliances used in the preparation of foodstuffs shall be left open, ventilated and aired for a period of not less than twelve consecutive hours during each week between the hours of six o'clock P. M. on Saturday and six o'clock A. M. on Sunday, and during said twelve hours no sponge setting, mixing or baking shall be done in such bake shop or confectionery shop. No water-closet, privy or ash pit shall be within or communicate directly with the bake shop or confectionery shop. The walls of bake shops or confectionery shops shall be plastered or faced with smooth stone, brick or tile, the ceiling whitened, plastered or covered with lumber, metal or fireproof material, and shall be whitewashed at least once every twelve months. The furniture, troughs, steam boxes, mixers, pans and all other utensils used in or about such bakery or confectionery and the floor, walls and ceiling of such rooms shall be kept in a clean, healthful and sanitary condition. (Id. § 6843.)

206. Products to be Kept, How.—The manufactured flour or meal products shall be kept in clean, dry and properly ventilated rooms so arranged that the floor, shelves and all places for storing same can be easily and properly cleaned. (Id. § 6844.)

207. Sleeping Apartments to be Separate.—No sleeping apartments for any person shall be permitted or maintained in any room or rooms used for manufacturing or storing of flour or meal products or for storing flour or meal or other articles used in the manufacture or production of said products, nor in any room where any manufactured product is stored or kept. (Id. § 6845.)

208. Diseased Persons Not to Work in Bakeries.—No employer shall knowingly require, permit or suffer any person to work in or about his bake shop, hotel, restaurant, lunch counter or confectionery shop who is affected with tuberculosis, scrofula or any venereal disease, or with a communicable skin affection, and every person is hereby required to keep himself in a clean and sanitary condition while engaged in the manufacturing or handling of such products, and such employer shall at his own expense, on the demand of the industrial inspector or his assistant or deputy, furnish such inspector with the certificate of a reputable and competent physician as to the state of health of any of his employees. (Id. § 6846.)

209. Rooms Underground Prohibited.—No room or rooms, either wholly or partly underground, not now used as a bakery or confectionery shop, shall hereafter be used as a bakery or confectionery shop, unless the same shall be so situated as to comply with the necessary sanitary conditions, nor shall any room or rooms, wholly or partly underground, now used as a bakery or confectionery shop, which shall hereafter be closed be again used as a bakery or confectionery shop unless the same shall comply with the necessary sanitary conditions. (Id. § 6847.)

210. Penalty.—Any person who violates any of the provisions of this article or refuses to comply with the requirements thereof shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine of not less than ten dollars and not more than one hundred dollars, or imprisonment in the county jail not less than one month, or by both such fine and imprisonment. Whenever the industrial inspector or one of his assistants or deputies finds that any of the provisions of this article are being violated in such a manner as to render the condition of any bakery or confectionery establishment, or any part thereof, unclean,

or insanitary, or the product thereof unhealthful, he shall at once, in writing, order the owner or owners or the person or persons in charge thereof to remedy said condition within three days; and if such condition be not remedied within three days from the date of said order, he may, at a place in said bakery or confectionery establishment to be selected by him, where it may be seen by the public, place a notice printed in large letters bearing the words "This bakery is unclean. State Industrial Inspector. By _____," which said notice shall be signed by the inspector, his assistant or deputy, and shall remain where so placed until removed by his order. (Id. § 6848.)

211. Duty of Industrial Inspector.—It shall be the duty of the industrial inspector or his deputy to inspect each bake shop at least twice every twelve months, and for each inspection he may receive a fee of not exceeding one dollar; he may make such additional inspections as conditions may seem to require, but he shall not be entitled to any fee for such additional inspection. It shall be his duty to see that the provisions of this article are carried into effect, and it is hereby made the duty of the prosecuting attorney of each county or city in this State to lend all possible aid in all prosecutions for violation of any of the provisions of this article. (Id. § 6849.)

212. Law to be Posted.—A copy of this article shall be furnished by the industrial inspector and be kept conspicuously posted in every bake shop or confectionery establishment in this State. (Id. § 6850.)

212a. Power and Duties of Inspector and Deputies.—The State Industrial Inspector may divide the State into districts, assign one or more deputy inspectors to each district, and may, at his discretion, change or transfer them from one district to another. It shall be the duty of the Industrial Inspector, his assistants or deputy inspectors, to make not less than two inspections during each year of all factories, warehouses, office buildings, freight depots, machine shops, garages, laundries, tenement workshops, bake shops, restaurants, bowling alleys, pool halls, theatres, concert halls, moving picture houses, or places of public amusement, and all other manufacturing, mechanical and mercantile establishments and workshops. The last inspection shall be completed on or before the first day of October of each year, and the Industrial Inspector shall enforce all laws relating to the inspection of the establishments enumerated heretofore in this section, and prosecute all persons for violating the same. Any municipal ordinance relating to said establishments or their inspection shall be enforced by the Industrial Inspector. The Industrial Inspector, his assistants and deputy inspectors, may administer oaths and take affidavits in matters concerning the enforcement of the various inspection laws relating to these establishments: Provided, that the provision of this section shall not apply to mercantile establishments that employ less than ten persons that are located in towns and cities that have three thousand inhabitants or less. (Id. § 6782.)

NOTE: See also Nos. 24, 28-29; the beverage law, No. 38 et seq.; the dairy law, No. 73 et seq.; the egg law, No. 151 et seq.; the meat law, Nos. 183a-183b.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

213. Advertising Secret Drug, Etc.—If any person shall print or publish, or cause to be printed or published, in any newspaper in this State, any advertisement of any secret drug or nostrum purporting to be for the use of females, or if any druggist or other person shall sell or keep for sale or shall give away any such secret drug or nostrum purporting to be for the use of females, or if any person shall by printing or writing, or in any other way, publish an account or description of any drug, medicine, instrument or apparatus for the purpose of preventing conception, procuring abortion or miscarriage, or shall by writing or printing, or any circulars, newspaper, pamphlet or book, or in other way, publish or circulate any obscene notice, or shall, within this State, keep for sale or gratuitous distribution any secret drug, nostrum or medicine for the purpose of preventing conception, procuring abortion or miscarriage, such person or persons so violating any of the

provisions of sections 3523 and 3524* shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in any sum not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding six months, or, both, at the discretion of the court: Provided, nothing herein shall be construed to affect teaching in regularly chartered medical colleges, or the publication of standard medical books. (R. S. 1919, § 3525.)

213a. Manslaughter; Producing Miscarriage.—Any person who, with intent to produce or promote a miscarriage or abortion, advises, gives, sells, or administers to a woman (whether actually pregnant or not), or who, with such intent, procures or causes her to take, any drug, medicine, or article, or uses upon her, or advises to or for her the use of any instrument or other method or device to produce a miscarriage or abortion (unless the same is necessary to preserve her life or that of an unborn child, or if such person is not a duly licensed physician, unless the said act has been advised by a duly licensed physician to be necessary for such a purpose), shall, in event of the death of said woman, or any quick child, whereof she may be pregnant, being thereby occasioned, upon conviction be adjudged guilty of manslaughter, and punished accordingly; and in case no such death ensue, such person shall be guilty of the felony of abortion, and upon conviction be punished by imprisonment in the penitentiary not less than three years nor more than five years, or by imprisonment in jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment; and any practitioner of medicine or surgery, upon conviction of any such offense, as is above defined, shall be subject to have his license or authority to practice his profession as physician or surgeon in the State of Missouri revoked by the State Board of Health in its discretion. (Id. § 3239.)

Pharmacy, Poisons and Narcotics.

214. Unlawful to Conduct a Drug Store Except as Herein Provided.—It shall be unlawful for any person not licensed as a pharmacist within the meaning of this chapter to conduct or manage any pharmacy, drug or chemical store, apothecary shop or other place of business for the retailing, compounding or dispensing of any drugs, medicines, chemicals or poisons, or for the compounding of physicians' prescriptions, or to keep exposed for sale at retail any drugs, medicines, chemicals or poisons, except as hereinafter provided, or for any person not licensed as a pharmacist or assistant pharmacist within the meaning of this chapter to compound, dispense or sell at retail any drug, chemical, poison or pharmaceutical preparation upon the prescription of a physician or otherwise, or to compound physicians' prescriptions except as an aid to or under the supervision of a person licensed as a pharmacist under this chapter. And it shall be unlawful for any owner or manager of a pharmacy or drug store or other place of business to cause or permit any other than a person licensed as a pharmacist or assistant pharmacist to compound, dispense or sell at retail any drug, medicine or poison except as an aid to or under the supervision of a person licensed as a pharmacist or assistant pharmacist: provided, however, that nothing in this section shall be construed to interfere with any legally registered practitioner of medicine or dentistry in the compounding or dispensing of his own prescriptions, nor with the exclusively wholesale business of any dealer who shall be licensed as a pharmacist or who shall keep in his employ at least one person who is licensed as a pharmacist, nor with the sale of poisonous substances which are sold, exclusively for use in the arts or for use as insecticides when such substances are sold in unbroken packages bearing a label having plainly printed upon it the name of the contents, the word poison and the names of at least two readily obtainable antidotes: provided, further, that in any village of not more than five hundred inhabitants where there is no person licensed as a pharmacist within less than two miles of such village the Board of Pharmacy may grant to any person who is licensed as assistant pharmacist a permit to conduct a drug store or pharmacy in such village, which permit shall not be valid in any other village than the one for which it was granted, and shall cease and terminate when the population of the village for which such permit was granted shall become greater than five hundred: provided, however, that nothing in this section shall be so construed as to apply to the sale of patent and proprietary medicines, and in any locality where there is no licensed pharmacist or assistant pharmacist the ordinary household remedies and such drugs or medicines as may be specified by the Board of Pharmacy shall be permitted to be sold by those engaged in the

*Sections refer to circulation, etc., of obscene matter, omitted herein.

sale of general merchandise: provided, further that nothing in this section shall be so construed as to prevent any person, firm or corporation from owning a pharmacy, drug or chemical store or apothecary shop, providing such pharmacy, drug or chemical store or apothecary shop shall be in charge of a licensed pharmacist. (R. S. 1919, § 4712.)

215. Renewal of License, When; Application for License; Examination.—Every person now licensed or registered as a pharmacist under the laws of this State shall be entitled to continue in the practice of his profession until the thirty-first day of December, 1909, and after such date shall be entitled to renewal of his license under the provisions of this chapter upon the presentation of an application for such renewal. Every person who shall hereafter desire to be licensed as a pharmacist or assistant pharmacist shall file with the secretary of the Board of Pharmacy an application, duly verified under oath, setting forth the name and age of the applicant, the place or places at which, and the time spent in, the study of the science and art of pharmacy, and the experience in the compounding of physicians' prescriptions which the applicant has had under the direction of a legally licensed pharmacist, and shall appear at a time and place designated by the Board of Pharmacy and submit to an examination as to his qualifications for registration as a licensed pharmacist or assistant pharmacist. (Id. § 4713.)

216. Qualification of Pharmacists and Assistant Pharmacists.—In order to be licensed as a pharmacist within the meaning of this chapter, an applicant shall be not less than twenty-one years of age, and if his application be filed with the secretary of the Board of Pharmacy on or after the first day of January, 1912, he shall have been licensed as an assistant pharmacist for not less than two years prior to his application for license as a pharmacist, and he shall present to the board satisfactory evidence that he has had four years' experience in pharmacy under the instruction of a licensed pharmacist, and shall pass a satisfactory examination by or under the direction of the Board of Pharmacy: provided, that if the applicant for a license as a pharmacist be a graduate of a school or college of pharmacy whose requirements for graduation are satisfactory to and approved by the Board of Pharmacy, it shall not be required that he pass any examination or that he shall have been an assistant pharmacist. In order to be licensed as an assistant pharmacist within the meaning of this chapter, an applicant shall be not less than eighteen years of age, shall have a sufficient preliminary general education, and shall have not less than two years' experience in pharmacy under the instruction of a licensed pharmacist, and shall pass a satisfactory examination by or under the direction of the Board of Pharmacy: provided, however, that in the case of persons who have attended a reputable school or college of pharmacy the actual time of attendance at such school or college of pharmacy may be deducted from the time of experience required of pharmacists and assistant pharmacists. (Id. § 4714.)

217. Board May Refuse to Grant or Revoke License When; Applicant May Appeal.—If the applicant for license as a pharmacist or assistant pharmacist has complied with all the requirements of the two preceding sections, the Board of Pharmacy shall enroll his name upon the register of pharmacists or assistant pharmacists and issue to him a license which shall entitle him to practice as pharmacist or assistant pharmacist for a period of one year from the date of said license. The Board of Pharmacy may refuse to grant a license to any person guilty of felony, or gross immorality, or who is addicted to the use of alcoholic liquors or narcotic drugs to such an extent as to render him unfit to practice pharmacy; and the Board of Pharmacy may, after due notice and hearing, revoke a license for like cause or any license which has been procured by fraud, or the license of any one who shall allow his license to be used where he is not personally, actively and continuously, engaged in the pharmaceutical business at a fixed and definite location. An appeal from the action of the board in refusing to grant or in revoking a license for such cause may be taken to the Governor and Attorney-General, the decision of which officers, either affirming or overruling the action of the board shall be final. (Id. § 4715, as amended L. 1923, p. 170, et seq.)

218. Licenses May be Issued Without Examination to Applicants Who Have Been Registered or Licensed in Other States or Countries.—The Board of Pharmacy may issue licenses to practice as pharmacists or assistant pharmacists in this State without examination to such persons as have been legally registered or licensed as pharmacists or assistant pharmacists in other States or foreign countries; provided, that the applicant for such license shall present satisfactory evidence of qualifications equal to those required from licentiates in this State, and that he was registered or licensed by examination in such other State or foreign country, and that the standard of competence required in such other State or foreign country is not lower than that required in this State; and provided, also,

that the board is satisfied that such other State or foreign country accords similar recognition to the licentiates of this State. Applicants for license under this section shall, with their application, forward to the Secretary of the Board of Pharmacy the sum of fifteen dollars as a fee for such license. (R. S. 1919, § 4716, as amended L. 1923, p. 171, et seq.)

219. License to be Conspicuously Exposed in Drug Store; Renewal of License; Penalty For Refusal to Renew License; Name of Owner or Manager of Drug Store to be Displayed Outside.—Every certificate of license to practice as pharmacist, and every permit to an assistant pharmacist to conduct a drug store in villages of not more than 500 inhabitants, and every renewal of such license or permit, shall be conspicuously exposed in the pharmacy or drug store or place of business of which the pharmacist or assistant pharmacist or other person to whom it is issued is the owner or manager or in which he is employed. Every licensed pharmacist or assistant pharmacist who desires to continue in the practice of this profession shall, within thirty days next preceding the expiration of his license or permit, file with the board an application for the renewal thereof, which application shall be accompanied by the fee hereinafter prescribed. If the board shall find that the applicant has been legally licensed in this State and is entitled to a renewal of license, or to a renewal of such permit, it shall issue to him a certificate attesting that fact. If any pharmacist or assistant pharmacist shall fail, for a period of sixty days after the expiration of his license, to make application to the board for its renewal, his name shall be erased from the register of licensed pharmacists or assistant pharmacists, and such person, in order to again become registered as a licensed pharmacist or assistant pharmacist, shall be required to pay the same fee as in the case of original registration; provided, that no application for the renewal of a license shall be granted after a period of two years after its expiration, and if any pharmacist or assistant pharmacist fail within that time to make application to the board for a renewal of his license, he shall be subject to all of the provisions of this chapter regulating the issuance of licenses. The name of the owner or responsible manager of every pharmacy, drug store or apothecary shop shall be conspicuously displayed upon the outside of such place of business. (R. S. 1919, § 4717.)

220. Creation and Appointment of Board of Pharmacy.—The Board of Pharmacy shall consist of five persons not connected with any school of pharmacy licensed as pharmacists and actively engaged in the practice of pharmacy within this State, who shall be appointed by the Governor, with the approval of the Senate, and who shall hold their office for five years from the date of their appointment and until their successors shall have been appointed and qualified. The members of the board first appointed shall hold their office for one, two, three, four and five years, respectively, as shall be designated in their several commissions. Annually the Missouri Pharmaceutical Association may submit to the Governor the names of five persons licensed as pharmacists within this State, and from this number, or from others, the Governor, with the approval of the Senate, shall appoint one member to fill the vacancy annually occurring in the Board of Pharmacy, and vacancies occurring from any other cause shall be filled in like manner. The members of the present Board of Pharmacy shall continue in office until the expiration of their respective terms, and the vacancies thus occurring shall be filled as previously designated. (Id. § 4718.)

221. Board of Pharmacy to Organize Annually; Secretary to Give Bond.—Annually the Board of Pharmacy shall organize by the election of a president and secretary, both of whom shall be members of the board, who shall hold their offices for one year and until their successors shall have been elected and qualified. The secretary shall give a bond in such sum as may be prescribed by the board, conditioned upon the discharge of the duties of his office according to law. (Id. § 4719.)

222. Board of Pharmacy to Adopt Rules and By-laws; Duties of Board.—The Board of Pharmacy shall have a common seal, and shall have power to adopt such rules and by-laws not inconsistent with law as may be necessary for the regulation of its proceedings and for the discharge of the duties imposed under this chapter, and shall have power to employ an attorney to conduct prosecutions or to assist in the conduct of prosecutions under this chapter. The board shall keep a record of its proceedings and a register of all persons to whom certificates of license as pharmacists and assistant pharmacists and permits have been issued, and all renewals thereof; and the books and register of the board, or a copy of any part thereof certified by the secretary, attested by the seal of the board, shall be accepted as competent evidence in all the courts of this State. The Board of Pharmacy shall make annually to the Governor and to the Missouri Pharmaceutical Association a written report of its proceedings and of its receipts and disbursements under this

chapter, and of all persons licensed to practice as pharmacists and assistant pharmacists in this State. A majority of the board shall constitute a quorum for the transaction of business. The president and secretary shall have the power to administer oaths in all matters pertaining to the examination and registration of pharmacists and assistant pharmacists. (Id. § 4720.)

223. Compensation of Secretary and Other Members of Board; Fees Collected to be Paid Into State Treasury Monthly; Compensation of Secretary and Board to be Paid Out of Fees Collected.—The secretary shall receive such salary as may be prescribed by the Board of Pharmacy, and his necessary expenses, while engaged in the performance of his official duties. The other members shall receive the sum of five dollars for each day actually employed in the discharge of their official duties, and their necessary expenses while engaged therein. All fees collected by the secretary for the examination of pharmacists and assistant pharmacists and for the issuing of the permits authorized by this chapter, and for the renewal of certificates of registration and permits, and all other funds collected by the secretary of the Board of Pharmacy under this chapter shall by him be covered into the State treasury monthly, and shall be placed to the credit of a fund which is hereby appropriated for the use of the Board of Pharmacy. The compensation and expenses of the secretary and members of the Board of Pharmacy, and all expenses incurred by the board in carrying into execution the provisions of this chapter, shall be paid out of said fund upon the warrant of the Auditor of State, issued upon requisition, signed by the president and secretary of the board. (Id. § 4721.)

224. Prosecution of Offenders.—Upon receiving information that any provision of this chapter has been or is being violated, the Secretary of the Board of Pharmacy shall investigate the matter, and upon probable cause appearing, shall, under direction of the board, file a complaint and prosecute the offender therefor. It shall be the duty of the prosecuting attorney, upon request of the secretary, to take charge of and conduct such prosecutions. All fines assessed and collected under prosecutions begun or caused to be begun under this chapter shall be paid to the secretary, and by him covered into the State treasury monthly. (Id. § 4722.)

225. Fees to be Charged by the Board of Pharmacy.—The Board of Pharmacy shall be entitled to charge and collect the following fees: For the examination of an applicant for license as a pharmacist, ten dollars; for the examination of an applicant for a license as an assistant pharmacist, five dollars; for renewing the license of a pharmacist, one dollar; for renewing the license of an assistant pharmacist, one dollar; for issuing a permit to an assistant pharmacist to conduct a drug store in villages of not more than five hundred inhabitants, five dollars. All fees shall be paid before any applicant may be admitted to examination or his name placed upon the register of pharmacists or assistant pharmacists, or before any license or permit, or any renewal thereof, may be issued by the board. (Id. § 4723, as amended L. 1923, p. 172, et seq.)

226. Regulation of Sale of Poisons.—It shall be unlawful for any person to retail any poisons enumerated in schedules "A" and "B" except as follows: Schedule "A"—arsenic and its preparations, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisonous vegetable alkaloids and their salts, and the essential oil of bitter almonds. Schedule "B"—opium and its preparations, except paregoric and other preparations of opium containing less than two grains to the ounce, aconite, belladonna, colchicum, conium, nuxvomica, henbane, savin, ergot, cotton root, cantharides, creosote, veratrum, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, corrosive sublimate, red precipitate, white precipitate, mineral acids, carbolic acid, oxalic acid, without labeling the box, vessel or paper in which the said poison is contained, and also the outside wrapper or cover with the name of the article, the word "poison" and the name and place of business of the seller. Nor shall it be lawful for any person to sell or deliver any poisons enumerated in schedules "A" and "B" unless, upon due inquiry, it be found that the purchaser is aware of its poisonous character and represents that it is to be used for legitimate purposes. Nor shall it be lawful for any registered pharmacists to sell any poisons included in schedule "A" without, before delivering the same to the purchaser, causing an entry to be made in a book kept for that purpose, stating the date of sale, name and address of purchaser, the name of poison sold, the purpose for which it was represented by the purchaser to be required and the name of the dispenser—such book to be always open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poison in not unusual quantities or doses upon the prescriptions of practitioners of medicine. Nor shall it be

lawful for a licensed or registered druggist or pharmacist to retail, sell or give away any alcoholic liquors or compounds as a beverage. (R. S. 1919, § 4724.)

227. Prescriptions to be Preserved.—Every proprietor or manager of a drug store or pharmacy shall keep in his place of business a suitable book or file, in which shall be preserved, for a period of not less than five years, the original of every prescription compounded or dispensed at such store or pharmacy, numbering, dating and filing them in the order in which they are compounded, and shall produce the same in court or before any grand jury whenever thereto lawfully required. And upon request, the proprietor or manager of such store shall furnish to the prescribing physician, and may, except when otherwise instructed by the prescribing physician, furnish to the person for whom such prescription was compounded or dispensed, a true and correct copy thereof, and said book or file of original prescriptions shall at all times be open for inspection by duly authorized officers of the law. (Id. § 4725.)

228. Unlawful for One Not Licensed to Use Title of Pharmacist or Assistant Pharmacist.—It shall be unlawful for any person not legally licensed as a pharmacist to take, use or exhibit the title of pharmacist, or licensed or registered pharmacist, or the title druggist or apothecary, or any other title or description of like import; and it shall be unlawful for any person not legally licensed as an assistant pharmacist to take, use or exhibit the title of assistant pharmacist or any other title or description of like import. (Id. § 4726.)

229. Exempt from Jury Duty.—All persons licensed under this chapter as pharmacists or assistant pharmacists and actively engaged in the practice of their profession shall be free and exempt from jury duty in all the courts in this State. (Id. § 4727.)

230. Penalties.—Whoever, not being licensed as a pharmacist, shall conduct or manage any drug store, pharmacy or other place of business for the compounding, dispensing or sale at retail of any drugs, medicines or poisons, or for the compounding of physicians' prescriptions, contrary to the provisions of section 4712 of this chapter, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars, and each week such drug store or pharmacy or other place of business is so unlawfully conducted shall be held to constitute a separate and distinct offense. Whoever, not being licensed as a pharmacist or assistant pharmacist, shall compound, dispense or sell at retail any drug, medicine, poison or pharmaceutical preparation, either upon a physician's prescription or otherwise, and whoever being the owner or manager of a drug store, pharmacy or other place of business shall cause or permit any one not licensed as a pharmacist or assistant pharmacist to dispense, sell at retail, or compound any drug, medicine, poison or physician's prescription, contrary to the provisions of section 4712 of this chapter, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars. Any license or permit or renewal thereof obtained through fraud or by any false or fraudulent representation shall be void and of no effect in law. Any person who shall make any false or fraudulent representation for the purpose of procuring a license or permit or renewal thereof, either for himself or for another, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars, and any person who shall willfully make a false affidavit, for the purpose of procuring a license or permit or renewal thereof, either for himself or for another, shall be deemed guilty of perjury, and, upon conviction thereof, shall be subject to like punishment as in other cases of perjury. Whoever being the holder of any license or permit granted under this chapter shall fail to expose such license or permit or any renewal thereof in a conspicuous position in the place of business to which such license or permit relates, or in which the holder thereof is employed, contrary to the provisions of section 4717 of this chapter, shall, upon conviction thereof, be fined not less than five dollars nor more than twenty-five dollars, and each week that such license, permit or renewal shall not be exposed shall be held to constitute a separate and distinct offense. And whoever being the holder of any license or permit granted under this chapter shall, after the expiration of such license or permit, and without renewing the same, continue to carry on the business for which such license or permit was granted, contrary to the provisions of section 4717 of this chapter, shall, upon conviction thereof, be fined not less than five dollars nor more than twenty-five dollars. Whoever shall violate any of the provisions of section 4724 of this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars. Whoever shall fail to preserve the original of any prescription or to pro-

duce the same when lawfully required, in accordance with the provisions of section 4725, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than fifty nor more than one hundred dollars. Whoever not being legally licensed as a pharmacist, shall take, use or exhibit the title of pharmacist, licensed or registered pharmacist, druggist, apothecary or any other title of similar import, contrary to the provisions of section 4726 of this chapter, and whoever, not being legally licensed as an assistant pharmacist, shall take, use or exhibit the title of assistant pharmacist, or any other title of similar import, contrary to the provisions of said section 4726, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars. (Id. § 4728.)

231. May Sell or Give Away in What Quantity, When.—No druggist, proprietor of a drug store or pharmacist shall, directly or indirectly, sell, give away or otherwise dispose of alcohol or intoxicating liquors of any kind in any quantity less than four gallons for any purpose, except on a written prescription, dated and signed, first had and obtained from some regularly registered and practicing physician, and then only when such physician shall state in such prescription the name of the person for whom the same is prescribed, and that such intoxicating liquor is prescribed as a necessary remedy; provided, that any druggist or pharmacist may sell or give away, in good faith, any wine for sacramental purposes; provided, further, that any druggist may sell alcohol in less quantities than four gallons for art, mechanical and scientific purposes, but only on a written application signed by a person known to the druggist to be a mechanic, scientist or artist, in which application shall be stated the purpose for which alcohol is to be used. Any druggist who shall violate any of the provisions of this section, or any person who shall make a false statement in an application for alcohol, shall be deemed guilty of a misdemeanor, and on conviction shall, for the first offense, be fined not less than one hundred nor more than five hundred dollars, and for a second offense shall, on conviction, in addition to such fine, have his certificate of registration as a pharmacist revoked. (Id. § 4729.)

232. Druggist to File List of Prescriptions Containing Liquor; Affidavit; Penalty.—Every druggist, proprietor of a drug store or a pharmacist shall, on some day of the first week of each and every month, file with the county clerk of the county in which he is doing business a list of all prescriptions compounded by him or those in his employ, prescribing liquors during the preceding month. And said list shall be accompanied by an affidavit of the druggist, proprietor of a drug store or pharmacist, stating that said list so filed is a true list of all prescriptions filled by him or those in his employ during the preceding month. And on failing, neglecting or refusing so to do shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than fifty nor more than two hundred dollars. (Id. § 4730.)

233. Penalty for Making False Prescription, Etc.—Any physician doing business as a pharmacist or druggist or owning or operating a drug store or pharmacy who shall write and permit the filling out at his own drug store or pharmacy of a prescription calling for intoxicating liquor, except the same is for the purpose and under the conditions mentioned in section 4729 of this chapter, shall be guilty of a misdemeanor and on conviction shall have his certificate of registration as a druggist or pharmacist revoked as part of the judgment of the court, and in addition thereto be fined in a sum not less than one hundred dollars nor more than five hundred dollars. (Id. § 4731.)

234. Prescription for Intoxicating Liquor, When Given, Etc.; Penalty.—Any physician, or pretended physician, who shall make or issue any prescription to any person for intoxicating liquors in any quantity, or for any compound of which such liquors shall form a part, to be used otherwise than for medicinal purposes, or who shall issue more than one prescription at the same time to any one for intoxicating liquors, or for any compound of which such liquors shall become a part, or who shall make or issue any prescription contrary to any existing law, shall be deemed guilty of a misdemeanor, and upon conviction be punished by a fine of not less than forty nor more than two hundred dollars. (Id. § 4732.)

235. Intoxicating Liquors Not to be Drunk on Premises; Penalty.—Any druggist or dealer in drugs and medicines who shall suffer alcohol or intoxicating liquors to be drunk at or about his place of business shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding two hundred dollars or by imprisonment in the county jail not exceeding six months. (Id. § 4733.)

236. Cocaine and Certain Other Drugs Not to be Sold or Given Away Except Upon Prescription; Not to Apply to Wholesale Dealers.—It shall not be lawful

for any druggist or other person to retail or sell or give away any cocaine, hydrochlorate or other salts of or any compound of cocaine or preparation containing cocaine or any salt of or any compound thereof, or opium, morphine, codeine or heroin, excepting upon the written prescription of a licensed physician or licensed dentist or licensed veterinary surgeon, licensed under the laws of the State, which prescription shall only be filled once: provided, that the provisions of this section shall not apply to sales in the usual quantities at wholesale by any manufacturer or wholesale dealer when such manufacturer or wholesale dealer shall have affixed to the box, bottle or package containing such cocaine, hydrochlorate or other salt or compound of cocaine or preparation containing cocaine, or opium, morphine, codeine or heroin, a label specifically setting forth the proportion of cocaine, opium, morphine, codeine and heroin contained in any preparation: provided, that the provisions of this section shall not be construed to apply to the sale, distribution, giving away, dispensing or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salts or derivatives of any of them in one fluid ounce; or if a solid or semi-solid preparation, in one avoirdupois ounce, or to liniments, ointments or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts: provided, that such remedies and preparations are sold, distributed, given away, dispensed or possessed as medicines and not for the purpose of evading the intentions and provisions of this chapter. (Id. § 4734.)

237. Penalty.—Every person who shall be found guilty of violation of the provisions of the next preceding section shall, for the first offense, be fined a sum not less than ten dollars nor more than fifty dollars, and for each subsequent offense not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail not exceeding ninety days, or either or both, in the discretion of the court. (Id. § 4735.)

238. Selling Poison.—Every person who shall sell or deliver to any other any arsenic, corrosive sublimate, prussic acid or any other substance or liquid usually denominated poison, without having the word "poison" plainly written or printed on a label attached to vial, box, vessel or package containing the same, or who shall sell or deliver any tartar emetic without having the true name written or printed on a label and attached to the vial, box, vessel or package containing the same, or who shall sell or deliver any such substance or liquid to any minor without a written permission from the parent or guardian of such minor specifying the kind of drug that such minor is authorized to purchase, shall on conviction be adjudged guilty of a misdemeanor and punished by fine not exceeding one hundred dollars. (Id. § 3625.)

239. Section 3625 Explained.—So much of section 3625 as requires the word "poison" or the name of the drug sold or delivered to be labeled on the box, vial or other package containing the same shall not extend to any practicing physician who shall deliver any of the articles therein mentioned with a prescription for the use of the articles. (Id. § 3626.)

240. Establishing Place for Opium Smoking or Permitting Opium Smoking, a Misdemeanor; Penalty.—If any person shall set up or establish, or cause to be set up or established, in any house, room, outhouse, tent, booth, arbor or other places whatsoever any apparatus or device or instrument whereby opium, hashish or other deadly drug may be smoked or used in any manner whatsoever by other persons; or if any person shall procure, permit, suffer or allow persons to collect or assemble in his house, booth, tent, arbor or other places whatsoever, under his control, for the purpose of smoking opium or any other deadly drug or of using opium in any manner; or if the owner, tenant, lessee or occupant of any house, room outhouse, tent, booth, arbor or other place whatsoever shall lease, hire or rent the same or any part thereof to be used and occupied or employed for the purpose of smoking opium or any other deadly drug, or of using opium in any way or manner by other persons, the persons so offending in either of the enumerated cases shall be guilty of a misdemeanor, and on conviction be punished by imprisonment in the county jail not exceeding one year or by a fine not less than two hundred dollars nor more than one thousand dollars, or by both fine and imprisonment. (Id. § 3617.)

241. Responsibility of Owner of Premises.—The owner of such house, room, outhouse, tent, booth, arbor or other place whatsoever who shall have received information that any such smoking or use as aforesaid is in or upon the said premises, and shall not, within ten days thereafter, cause complaint to be made against the person who has set up or established the same, shall be deemed and held to

have knowingly leased, hired or rented the premises for the said unlawful purposes. (Id. § 3618.)

242. To Keep or Exhibit Apparatus or Device for Smoking Opium, Etc., Misdemeanor; Penalty.—If any person shall keep or exhibit any apparatus, device or instrument for the smoking of opium or other deadly drug, or of using opium in any way or manner by other persons, or aid or assist or permit others to do the same, such persons shall be deemed guilty of a misdemeanor, and on conviction be punished by imprisonment in the county jail not exceeding one year or by a fine not less than two hundred dollars nor more than one thousand dollars or by both such fine and imprisonment. (Id. § 3619.)

243. User of Opium Guilty of Misdemeanor; Penalty.—If any person shall be found in any house, room, outhouse, tent, arbor or other place whatsoever, set up or established as aforesaid, smoking opium or other deadly drug or using opium in any way or manner, or in any way or manner aiding, assisting, abetting or permitting the smoking of opium or other deadly drug or the use of opium in the way or manner as aforesaid, such person so offending shall be guilty of a misdemeanor, and upon conviction be punished by imprisonment in the county jail not exceeding one year or by fine not less than two hundred dollars nor more than five hundred dollars or by both fine and imprisonment. (Id. § 3620.)

244. Soliciting Patrons a Misdemeanor; Penalty.—If any person shall through solicitation, invitation or device persuade or prevail on any person to visit any room, building, arbor, booth, shed or tenement, or other place kept for the purpose of the smoking of opium or any other deadly drug, or using opium in any way or manner, such person shall be deemed guilty of a misdemeanor, and upon conviction, be punished by imprisonment in the county jail not exceeding one year or by fine not less than two hundred dollars nor more than one thousand dollars, or by both fine and imprisonment. (Id. § 3621.)

245. Duties of Magistrate.—If an affidavit be made and filed before any magistrate, before whom complaint has been made of the commission of either of the crimes provided against in the preceding sections, setting forth that the affiant has reason to believe, and does believe, that the person charged in such complaint has, upon his person or at any other place named in said affidavit, any device, apparatus or instrument for the use of opium or any other deadly drug, the discovery of which might lead to establish the truth of such charge, the said magistrate shall, by his warrant, command the officer, who is authorized to arrest the person so charged, to make diligent search for such device, apparatus or instrument, and if found to bring the same before such magistrate, and the officer so seizing shall deliver the same to the magistrate before whom he takes the prisoner, who shall retain possession and be responsible therefor, until the discharge, commitment or letting to bail of the person so charged, after which such officer shall retain such opium device, apparatus or instrument, subject to the order of the court before which such offender may be required to appear until his discharge or conviction, and in case of the conviction of such person, the device, apparatus or instrument shall, by the direction of the court, be destroyed. (Id. § 3622.)

246. Duty of Sheriff, Constable or Other Officer of Justice.—It shall and may be lawful for any sheriff, constable or other officer of justice, to seize upon, secure and remove any device, apparatus or instrument, of any kind, character or description whatsoever, used or employed for the purposes of the unlawful smoking of opium or any other deadly drug, or of the unlawful use of opium as aforesaid, and to arrest with or without warrant, any person using or employing the same, and the said court, upon hearing the parties, if they should appear, if satisfied that such opium device, apparatus or instrument was employed and used for the purposes of unlawful smoking of opium or any other deadly drug, or of the unlawful use of opium as aforesaid, shall adjudge the same forfeited, and order it to be publicly destroyed, and at the same time order reasonable costs and charges to the seizing officer, to be paid by the owner or possessor of such device, apparatus or instrument, or in case of his default, or in case he cannot be found, to be paid as costs are now by law paid on indictment, and such adjudication shall be exclusive evidence to establish the legality of such seizure in any court of this commonwealth. (Id. § 3623.)

247. Writ of Replevin Shall Not Issue, When; Law Does Not Apply, to Whom.—In any case in which the question of its legality shall arise, no writ of replevin shall issue for any device, apparatus or instrument seized as aforesaid; nor shall any action be instituted for, or on account of such seizure, until the court shall have first adjudicated upon the premises, but such writ or action shall forthwith, on motion, be quashed and abated by the court in which it shall

be sued or brought; provided, that sections 3617 to 3624, inclusive, shall not apply to druggists or physicians, or others engaged in the legitimate use or sale of opium. (Id. § 3624.)

247a. Penalty for Giving or Selling Convict Liquor or Narcotics.—Any person who shall either directly or indirectly sell, barter or give, or attempt to sell, barter or give, to any person confined in the State Penitentiary or any prison or reformatory or industrial home or that may be under sentence to such institution, and be employed by the State at any kind of labor either within or without the walls or enclosure of any prison, reformatory, or industrial home, or State farm that may be either leased or owned by the State, or upon the public roads, any opium, morphine, cocaine, or any other alkaloid or narcotic drug of any kind or spirituous or malt liquor of any kind, except upon the written prescription of the physician of the institution in which such person is recorded as an inmate, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than three months nor more than six months, or by both such fine and imprisonment. It shall be the duty of those having control of the penal institutions of the State to have copies of this section printed and posted in conspicuous places in all such institutions. (Id. § 12521.)

248. Subject to Involuntary Confinement in State Hospitals; When Entitled to Release.—All residents of this State, except those in the condition of senility, or suffering pain from incurable disease, who are or shall become habitual users of opium, cocaine, or of some salt or derivative of these drugs, to such an extent as to become what is commonly called or known as "dope fiends" or "addicts," shall be subject to involuntary confinement in the State Hospitals for Insane Persons, under treatment by the medical staffs of such hospitals, for the cure of such habit, for such period of time as shall be necessary to accomplish such cure. Persons so confined shall be entitled to be released when, and not before their appetite for such drug, or drugs, has been thoroughly eradicated, which cure shall, *prima facie*, depend upon the opinion of the hospital superintendent where the confinement occurs. (L. 1921, p. 305, et seq., § 1.)

249. Probate Court May Commit; Who; When.—Any person subject to confinement as prescribed in section 1 of this act may voluntarily submit himself or herself thereto by appearance before the probate court of the county of his or her residence and signing a written declaration of his or her purpose and desire so to do, duly acknowledged before such court, who shall enter the same upon the minutes and file the same in the records of such court; and thereupon said court shall inquire into the financial ability of such person and shall enter upon the record of such court its finding whether or not such person is the owner of an estate in property in excess of that to which he or she may be entitled as the head of a family as exempt from execution for debt under the laws of this State. If there be such excess, then said court shall appoint some suitable person as curator of such estate, who shall have the same powers and perform the same duties as guardians of persons of unsound mind under the statutes of this State, and who shall conform in all respects to the requirements of the statutes regulating the duties and powers of such guardians, except that no property of the ward shall be appropriated for his or her support in such confinement or for the expenses precedent thereto which shall be so exempt; such exempt property to be administered under the supervision and control of such probate court for the use and support of the dependents of such ward during the period of his or her confinement under this act. (Id. § 2.)

250. To Show Cause Why He or She Shall Not be Confined for Cure.—Any such "dope fiend" or "addict," upon written information charging him or her so to be, signed by any resident of the county of such person's residence and filed with the probate court thereof, shall be cited by said court upon five days' notice served in the same manner as personal summons is required to be served in civil actions, to show cause why he or she shall not be adjudged to be confined for the cure of such habit. Upon the return day of such notice said probate court shall, without the aid of a jury, inquire into and shall declare of record its finding whether or not the person so charged be in fact a "dope fiend" or "addict" in the use of any such drug or drugs, and if it so finds such person to be as charged, said court shall further proceed as in section 2 of this act in the matter of the appointment of a curator. (Id. § 3.)

251. Probate Court to Issue Certificates of Commitment; Sheriff to Deliver Such Person to Hospital Selected.—Whenever the probate court of any county in this State shall find upon citation and trial, or upon confession as the case may be, that any person so coming under its jurisdiction as in this act provided, is a habitual user of any such drug or drugs, it shall at once issue its certificate in

duplicate to that effect under the hand and seal of said court directed to any hospital for insane patients in the State of Missouri, to be selected by said court, and shall deliver the same to the sheriff of the county, who shall thereupon and by authority thereof deliver such person into the custody of the superintendent of such hospital, leaving one copy of such certificate with such superintendent as his authority for such custody, and making return to said court upon the other copy. And thereupon said superintendent shall safely keep such person under such confinement as may be necessary, and shall have administered to him or her, by the medical staff of such hospital, treatment for the eradication of such drug habit until cured, and when cured shall then discharge such person from such hospital. (Id. § 4.)

252. County Court Shall Pay for Support of Patient.—Such hospital shall collect, from the county of such patient's residence, by warrant of the superintendent of the hospital drawn on the county court, the same expense for the support of such patient as is allowed by law for the support of insane patients; and all fees of the probate court and fees and mileage of the sheriff shall be the same as in like proceedings in the inquisition and care of insane patients, and shall also be paid out of the county treasury by order of the county court; but all such expenses, fees and mileage shall be a charge upon any estate of the patient subject to appropriation as hereinabove provided, and for the payment of which by the curator into the county treasury, said probate may and shall, from time to time upon application of the county court, make order for the sale and transfer of title of such estate as in case of estates of insane persons under guardianship, and for payment into such county treasury. (Id. § 5.)

253. Act Shall Apply to City of St. Louis, Also Any County Having Public Hospital for Treatment of Such Persons.—This act shall apply also to the city of St. Louis, and the probate court of said city, as well as of any county in which there is or hereafter may be located a public hospital owned or controlled by said city or county, or by any city in said county, shall order the confinement and treatment of such habitual users of said drugs in such local hospital, by and with the consent of the Board of Control or other governing authority thereof, the cost thereof to be paid as in section 5 of this act provided; but in the absence of such consent then such confinement shall be ordered in a State Hospital as hereinabove directed. (Id. § 6.)

254. Superintendents Required to Receive All Persons Ordered Confined.—The superintendents of all State Hospitals are hereby required to receive for such confinement and treatment in such institutions all such persons as may be lawfully ordered to be confined therein pursuant to the provisions of this act, to the extent of the capacity of such institutions to properly accommodate and care for such patients, which condition shall be ascertained by the probate judge by inquiry of the superintendent before making the order of confinement. (Id. § 7.)

255. Only Bona Fide Residents of City or County to Have Consideration.—No patient shall become a charge upon any county or city, unless such person has been a bona fide resident of such city or county at least one year next previous to the time when such patient is confined in such hospital. (Id. § 8.)

NOTE: See also Nos. 198 et seq. and 285.

Serums.

255a. Sale of Anti-Hog Cholera Serum Regulated.—It shall be unlawful for any person, firm, partnership or corporation not licensed by the United States Department of Agriculture and engaged in the making, manufactory or distribution of anti-hog cholera serum and hog cholera virus, or both, to sell or offer for sale or distribution any anti-hog cholera serum or virulent hog cholera virus, or any other product intended for the prevention, cure or relief of hog cholera made by any method or process not recognized, adopted or sanctioned by the United States Department of Agriculture in licensing and supervising the preparation and distribution of such agents, serums or chemical compounds intended for the prevention, alleviation and cure of hog cholera which are now or may hereafter be adopted or recognized by the said United States Department of Agriculture, provided, that nothing in this act shall be so construed as to apply to the Veterinary Science Department of the University of the State of Missouri in conducting any experiment or experiments to ascertain information and obtain new and better methods for the prevention, alleviation or cure of hog cholera. Be it further provided, that any person, firm or corporation holding a license from the United States Department of Agriculture for the manufacture of such products coming under the provisions of this act are hereby exempted from the provisions of this act. Be it furthermore provided, that any person or

educational institution may obtain a special permit from the secretary of the Missouri State Board of Agriculture to conduct such experiments which in the opinion of the State Veterinary Surgeon are not harmful or detrimental to the hog industry of Missouri, provided, however, that the person or institution desiring to conduct such experiments shall assume complete and full responsibility for any or all damages incurred. (Act of Apr. 5, 1927, § 1.)

255b. Penalty for Violation of Act.—Any person or persons who violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment in the county jail not less than one month nor more than one year or both. (Id. § 2.)

Intoxicating Liquors.

256. Use of Intoxicating Liquors Prohibited.—It shall be unlawful for any person, firm, association or corporation, his, its, or their agents or employees to manufacture, sell, possess, give away or transport intoxicating liquors within, import the same into, or export the same from the State of Missouri, except as hereinafter provided, or to use or possess any still, doubler, worm, worm tub, mash tub, or fermenting tub, used or fit for use in the production of intoxicating liquors. Provided, that nothing in this act contained shall be so construed as to prevent, or prohibit, the ownership, handling, or use, of any equipment, tubs, utensils, or vessels, necessary or requisite for the manufacture, transportation, or handling, by bona fide brewers who are permitted under regulations of the United States Treasury Department to manufacture and sell beverages containing less than one-half of one per cent alcohol; and provided, further, that nothing in this act contained shall be so construed as to prevent, or prohibit, the possession of intoxicating liquor in the private residence of the owner thereof, when such intoxicating liquor has been lawfully acquired and [is] being lawfully used. (R. S. 1919, § 6588, as amended L. 1921, p. 413, et seq.)

257. Exceptions.—The provisions of this article shall not be construed so as to prevent the manufacture, importation, exportation, or sale of denatured alcohol, or of cider for the purpose of making vinegar or non-intoxicating cider, or of denatured rum for use only in the industrial and mechanical arts, or of methyl alcohol, or of ethyl alcohol in non-potable toilet, medicinal, antiseptic, culinary, or other non-beverage preparations, or of ethyl alcohol for scientific, pharmaceutical, mechanical, or industrial purposes, or to prevent the sale of ethyl alcohol or wine by pharmacists or druggists as provided herein for medicinal or sacramental purposes. (R. S. 1919, § 6589.)

258. Permit Required; Fee Fixed.—It shall be unlawful for any person, firm, association or corporation to manufacture or sell ethyl alcohol or wine within the State of Missouri for non-beverage purposes without a permit therefor as herein provided. All persons, firms or corporations desiring to manufacture or sell ethyl alcohol or wine shall file with the clerk of the county court of the county in which such persons, firm or corporation resides or has his place of business, an application for a permit to manufacture or sell (as the case may be) ethyl alcohol or wine, at least ten (10) days before the hearing thereon. Said application shall be in such form as may be prescribed by the Attorney-General of Missouri. The said clerk of the county court shall present said application to the county court of said county at its next regular term, and if the judges of said court are satisfied that the allegations of the application are true, that the applicant is twenty-one (21) years of age and not addicted to the use of intoxicating liquors as a beverage; and that the applicant is of good moral character and law-abiding, the said court may issue a permit to such applicant to manufacture or sell (as the case may be) ethyl alcohol or wine for a period of one year unless revoked or suspended as herein provided. Said permit shall be in such form as may be prescribed by the Attorney-General of Missouri. Applicants shall pay to the county clerk for permits issued as above set out the following fees, to wit: For each manufacturing permit, the sum of fifty dollars (\$50.00); for each selling permit, the sum of ten dollars (\$10.00). All fees collected by the county clerk under this section shall be paid over monthly to the county treasurer. All holders of permits granted as herein provided, shall, on or before the fifth day of each month, for the calendar month preceding, file a statement, verified by the oath of such permit holder, with the clerk of the county court of the county in which such permit holder is engaged in business, showing the amount and kind of intoxicating liquors manufactured or received during said month with names and

addresses of the persons, firms or corporations from whom received, the amount and kind of intoxicating liquors sold or otherwise used or disposed of during said month with the names and addresses of the persons, firms or corporations to whom sold or delivered, and the amount and kind of intoxicating liquors on hand at the end of said month. (Id. § 6590.)

259. Nothing in Act to be Construed as Contrary to Regulations of Treasury Department of U. S. A.—Nothing in this act contained shall be so construed as to prevent, or prohibit, the manufacture of any intoxicating liquor other than ethyl alcohol, or wine for medicinal purposes, when such liquor is manufactured under authority, or permit, of, and in accordance with regulations prescribed by the Treasury Department of the United States of America. (Id. § 6590a, as added L. 1921, p. 417.)

260. Physicians May Prescribe Under Permit; Application and Fee for Same.—It shall be unlawful for any physician, or pretended physician, in the State of Missouri, to make or issue any prescription to any person for ethyl alcohol or wine in any quantity, or for any compound of which such liquors shall form a part, without a permit therefor secured as herein provided. All physicians desiring to write prescriptions for ethyl alcohol or wine for medicinal purposes shall file an application for a permit to do so with the clerk of the county court of the county in which such physician practices his profession. Said application shall be in such form as the Attorney-General of Missouri may prescribe and permits may be granted by the judges of the county court upon the same terms and under the same rules and conditions as they are authorized to grant permits to manufacture and sell ethyl alcohol or wine by this article. Applicants shall pay the county clerk for each permit issued, as above set out, the sum of two dollars (\$2.00). All fees collected by the said county clerk under this section shall be paid over monthly to the county treasurer. It shall be unlawful for any physician, holding a permit as herein provided, to make or issue a prescription for ethyl alcohol or wine to any person without a careful physical examination of the person for whom the ethyl alcohol or wine is prescribed; or to issue such prescription for such liquors to a person whom he has reason to believe will use such liquors for beverage purposes; or to issue such a prescription for such liquors without the name of the person for whom such liquors are prescribed written thereon, together with the name of the disease or malady for which such liquor is prescribed. (R. S. 1919, § 6592.)

261. Does Not Prohibit Reputable Licensed Physicians from Prescribing.—Nothing in this act contained shall be so construed as to prevent or prohibit any reputable licensed physician, having authority or permit to prescribe ethyl alcohol, or wine, from prescribing in lieu thereof, any intoxicating liquor susceptible of use as a beverage, or to prevent or prohibit any druggist from possessing such intoxicating liquors and in all such cases the physician writing such prescription, the person for whom such prescription is written, and the druggist filling same, shall be subject to the same rules, and regulations, and to the same penalties and restrictions as provided in this act for the prescription and sale of ethyl alcohol or wine. Provided, further, that wholesale liquor dealers and wholesale druggists shall be permitted and authorized to hold, possess and dispose of intoxicating liquors under such rules and regulations, penalties and restrictions as are now or may hereafter be prescribed by the laws of the United States Government or any department thereof. (Id. § 6592a, as added L. 1921, p. 417.)

262. Judge of Circuit Court May Revoke Permit, When.—If at any time there shall be filed with the clerk of the circuit court of the county in which a permit holder under this article is authorized to manufacture, sell or write prescriptions for intoxicating liquors a petition, signed by five (5) citizens or the prosecuting attorney of said county, setting forth that any such permit holder is not, in good faith, obeying the provisions of this article, or has been convicted of a violation of the provisions of this article, or that such permit holder is in the habit of using intoxicating liquors as a beverage and requesting that the permit possessed by such permit holder to manufacture, sell or to write prescriptions for intoxicating liquors (as the case may be) be revoked, the judge of the said Circuit Court shall order the said clerk of the Circuit Court to immediately issue a citation to such permit holder to appear before the said judge at the courthouse of said county on the first day of the next regular term of said Circuit Court after the date of such order, at which time said petition shall be heard and determined. If it is found that such permit holder is guilty of violating any of the provisions of this article or had failed or neglected to file the monthly statements required by this article or is in the habit of using intoxicating liquors as a beverage, then the said judge of the Circuit Court shall either suspend such permit for a definite period of time

or shall revoke the same and render judgment for the costs of the proceeding against the permit holder; and if such permit holder shall have his permit revoked for a second time, such revocation shall act as a bar against the issuance of any other or further permit in the State of Missouri. In the event the permit holder shall be found innocent of the charges set out in any petition filed by citizens under this section, judgment for costs of the proceeding shall be rendered against such citizens. The judge of the Circuit Court shall have power to subpoena witnesses and require the attendance of such witnesses in the determination of any such procedure under this section the same as in civil cases in his jurisdiction. (R. S. 1919, § 6598.)

263. Advertising Prohibited.—It shall be unlawful for any person, firm or corporation to advertise intoxicating liquors in any manner in the State of Missouri: provided, however, that manufacturers holding permits under this article may send price lists giving the prices and other information pertaining to ethyl alcohol and wine to holders of permits authorized to sell same. (Id. § 6599.)

264. Firm Members Liable for Act of Employee.—If any firm, corporation or association shall violate any of the provisions of this article, any officer, agent, member or employee thereof acting for it in any such unlawful manner or authorizing such unlawful act to be done shall be personally guilty of such violation the same as though such officer, agent, member or employee himself had committed the offense, and shall be subject to all fines, penalties and imprisonments therefor. (Id. § 6600.)

265. Contraband.—All intoxicating liquors unlawfully manufactured, sold or transported are contraband and they and the containers thereof shall be forthwith sold as provided in section 6595 of this article or destroyed whenever the proper judge or court shall hold such liquors to have been manufactured, sold or transported in violation of the law. No officer or person who destroys contraband liquor shall be liable for any damages for such an act. (Id. § 6601.)

266. Definitions.—The phrases, "intoxicating liquor," or "intoxicating liquors," whenever used in this article, shall be construed to mean and include any distilled, malt, spirituous, vinous, fermented or alcoholic liquor, all alcoholic liquids, whether proprietary, patented or not, which contain one-half of one per centum of alcohol by volume and which are potable or capable of being used as a beverage. Provided, however, that when the above mentioned phrases, "intoxicating liquor," or "intoxicating liquors," are hereafter defined in the laws of the United States, then such definition by Congress shall supersede and take the place of the definition of said phrases in this section and shall apply to the provisions of this article with the same force and effect as if the same were written herein. (Id. § 6602.)

267. Construing Act, and its Provisions.—This entire act is hereby declared, and shall be deemed and construed to be an act of the General Assembly of the State of Missouri, for the protection of the economic welfare, peace, health, safety, and morals, of its inhabitants, and all of the provisions of this act shall be liberally construed for the accomplishment of said purposes, or any thereof. (L. 1923, p. 236 et seq., § 1.)

268. Violation of Act a Misdemeanor; Penalty for Violation.—If any person shall use in this State any still, worm, double[r], or other distilling, or brewing equipment or utensils whatsoever, in the process of distilling, brewing, or otherwise manufacturing any intoxicating liquor for sale or transportation for sale contrary to the provisions of this act, he shall be deemed guilty of a felony, and, upon conviction thereof, punished by imprisonment in the State Penitentiary for a term of two years, and if any person shall have any such still, worm, double[r], or other equipment, or utensil whatsoever, fit for use in the distilling, brewing or manufacturing, of any intoxicating liquors, now in violation of this act, or any other law of this State, and shall not have used the same in brewing, or the manufacture of any such intoxicating liquor, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, and by imprisonment in the county jail for a term of not less than thirty days nor more than one year. (Id. § 2.)

269. To be Deemed Guilty of a Felony, When; Punishment.—It shall be unlawful for any brewer or manufacturer of any near beer, imitation beer or other non-intoxicating beverage, manufactured through the process of de-alcoholization to remove from any vat, or other container in which the same was fermented or stored any fermented beer or other liquid used in the manufacture of such near beer, imitation beer or non-intoxicating beverage, except for or for laboratory uses or lawful manufacturing purposes in the plant and for the purposes

of immediate de-alcoholization, and then only through pipes or conduits containing no other openings than the connection with or openings through which the same is removed from such vat or storage tank and the connection with or opening into the de-alcoholizing machinery into which said fermented beer or other liquid is removed. And if any such brewer or manufacturer shall cause or permit any such fermented beer or other liquid to be removed from the vat or other container in which the same was fermented or stored into any bottle, keg, barrel or other container, except into the de-alcoholizing machinery or for laboratory uses or lawful manufacturing purposes in the plant, as hereinabove authorized, he shall be deemed guilty of a felony, and, upon conviction thereof, punished by a fine of not less than one thousand dollars and by imprisonment in the county jail for a term of not less than one year, and, upon conviction, the permit of such manufacturer or brewer to de-alcoholize such fermented beer or other liquid shall thereupon stand forfeited and thereafter be void, and such brewer or manufacturer shall not be entitled to another permit nor to the renewal of his original permit until after the expiration of a period of one year from date of forfeiture thereof. Provided, that nothing herein contained shall interfere with any legitimate process in the manufacture of such near beer, imitation beer or other non-intoxicating beverages. (Id. § 3.)

270. Reclaiming Ethyl Oil Prohibited; Penalty for Violation.—Any person who shall reclaim any ethyl alcohol that has previously been denatured, by any process whatsoever, except by stills registered with the Collector of the Internal Revenue, and used for the legitimate reclamation of such ethyl alcohol or who shall by any process whatsoever, except as such may be authorized by a permit from the proper department of the United States Government, reclaim any ethyl alcohol from any menstruum, percolates or other residue, waste or by-product of the manufacture of any drug, compound or medicine into which ethyl alcohol is introduced, or in the manufacture or distillation of which ethyl alcohol is used, shall be deemed guilty of a felony and, upon conviction thereof, punished by imprisonment in the State Penitentiary for a period of not exceeding five years or by a fine of one thousand dollars and imprisonment in the county jail for a term of one year. (Id. § 4.)

271. Act in Accord With Laws of United States.—This act shall not be construed as to prevent the manufacture or sale, by a distiller or wholesale druggist, of any intoxicating liquors, alcohol and wine for non-beverage purposes under authority of or in compliance with the laws of the United States or this State. (Id. § 5.)

272. Term "Soft Drink Stand" Construed.—The term "soft drink stand" as used in this act shall be held and construed to include and refer to every place or portion thereof in which is conducted what is commonly called a "soda fountain" or "soft drink counter" where soda waters, near beers and other non-alcohol[ic] beverages are permitted to be sold. This section shall not be construed to include any department store, drug store, hotel, restaurant or other place where a soft drink stand is simply an adjunct to the regular business. (Id. § 6.)

273. Obstruction in Soft Drink Stand Prohibited.—It shall be unlawful for any person having or conducting a soft drink stand as in this act defined to erect or maintain or to permit to be erected or maintained in his place of business or as a part thereof any partition, screen, blind or other article or thing that will obstruct a free and open view at all times and under all conditions from the sidewalk or street running alongside or in front of such soft drink stand and from which patrons thereof enter the room or place in which such soft drink stand is conducted. This section shall not be construed to include any department store, drug store, restaurant or other place where a soft drink stand is simply an adjunct to the regular business. (Id. § 7.)

274. Unlawful to Conceal Intoxicating Liquor.—It shall be unlawful for any person to conceal or attempt to conceal any form of intoxicating liquor as defined by the laws of the State of Missouri behind, under or over any board, panel or other partition or in any basement or under any trap door or in any other place where the same or any place thereof would not ordinarily be kept for sale and distribution in the due and regular course of the lawful conduct of business of such soft drink stand. (Id. § 8.)

275. Must Bear Full Name of Manufacturer.—It shall be unlawful for any person to sell or offer for sale in this State any near beer, imitation beer or other liquid or so-called soft drink having the appearance, odor and taste of beer, in any soft drink stand or other place in this State, except the same shall be sold or offered for sale in the original bottle, keg or barrel in which the same was bottled by and bearing the original label and full name of the brewer or manu-

facturer thereof upon the label on the side and upon the cap or cork of such bottles and ends of such kegs or barrels. (Id. § 9.)

276. Physicians Permitted to Write Prescriptions, When.—It shall be unlawful for any physician holding a permit to prescribe under section 6592a, Session Acts, 1921, State of Missouri [No. 261], unless he shall first make a careful physical examination of the person for whom such prescription is written and shall by said examination be satisfied that such prescription is necessary as a medicine. It shall also be unlawful for any physician to write any such prescription if he shall have reason to believe that the person for whom the same is prescribed will use or permit the same to be used as a beverage, or to write any such prescription without the name of the person for whom the same is written being plainly written therein. In no case shall any physician holding a permit to write such prescriptions prescribe for any one person more than eight fluid ounces of ethyl alcohol, one quart of wine or one pint of whiskey, [nor] with greater frequency than authorized by federal law. (Id. § 10.)

277. Excessive Fee Charges Prohibited.—It shall be unlawful for any physician authorized to prescribe ethyl alcohol, wine, whiskey, as a medicine, to charge a greater fee for any such prescription than the usual and ordinary charge made by such physician for a non-alcoholic prescription. (Id. § 11.)

278. Proportion of Profit Regulated.—It shall be unlawful for any druggist, or registered pharmacist, having a permit under the law of this State, to sell ethyl alcohol, wine or whiskey upon prescription of a registered physician to charge a greater proportion of profit thereon than upon ordinary and non-alcoholic prescriptions. (Id. § 12.)

279. Manufacturing and Selling Ethyl Alcohol.—It shall be unlawful for any person, firm, or corporation in the State of Missouri, holding a permit under the law of this State, to manufacture or sell ethyl alcohol, except on the written application, dated and signed by an individual, or an authorized agent of a firm or corporation, engaged in the manufacture of non-potable toilet, medicinal, anti-septic, culinary, or other non-beverage preparations; or the owner or manager of a hospital, museum, laboratory, industrial or educational institution, using ethyl alcohol or wine for scientific, pharmaceutical, industrial, or other non-beverage purposes or of a regularly registered and practicing dentist, physician or veterinarian, using alcohol, whiskey or wine in the ordinary and legitimate cause of his profession and under authority of the proper officer of the Federal government in the practice of his profession; or a registered retail or wholesale druggist holding a permit under the laws of this State; or of a minister, priest, clergyman, or authorized officer having charge of a church, using wine for sacramental purposes. Provided, that any druggist, pharmacist, or proprietor of a drug store, holding a permit under the laws of this State, to sell ethyl alcohol, whiskey, or wine, may sell, or give away, on a written prescription, dated and signed, first had and obtained from some regularly registered practicing physician, ethyl alcohol, whiskey or wine in quantities not exceeding eight fluid ounces of alcohol, one quart of wine, or one pint of whiskey, and then only when such physician shall state in such prescription the name of the person for whom the same is prescribed, and that such ethyl alcohol, whiskey or wine is prescribed as a necessary remedy. (Id. § 13.)

280. To Sell, Give Away, or Otherwise Dispose of Certain Liquors Declared a Felony, When; Penalty.—If any person shall unlawfully manufacture, make, or ferment, by any process whatsoever, or sell, give away, or otherwise unlawfully dispose of any "moonshine," "hootch," "corn whiskey," or other intoxicating liquor whatsoever, the drinking of any of which shall cause the death of another, or shall cause another to become blind, insane, paralyzed, or violently mad, such offending person shall be deemed guilty of a felony, and, upon conviction thereof, punished by imprisonment in the State Penitentiary for a period of not less than two years, or by a fine of one thousand dollars and imprisonment in the county jail for a term of one year. (Id. § 20.)

281. To Manufacture, Make, Brew, Distill, Sell, Give Away, or Transport a Felony; Penalty.—If any person shall manufacture, make, brew, distill, sell, give away or transport any "hootch," "moonshine," corn whiskey" [he] shall be guilty of a felony, and, upon conviction thereof punished by imprisonment in the State Penitentiary for a period of not less than two years, nor more than five years, or by either a fine of \$500.00 or imprisonment in the county jail for a term of not less than three months nor more than twelve months, or both. Provided, that this section shall not apply in the case of corn whiskey lawfully manufactured, transported, or sold. (Id. § 21.)

282. Punishment of Person Convicted of Violation of Act.—Any person convicted of any violation of the provisions of this act or any of the provisions of article 7, chapter 52, Revised Statutes of Missouri, 1919, and acts amendatory thereto, and wherein no different punishment is fixed, shall, for the first conviction, be punished by a fine in a sum of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not less than thirty (30) days nor more than one (1) year or by both such fine and imprisonment; and for the second conviction such person shall be punished by a fine in a sum of not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00) and by imprisonment in the county jail for a period of not less than three (3) months nor more than one (1) year; for the third and each subsequent conviction such person shall be punished by a fine of one thousand dollars (\$1,000.00) and imprisonment in the county jail for a period of one year. The Attorney-General or prosecuting attorney, in preparing complaints, information or indictments for a second or any subsequent violation of the provisions of this article, shall allege therein the fact of such previous convictions. (Id. § 22.)

283. Defining Term "Ethyl Alcohol."—The term "ethyl alcohol" as used in this act or in any other law of this State pertaining to intoxication [intoxicating] liquors shall be held and construed to mean any ardent spirits containing grain alcohol or alcohol made from molasses, sugar or by any other process whatsoever, except methyl alcohol, commonly known as wood alcohol, and except also ethyl alcohol denatured by any formula prescribed or approved by the treasury decisions or regulations of the United States government. (Id. § 24.)

284. Intoxicating Liquors Seized to be Destroyed.—No intoxicating liquor seized by virtue of this act shall in any event be sold or given away, but the same shall be destroyed upon an order of court as herein provided; and no still, doubler, worm, worm tub or any other equipment for the making or manufacturing of intoxicating liquor, and seized under the provisions of this act, shall be sold except upon first so dismantling or changing the form thereof as to render it wholly unadaptable for further use in the manufacture of intoxicating liquor. (Id. § 27.)

285. "Wholesale Druggist" Construed to Include; Who.—The term "wholesale druggist" as herein or elsewhere used in the laws of the State of Missouri governing the sale of intoxicating liquors shall hereafter be held and construed to include only such persons, firms or corporations as may be engaged in selling exclusively at wholesale and maintaining a large and well assorted stock of drugs, oils, chemicals, pharmaceuticals, biologicals, proprietary medicines and druggists' sundries, in such assortments and in such quantities as will enable such persons, firms or corporations to supply regularly from merchandise in stock the usual and immediate requirements of retail druggist[s], pharmacists, hospitals and dispensaries, whose volume of business is primarily and principally in such articles, and who shall never have on hand intoxicating liquors exceeding in value three per cent of the invoice value of such persons', firms' or corporations' entire stock of merchandise. (L. 1921, p. 305, § 1.)

286. Unlawful to Sell, Give Away or Dispose of Intoxicating Liquors.—It shall be unlawful for any person, firm or corporation in this State, as a wholesale druggist, to sell, give away or otherwise dispose of any intoxicating liquors, under any authority, license or permit, from the government of the United States, except wholesale druggists whose stock of merchandise in value and assortment and whose business conforms to the requirements of section 1 of this act. And any person, firm or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and, upon conviction thereof, punished as provided by law for selling intoxicating liquors. (Id. § 2.)

NOTE: See also No. 231 et seq.

PART IV.

Miscellaneous Laws.

False Advertising.

287. Publication, Dissemination or Circulation of Untrue, Misleading or Deceptive Advertisements; Misdemeanor; Penalty.—Any person, firm, corporation or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, makes, publishes, disseminates, circulates or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this State, in a newspaper or other publication, or in form of a book, notice, handbill, poster, bill, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to [the] public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or by imprisonment in the county jail not less than ten days nor more than ninety days or by both such fine and imprisonment; providing, that nothing herein shall apply to any proprietor or publisher of any newspaper or magazine who publishes, disseminates or circulates any such advertisement without the knowledge of the unlawful or untruthful nature of such advertisement. (R. S. 1919, § 3556.)

Flag Desecration.

288. Desecration of United States Flag or Emblem, a Misdemeanor; Penalty.—Any person who in any manner, for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing or any advertisement of any nature upon any flag, standard, color or ensign of the United States of America, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign upon which shall be printed, painted or otherwise placed or to which shall be attached, appended, affixed or annexed any word, figure, mark, picture, design or drawing or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away or have in possession for sale or to give away or for use for any purpose any article or substance being an article of merchandise or a receptacle of merchandise upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon or cast contempt, either by words or act, upon any such flag, standard, color or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment. (R. S. 1919, § 3672.)

289. Definition and Construction of Terms.—The word flag, standard, color or ensign as used in this and the next preceding section shall include any flag, standard, color, ensign or any picture or representation of either thereof, made of any substance or represented on any substance and of any size evidently purporting to be either of said flag, standard, color or ensign of the United States of America or a picture or a representation of either thereof upon which shall be shown the colors, the stars and the stripes, in any number of either thereof or by which the person seeing the same without deliberation may believe the same to represent the flag, colors, standard or ensign of the United States of America. (Id. § 3673.)

290. Application of Two Preceding Sections.—The two preceding sections shall not apply to any act permitted by the statutes of the United States of America or by the United States army and navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma,

warrant or commission of appointment to office, ornamental picture, article of jewelry or stationery for use in correspondence, on any of which shall be printed, painted or placed said flag disconnected from any advertisement. (Id. § 3674.)

Prize Package.

290a. Prize Packages on Trains.—Whoever shall, in this State, on any railroad car, coach or train, sell any prize package or other prize shall be deemed guilty of a misdemeanor. (R. S. 1919, § 3561.)

Tobacco—Tobacco Products.

291. Sale and Gift of Cigarettes and Cigarette Paper Forbidden; Penalty.—Any person who shall, by himself, his servants or agents, or as the servant or agent of any other person, directly or indirectly, or upon any pretense or by any device, sell, give away or otherwise dispose of, to any person under the age of eighteen years, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, or for the purpose of being filled with tobacco for smoking, shall be adjudged guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars for the first offense, and by a fine of not less than fifty dollars nor more than five hundred dollars for the second offense. (R. S. 1919, § 3520.)

292. Use of Cigarettes by Minors in Public Places Forbidden; Penalty.—Every person over the age of ten years and under the age of eighteen years who shall smoke or use cigarettes on any public road, street, alley, park or other lands used for public purposes or in any public place of business or amusement, or upon any railroad train or street car shall, upon conviction, be adjudged guilty of a misdemeanor and punished by a fine of not more than ten dollars. (Id. § 3521.)

293. Special Charge to Grand Jury.—The judge of the court having criminal jurisdiction for the county shall give the two preceding sections in special charge to the grand jury at each term of the court. (Id. § 3522.)

Trade-Marks, Etc.

294. Who May Adopt a Trade-Mark, and How.—If any mechanic, manufacturer, association or union of workmen or other persons shall wish to adopt any particular name, term, design or device as his or their trade-mark to designate, make known or distinguish any article or goods, wares or merchandise by him or them manufactured or prepared, or any union of workmen desire to designate or make known the place in which union labor is employed, he or they may write out a description of such name, term, design or device, describing the same accurately, and sign and acknowledge the same before some officer competent to take acknowledgment of deeds, and file same together with a facsimile of the same, term, design or device for registration in the office of the Secretary of State; said secretary shall deliver to said mechanic, manufacturer, association or union of workmen or other persons so filing the same a duly attested certificate of the filing of the same for which he shall receive a fee of one dollar; such certificate shall, in all suits and prosecutions under this chapter, be sufficient proof of the adoption of such label, trade-mark or form of advertisement, and of the right of such mechanic, manufacturer, association or union of workmen or other persons to adopt the same. No label, trade-mark or form of advertisement shall be registered that in any way resembles or would probably be mistaken for a label or trade-mark already registered; and no trade-mark duly registered in the office of the Commissioner of Patents of the United States shall be registered under this section by any person other than the owner thereof. (R. S. 1919, § 13263.)

295. Penalty for Counterfeiting Trade-marks.—Any person or persons, association or union of workmen who shall knowingly and willfully make, forge or counterfeit any representation, likeness, similitude, copy or imitation of the private label, brand, stamp, wrapper, engraving, mould or trade-mark usually affixed by any manufacturer, mechanic, merchant, tradesman, druggist, person or body corporate, association or union of workmen, or body politic to, upon or used in connection with the goods, wares, merchandise, compound or preparation of such manufacturer, mechanic, merchant, tradesman, druggist, person, association or union of workmen or body corporate or politic, with intent to pass off any

goods, wares, merchandise, compound or preparation to which said forged or counterfeited representation, likeness, similitude, copy or imitation is affixed, or in connection with which the same may be used or intended to be so affixed or used, as the work, goods, wares, implements, merchandise, compound or preparation of such manufacturer, mechanic, merchant, druggist, tradesman, person, association or union of workmen or body corporate or politic shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a period of not less than three months nor more than twelve months, or fined not less than one hundred dollars nor more than five thousand dollars, or both such fine and imprisonment. (Id. § 13264.)

296. Penalty for Using False Die, Brand, Etc.—Any person or persons, association or union of workmen who shall, with intent to defraud any person or persons or body corporate or politic, have in his, her or their possession any die or dies, plate or plates, brand or brands, engraving or engravings, printed labels, stamps, imprints, moulds, wrappers or trade-marks, or any representation, likeness, similitude, copy or imitation of the private label, brand, stamp or wrapper, engraving, mould or trade-mark usually affixed by any manufacturer, mechanic, merchant, tradesman, druggist, association or union of workmen, person or body corporate or politic to, upon or used in connection with articles made, manufactured, prepared or compounded by him, her or them, for the purpose of making impressions or selling the same, when made, or using the same upon or in connection with any other article made, manufactured, prepared or compounded, and passing the same off upon the community as the original goods, wares, implements, merchandise, compound or preparation of any other person or persons, association or union of workmen or body corporate or politic, or who shall in fact sell or use the same, or for the purpose of secreting the same from the rightful owner or owners, or who shall wrongfully or fraudulently use the genuine label, brand, stamp, wrapper, imprint, engraving, mould or trade-mark with intent to pass off any goods, wares, implements, merchandise, compound or preparation, or other article not the manufacture of the person, persons, association or union of workmen or body corporate or politic, to whom such label, brand, stamp, wrapper, engraving, imprint, mould or trade-mark properly belongs, as genuine and original, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be punished by imprisonment in the county jail not less than three months nor more than twelve months, or fined not less than one hundred dollars nor more than five thousand dollars, or both such fine and imprisonment. (Id. § 13265.)

297. Penalty for Keeping or Selling Goods With False Brand.—Any person, persons, association or union of workmen or body corporate or politic who shall vend or keep for sale any goods, wares, merchandise, compounds or preparations upon which or in connection with which any forged, imitation or counterfeit label, brand, stamp, wrapper, imprint, engraving, bottle or trade-mark shall be placed, affixed or used, and intended to represent the said goods, wares, implements, merchandise, compounds or preparations as the genuine goods, wares, implements, merchandise, compound or preparation of any other person or persons, association or union of workmen or body corporate or politic, knowing the same to be imitation or counterfeit, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail not less than one month nor more than twelve months, or both, and shall also be liable in a civil action to the person or persons, association or union of workmen or body corporate or politic whose goods, wares, implements, merchandise, compounds or preparations is [are] imitated or counterfeited or whose label, stamp, wrapper, engraving, imprint, bottle or trade-mark is imitated, forged or counterfeited, placed, affixed or used, for all damages such person or persons, association or union of workmen or body corporate or politic may or shall sustain, both by virtue of the loss of profits and the damage done to the reputation of the said genuine article, goods, wares, implements, merchandise, compound or preparation, by reason of any of the acts in any section of this chapter mentioned, and may be restrained or enjoined by any court of competent jurisdiction from doing or performing any of the acts herein mentioned. (Id. § 13266.)

298. Penalty for Affixing False Labels, Etc., With Intent to Defraud.—Any person or persons who shall, with intent to defraud any person or persons, association or union of workmen or body corporate or politic, knowingly affix or cause to be affixed to or upon any case, box, web, package or bottle containing any goods, wares, merchandise, compound or preparation, any label, brand, stamp, wrapper, engraving, imprint or mark which shall designate such goods, wares, merchandise, compound or preparation, either wholly or in part by a word or words or by general design, which shall be wholly or in part the same to the eye or in sound to the

ear as the word or words or the general design used by any person or persons, association or union of workmen or body corporate or politic for designing any goods, wares, merchandise, compound or preparation, manufactured or prepared by or for some other person or persons, association or union of workmen or body corporate or politic, or who shall knowingly sell or expose or offer for sale any such case, box, web, package or bottle with any such label, brand, stamp, wrapper, engraving, imprint or mark affixed to or upon it, shall, provided such person or persons affixing or causing to be affixed any such label, brand, stamp, wrapper, engraving, imprint or mark, or so selling or offering for sale any such case, box, web, package or bottle, shall not have been the first to employ or use such word or words or general design to designate, wholly or in part, any goods, wares, merchandise, compound or preparation, and, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be liable to the party aggrieved in the penal sum of five hundred dollars, and for a further sum equal to the amount which the aggrieved party might have received for the same amount of genuine goods, wares, merchandise, compounds or preparations, and shall be guilty of a misdemeanor, and, on conviction, may be punished by imprisonment in the county jail for a period of not less than one month nor more than twelve months, or fined not less than one hundred dollars nor more than five thousand dollars, or both such fine and imprisonment. (Id. § 13267.)

299. What Courts Have Jurisdiction.—All courts of this State having jurisdiction of criminal cases shall have jurisdiction of proceedings for violation of this chapter. All suits brought under this chapter shall be brought by the person or persons injured or defrauded by such parties; and if brought by any association or union of workmen, the suit may be brought in the name of the president and secretary to the use and benefit of such association or corporation, and may thus sue and be sued. (Id. § 13268.)

300. Articles Bearing False Trade-marks to be Destroyed.—It shall be the duty of any officer within the jurisdiction of the court having authority to whom there shall be delivered any warrant for the arrest of any person alleged to have committed any offense created by this chapter to seize any and all goods, wares, merchandise, compounds, preparations, labels, brands, implements, stamps, wrappers, imprints, engravings, plates, bottles, dies or moulds mentioned or referred to in the complaint or affidavit or information, upon which said warrant issued, and upon final conviction of the offender the court shall direct such of same as may be counterfeit to be destroyed, and they shall be so destroyed accordingly: provided, however, that if said property consists of wares and merchandise which, in the judgment of the court, are independent of any trade-mark, of genuine and intrinsic value, and capable of being applied to a useful and beneficial purpose, then and in such case all counterfeit words, marks, wrappers, labels, emblems, stamps, brands, bottles, imprints and signs used in connection therewith shall be first erased, obliterated and destroyed, and said property shall be sold within ten days next succeeding the decision of the court thereon in such manner as the court shall direct, and the proceeds of said sale, less the expense thereof, be applied to the benefit of the school fund of the county in which said seizure was effected. (Id. § 12369.)

301. What Evidence Shall Not be Used in Criminal Prosecutions.—No testimony or evidence given by any person in any civil action to which said person may be a party, or by any other witness in such action, or in any reference or proceeding which may be had in such action, nor any testimony or evidence derived from the books or papers of such party or witness or otherwise in such action, or in any reference or other proceeding which may be had therein, can or shall be asked in any criminal prosecution against such party or witness under any of the provisions of this chapter, nor shall any party or witness refuse to testify or furnish evidence in any civil action by reason of any of the provisions of this chapter. (Id. § 13270.)

302. Description to be Filed With Recorder and Secretary of State; Notice, How Given.—Persons engaged in manufacturing, bottling or selling liquids in vessels with their name branded, engraved, blown or otherwise produced thereon may file in the office of the recorder of deeds of the city or county in which the principal place of business of said persons is situated, and also in the office of the Secretary of State, a description of the name so used by them, and shall publish such description once in each of four successive weeks in a newspaper published in the city or county in which said description has been filed. (Id. § 13281.)

303. Duties of Recorder and Secretary of State; Fee.—It shall be the duty of the recorder of deeds of and for the respective cities and counties of this State and of the Secretary of State to keep a separate book of record in which shall be kept, properly indexed, the description referred to in section 13281 hereof, together with a proof of the publication of the said description properly verified before a

notary public and a copy of the said description and proof of publication, duly certified by the recorder of deeds or the Secretary of State, shall be competent evidence of the said filing and publication. The recorder of deeds and the Secretary of State shall be allowed a fee of three dollars for the filing of the said description and proof of publication, and a fee of five dollars for furnishing a certified copy thereof. (Id. § 13282.)

304. Punishment for Violation.—Whoever fills with a liquid any vessel so marked or distinguished as aforesaid, the description of which has been filed and published as provided in section 13281, with intent to sell the said liquid in the said vessel, or defaces, erases, covers up or otherwise removes or conceals any such name or description thereof, or sells, buys, gives, takes, uses or otherwise disposes of or traffics in any said vessel or any part thereof, without the written consent of, or unless the same has been purchased from, the person whose name is in or upon the vessel so filled, defaced, trafficked in, or otherwise used or disposed of, shall, on conviction, be adjudged guilty of a misdemeanor and punished by a fine of not less than fifty cents nor more than five dollars for each such vessel, or by imprisonment for not more than six months, or by both such fine and imprisonment. (Id. § 13283.)

305. What Constitutes Evidence, Etc.—The use by any person engaged in manufacturing, bottling or selling liquids of a vessel marked or distinguished as aforesaid the description of which has been filed and published as provided in section 13281, without the written consent of or purchase from the owner thereof, or the buying, selling, disposing of or trafficking in such vessels or any part thereof by such person without such written consent or purchase; or the possession by any junk dealer or dealer in second-hand articles of any such vessels, or any part thereof, without the written consent of or purchase from the owner thereof, shall be prima facie evidence of unlawful use, possession of or traffic in the same. (Id. § 13284.)

306. Acceptance of Vessel Not Deemed to Constitute a Sale.—The taking or accepting by the owner of any deposit for any purpose upon any vessel registered under this law shall not be deemed to constitute a sale of such vessel, either conditional or otherwise, in any proceeding under this law. (Id. § 13284-a, as added L. 1923, p. 333.)

NOTE: See also Nos. 62, 125 et seq., and 174 et seq.

Weights and Measures.

307. County Clerk to Procure Weights and Measures.—The clerk of each county court shall provide, at the expense of the county, one measure of one foot, or twelve inches, English measure; one measure of three feet, or thirty-six inches, English measure, denominated one yard; one half-bushel measure, which shall contain one thousand seventy-five and one-fifth cubic inches, denominated dry measure; one gallon measure, which shall contain two hundred and thirty-one cubic inches; one half-gallon measure, which shall contain one hundred and fifteen and one-half cubic inches; one quart measure, which shall contain fifty-seven and three-fourths cubic inches. Also, one set of weights, called avoirdupois weights, and one seal, with initials of the county inscribed thereon; which measures, weights and seal shall be kept by the clerk of the county court of each county. (R. S. 1919, § 13577.)

308. Clerk to Give Notice, When; Penalty for Using Weights, Etc., Not Corresponding With Standard.—So soon as the weights and measures are provided, the clerks of the county courts shall cause notice thereof to be given at the courthouse door for two months; and any person who shall knowingly keep any measure or weights, and buy or sell any commodity whatsoever by such weights or measures as shall not correspond with the weights and measures deposited in the clerk's office shall, for every such offense, forfeit and pay to the party injured ten dollars, to be recovered by civil action before any justice of the peace of the county. (Id. § 13578.)

309. Duty of Clerks in Sealing Weights, Etc.—Clerks of the county court shall, with the seal aforesaid, seal all weights and measures presented to them for that purpose that correspond with the county standard. (Id. § 13579.)

310. Ton, What Shall Constitute.—The hundredweight shall consist of one hundred pounds avoirdupois, and twenty such hundreds shall constitute a ton. (Id. § 13580.)

311. What Shall Constitute a Bushel.—Whenever the articles hereinafter named shall be sold by the bushel and no special agreement as to the measurement

or weights thereof shall be made by the parties, the bushel shall consist of the following number of pounds, viz.: Wheat, beans, clover seed, Irish potatoes, peas and split peas, sixty pounds to the bushel; rye, shelled corn and flaxseed, fifty-six pounds to the bushel; unshelled corn, seventy pounds to the bushel; barley, forty-eight pounds to the bushel; oats, thirty-two pounds to the bushel; bran, twenty pounds to the bushel; onions, fifty-seven pounds to the bushel; dried peaches, thirty-three pounds to the bushel; dried apples, twenty-four pounds to the bushel; buckwheat, fifty-two pounds to the bushel; castor beans, forty-six pounds to the bushel; hemp seeds, forty-four pounds to the bushel; blue grass seed, fourteen pounds to the bushel; timothy seed, forty-five pounds to the bushel; cotton seed, thirty-three pounds to the bushel; salt, fifty pounds to the bushel; mineral coal, eighty pounds to the bushel; coke and charcoal, twenty-six hundred and eighty cubic inches per bushel; sweet potatoes, fifty-six pounds to the bushel; parsnips, forty-four pounds to the bushel; common turnips, forty-two pounds to the bushel; carrots, fifty pounds to the bushel; rutabagas, fifty pounds to the bushel; corn meal and millet, fifty pounds to the bushel; green peas, unshelled, fifty-six pounds to the bushel; green beans, unshelled, fifty-six pounds to the bushel; apples, peaches, pears and Hungarian grass seeds, forty-eight pounds to the bushel; malt, thirty-eight pounds to the bushel; top onion sets, twenty-eight pounds to the bushel; red top seed and orchard grass seed, fourteen pounds to the bushel; sorghum seed, forty-two pounds to the bushel; Osage orange seed, thirty-six pounds to the bushel; cucumbers, forty-eight pounds to the bushel; tomatoes, forty-five pounds to the bushel; and whenever apples shall be sold by the barrel and no special agreement is made as to the size of the barrel by the parties, the size shall be as follows: Length of barrel, twenty-eight and one-half inches, with chimes of three-quarters of an inch at the ends; the diameter of the heads shall be seventeen and one-quarter inches, and the diameter of the center of the barrel inside shall be twenty and one-half inches. (Id. § 13581.)

312. Flour, Weight of Barrel, Sack, Etc.—A barrel of flour shall consist of 196 pounds net; a sack of flour shall consist of 98 pounds net; a half sack of flour shall consist of 48 pounds net; a quarter sack of flour shall consist of 24 pounds net; no manufacturer or dealer in flour shall sell flour in barrels, sacks, half sacks or quarter sacks containing a less amount of flour than the amounts above specified. Before any barrel, sack, half sack or quarter sack of flour shall be sold, the number of pounds therein contained shall be plainly labeled or stamped thereon. Any person who shall sell any package of flour which shall be stamped or labeled with a greater number of pounds net than such package actually contains, or who shall put up or sell flour in any manner contrary to the provisions of this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than ten dollars nor more than one hundred dollars. (Id. § 13583.)

313. Sale of Grain, Etc., to be Made at Actual Weight; Penalty for Deductions.—Every sale of grain, seed, hay or coal shall be made on the basis of the actual weight thereof, and any purchaser of grain, seed, hay or coal, who shall deduct any amount from the actual weight or measure thereof, under claim of right to do so by reason of any custom or rule of a board of trade or any pretense whatsoever, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than ten dollars nor more than one hundred dollars for each and every offense. (Id. § 13585.)

314. Authority of Agents and Brokers, Selling Grain, Etc.—No agent or broker selling any grain, seed, hay or coal shall have authority, under claim or [of] right to do so by reason of any custom or rule of [a] board of trade, to sell any grain, seed, hay or coal, only on the basis of the actual weight thereof, and any contract of sale of any grain, seed, hay or coal made in violation of sections 13585 and 13586 of this article shall be null and void. (Id. § 13586.)

315. He [Miller] Shall Give Attendance to Customers; Shall Keep Measures.—The owner or occupier of a public mill shall, when his mill is in repair and fit for business, give due attendance to his customers, and assist in loading and unloading all grain which may be brought by them for the purpose of being ground, and the material which shall be made thereof; and shall always keep at such mill a half bushel and a peck measure, tried and sealed by the clerk of the county court and proper toll dishes for such measures. (Id. § 7433.)

316. Violation of Provisions of This Chapter, Misdemeanor.—Any owner, keeper or occupier of a public mill, who shall violate any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and shall upon, conviction thereof, be fined not less than five nor more than fifty dollars. (Id. § 7434.)

NOTE: See also Nos. 7 and 179p.

PART V.

Cases.

1. General Food and Drug Law.

Eggs—Unwholesome—Clerk Not "Person": State v. McCormick, 183 Mo. App. 153, 165 S. W. 815 (1914).

Fines Payable to State Treasurer—Constitution Does Not Permit: *State v. Lief, 248 Mo. 722, 154 S. W. 1133 (1913).

Guaranty—Effect of: City of St. Louis v. Wortman, 213 Mo. 131, 112 S. W. 520 (1908).

Intent—Immaterial: See Hefernan v. Neumond et al., 198 Mo. App. 667, 201 S. W. 645 (1918).

Interstate Commerce: See City of St. Louis v. Wortman, 213 Mo. 131, 112 S. W. 520 (1908); City of St. Louis v. Niehaus, 236 Mo. 8, 139 S. W. 450 (1911); Kansas City v. McDonald, 175 S. W. 917 (1915); State v. Pioneer Creamery Co., 211 Mo. App. 116, 245 S. W. 361 (1922).

Non-Alcoholic Drinks—Are "Food"—Misbranded: State v. Lief, 248 Mo. 722, 154 S. W. 1133 (1913).

Regulations Under Federal Food and Drugs Act—Courts Will Not Take Judicial Cognizance Thereof: City of St. Louis v. Kruempeler, 235 Mo. 710, 139 S. W. 446 (1911); City of St. Louis v. Niehaus, 236 Mo. 8, 139 S. W. 450 (1911).

2. Special Food Laws.

Bakeries—Hours of Labor: *State v. Miksicek, 225 Mo. 561, 125 S. W. 507, 135 Am. St. Rep. 597 (1910).

Bakeries—Wagons—License: Wonner et al. v. City of Carterville et al., 142 Mo. App. 120, 125 S. W. 861 (1910).

Baking Powder—Prohibition Against Baking Powder Containing "Alum": *State v. Layton, 160 Mo. 474, 61 S. W. 171, 62 L. R. A. 163, 83 Am. St. Rep. 487 (1901); *State v. Great Western Coffee & Tea Co., 171 Mo. 634, 71 S. W. 1011, 94 Am. St. Rep. 802 (1903).

Beverages—Beer Inspection: *State v. Bixman, 162 Mo. 1, 62 S. W. 828 (1901); *State v. Broeder et al., 90 Mo. App. 156 (1901).

Beverages—Jamaica Ginger: *State v. Mairs, 272 S. W. 992 (1925); *State v. Fenley, 309 Mo. 520, 275 S. W. 36 (1925); *Same, 309 Mo. 534, 275 S. W. 41 (1925); State v. Tatman, 291 S. W. 151 (1927).

Beverages—Lemon Extract—Peddlers—License: *State v. Webber, 214 Mo. 272, 113 S. W. 1054, 15 Ann. Cas. 983 (1908).

Beverages—Near Beer—Unlabeled: *State v. Tallo, 308 Mo. 584, 274 S. W. 466 (1925).

Beverages—Non-Alcoholic Drink Law—Misbranding: State v. Murphy, 164 Mo. App. 204, 147 S. W. 520 (1912).

Beverages—Soft Drinks—Addition of Saccharin: *State v. Empire Bottling Co., 261 Mo. 300, 168 S. W. 1176 (1914).

Beverages—Soft Drinks—Inspection: *Coca-Cola Bottling Co. et al. v. Mosby, 289 Mo. 462, 233 S. W. 446 (1921).

Beverages—Soft Drinks—Occupation Tax: *City of St. Charles ex rel. Palmer v. Schulte, 305 Mo. 124, 264 S. W. 654 (1924).

Dairy Products—License—Farmer Not a Peddler: *City of St. Louis v. Meyer, 185 Mo. 583, 84 S. W. 914 (1904).

Feeding Stuffs: See Hefernan v. Neumond et al., 198 Mo. App. 667, 201 S. W. 645 (1918).

Flour—Inspection: City of St. Louis v. Shands, 20 Mo. 149 (1854).

Fruits and Vegetables—Itinerant Vendors—License: State v. Long, 203 Mo. App. 427, 220 S. W. 690 (1920).

Fruits and Vegetables—Produce Dealers—License: *Kansas City v. Grush, 151 Mo. 128, 52 S. W. 286 (1899).

Fruits and Vegetables—Standard Bushel Box: Stegmann et al. v. Wecke, 279 Mo. 131, 214 S. W. 134 (1919); *Same, 279 Mo. 140, 214 S. W. 137, 5 A L. R. 1060 (1919).

Grain—False Certificate of Inspection—Inspector's Liability: Gordon et al. v. Livingston, 12 Mo. App. 267 (1882).

Grain—Inspection Charges: State v. Bradshaw, 313 Mo. 334, 281 S. W. 946 (1926).

Grain—Inspection—Weight: *State ex inf. Hadley v. Goffee et al., 192 Mo. 670, 91 S. W. 486 (1906); *Ex parte House v. Mayes, 227 Mo. 617, 127 S. W. 305 (1910), affirmed in *House v. Mayes, 219 U. S. 270, 31 S. Ct. 234, 55 L. Ed. 213 (1911); *State ex inf. Barker v. Merchants' Exchange of St. Louis, 269 Mo. 346, 190 S. W. 903, Ann. Cas. 1917E, 871 (1916), affirmed in *Merchants' Exchange of St. Louis v. State of Missouri, at the relation of Barker, Attorney-General, 248 U. S. 365, 39 S. Ct. 114, 63 L. Ed. 300 (1919).

Grocer—Occupation Tax: City of Monett v. Hall, 128 Mo. App. 91, 106 S. W. 579 (1907).

Ice—License: City of Kansas v. Vindquest, 36 Mo. App. 584 (1889); Kansas City v. Butt, 88 Mo. App. 237 (1901).

Meat—Inspection: See Warren v. Palmer et al., 24 Mo. 78 (1856).

Meat—License: *City of St. Louis v. Spiegel, 75 Mo. 145 (1881), reversing *Same, 8 Mo. App. 478 (1880); *Same, 16 Mo. App. 210 (1884); *Same, 90 Mo. 587, 2 S. W. 839 (1886); *City of St. Louis v. Freivogel, 95 Mo. 533, 8 S. W. 715 (1888); *City of Rockville v. Merchant, 60 Mo. App. 365 (1895); City of St. Joseph v. Dye, 72 Mo. App. 214 (1897); City of Billings v. Brown, 106 Mo. App. 240, 80 S. W. 322 (1904); City of Higbee v. Burgin, 197 Mo. App. 682, 201 S. W. 558 (1917).

Meat—Markets—Regulation of Sale: City of St. Louis v. Jackson, 25 Mo. 37 (1857); *City of St. Louis v. Weber, 44 Mo. 547 (1869).

Meat—Slaughterhouses: City of St. Louis v. Kreutz, 12 Mo. App. 591, memorandum (1882); *City of St. Louis v. Howard, 119 Mo. 41, 24 S. W. 770, 41 Am. St. Rep. 630 (1893); *Same, 119 Mo. 47, 24 S. W. 772 (1893).

Meat—Unwholesome: State v. Falk, 38 Mo. App. 554 (1889); State v. Snyder, 44 Mo. App. 429 (1891).

Milk—Addition of Coloring Matter, Such as Annatto, Prohibited: *City of St. Louis v. Polinsky, 190 Mo. 516, 89 S. W. 625 (1905); City of St. Louis v. Jud, 236 Mo. 1, 139 S. W. 441 (1911).

Milk—Addition of Preservative, Such as Formaldehyde, Prohibited: *City of St. Louis v. Schuler, 190 Mo. 524, 89 S. W. 621, 1 L. R. A. (N. S.) 928 (1905); *City of St. Louis v. Wortman, 213 Mo. 131, 112 S. W. 520 (1908); City of St. Louis v. Ameln, 235 Mo. 669, 139 S. W. 429 (1911).

Milk and Skim Milk—Addition of Water: City of St. Louis v. Ameln, 235 Mo. 669, 139 S. W. 429 (1911); City of St. Louis v. Meyer, 235 Mo. 699, 139 S. W. 438 (1911); City of St. Louis v. Kruempeler, 235 Mo. 710, 139 S. W. 446 (1911); City of St. Louis v. Niehaus, 236 Mo. 8, 139 S. W. 450 (1911).

Milk—Dairy Declared Nuisance: City of St. Louis v. Schnuckelberg, 7 Mo. App. 536 (1879).

Milk—Dairy or Cow Stable Prohibited Within City Limits Without Permission: *City of St. Louis v. Fischer, 167 Mo. 654, 67 S. W. 872, 64 L. R. A. 679, 99 Am. St. Rep. 614 (1902), affirmed in *Fischer v. St. Louis, 194 U. S. 361, 24 S. Ct. 673, 48 L. Ed. 1018 (1904); *City of St. Louis v. Schefe, 167 Mo. 666, 67 S. W. 1100 (1902), affirmed in *Schefe v. St. Louis, 194 U. S. 373, 24 S. Ct. 676, 48 L. Ed. 1024 (1904).

Milk—Method of Testing to Determine Quality: *City of St. Louis v. Liessing, 190 Mo. 464, 89 S. W. 611, 1 L. R. A. (N. S.) 918, 109 Am. St. Rep. 774, 4 Ann. Cas. 112 (1905).

Milk—Minimum Ash Standard: *City of St. Louis v. Liessing, 190 Mo. 464, 89 S. W. 611, 1 L. R. A. (N. S.) 918, 109 Am. St. Rep. 774, 4 Ann. Cas. 112 (1905); *City of St. Louis v. Langeland, 203 Mo. 225, 101 S. W. 1197 (1907).

Milk, Skim Milk & Cream—Minimum Solids or Butter Fat Standard: *City of Kansas v. Cook, 38 Mo. App. 660 (1890); *City of St. Louis v. Liessing, 190 Mo. 464, 89 S. W. 611, 1 L. R. A. (N. S.) 918, 109 Am. St. Rep. 774, 4 Ann. Cas. 112 (1905); *City of St. Louis v. Reuter, 190 Mo. 514, 89 S. W. 628 (1905); *City of St. Louis v. Bippen, 201 Mo. 528, 100 S. W. 1048 (1907); *City of St. Louis v. Schottell, 100 S. W. 1049 (1907); *City of St. Louis v. Langeland, 203 Mo. 225, 101 S. W. 1197 (1907); City of St. Louis v. Klausmeier, 212 Mo. 724, 111 S. W. 507 (1908); *Same, 213 Mo. 119, 112 S. W. 516 (1908); City of St. Louis v. Union Dairy Co., 213 Mo. 148, 112 S. W. 525 (1908); City of St. Louis v. Kellman, 235 Mo. 687, 139 S. W. 443 (1911); City of St. Louis v. Meyer, 235 Mo. 699, 139 S. W. 438 (1911); *City of St. Louis v. Scheer, 235 Mo. 721, 139 S. W. 434 (1911).

Milk—Pasteurization Required: *State ex rel. Knese et al. v. Kinsey et al., 282 S. W. 437 (1926).

Milk—Power to Regulate Sale: *City of St. Louis v. Liessing, 190 Mo. 464, 89 S. W. 611, 1 L. R. A. (N. S.) 918, 109 Am. St. Rep. 774, 4 Ann. Cas. 112 (1905); *City of St. Louis v. Kellman, 295 Mo. 71, 243 S. W. 134 (1922), writ of error dismissed in Kellman v. City of St. Louis, 263 U. S. 679, 44 S. Ct. 132, 68 L. Ed. 503 (1923), motion to reinstate writ of error denied in Same, 44 S. Ct. 136 (1923).

Milk—Regulation by City Different from that by State: *City of St. Louis v. Klausmeier, 213 Mo. 119, 112 S. W. 516 (1908); *City of St. Louis v. Wortman, 213 Mo. 131, 112 S. W. 520 (1908); *City of St. Louis v. Ameln, 235 Mo. 669, 139 S. W. 429 (1911); City of St. Louis v. Meyer, 235 Mo. 699, 139 S. W. 438 (1911); *City of St. Louis v. Scheer, 235 Mo. 721, 139 S. W. 434 (1911); City of St. Louis v. Kruempeler, 235 Mo. 710, 139 S. W. 446 (1911); *City of St. Louis v. Schulte, 235 Mo. 734, 139 S. W. 449 (1911).

Milk—Vendor—License or Permit: *Kansas City v. Trieb, 76 Mo. App. 478 (1898); City of St. Louis v. Liessing, 190 Mo. 464, 89 S. W. 611, 1 L. R. A. (N. S.) 918, 109 Am. St. Rep. 774, 4 Ann. Cas. 112 (1905); *City of St. Louis v. Grafeman Dairy Co., 190 Mo. 492, 89 S. W. 617, 1 L. R. A. (N. S.) 936 (1905); *City of St. Louis v. Kellman, 295 Mo. 71, 243 S. W. 134 (1922), writ of error dismissed in Kellman v. City of St. Louis, 263 U. S. 679, 44 S. Ct. 132, 68 L. Ed. 503 (1923), motion to reinstate writ of error denied in Same, 44 S. Ct. 136 (1923); *State ex rel. Knese et al. v. Kinsey et al., 282 S. W. 437 (1926).

Oleomargarine—Imitation Butter—Butterine: *State v. Addington, 77 Mo. 110 (1882), affirming *Same, 12 Mo. App. 214 (1882); *State v. Hake, 14 Mo. App. 575, memorandum (1884); *State v. Schwartz, Id.; State v. Fayette, 17 Mo. App. 587 (1885); *State v. Bockstruck, 136 Mo. 335, 38 S. W. 317 (1896); *State v. Newell, 140 Mo. 282, 41 S. W. 751 (1897); State v. Stocker, 80 Mo. App. 354 (1899); State v. Maurer, Surkamp & Shortell, 255 Mo. 152, 164 S. W. 551, Ann. Cas. 1915C, 178 (1914), reversing State v. Shortell, 174 Mo. App. 153, 156 S. W. 988 (1913); State v. Maurer, 174 Mo. App. 162, 156 S. W. 991 (1913) and State v. Surkamp, 174 Mo. App. 174, 156 S. W. 991 (1913); *State v. Swift & Co. et al., 270 Mo. 694, 195 S. W. 996 (1917); State v. Swift & Co. & Hunter, 273 Mo. 462, 200 S. W. 1066, L. R. A. 1918 C, 1150 (1918), reversing State v. Swift & Co. et al., 198 S. W. 457 (1917). *In re Brosnahan, Jr., 18 Fed. 62 (1883); *In re Scheitlin, 99 Fed. 272 (1900).

Sanitation—Unsanitary Food Establishment: State v. Burk, 188 Mo. App. 683, 176 S. W. 487 (1915). See also: *Bakeries—Hours of Labor*, ante.

Vinegar—Artificial Color: *State v. Earl, 152 Mo. App. 235, 133 S. W. 402 (1911), transferred from Supreme Court in *Same, 225 Mo. 537, 125 S. W. 467 (1910).

Vinegar—Cider Vinegar: State v. Markus, 171 Mo. App. 38, 153 S. W. 488 (1913).

3. Special Drug Laws.

Narcotics: State v. Willis, 128 Mo. App. 214, 106 S. W. 584 (1907); State v. Renkard, 150 Mo. App. 570, 131 S. W. 168 (1910); State v. Hesse, 195 Mo. App. 616, 187 S. W. 571 (1916); Kansas City v. Smith, 218 S. W. 943 (1920).

Narcotics—Opium Den: *State v. Lee, 137 Mo. 143, 38 S. W. 583 (1897).

Patent or Proprietary Medicine—Defined: See McHenry v. Royal Neighbors of America, 211 Mo. App. 230, 242 S. W. 147 (1922).

Patent Medicines—License: *Simmons Medicine Co. et al. v. Ziegenhein, 145 Mo. 368, 47 S. W. 10 (1898).

Peddlers—License: *State v. Smithson, 106 Mo. 149, 17 S. W. 221 (1891); *State v. Parsons, 124 Mo. 436, 27 S. W. 1102, 46 Am. St. Rep. 457 (1894); State v. Sayman, 61 Mo. App. 244 (1895).

Pharmacy: State v. Watts, 101 Mo. App. 666, 74 S. W. 376 (1903); State v. Hamlett, 129 Mo. App. 70, 107 S. W. 1012, 1015 (1908); *Same, 212 Mo. 80, 110 S. W. 1082 (1908). See also: State v. Wells, 28 Mo. 565 (1859); *State v. Davis, 108 Mo. 666, 18 S. W. 894, 32 Am. St. Rep. 640 (1891); State v. Bragg et al., 51 Mo. App. 334 (1892); *State v. Davis, 117 Mo. 614, 23 S. W. 759 (1893); State v. Carnahan, 63 Mo. App. 244 (1895); State v. Workman, 75 Mo. App. 454 (1898); State v. Steele, 84 Mo. App. 316 (1900); State v. Jordan, 87 Mo. App. 420 (1901); State v. Hammack, 93 Mo. App. 521 (1902); State v. Shanks, 98 Mo. App. 138, 71 S. W. 1065 (1903); State v. Chipp, 121 Mo. App. 556, 97 S. W. 236 (1906); State v. Clinkenbeard, 142 Mo. App. 146, 125 S. W. 827 (1910), affirmed in Same, 232 Mo.

539, 134 S. W. 537 (1910); *State v. O'Kelley & Fitch*, 258 Mo. 345, 167 S. W. 980, 52 L. R. A. (N. S.) 1063 (1914).

Poisons: See *Fisher v. Golladay*, 38 Mo. App. 531 (1889); *Hendry v. Judge & Dolph Drug Co.*, 211 Mo. App. 166, 245 S. W. 358 (1922).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Bottle—Explosion: *Riecke v. Anheuser-Busch Brewing Ass'n*, 206 Mo. App. 246, 227 S. W. 631 (1921); *Stolle v. Anheuser-Busch, Inc.*, 307 Mo. 520, 271 S. W. 497, 39 A. L. R. 1001 (1925).

Drugs: *Fisher v. Golladay*, 38 Mo. App. 531 (1889); *Fowler v. Randall*, 99 Mo. App. 407, 73 S. W. 931 (1903); *Peterson v. Westman*, 103 Mo. App. 672, 77 S. W. 1015 (1903); *Darks et al. v. Scudder-Gale Grocer Co.*, 146 Mo. App. 246, 130 S. W. 430 (1910); *Anderson v. Meyer Bros. Drug Co.*, 149 Mo. App. 554, 130 S. W. 829 (1910); *Riefling v. Juede et al.*, 165 Mo. App. 216, 147 S. W. 168 (1912); *Hendry v. Judge & Dolph Drug Co.*, 211 Mo. App. 166, 245 S. W. 358 (1922). See also: *Callahan v. Warne, Cheever & Burchard*, 40 Mo. 131 (1867); *Hill v. Meyer Bros. Drug Co.*, 140 Mo. 433, 41 S. W. 909 (1897); *Coffey v. Tiffany & Howard*, 192 Mo. App. 455, 182 S. W. 495 (1914), judgment quashed in **State ex rel Tiffany et al. v. Ellison et al.*, 266 Mo. 604, 182 S. W. 996, Ann. Cas. 1918C, 1 (1916); *Nicholas v. Evangelical Deaconess Home & Hospital*, 281 Mo. 182, 219 S. W. 643 (1920); *Wilt v. McCallum et al.*, 214 Mo. App. 321, 253 S. W. 156 (1923).

Feeding Stuffs: See *Kimball-Fowler Cereal Co. v. Chapman & Dewey Lumber Co.*, 125 Mo. App. 326, 102 S. W. 625 (1907).

Food: *Smith v. Carlos*, 215 Mo. App. 488, 247 S. W. 468 (1923). See also: *St. Louis Brewing Association v. McEnroe*, 80 Mo. App. 429 (1899); *Atkins Bros. Co. v. Southern Grain Co.*, 119 Mo. App. 119, 95 S. W. 949 (1906); *Glasgow Milling Co. v. Burgher*, 122 Mo. App. 14, 97 S. W. 950 (1906); *Eversole & Eversole v. Hanna*, 184 Mo. App. 445, 171 S. W. 25 (1914); *Carney v. Swift & Co.*, 195 S. W. 511 (1917); *Wells et al. v. Welch*, 205 Mo. App. 136, 224 S. W. 120 (1920); *Crocker Wholesale Grocer Co. v. Evans*, 272 S. W. 1017 (1925).

Hand Lotion: *Kelly v. Ross*, 165 Mo. App. 475, 148 S. W. 1000 (1912).

Hernia Appliance: *Weller v. Plapao Laboratories Incorporation*, 197 Mo. App. 47, 191 S. W. 1056 (1917); *Harmon v. Plapao Laboratories*, 218 S. W. 701 (1920).

Hog Cholera Serum: *Brown et al. v. H. K. Mulford Co.*, 198 Mo. App. 586, 199 S. W. 582 (1917).

Ice: *St. Louis Union Packing Co. v. Mertens*, 150 Mo. App. 583, 131 S. W. 354 (1910).

5. Miscellaneous.

Gift Enterprise: *State v. Mumford*, 73 Mo. 647, 39 Am. Rep. 532 (1881).

Trade-Marks: *Filley v. Fassett et al.*, 44 Mo. 168, 100 Am. Dec. 275 (1869); *McCartney et al. v. Garnhart*, 45 Mo. 593, 100 Am. Dec. 397 (1870); *State v. Gibbs*, 56 Mo. 133 (1874); *Probasco v. Bouyon et al.*, 1 Mo. App. 241 (1876); *St. Louis Piano Manufacturing Co. v. Merkel et al.*, 1 Mo. App. 305 (1876); *Skinner et al. v. Oakes et al.*, 10 Mo. App. 45 (1881); *Snodgrass v. Welle*, 11 Mo. App. 590 (memo.) (1882); *Alden et al. v. Gross et al.*, 25 Mo. App. 123 (1887); *Addington et al. v. Cullinane et al.*, 28 Mo. App. 238 (1887); *Trask Fish Co. v. Wooster et al.*, 28 Mo. App. 408 (1888); *Liggett & Myers Tobacco Co. v. Sam Reid Tobacco Co.*, 104 Mo. 53, 15 S. W. 843, 24 Am. St. Rep. 313 (1890); **State v. Dinnesse*, 109 Mo. 434, 19 S. W. 92 (1891); *Drummond Tobacco Co. v. Addison Tinsley Tobacco Co.*, 52 Mo. App. 10 (1892); *St. Louis Carborating & Manufacturing Co. v. Eclipse Carbonating Co.*, 58 Mo. App. 411 (1894); **State v. Bishop*, 128 Mo. 373, 31 S. W. 9, 29 L. R. A. 200, 49 Am. St. Rep. 569 (1895); *State v. Berlinsheimer*, 62 Mo. App. 168 (1895); *Oakes v. St. Louis Candy Co. et al.*, 146 Mo. 391, 48 S. W. 467 (1898); *Nicholson et al. v. Wm. A. Stickney Cigar Co.*, 158 Mo. 158, 59 S. W. 121 (1900); *State v. Bick*, 167 Mo. 272, 67 S. W. 1101 (1902); *State v. Thierauf*, 167 Mo. 429, 67 S. W. 292 (1902); *Tuttle et al. v. Blow et al.*, 176 Mo. 158, 75 S. W. 617, 98 Am. St. Rep. 488 (1903); *State v. Niesman*, 101 Mo. App. 507, 74 S. W. 638 (1903); *W. A. Gaines & Co. v. E. Whyte Grocery, Fruit and Wine Co.*, 107 Mo. App. 507, 81 S. W. 648 (1904); *Lampert v. Judge & Dolph Drug Co. et al.*, 238 Mo. 409, 141

S. W. 1095, 37 L. R. A. (N. S.) 533, Ann. Cas. 1913 A, 351 (1911), affirming Same, 119 Mo. App. 693, 100 S. W. 659 (1906); State v. St. Clair, 137 Mo. App. 188, 117 S. W. 648 (1909); A. J. Reach Co. v. Simmons Hardware Co., 155 Mo. App. 412, 135 S. W. 503 (1911); Covert et al. v. Bernat et al., 156 Mo. App. 687, 138 S. W. 103 (1911); McGrew Coal Co. v. Menefee, 162 Mo. App. 209, 144 S. W. 869 (1912); *State v. Baskowitz, 250 Mo. 82, 156 S. W. 945, Ann. Cas. 1915 A, 477 (1913); Westminster Laundry Co. v. Hesse Envelope Co., 174 Mo. App. 238, 156 S. W. 767 (1913); State v. Ludwig, 237 S. W. 891 (1922). See also: Conrad v. Joseph Uhrig Brewing Co., 8 Mo. App. 277 (1880); Gamble v. Stephenson, 10 Mo. App. 581, (memorandum) (1881); Sanders v. Utt, 16 Mo. App. 322 (1884); Sanders v. Jacob, 20 Mo. App. 96 (1885); McCann et al. v. Anthony, 21 Mo. App. 83 (1886); Plant Seed Co. v. Michel Plant & Seed Co. et al., 37 Mo. App. 313 (1889); American Brewing Co. v. St. Louis Brewing Co., 47 Mo. App. 14 (1891); Sanders v. Bond, 47 Mo. App. 363 (1891); Williamson Corset & Brace Co. v. Western Corset Co., 70 Mo. App. 424 (1897); Shelly v. Sherry, 121 Mo. App. 429, 99 S. W. 488 (1907); Enno-Sander Mineral Water Co. v. Fishman et al., 127 Mo. App. 207, 104 S. W. 1156 (1907); Grocers Journal Co. v. Midland Publishing Co., 127 Mo. App. 356, 105 S. W. 310 (1907); Furniture Hospital v. Dorfman, 179 Mo. App. 302, 166 S. W. 861 (1914); Joseph S. Baum Mercantile Co. v. Levin, Barnard & Newton, 189 Mo. App. 237, 174 S. W. 442 (1915); Silver Laundry & Towel Co. v. Silver, 195 S. W. 529 (1917); Lo Buono v. V. Viviano & Bros. Macaroni Manufacturing Co., 197 Mo. App. 618, 198 S. W. 498 (1917); Freeland v. Burdick & Scott, 200 Mo. App. 226, 204 S. W. 1123 (1918); Germon Manufacturing Co. v. Combs et al., 209 Mo. App. 651, 240 S. W. 872 (1922), transferred from Supreme Court in Same, 287 Mo. 273, 229 S. W. 1072 (1921); National Telephone Directory Co. v. Dawson Manufacturing Co. & Chase Hotel Co., 214 Mo. App. 683, 263 S. W. 483 (1924); State v. Bauer, 272 S. W. 1062 (1925).

Trading Stamps: City of St. Joseph v. Sperry & Hutchinson, 189 Mo. App. 481, 176 S. W. 1073 (1915); State v. Sisson & Granger, 270 Mo. 59, 192 S. W. 454 (1917).

Weights and Measures: City of St. Louis v. Priesmeyer, 12 Mo. App. 592, memorandum (1882); *City of Lamar v. Weitman, 57 Mo. App. 507 (1894); *Sylvester Coal Co. et al. v. City of St. Louis et al., 130 Mo. 323, 32 S. W. 649, 51 Am. St. Rep. 566 (1895); *City of St. Charles v. Elsner, 155 Mo. 671, 56 S. W. 291 (1900); City of Springfield v. Starke & Jones, 93 Mo. App. 70 (1902); *State ex inf. Hadley v. Goffee et al., 192 Mo. 670, 91 S. W. 486 (1906); City of Fulton v. Sims, 127 Mo. App. 677, 106 S. W. 1094 (1908); *Ex parte House v. Mayes, 227 Mo. 617, 127 S. W. 305 (1910), affirmed in *House v. Mayes, 219 U. S. 270, 31 S. Ct. 234, 55 L. Ed. 213 (1911); *State ex inf. Barker v. Merchants' Exchange of St. Louis, 269 Mo. 346, 190 S. W. 903, Ann. Cas. 1917 E, 871 (1916), affirmed in *Merchants' Exchange of St. Louis v. State of Missouri at the relation of Barker, Attorney-General, 248 U. S. 365, 39 S. Ct. 114, 63 L. Ed. 300 (1919); State ex rel. Missouri Pacific Ry. Co. & Bush v. Public Service Commission, 275 Mo. 60, 204 S. W. 395 (1918); Stegmann et al. v. Weeke, 279 Mo. 131, 214 S. W. 134 (1919); *Same, 279 Mo. 140, 214 S. W. 137, 5 A. L. R. 1060 (1919). See also: Green v. Moffett & Stillwell, 22 Mo. 529 (1856); Clifton et al. v. Sparks, 82 Mo. 115 (1884); Smith v. Sickinger, 221 S. W. 779 (1920); Lumsden v. Howard, 210 Mo. App. 645 236 S. W. 420 (1922).

MONTANA.*

PART I.

General Food and Drug Law.

1. Adulterated or Misbranded Drugs and Food; Unlawful Manufacture or Sale.—It shall be unlawful for any person, persons, firm, or corporation, within this State to manufacture for sale, within this State, sell, offer for sale, or have within his or their possession, with the intent to sell within this State, any drugs or article of food which is adulterated or misbranded within the meaning of this act. The term "drug," as used in this act, shall include all medicines or preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or animals. The term "food," as used in this act shall include all articles used as food, drink, confectionery, or condiment by man or animals, whether simple, mixed or compound. (Pol. C. 1921, § 2578.)

2. What Deemed Adulterated.—For the purposes of this act, an article shall be deemed as adulterated, in case of drugs:

First. When a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, if it differs from the standard strength, quality or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary, official at the time of investigation; provided, that no drug shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box, or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary.

Second. If its strength or purity fall below the professed standard or quality under which it is sold.

In the case of foods:

First. In the case of confectionery, if it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug.

Second. If any substance or substances have been mixed with it so as to reduce, or lower, or injuriously affect its quality or strength.

Third. If any substance has been wholly or in part substituted for the article.

Fourth. If any valuable constituent has been wholly or in part abstracted from it.

Fifth. If it contains any proportion of a filthy, diseased, decomposed, putrid, or rotten animal or vegetable substance, whether manufactured or not, or in the case of milk, if it is the product of a diseased animal.

Sixth. If it is mixed, colored, coated, polished, powdered, or stained in a manner whereby damage or inferiority is concealed, or whereby it is made to appear better or of greater value than it really is.

Seventh. If it contains any added poisonous or other added deleterious ingredient.

Eighth. If it contains any added antiseptic or preservative substance, except common salt, saltpeter, cane-sugar, beet-sugar, vinegar, spices, or in smoked foods, the natural products of the smoking process, or other harmless preservatives whose use is authorized by the State Board of Health, and no preservative shall be used in greater quantity than the rules and regulations of the State Board of Health shall designate. (Id. § 2579.)

3. Duty of Peace and Health Officers to Seize Unwholesome Food Offered For Sale.—It shall be the duty of all peace or health officers to seize any animal

*CITATIONS: "Pol. C. 1921" and "Pen. C. 1921" refer to the Political and Penal Codes, respectively, of the Revised Codes of Montana, 1921, published by authority of Chapter 122, Laws of 1921. "L." refers to the session laws of the year cited.

carcass or parts of carcasses, or any domestic or wild fowl, eggs, game, fish, or other food product found to be unwholesome, and which are intended for sale or offered for sale for human food, or which have been slaughtered or prepared, handled or kept under unsanitary conditions as herein defined, or as the rules and regulations of the State Board of Health may designate, and shall deliver the same forthwith to and before the nearest police judge or justice of the peace, together with all information obtained; and said police judge or said justice of the peace shall issue warrants of arrest for all persons believed to have violated any provision of this act, and said cause shall be tried at an early date thereafter. The said police judge or said justice of the peace shall immediately drench the unwholesome food brought before him with kerosene, and require the owner thereof to immediately dispose of the same in a sanitary manner, or he may, in his discretion, order the unwholesome food rendered into grease and tankage. (Id. § 2586.)

4. How Term "Misbranded" Shall be Understood.—The term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food or drugs, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, territory, or country in which it is manufactured or produced, unless the word "process" or "type," in plain, legible and obvious English print type, or script immediately follows the State, territory, country, locality, or brand designated. For the purpose of this act, an article shall be deemed to be misbranded;

In the case of drugs:

First. If it be an imitation or offered for sale under the name of another article.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents differing in quality or quantity from the original contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha, or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, phenacetine, antipyrine, or any derivative of [or] any preparation of any such substance contained therein; provided, that said requirements as to statement of contents shall not be operative until on and after January 1, 1912, and provided, further, that the requirements of this section shall not apply to medical prescriptions written by physicians and surgeons, dentists, or veterinary surgeons, nor to extemporaneous preparations dispensed by druggists, nor shall the provisions of this section be construed as prohibiting legally qualified physicians and surgeons, dentists, and veterinary surgeons from administering drugs to patients under their care.

In the case of foods:

First. If it is an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign article when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilide, phenacetine, or antipyrine, or any derivative or any preparation of any such substance or substances contained therein; provided, that such statement shall not be required as to articles of food in the hands of wholesalers or retailers on or prior to January 1, 1912.

Third. If in the package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth. If the package containing it, or its label, shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredient shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter become known as articles of food, under their own distinctive names, and heretofore known to the consumer, and not an imitation of or offered for sale under the distinctive name or brand of another article, if the name be accompanied on the same label or brand with the statement of the place where said article has been manufactured or produced; provided, further, for the purposes of this act, a drug or food shall not be deemed misbranded, [when] marked, labeled, or tagged with the distinctive trade or commercial name heretofore known to the consumer.

Second. In case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly printed on the package in which it is offered for sale; provided, that the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring or flavoring; and provided, further, that in cases of spirituous liquors the term like substances shall be construed to mean pure distillates of grain, or pure distillates of fruit and grain; and provided, further, that nothing in this act shall be construed as compelling or requiring proprietors or manufacturers of proprietary foods, which contain no unwholesome added ingredients to disclose their trade formulas except so far as the provisions of this act may require to secure freedom from adulteration or misbranding. (Id. § 2587.)

5. When Dealer Not to be Prosecuted; Guaranties.—No dealer shall be prosecuted under the provisions of this act for selling or offering for sale any article of food or drugs, as defined herein, when the same is found to be adulterated or misbranded within the meaning of this act, in the original, unbroken package in which it was received by said dealer, when he can establish a guarantee, signed by the wholesaler, jobber, or agent, or other party residing in the United States from whom he purchased such article, or if a proper printed guarantee of the manufacturer with his address be upon the package or container, to the effect that the same is not adulterated or misbranded in the original unbroken package in which the said article was received by said dealer, within the meaning of this act, designating it, or within the meaning of the food and drug act, enacted by the Senate and House of Representatives of the United States of America in Congress assembled June 30, 1906. Said guarantee to afford protection must contain the name and address of the party or parties making the sale of such article to such dealer, or of the manufacturer thereof as herein specified, and in such case said party shall be amenable to prosecution, fines, and other penalties which would attach in due course to the dealer under the provisions of this act. (Id. § 2588.)

6. License From State Board of Health For Manufacturers and Purveyors of Food and Drinks.—It shall be unlawful for any person, persons, firm, or corporation to conduct any restaurant, cafe, lunch counter, dining car, manufacturing bakery, manufacturing confectionery, meat market, cannery, soda fountain, ice cream parlor, soft drink establishment or bottling works without having a license issued by the State Board of Health of Montana; provided, that no license shall be required for a dining room, cafe, or lunch counter that is operated in connection with and under the same management as a hotel that holds a license from the State Board of Health, or that is subject to the payment of a license fee under the provisions of chapter 36, Session Laws of 1919 [2485-2498], an annual fee of two dollars shall be required for each license. Licenses shall be made to expire on the last day of December of the current year in which they are issued. Applications for licenses shall be made on blanks supplied by the State Board of Health. No license shall be issued to any place of business that is conducted in a grossly unsanitary manner.

If as a result of inspection by an authorized representative of the State Board of Health, it is found that any licensed place of business is not conducted within a reasonable degree of compliance with the rules and regulations of the State Board of Health, the license may be canceled by the secretary of the State Board of Health; provided, that any licensee whose license is so canceled shall be entitled to a hearing before the State Board of Health to show cause, if any, why his license should not be canceled. In such case licensee must make written request to the secretary of the State Board of Health for a hearing within five days after notice has been received that his license has been canceled.

Fees collected by the State Board of Health for licenses issued shall be transmitted to the State Treasurer and placed to the credit of the general fund as provided for by law. (Id. § 2589.)

7. Duties and Powers of State Board of Health.—It shall be the duty of the State Board of Health to enforce the provisions of this act. They shall, through their secretary and through local and county health officers, make all necessary investigations and inspections in reference to all food and drugs, and for this purpose the State, county, and local health officers shall be food and drug inspectors for their respective districts; each local and county health officer shall make regular inspections as the rules and regulations of the State Board of Health may direct, and such special inspections as said Board of Health may from time to time order made, and he shall make such reports relative to conditions existing within his district at such times and in such manner as the State Board of Health may direct. Should any health officer fail, neglect, or refuse to make any such regular or special inspection or fail to make any report in the manner and at the time designated by

the State Board of Health, or should he make a false report of any condition that may exist within his district, the State Board of Health shall notify the mayor of the city or town, in the case of a local health officer, or the chairman of the board of county commissioners, in the case of a county health officer, of such negligence on the part of such health officer, and said State Board of Health may, in their discretion, order the removal from office of such delinquent health officer, and when such an order is issued by the State Board of Health, the mayor of the city or town, in the case of a local health officer, or the board of county commissioners, in the case of a county health officer, shall immediately declare the office of health officer vacant, and shall appoint another competent and legally qualified physician and surgeon to fill the office.

The State Board of Health shall adopt all needful rules and regulations for the thorough and uniform enforcement of the provisions of this act throughout the State, and shall adopt and promulgate rules and regulations relative to the sanitary management of all places designated in section 2589 of this code, and they shall adopt rules regulating the minimum standards for foods and drugs, defining specific adulterations and declaring proper methods of collecting and examining all drugs and articles of food, and the violation of any such rule or regulation shall be punished on conviction, as set forth in section 2594 of this code; provided, that such rules and regulations made and promulgated by the State Board of Health shall at all times conform to the rules and regulations of the National Food and Drug Commission made under the Food and Drugs Act of June 30, 1906.

It shall be the duty of the State Board of Health, at the instance of any person, firm, or corporation, or on their own volition, to examine, analyze, and determine the purity, branding, and labeling of any food or drug placed upon the market or offered for sale in the State of Montana, and if found legal, they shall certify to the individual, firm, or corporation manufacturing, selling, or offering for sale such food or drug, that such food or drug is legal.

No prosecution shall follow until such time as the individual, firm, or corporation has been notified by the State Board of Health wherein any food or drug fails to meet the requirements of the rules and regulations of the State Board of Health, and such time to remedy the failure as the State Board of Health may rule.

All State, local, and county health officers are hereby authorized to enter any premises where any article of food or drug is sold, offered for sale, manufactured, cooked, stored, or treated in any way, for the purpose of inspecting such premises and the manner in which such food or drug is handled. (Id. § 2591.)

8. Samples of Food and Drugs For Analysis.—Every person offering or exposing for sale or delivering to a purchaser any drug or article of food included in the provisions of this act, shall furnish to any inspector or other officer or agent appointed hereunder, who shall apply to him for the purpose and shall tender to him the value of the same, a sample sufficient for analysis of any drug or article of food which is in his possession. Whoever hinders, obstructs, or in any way interferes with an inspector, or other officer or agent appointed hereunder, in the performance of his duty, shall, upon conviction, be fined in any sum not less than ten dollars nor more than one hundred dollars. (Id. § 2592.)

9. Chemist of State Board of Health; Duties.—The professor of chemistry at the Montana State Agricultural College shall be the chemist to the State Board of Health, and he shall make all analyses that may be required by the State Board of Health in the enforcement of the provisions of this act, and such other analyses as they may require in the enforcement of the laws of the State pertaining to public health matters. (Id. § 2593.)

10. Violations of Act; Penalties.—Except as elsewhere provided in this act, any person, persons, firm, or corporation violating any of the provisions of this act shall, upon conviction of the first offense, be punished by a fine of not less than twenty-five dollars nor more than seventy-five dollars; for the second offense, by a fine of not less than fifty dollars nor more than two hundred dollars; and for the third and subsequent offenses, by a fine of not less than one hundred dollars and imprisonment in the county jail for not less than thirty nor more than ninety days, and all fines collected for violations of this act shall be paid to the county treasurer of the proper county, who shall remit the same to the State Treasurer of the State of Montana, and said moneys shall be placed to the credit of the State Board of Health Maintenance Fund. (Id. § 2594.)

11. Duty of County Attorney to Prosecute; Report of Chemist Presumptive Evidence.—Whenever the State Board of Health shall furnish evidence to the county attorney of any county in this State, such county attorney shall prosecute any person, persons, firm, or corporation violating any provision of this act, or any rule or regulation made by the State Board of Health in conformity with the provisions

of this act, and the report of the chemist of the Montana State Agricultural College, stating that any drug or food examined by him is found to be impure or below the standard required by the provisions of this act, or the rules and regulations of the State Board of Health, shall be taken as presumptive evidence of the impurity of such drug or article of food. (Id. § 2595.)

12. Limit to Rules Promulgated by State Board of Health.—No rules or regulations shall be promulgated by the State Board of Health under the provisions of this act, which do not conform to the rules and regulations promulgated or to be hereafter promulgated by the national government under the Food and Drugs Act of Congress of June 30, 1906; and no article of foods or drugs shall be deemed to be adulterated, misbranded, or otherwise subject to the provisions of this act, when such article of food or drugs conforms to the rules and regulations of the United States government under any national act or acts. (Id. § 2596.)

Miscellaneous General Provisions.

13. Adulterated and Misbranded Foods, Drugs, etc.; Publication of List.—It shall be the duty of the State Board of Health to furnish to the clerk of each county in the State a certified list of the adulterated and misbranded foods, and products entering into the preparation of foods, beverages, candies, drugs, and all other products and preparations under the jurisdiction of said Board of Health, as found by the analysis and investigation of said board. Said list shall show the brand and name of the article, the manufacturer or jobber, and the reason for classing the same illegal, together with any necessary comments thereon. The county clerk of each county, where said misbranded food is found, shall cause the said list to be printed in the official papers of such county. Such publication shall be made not more than four times each year, and shall be paid for by such county at the rate allowed by law for publishing the proceedings of the board of county commissioners; provided, that whenever the board of health, or their assistants, shall discover any foods, beverages, candies, drugs, or other products or preparations under the jurisdiction of said board, to be adulterated or misbranded, the said board of health shall immediately notify the party responsible for placing the same upon the market, and said party shall have ten days in which to show cause why the results of said investigation or analysis should not be published. (Pol. C. 1921, § 2463.)

14. Sale of Food Containing Saccharin Prohibited.—It shall be unlawful for any person, persons, firm or corporation within the State of Montana knowingly, to manufacture, sell, offer for sale, or have within his or their possession with the intent to sell, any beverage or article of food which contains saccharin. (Id. § 2597.)

15. Food Defined.—The term "food," as used in this act, shall include all articles used for food, drink, confectionery or condiment by man or animals, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof. (Id. § 2598.)

16. Penalty For Violation of Act; Disposal of Fines.—Any person who violates provisions of this act shall be guilty of a misdemeanor and upon conviction, for the first offense, shall be punished by a fine of not less than twenty-five dollars nor more than seventy-five dollars, and for the second offense by a fine of not less than fifty dollars nor more than two hundred dollars, and for the third and subsequent offenses by a fine of not more than one hundred dollars and imprisonment in the county jail for not less than thirty days nor more than ninety days. All fines collected for violations of the provisions of this act shall be paid to the county treasurer of the proper county, who shall remit the same to the State Treasurer of the State of Montana, and said moneys shall be placed to the credit of the General Fund as provided by law. (Id. § 2599.)

17. Destruction of Food in Restraint of Trade.—It shall be unlawful for any person, firm, or corporation to destroy, or to withhold from sale for a period of time which makes it necessary to destroy, in restraint of trade, any fish, fowl, animal, vegetable, or other stuff, products, or articles, which are customary food, or which are proper food for human beings, and are in fit sanitary condition to be used as such. (Pen. C. 1921, § 10914.)

18. Penalty For Violation of Act.—Every person or firm or the manager or employee of every corporation violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 10915.)

19. Adulterating Foods, Drugs, Liquors, etc.—Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor or wine, or any article used in compounding them, with a fraudulent intent, to offer the same or cause or permit it to be offered for sale as unadulterated or undiluted, and every person who fraudulently sells, or keeps or offers for sale the same, as unadulterated or undiluted, is guilty of a misdemeanor. (Id. § 11241.)

20. Disposing of Tainted Food, etc.—Every person who sells, or keeps for sale, or otherwise disposes of any article of food, drink, drug, or medicine, knowing that the same has become tainted, decayed, spoiled, or otherwise unwholesome, or unfit to be eaten or drunk, with intent to permit the same to be eaten or drunk, is guilty of a misdemeanor. (Id. § 11242.)

21. Hotels Serving Adulterated Foods Must Post Cards Announcing Such Facts.—If a proprietor, manager, or other person having the management of any hotel, restaurant, or boarding house in the State of Montana shall serve or cause to be served upon the tables to his or their guests any articles of food known to said proprietor or manager of said hotel, restaurant, or boarding house to be adulterated, he shall be guilty of a violation of this act, unless he or they shall have posted, hung up, and maintain in his or their public office and in his or their dining room, in a conspicuous place in full view of his or their guests, a large red cardboard sign, the size of which shall be twelve inches in width, the words printed thereon in large, bold, black letters of the size of not less than seventy-two point type, "We Serve On Our Tables, No Foodstuffs Which Have Been Harmfully Adulterated." Be it further provided that the original labels shall always be maintained and kept upon the can, carton, box, bottle, barrel, or other receptacle containing any such goods which may be used for foods, until all of the contents of such cans, boxes, cartons, bottles, barrels, or any other receptacle containing any such foodstuffs shall have been used or totally destroyed. (Id. § 11245.)

22. Penalty For Violation of Act.—For failure to put up and maintain such cards continuously in said public offices and dining-rooms heretofore mentioned, or to maintain the labels as this act directs, the proprietor or manager guilty of such failure shall be guilty of a violation thereof, the penalty for which shall be, for the first offense a fine of two hundred dollars and costs of court for the prosecution of the said cause; for the second offense a fine of three hundred dollars together with court costs and a term of not less than three months nor more than six months in the county jail; for the third offense a fine of six hundred dollars and court costs and a term in the State Prison for a period of not less than one year nor more than three years. (Id. § 11246.)

23. Possession of Adulterated Food Prima Facie Evidence of Guilt.—Any canned goods or foodstuffs purchased at the stores in Montana, or from any wholesale or retail stores in the United States which are labeled as being adulterated and served to their guests or stored upon the premises occupied by them shall be prima facie evidence of the guilt of such hotel, restaurant, or boarding house proprietor or manager if such cards are not displayed as heretofore directed. Any State chemist or any sheriff or any of his deputies shall at all times have free and peaceable access during business hours in the storeroom, kitchen, or any other place where foods are stored or kept by the proprietor or manager aforesaid, for the purpose of ascertaining the quality and brands of the goods used by said proprietor or manager. (Id. § 11247.)

23a. Willful Violation of Health Laws.—Every person who willfully violates any of the laws of this State, relating to the preservation of the public health, is, unless a different punishment is prescribed by this code, punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or both. (Id. § 11236.)

23b. Existing Departments Abolished.—The following offices, commissions, and departments of the State government heretofore constituted by law are hereby abolished, to-wit:

The State Board of Horticulture.

The State Horticulturist.

The Board of Directors of the State Fair.

The Board of Dairy Commission Examiners.

The Department of Labor and Industry.

The Department of Agriculture and Publicity.

The State Dairy Commissioner.

The Grain Grading Inspection and Warehousing Commission of the State of Montana.

The State Board of Poultry Husbandry. (Pol. C. 1921, § 3646.)

23c. Transfer Special Funds to General Fund.—The State Treasurer is hereby authorized and directed, upon the taking effect of this act, to transfer to the general fund of the State of Montana any money in his hands belonging to any and all special funds heretofore created by law for the deposit of moneys received by the boards and departments mentioned in the preceding section. (Id. § 3647.)

23d. Successor to Existing Departments.—The Department of Agriculture, Labor, and Industry is hereby designated as the legal successor of all the offices, boards, commissions, and department mentioned in section 3646 of this code; all books, papers, and records of said offices, boards, commissions, and departments shall be turned over to the Department of Agriculture, Labor, and Industry, and said department is hereby authorized to carry out any contracts, complete any business, or prosecute or defend any suits heretofore entered into or instituted by any of the offices, boards, commissions, or departments mentioned in said section. (Id. § 3648.)

23e. Penalty for Failure to Obey Orders of Department.—Any person, firm, company, or corporation who shall violate any of the provisions of this act, or who shall fail to comply with any order of the Department of Agriculture, Labor, and Industry, or of the Commissioner of Agriculture, or any of his lawfully constituted agents; provided, that said order be made in pursuance of the authority granted by this act, shall be deemed guilty of a misdemeanor and punishable by a fine of not to exceed five hundred dollars or by imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment. (Id. § 3649.)

NOTE: See also Nos. 133 and 253.

PART II.

Special Food Laws.

Apples.

24. Inspection of Apples Packed For Sale; Procedure.—It shall be the duty of the Commissioner of Agriculture, or his authorized representative or inspector, to inspect all apples packed for sale or shipment pursuant to the provisions of sections 4265 to 4272 of this code, and said commissioner is hereby authorized to certify to the grade and pack thereof, and to charge the owner, packer, or shipper of any such apples a fee to be fixed by said Commissioner of Agriculture for such services, and said commissioner may make such rules and regulations regarding such inspection, not in conflict with the laws of the State, as he may deem proper. (Pol. C. 1921, § 3630.)

25. Standard Size of Apple Box.—There is hereby created and established a standard size for apple boxes for the State of Montana. The standard size of an apple box shall be of the following dimensions, when measured without distension of its parts: Depth of end, ten and one-half inches; width of end, eleven and one-half inches; length of box, eighteen inches inside measurements; and representing as nearly as possible two thousand one hundred seventy-three and one-half cubic inches. (Id. § 4265.)

26. Short Boxes to be Marked.—Any box in which apples shall be packed and offered for sale that contains less than the required number of cubical inches, as prescribed in the preceding section, shall be plainly marked on one side and one end with the words "short box," or with the words or figures showing the practical relation which the actual capacity of the box bears to the capacity prescribed by the preceding section. The marking required by this paragraph shall be in black letters of the size of not less than seventy-two point black Gothic. (Id. § 4266.)

27. Grade, Number of Apples, and Grower to be Marked on Box.—The box when packed and offered for sale shall bear upon it or upon the label, and in plain figures, the approximate number of apples in the box, which shall be within five apples of the true count of the number of the style of pack used in the box; also in plain letters the name of the firm, company or organization who shall have first packed or authorized the packing of the same. Also the name of the locality where the apples were grown; also the correct name of the variety of apples contained in the box; also the grade adopted by the grower, firm, company, or organization that authorized the packing of the fruit. (Id. § 4267.)

28. Classification and Quality of Apples.—The apples contained within the box when so packed and offered for sale shall be reasonably uniform in size and free from worms, scale or fungus disease, except as otherwise specified. (Id. § 4268, as amended L. 1923, c. 118, § 1.)

29. Box May be Marked "Standard."—The boxes in which the apples are packed in accordance with the provisions of this act may be marked "standard." (Pol. C. 1921, § 4269.)

30. Grades and Standards of Apples Defined.—Boxes packed with apples and marked "standard" shall be deemed to be misbranded within the meaning of this act.

First. If the size of the box does not conform to the requirements of section 4265 of this code.

Second. If the markings of the box do not conform to the markings required by section 4267 of this code.

Third. If the size and condition of the apples does not conform to the requirements of section 4268 of this code.

Fourth. The grade of apples contained in the box or boxes shall be as follows, to wit: Extra Fancy, Fancy, "C" Grade, Combination Grade and Orchard Run Grade.

"Extra Fancy" apples shall be mature, clean, smooth, well-formed apples only, free from all insect pests, diseases, bruises and holes, spray burn, limb rub, visible water-core, skin punctures or skin broken at stem, shall be free from russetting except russetting within the cavity of the stem shall be permitted.

"Fancy" apples are defined as apples complying with the standards of the Extra Fancy except that leaf rub, slight scratches and russetting shall be permitted up to 5 per cent of the surface of the apple. Apples carrying Extra Fancy color requirements characteristic of the variety showing either fine pin point scab in cavity or basin; limb rub, not to exceed one-half inch in diameter; or two healed-over worm stings may be permitted in this grade.

"C" Grade. Apples are defined as all those merchantable apples which are mature, free from infection, soft bruises and broken skin. Provided, that this grade may include healed-over stings and scab spots not to exceed one-quarter inch in the aggregate. Color requirements not considered in this grade. Apples in this grade shall not be marked "Choice."

"Combination Grade." When Extra Fancy and Fancy Apples are packed together the boxes must be marked "Combination Extra Fancy and Fancy." When Fancy and "C" grade are packed together the boxes must be marked "Combination Fancy and 'C' grade." Combination grades must contain at least twenty-five (25) per cent of apples which belong to the higher grade in the combination.

"Orchard Run" grade shall consist of Extra Fancy, Fancy and "C" grade apples packed in combination. Boxes so marked must contain at least fifteen (15) per cent of apples of Extra Fancy grade and not more than fifty (50) per cent of "C" grade. No apples failing to meet the requirements of "C" grade shall be permitted in this grade.

No apples smaller than two (2) inches in diameter shall be permitted in any grade. Small apples which are under the size requirements as prescribed may be shipped marked "Small," provided such apples are free from injurious insect pests and diseases.

In order to provide for variations incident to commercial grading and handling a tolerance of ten (10) per cent for a total of all defects from the standard of the grade shall be allowed. (Id. § 4270 as amended, L. 1923, c. 118, § 2.)

31. Penalty.—Any person or persons failing to make the inspections as provided in this act shall be deemed guilty of malfeasance of office. (L. 1923, c. 118, § 2a.)

32. Cull Apples.—All apples offered for sale in this State in any other manner than in the standard box provided for in this act shall be marked and sold as cull apples. (Pol. C. 1921, § 4271.)

33. Penalty For Violation of Act.—No person, firm, company, or organization shall sell or offer for sale, or shipment within or without the State of Montana, apples branded or packed in boxes in violation of the provisions of this act. Any person, firm, company, or organization who shall knowingly sell or offer for sale, or shipment within or without the State of Montana, apples branded or packed in boxes in violation of the provisions of this act, shall be guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not less than ten dollars or more than fifty dollars. (Id. § 4272 as amended, L. 1925, c. 81.)

Bakery Products.

See Nos. 6, 34 et seq., and 76.

Beverages.

See Nos. 4, 6, 14-16, 19-20, 168 et seq., 211 et seq., and 231.

Bread.

34. Weight Requirements For Sale of Bread.—From and after the passage of this act it shall be unlawful for any person or persons, association, co-partnership, or corporation to manufacture for retail or wholesale trade, or to sell bread, unless the same shall be of the following weights, which shall be net weights eight hours after baking: One pound, one and one-half pounds, two pounds, three pounds, four pounds, five pounds, six pounds, or other multiple pound weights; variation at the rate of one ounce per pound over and one ounce per pound under the above specified unit weights are to be permitted in individual loaves, but the average weight of not less than twenty-five loaves of any one unit of any one kind shall be not less than the weight prescribed for such unit, and if twin or multiple loaves are wrapped at the place where baked or sold to the consumer wrapped and undivided, the loaf must conform to the above weight requirements, and if the twin or multiple loaf is unwrapped or divided before being sold to the consumer, each unit of the loaf must conform to the above weight requirements; provided, that this act shall not apply to persons, firms, or corporations who do not hold themselves out to the public, and [as] engaging in a general and established business of manufacturing or selling bread and bread products. (Pol. C. 1921, § 4273.)

35. Definitions; Conditions Under Which Bread May be Sold.—In construing provisions of the preceding section, the following definitions shall be had:

A twin or multiple loaf is one that is made of two or more portions of dough baked in one pan; single units weighing less than one pound must not be baked; a manufacturer or seller of loaves of the weights prescribed may cut and sell a portion of a loaf to a consumer; bread may be sold at any time after baking, and it shall not be required that bread shall remain unwrapped for any specified length of time after baking. (Id. § 4274.)

36. Return or Repurchase of Bread Prohibited.—It shall be unlawful for any person or persons, association, co-partnership, or corporation engaged in the manufacture for sale, or the sale of bread, to directly or indirectly accept return of bread theretofore sold, nor repurchase the same, nor allow credit to any one for the same; nor shall any bread previously sold be exchanged for other bread. (Id. § 4275.)

37. Penalty For Violation of Law.—Any such manufacturer or seller violating any of the provisions herein contained shall be liable to a fine of not less than ten dollars nor more than one hundred dollars for each and every offense, and each separate sale or violation of any of the provisions of this act shall constitute a separate offense. (Id. § 4276.)

Canned Goods.

See Nos. 6 and 23.

Cold Storage.

See No. 77 et seq.

Confectionery.

38. Adulterated Candies.—Every person who shall, by himself, his servant or agent, or as the servant or agent of any other person or corporation, manufacture for sale, or knowingly sell or offer to sell, any candy adulterated by the admixture of terra alba, barytes, talc, or any mineral substance, by poisonous colors or flavors or other ingredients deleterious or detrimental to health, is guilty of a misdemeanor. (Pen. C. 1921, § 11265.)

NOTE: See also Nos. 2, 6, 13, and 76.

Dairy Products—Substitutes for Dairy Products.

39. Adulterated Milk.—No person shall sell or exchange, or offer or expose for sale or exchange, as milk or cream, any unclean, impure, adulterated, or unwholesome milk, or unclean, impure, adulterated, colored, or unwholesome milk or cream, or sell or exchange, or offer or expose for sale or exchange, any substance in imitation or semblance of milk or cream which is not milk or cream, nor shall he sell or exchange or offer or expose for sale or exchange, any such substance as and for milk or cream, or sell or exchange, or offer or expose for sale or exchange, any article of food, made from such milk or cream, or manufacture from any such milk or cream any article of human food.

Any person delivering milk or cream to any butter or cheese factory, condensed-milk gathering station or railway station, to be shipped to any city, town, or village, shall be deemed to expose or offer the same for sale, whether the said milk or cream is consigned to himself or another. Each and every can thus delivered, shipped, or consigned, if it be not pure milk or cream, must bear a label or card upon which shall be plainly and legibly stated the constituents or ingredients of the contents of the can. There shall be no limit to the percentage of fat contained in unadulterated milk or cream sold to creameries for the sole purpose of manufacture into butter. (Pol. C. 1921, § 2620.)

40. Butter and Cheese Factories.—Operators of all co-operative butter, cheese and condensed milk factories shall keep their books open for inspection of any patron at all times, showing the daily amounts of milk and cream received, and the per cent. and amount of fat in the milk and cream received from each patron, and the amounts of cream sold, and butter, cheese, or condensed milk manufactured daily.

Every facility should be offered to the patron for keeping himself informed in regard to the business of the butter, cheese, and condensed milk factory, and checking up his daily product with his returns. (Id. § 2621.)

41. Imitation Butter.—Hereafter the word "butter" shall not be printed or used, either alone or in conjunction with any other word or words upon any carton, package, or other receptacle containing any substitute for butter, such as margarine or any other substance not made entirely from milk fat. No person or persons shall manufacture or sell, or expose for sale, any substance out of vegetable or animal fats or oils (not from milk or cream) colored in imitation of butter or any shade of yellow.

All products made and sold, or exposed for sale as butter substitutes, and made either wholly or partly from any fat or oil other than from pure unadulterated milk or cream, shall have plainly marked, stamped or labeled on every package so made, sold, or exposed for sale, in plain black, bold-faced letters, one-half inch high, the word "Oleomargarine." Hotels or restaurants using imitation butter or renovated butter, shall place placards, plainly legible from all parts of the dining room, marked "Oleomargarine" or "Renovated Butter," as the case may be, "used here."

All oleomargarines or other substitutes for butter, and all renovated or process or patent butter, made or sold or offered for sale, shall have the name of the manufacturer plainly stamped or printed in a conspicuous place on the outside of the carton or package in which it is contained. (Id. § 2622, as amended L. 1923, c. 35.)

42. Mixing Extraneous Fats With Cream or Butter.—No person shall manufacture, mix, or compound with or add to natural milk, cream, or butter, any animal fats or animal or vegetable oils, nor make nor manufacture any oleaginous substance not produced from milk or cream, with the intent to sell the same as butter or cheese made from unadulterated milk or cream, or have the same in his possession with such intent; nor shall any person solicit orders for same or offer for sale, nor shall any such article or substance or compound so made or produced be sold as or for butter or cheese, the product of the dairy. (Pol. C. 1921, § 2623.)

43. Sale of Milk Containing Fat or Oil.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. Nothing in this section shall be construed to prohibit the shipment into this State from a foreign State and the first sale thereof in this State in the original package intact and unbroken, of any of the products or articles, the manufacture, sale or exchange of which or possession of which, with intent to sell or exchange is prohibited hereby. (Id. § 2623 (a), as added L. 1923, c. 51.)

44. Renovated and Storage Butter.—No person shall sell any butter made by taking original packing stock or other butter, or both, and melting the same and drawing off or extracting the butter fat, and mixing such fat with skimmed milk or cream, or other milk product, and re-churning or re-working such mixture; or any butter produced by any process commonly known as boiled process, or renovated butter, unless the words "Renovated butter" shall be plainly branded with bold-faced letters, at least one-half inch in length, on top and sides of such receptacle, package or wrapper in which it is kept for sale or sold. And if such butter is exposed for sale uncovered, and not in a receptacle, package, or wrapper, then a placard containing the words "renovated butter" shall be attached, printed in style and manner as aforesaid, to the mass of butter in such a manner as to be easily seen and read by purchasers; and in addition to such markings, the seller shall, at the time of sale, stamp the package with the words "Renovated butter" in letters at least one-half inch in height. Storage butter is hereby designated as butter which has been churned thirty days or longer. Storage butter, when offered for sale in the State of Montana, shall be marked on the receptacle in which it is sold, and also on the invoice or bill of lading relative to the same, "Storage butter." (Pol. C. 1921, § 2624.)

45. Patent Butter.—No person shall sell as pure butter any substance in which an abnormal quantity of casein or other ingredients have been incorporated. (Id. § 2625.)

46. Imitation or Filled Cheese.—No person shall manufacture, deal in, sell, offer, or expose for sale or exchange as cheese, any article or substance in the semblance of or in imitation of cheese, made exclusively of unadulterated milk or cream, or both, into which any animal, intestinal, or offal fats or oils, or melted butter in any condition or state of modification of the same, or oleaginous substance of any kind not produced from unadulterated milk or cream, shall have been introduced. (Id. § 2626.)

47. Prohibition of Coloring Matter.—No person shall coat, powder, or color with annatto or any coloring whatsoever, butterine, or oleomargarine, or any compound of the same, or any product or manufacture made in whole or in part from animal fats or animal and vegetable oils not produced from unadulterated milk or cream, by which means such product, manufacture, or compound shall resemble butter or cheese, the product of the dairy; nor shall he have the same in his possession with the intent to sell, nor shall he sell or offer the same for sale.

No person or persons shall manufacture, sell or expose for sale any poisonous coloring matter for coloring of dairy food products of any kind, nor shall any person or persons use in dairy products any poisonous coloring matter manufactured, sold, offered, or exposed for sale, within the State, nor shall any person or persons sell, offer, or expose for sale any dairy food product containing such poisonous coloring matter. (Id. § 2627, as amended L. 1923, c. 35.)

48. Sale of Skimmed Milk.—Milk from which cream has been removed, if such is otherwise wholesome and unadulterated, may be sold as such to makers of skim cheese, or to a consumer as hereinafter defined; but in the latter case only from vessels legibly marked with the words "skimmed milk" in plain black letters upon a light colored background, and each letter being at least one inch high and one-half inch wide, and said words being placed on the top or side of each vessel. These requirements, however, shall not apply to skimmed or separated milk, delivered to any patron of the creamery who regularly sells whole milk to the proprietor thereof; but all the skimmed milk so delivered shall first be pasteurized at a temperature of at least one hundred and eighty degrees Fahrenheit. (Id. § 2628.)

49. Trade-Marks.—When any dealer in dairy products wishes to retain for himself a name, brand or trade-mark, the same may be registered with the State Department of Agriculture, Labor and Industry, and on no account shall that name, brand or trade-mark be used by another unless duly consigned, given or sold to him by the originator or by the one to whom it belongs. (Id. § 2629.)

50. Unfair Discrimination.—Any person, firm, copartnership or corporation engaged in the business of buying milk, cream or butter fat for the purpose of manufacture or sale, who shall discriminate between different sections, localities, communities, or cities of this State, by purchasing such commodity at a higher price or rate in one locality than is paid for the same commodity by said person, firm, copartnership, or corporation in another locality, after making due allowance for the difference, if any, in the quality of such commodity or commodities, and the actual cost of transportation from the locality of purchase to the locality of manufacture, shall be deemed guilty of unfair discrimination and upon conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than ten thousand dollars, or by imprisonment for not less than thirty days, nor more than

twelve months, in the county jail, or by both such fine and imprisonment for each offense. (Id. § 2630.)

51. Penalty For Violation of Law.—Except where otherwise provided, any person or persons violating any section of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars for each offense, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment. (Id. § 2631.)

52. Adulterated Milk Prohibited.—No person, either by himself or by his servant or agent, or as the servant or agent of another person, shall sell, exchange, or deliver, expose or offer for sale or exchange adulterated milk, or milk to which water or any foreign substance has been added, milk produced from cows which have been fed on fermenting refuse from distilleries, breweries, or sugar factories or stable bedding or barnyard refuse, provided that fermenting pulp fed in conjunction with ground alfalfa and syrup be excepted, or from sick or diseased cows, or as pure milk from which the cream or a part thereof has been removed, or milk collected or kept or handled under conditions which are not cleanly or sanitary, and which do not conform to the rules and regulations of the State Board of Health made in conformity with the provisions of this act, or milk containing less than eight and one-half per cent. of milk solids, exclusive of fat, and three and twenty-five hundredths per cent. of milk fat, or milk which contains any added color preservative, or as cream, milk containing less than twenty per cent of milk fat. (Pol. C. 1921, § 2580.)*

53. Butter, Cheese, and Milk Products.—No butter, cheese, or other milk product shall be sold or offered for sale in this State unless made from milk, the sale of which is not prohibited under the provisions of the preceding section; provided, that cheese made from skim milk may be sold as "skim cheese" when branded in bold-faced letters not less than one inch in height, plainly stating that said article of food is made from skim milk; and provided, further, that renovated butter or butter made by any other process than that of churning milk, salable under the provisions of the preceding section, shall be branded so as to plainly indicate the method of making such butter and the contents thereof, and to the entire satisfaction of the State Board of Health. (Id. § 2581.)*

54. Tuberculin Test of Cattle in Dairies.—The State Veterinarian, either in person or by his deputies, shall tuberculin test all cattle used in and about all dairies in the State of Montana, at least once during each calendar year; and all persons, firms or corporations conducting a dairy in this State shall file with the secretary of the State Board of Health a certificate for each cow hereafter added to his dairy, which certificate shall be signed by a veterinarian approved by the State Board of Health, and shall state that such cow has been tuberculin tested by him and found to be free from tuberculosis, and such certificate shall contain a description of such cow, which description shall be sufficiently complete to identify the cow; and any person, firm, or corporation using any cow in his dairy, or keeping any cow on his dairy premises, which has not been tuberculin tested and found free from tuberculosis shall be guilty of a misdemeanor, and shall be deemed guilty of selling milk from diseased cows. For the purpose of this act any person shall be deemed as conducting a dairy who offers for sale any milk or cream, or who sells milk or cream to any butter factory, creamery, or other place where milk or milk products are manufactured or sold. (Id. § 2583.)*

55. Licenses For Producers of Dairy Products.—It shall be unlawful for any persons, firm or corporation to conduct any dairy or milk plant, condensed milk factory, powdered milk factory, where either whole or skimmed milk is used for purposes of manufacture into powdered milk within the State of Montana, without first securing a license issued by the Live Stock Sanitary Board, which license shall expire on the last day of December of the current year in which it is issued; provided, also, that said license may be revoked at any time by the Live Stock Sanitary Board or State veterinary surgeon when they, or he, shall determine that the person to whom a license is issued has failed to comply with the rules and regulations of the Live Stock Sanitary Board or failed to conduct such an establishment in a sanitary manner. All license fees collected under the terms of this section shall be paid into the general fund. The following schedule of license fees shall be charged for all licenses issued under the provisions of this section by the Live Stock Sanitary Board;

Dairies of twenty cows or less, selling milk or cream or both, shall pay an annual license fee of one dollar.

Dairies of over twenty cows, selling milk or cream, shall pay an annual license fee of two dollars and fifty cents.

*For penalty see No. 10

Milk plants shall pay an annual license fee of ten dollars.

Condensed milk factories or powdered milk factories having an output of less than 500,000 pounds shall pay an annual license fee of five dollars.

Condensed milk factories or powdered milk factories having an output of more than 500,000 pounds, shall pay an annual license fee of twenty-five dollars. (Pol. C. 1921, § 3282, as amended L. 1923, c. 35.)

56. Exceptions of Certain Producers of Meats and Dairy Products.—On and after the passage and approval and effective date of this act, the owners or operators of slaughterhouses, packing houses, meat depots, dairies, creameries, butter factories, cheese factories, or other places of business engaged in the production, storage or transportation of meats, meat foods, or dairy products, shall not be required to procure a license from the State Board of Health, in so far as the business of production, storage or transportation of such food products are concerned, but nothing in this act contained shall be construed to limit or conflict with the supervision or regulation of the sanitary condition of any restaurant, hotel, boarding house, or retail market, or the products sold or offered for sale thereat, by the State Board of Health, nor shall this act be construed to limit or conflict with the duties imposed by law on the State Board of Health to make and enforce sanitary regulations for the eradication or control of any epidemic of human disease which may exist in any community. (Pol. C. 1921, § 3283.)

57. Penalty For Violation of Act.—Any person, persons, firm, or corporation violating any provision of this act, or the rule, regulation, or order promulgated by authority of same, shall be guilty of a misdemeanor; violations of this act shall be tried without undue delay in any court of competent jurisdiction. (Id. § 3288.)

58. Same; Civil Liability.—Any person, or persons, firm, or corporation, violating any of the provisions of this act or regulations or orders of the Live Stock Sanitary Board (or State Veterinary Surgeon), shall be liable for all damages which may be sustained by any person or persons by reason of such act or acts, which damages may be recovered by such person or persons in a civil action in any court of competent jurisdiction. (Id. § 3289.)

58a. Pasteurization Defined.—The process of pasteurization as applied to milk, skim milk, cream and other milk products, is hereby defined to be a process for the elimination therefrom of organisms harmful to human beings, which process shall consist of one of three following methods.

1. Uniformly heating such milk, skim milk or cream, as the case may be, and holding the same at a minimum temperature of 145 degrees Fahrenheit for a period of not less than thirty minutes or more than one hour.

2. Heating such milk, skim milk or cream, and holding the same at a minimum temperature of one hundred seventy degrees Fahrenheit, for a period of not less than ten minutes.

3. The flash method which consists of heating such milk, skim milk or cream to a temperature of at least one hundred eighty-five degrees Fahrenheit. (Act of Mar. 9, 1927, § 1.)*

58b. Same; "Creamery" Defined.—Within the State of Montana all milk or cream used in a creamery for the purpose of being made into butter for sale or other commercial purposes, shall be pasteurized by one of the three methods required in this act. A creamery shall be defined as a place where the milk or cream from three or more herds of cows, owned and kept independently of one another, is used for making into butter for sale or other commercial purposes. (Id. § 2.)*

58c. Method of Pasteurization.—Within the State of Montana all milk or cream used in the manufacture of ice cream made for sale, shall be pasteurized before being made into such ice cream and all butter used in the manufacture of ice cream made for sale, shall be made from pasteurized materials. The methods of pasteurization employed shall be one of the three methods required in this act.

It is provided, however, that ice cream may be made without pasteurization and sold, when all milk or cream used in its manufacture is from cows that have been tuberculin tested within one year preceding the date of such manufacture and found to be non-reacting and when all other requirements of the laws of the State of Montana have been complied with. That in each and all places, within the State of Montana, where ice cream is sold, and the provisions of this act have been complied with, a notice issued under the authority of the Division of Farming and Dairying of the State Department of Agriculture, Labor and Industry and countersigned by the chief of said Division of Farming and Dairying, shall be posted in a conspicuous place, informing the public that the ice cream sold or offered for sale

*In effect July 1, 1927.

there is made from pasteurized materials, or from milk or cream from tuberculin tested and non-reacting cows, as the case may be. (Id. § 3.)*

58d. Apparatus.—All apparatus used for the pasteurization of milk, skim milk or cream shall be kept in strictly clean and sanitary conditions and every pasteurizing plant shall be equipped with sufficient recording thermometer devices to accurately record the temperature to which, and the length of time for which the pasteurized product has been heated. All recording thermometer devices used in the pasteurization of any milk, skim milk or cream must be approved by and at all times subject to the approval of the Department of Agriculture, Labor and Industry of the State of Montana. Any person firm or corporation using pasteurizing apparatus within the State of Montana shall date, preserve and keep on file for a period of not less than two months after the same are made, all records made by such thermometer, or in lieu of such preservation may deliver such records to any public officer authorized by law or ordinance to receive the same, and said records shall, at all times, be open to the inspection of said Department of Agriculture, Labor and Industry, State Board of Health, Live Stock Sanitary Board, and of all other State, county and municipal officers charged with the enforcement of laws and ordinances respecting dairy products or the public health. (Id. § 4.)*

58e. Labeling.—It shall be unlawful for any person, firm or corporation by himself or itself, or by his or its servant, agent or employee, to sell, offer for sale, or exchange, or have in his or its possession for sale or exchange, any milk, skim milk, cream, butter, or ice cream, in any container or package, marked, labeled or in any other way designating the contents thereof as "pasteurized," unless the same has been treated by such a process of pasteurization as is required by the laws of the State of Montana, or have been made from pasteurized materials. (Id. § 5.)*

58f. Penalty.—Any person, firm or corporation who either directly or indirectly, or by his or its servant, agent or employee, shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than two hundred dollars (\$200.00) or by imprisonment in the county jail for not less than ten days nor more than sixty days, or by both such fine and imprisonment. (Id. § 6.)*

58g. Conflicting Acts Repealed.—All acts and parts of acts in conflict herewith are hereby repealed. (Id. § 7.)*

59. Division of Farming and Dairying; Powers and Duties.—The Department of Agriculture, Labor and Industry through the division of farming and dairying shall have general regulation of the industry of dairying in the State of Montana save and except the sanitary inspection of dairies, milk plants, condensed milk factories, and powdered milk factories. The regulation and sanitary inspection of all creameries, butter and cheese factories, ice cream factories and cream receiving stations, shall be the duty of the State Department of Agriculture, Labor and Industry. The sanitary inspection of dairies, milk plants, condensed milk factories and powdered milk factories, shall be administered by the State Live Stock Sanitary Board.

It shall be the duty of the Department of Agriculture, Labor and Industry to enforce the laws regulating the standards of all dairy products, except whole milk, skimmed milk, condensed or evaporated milk and powdered milk, whether made from whole milk or skimmed milk. The regulation of the standards of whole milk, skimmed milk, evaporated or condensed milk, and powdered milk as mentioned herewith, shall be the duty of the Live Stock Sanitary Board. For the purpose of this act, the following definitions shall be adopted:

Butter is the clean, non-rancid product made by gathering in any manner the fat of fresh ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt, and contains not less than eighty per cent. (80%) of milk fat and not more than fifteen per cent. (15%) water. Butter may also contain added coloring matter.

Renovated butter or process butter is the product made by melting butter and reworking, without the addition or use of chemicals, or any substance except whole milk, cream or salt, and contains not more than sixteen per cent. (16%) of water and at least eighty per cent. (80%) of milk fat.

Cheese is the sound, solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning and contains, in the water-free substance, not less than fifty per cent (50%) of milk fat. Cheese may also contain added coloring matter.

Skimmed milk cheese is the sound, solid, and ripened product made from skim milk by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning.

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(a) Ice cream is a frozen product made from pure cream and sugar, with or without a natural flavoring and pure gelatine, and contains not less than ten per cent (10%) of milk fat.

(b) Fruit ice cream is a frozen product made from cream, sugar, and sound, clean, mature fruits, and contains not less than nine per cent (9%) of milk fat.

(c) Nut ice cream is a frozen product made from cream, sugar and sound, non-rancid nuts and contains not less than nine per cent (9%) of milk fat.

(d) All ice creams shall contain not less than thirty-three per cent (33%) of total solids and shall not contain to exceed one per cent (1%) of gelatine.

It shall be the duty of the Department of Agriculture, Labor and Industry, to provide suitable means for the taking of samples of dairy products and of all imitations thereof suspected of being made or sold in violation of the law, and to analyze or test the same and the Commissioner of Agriculture may require the State Chemist to test and analyze said samples. When samples of dairy products are taken in accordance with any of the provisions of the laws of Montana the agent taking the same, must pay, or offer to pay for them at their full value. If payment is accepted the agent must obtain a receipt from the person or persons from whom the samples are obtained. The records of such samples and their analysis and test when identified as to the samples by the oath of the officer taking the same, and verified as to the sample by the oath of the officer taking the same, and verified as to the analysis or test, by the oath of such chemist making the same, shall be prima facie evidence of the facts therein set forth, when offered in evidence in any prosecution or action at law or in equity for violation of the provisions of this act, or any rule, regulation or order of said Department of Agriculture, Labor and Industry, made in pursuance to this act.

It shall be the duty of the Department of Agriculture, Labor and Industry to compile and publish statistics concerning all phases of the dairy industry in the State, and to encourage and advertise said industry in every possible manner; to carry on a campaign of education in conjunction with the extension work of the College of Agriculture and Mechanic Arts of Montana for the purpose of encouraging interest in the dairy industry and of furnishing scientific and practical information concerning same. (Pol. C. 1921, § 3568, as amended L. 1923, c. 35.)

60. Registry of Location of Dairy Product Factories.—It shall be the duty of every cheese factory, creamery, butter factory, skimming station or cream buying station in the State, where milk or cream is purchased or contributed by three or more persons for the purpose of manufacture into butter, cheese, cottage cheese or ice cream, or for shipment to any place or places where said milk or cream may be made into the dairy products named herewith, to register the location of such cheese factory, creamery, butter factory, skimming station or cream buying station, and the name of its owner or manager, with the Commissioner of Agriculture on or before the first day of April of each year. Before the organization of any new factory notice shall be given at once to said Commissioner of Agriculture.

It shall be unlawful for any person, firm or corporation to conduct any creamery, milk or cream receiving station, butter factory, cheese factory, or ice cream factory, without first securing a license from the State Department of Agriculture, Labor and Industry, to operate the same. Such license shall expire on the last day of December of the current year in which it is issued; provided, however, that said license may be revoked by the Commissioner of Agriculture whenever the holder thereof shall fail to comply with the laws of the State of Montana or to conduct such establishment in an orderly or sanitary manner. It is further provided that all licenses which have been issued by the Live Stock Sanitary Board to creameries, milk or cream receiving stations, butter factories, cheese factories or ice cream factories, shall remain in full force and effect for the full period for which they were issued, unless revoked by the Commissioner of Agriculture, Labor and Industry, for failure to comply with the laws of the State of Montana, or to conduct their business in a sanitary or orderly manner.

The following schedule of license fees shall be charged for all licenses issued by the Department of Agriculture, Labor and Industry, under the provisions of this act.

Cream buying and shipping stations, \$5.00.

Creameries and cheese factories making less than 100,000 pounds, \$5.00.

Those making more than 100,000 and less than 200,000 pounds, \$10.00.

Those making more than 200,000 and less than 300,000 pounds, \$15.00.

Those making more than 300,000 and less than 400,000 pounds, \$20.00.

Those making more than 400,000 and less than 500,000 pounds, \$25.00.

Those making more than 500,000 and less than 600,000 pounds, \$30.00.

Those making more than 600,000 and less than 700,000 pounds, \$35.00.

Those making more than 700,000 and less than 800,000 pounds, \$40.00.

There [those] making more than 800,000 and less than 900,000 pounds, \$45.00.

Those making more than 900,000 pounds, \$50.00.

Ice cream factories making less than 10,000 gallons, \$5.00.

Those making 10,000 gallons and less than 20,000 gallons, \$10.00.

Those making 20,000 gallons and less than 30,000 gallons, \$15.00.

Those making 30,000 gallons and less than 40,000 gallons, \$20.00.

Those making 40,000 gallons or over, \$25.00.

For the purpose of this act the following definitions shall be adopted:

A creamery shall be defined as a place where the milk or cream furnished by three or more persons, selling the same independently of each other, is used for manufacture into butter for commercial purposes.

A cheese factory shall be defined as a place where milk furnished by three or more persons, each selling the same independently of the others, is made into cheese for commercial purposes.

An ice cream factory shall be defined as any place where ice cream is made for sale, where the minimum output is 200 gallons per annum, or where it is made for thirty days or more in each year.

It shall likewise be the duty of each and all of the establishments in this section named to render to the Commissioner of Agriculture, within the first three days after the last day of each quarterly period, a full report of the amount of butter, cheese, ice cream or other dairy products handled or manufactured during the preceding three months. The first quarter of any year shall begin with the first day of the year. (Id. § 3569.)

61. Babcock Test; Regulation of Use; Fee.—The Babcock test is hereby adopted as the official dairy test for use in the State of Montana.

Any person operating the Babcock test in any creamery or cheese factory, or other place where milk or cream is bought and paid for on the basis of its fat content, shall be required to pass such examination as the Commissioner of Agriculture shall prescribe, upon successful completion of which examination he shall receive a certificate signed by said commissioner, or his authorized agent, stating his competency to operate said test.

A fee of two dollars shall be paid to the commissioner by the applicant for said certificate. Said money shall be turned in by said commissioner to the State Treasurer for the use and benefit of the general fund of the State.

The following is the method which shall be adopted as the standard for the operation of the Babcock test for the State of Montana and shall be used by persons, firms, or corporations paying for milk or cream on the basis of the butter fat content of such commodity or commodities.

The milk from which the sample to be tested is taken shall be thoroughly mixed by pouring from one vessel to another three times and by stirring with an instrument suitably [suitable] for the purpose. The sample to be tested shall consist of eighteen grams by weight, or seventeen and six-tenths cubic centimeters, as measured in a standard pipette. The standard strength of the acid used for all testing of milk or cream shall be indicated by the specific gravity, which shall be not less than one and eighty-two hundredths, nor more than one and eighty-three hundredths, as determined by a standard hydrometer. After properly mixing the sample of milk and acid, in the test bottle, centrifuging shall be for periods of five minutes, two minutes, and one minute. After the first period of centrifuging, water shall be added, sufficient to fill the test bottle up to the base of the neck and after the second centrifuging, water shall be added sufficient to raise the fat in the neck of the test bottle to near the top of the graduation. The water used to fill the test bottles shall be at a temperature of one hundred and forty degrees Fahrenheit or more. After the last period of centrifuging, the test bottles shall be immersed in a bath prepared for the purpose, which shall consist of water at not less than one hundred and thirty-five degrees nor more than one hundred and forty degrees Fahrenheit, and they shall remain immersed for at least ten minutes and the temperature of the bath shall be kept between the temperatures before named for the full period of immersion. The test shall be read immediately after the test bottles are taken from the bath. Dividers shall be used to determine the length of the fat column in the neck of the test bottles.

The reading shall be from the bottom of the lower meniscus to the top of the upper meniscus of the fat column.

The method of testing cream shall be the same as for milk, except that all samples of cream tested shall be eighteen grams by weight, and the reading of the fat column in the neck of the test bottle shall be from the bottom of the lower meniscus to the bottom of the upper meniscus. If glymol is used to destroy the

upper meniscus, the reading shall be from the bottom of the lower meniscus to the bottom of the glymol on the top of the fat column.

If the operator prefers, he may use the alternate method of testing cream, hereinafter described. Before taking the samples of cream for testing, the whole body of cream shall be thoroughly mixed, as by the preceding method. All samples of cream taken for testing shall be homogenous samples of the whole body of cream from which they are taken and shall be eighteen grams by weight. After properly mixing the acid and sample of cream to be tested, the test bottle shall be filled to the base of the neck with water at a temperature of not less than one hundred and eighty degrees Fahrenheit, placed immediately in the testing machine and centrifuged for not less than five minutes. The test bottle shall then be filled to near the top of the graduation with water, at one hundred and eighty degrees Fahrenheit, replaced in the machine and centrifuged for two minutes or more. The water bath shall then be used and the reading made in the same way as in the preceding method. A standard thermometer shall be used for determining temperatures in making the Babcock test.

All test bottles, pipettes and other glassware used in connection with the Babcock test, where the fat forms a basis for the payment of the product, shall be handled and calibrated by the Commissioner of Agriculture or his deputies, as often as the commissioner may prescribe, such testing or calibrating to be done on the premises where such glassware is used. All bottles used for the purpose of making the Babcock test shall be standard bottles, and shall be designated as such by the word "standard" stamped thereon. All glassware found to be not standard in capacity shall be seized and destroyed by the Commissioner of Agriculture or his authorized agent.

No owner, manager, agent or employee of a cheese factory, creamery, or other place where the fat content of milk or cream is determined by test, shall falsely manipulate or under-read or over-read the Babcock test or any other contrivance used for determining the quality of milk or cream or make any false determination of the said Babcock test or other test.

Any person, firm or corporation, who shall operate a buying or collecting station, where milk or cream is bought or collected for the purpose of shipment to some other place, or to be sold or transferred to any creamery or any other manufacturing plant for the purpose of being made into butter or other dairy products, shall first secure a license from the State Department of Agriculture, Labor and Industry to operate such station. Upon and after the first day of May, 1923, all stations within the State of Montana where cream or milk is bought, or collected, for shipment or sale, shall have the following requirements:

The location shall be on well drained ground at least fifty feet from any outside contaminating influence. If within a building where any other business is conducted, it shall be separated from the other rooms of the building by a tight wall or walls, and if there is an opening for passage between the room used as the station and the rest of the building, there shall be two doors, one at each end of a vestibule or entry which shall be at least six feet in length. The doors shall be of wood, or wood and glass, and sufficient to keep all odors or dust from entering the station from any other part of the building. No station for the purpose of purchasing, storing or handling milk or cream shall be situated inside of, nor within fifty feet of any blacksmith shop, garage, grain elevator, livery stable, or any other building, corral, hog-pen, or other place which can be denominated a contaminating influence; nor shall any oil, gasoline or any other liquid or substance of a contaminating nature be kept within fifty feet of such station. The room used shall not be used for any purpose other than a milk or cream receiving station and shall at no time contain anything except the milk or cream received there, the cans or other receptacles in which it is shipped, and such furniture and equipment as may be necessary to efficiently conduct the business of such station. No gasoline engine shall be used or kept inside the room where the milk or cream is stored or kept. The engine or boiler shall be kept in a room partitioned off from the room where the milk or cream is kept or stored. A sanitary sink or tank with suitable drain shall be provided in which to wash cans and other utensils used in conducting the business of the station; and a waste jar in which to empty the contents of the test bottles after the testing has been completed shall also be used. Dogs, cats, or other pet animals, shall not be permitted to enter the room where the milk or cream is stored, and pieces of screens secured by hoops, or other devices, shall be used on the top of the cans containing milk or cream while in storage, to prevent mice, insects or dirt from falling in. The floor of the room where the milk or cream is kept or stored shall be of cement or concrete, with a drain which shall be connected with a sewer, or with a pipe which shall convey the waste water under ground to a point not less

than fifty feet from the station. It shall be provided with windows containing at least twenty square feet of glass for each one hundred square feet of floor space. Between May first and November first, of each year, screen doors shall be provided and in use on all outside doorways, and during that time, screens shall be on all windows in the room. There shall be provided a cooling tank, large enough to hold all of the cream or milk received or stored, and in which there shall be at all times an amount of cold running water, or ice water, sufficient to thoroughly cool all milk or cream stored there. There shall be provided a steam boiler large enough to furnish sufficient steam to thoroughly sterilize cans, or a stove or other heating plant equipped with a tank, the minimum capacity of which shall be ten gallons, to supply sufficient boiling water to thoroughly scald the same; and all cans in which milk or cream is received, shall be thoroughly washed in clean water with a sterilizing or cleansing powder added, and either sterilized with live steam or scalded with boiling water before being returned to the patron. A rack shall be provided on which cans not immediately returned to the patron shall be inverted for the purpose of drying and airing, after being sterilized by steaming and scalding.

Acting upon the report of an inspector employed by the State Department of Agriculture, Labor and Industry, the Commissioner of Agriculture, or his authorized agent, may order any creamery, cheese factory, or cream station found to be not kept in a sanitary condition, to be closed; and it shall be closed forthwith and kept closed until such time as an inspector employed by the State Department of Agriculture, Labor and Industry shall report that the sanitary conditions of such creamery, cheese factory, or cream station, are satisfactory. Any person or persons operating any creamery, cheese factory, or cream station, before receiving notice from the Commissioner of Agriculture or his authorized agent to open the same, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars, or by imprisonment in the county jail for not less than ten days, nor more than thirty days, or by both such fine and imprisonment. In addition to such fine and imprisonment, any person or persons operating any creamery, cheese factory or cream station after receiving notice from the Commissioner of Agriculture, or his authorized agent, to close the same and before receiving notice from the Commissioner of Agriculture, or his authorized agent, permitting opening of the same, shall pay an additional fine of twenty-five dollars for each day such creamery, cheese factory or cream station is illegally operated. The Commissioner of Agriculture or any of his authorized agents shall have the right to enter any creamery, factory, building, store, receiving station, railroad depot, express office or other place where dairy products, or substitutes therefor, are manufactured, sold or kept in storage or while in transit from one place to another, for the purpose of inspection of such dairy products or substitutes for the same, to obtain samples of the same for testing or analysis. It is expressly provided that such products shall include all butter, cheese, ice cream and other dairy products, all substitutes for dairy products and all substances made in imitation of the same, except whole milk, skimmed milk, evaporated or condensed milk or powdered milk, or any product of which the word "milk" either alone or in connection with any other word or words is used to designate the same, or any liquid or substances made or sold or offered for sale as a substitute for, or made in imitation of the same.

Whosoever shall refuse to allow the inspection herein provided for, or shall in any way hinder or obstruct the officers of the State Department of Agriculture, Labor and Industry in the proper performance of their duties as described in the provisions of this act, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars or by imprisonment in the county jail for not less than ten days, nor more than thirty days, or by both such fine and imprisonment. (Id. § 3570.)

62. Standards of Measure For Dairy Products.—The standard measure of capacity for milk shall be the gallon containing two hundred thirty-one cubic inches, the half gallon shall contain one hundred fifteen and five-tenths cubic inches, and the quart one-fourth as much as the gallon, and the pint one-half as much as the quart.

The standard measure for the sale of butter and cheese in the State of Montana shall be sixteen ounces (avoirdupois weight) to the pound, when wrapped or put in container, exclusive of the wrapper or container. Where weight and measure are stated in pounds or ounces, they shall be exclusive of the wrapper or other container, and each pound shall contain sixteen ounces, each ounce four hundred and thirty-seven and one-half grains. All packages of butter weighing less than sixteen ounces avoirdupois, shall be of a net weight which is a binary sub-multiple of sixteen ounces, which is eight ounces, four ounces, or two ounces. Any person,

persons, firm or corporation, selling or offering for sale, any article of dairy products as a pound, or any multiple thereof, the net weight of which is less than sixteen ounces, or the proper multiple thereof, to represent the number of pounds sold or offered for sale, shall be guilty of a misdemeanor; provided, a reasonable variance be permitted, and that tolerance shall be established by rules and regulations made by the Commissioner of Agriculture, in accordance with the provisions of this act.

Butter sold in the State of Montana whether manufactured on a farm or in a creamery, must have the maker's name clearly written or printed in a conspicuous place on the outside of the package in which it is sold, and upon each pound package of butter so sold or offered for sale the words "net weight sixteen ounces" or "net weight one pound" shall appear. (Id. § 3571.)

63. Sanitary Regulation of Dairy Products.—All milk, butter, cheese, condensed milk, ice cream, or any dairy products shipped into Montana for sale or use, must be produced under the same sanitary regulations and requirements as are required for the production of such products in the State of Montana. The Commissioner of Agriculture shall have authority to require a sworn statement relative to the sanitary production of milk and other dairy products shipped into Montana, but produced outside of the State of Montana, and if such products are not produced under similar sanitary regulations and statutes, as required for the production of such products within the State of Montana, they shall not be sold, given away, traded, or used in the State of Montana. (Pol. C. 1921, § 3572.)

64. Oleomargarine.—Every person who manufactures for sale, or offers or exposes for sale, or has in his possession with intent to sell any article or substance in resemblance of butter or cheese, not the legitimate product of the dairy, and not made exclusively of milk or cream, or into which the oil or fat of animals not produced from milk enters as a component part, or into which the oil or fat of animals not produced from milk has been introduced to take the place of cream, must distinctly stamp, brand, or mark in some conspicuous place upon every firkin, tub, or package of such article or substance, in plain letters not less than one-fourth inch square each, the word "oleomargarine," or the words "imitation cheese," as the case may be; and in the retail sale of such article or substance, in parcels or otherwise, the seller must deliver to the purchaser therewith a printed label, bearing the plainly printed words "oleomargarine" or "imitation cheese," plainly marked as aforesaid. (Pen. C. 1921, § 11248.)

65. Same.—Every person dealing in the article or substance described in the next preceding section, and every hotel, restaurant, or boarding-house keeper using such article or substance in his business must continuously and conspicuously keep posted up in not less than three exposed positions, in and about his place of business, a printed notice in the following words: "oleomargarine" or "imitation cheese" "sold (or used) here," which notice must be plainly printed with letters not less than two inches square each, and must, upon the furnishing the article or substance to his customers or guests, if inquiry is made, distinctly inform each of them that the article furnished is not butter or cheese, the genuine product of the dairy, but is oleomargarine or imitation cheese. (Id. § 11249.)

66. Penalty.—Every person and every officer or agent of any corporation who violates any of the provisions of the last two preceding sections is punishable by imprisonment in the county jail not exceeding one month, or by fine not exceeding one hundred dollars. (Id. § 11250.)

67. Advertisement Limitations.—It shall be unlawful for any person, firm, or corporation, within the State of Montana, to use in connection or association with the sale, advertisement, or exposure for sale, of oleomargarine or any other substance intended to be used as a substitute for butter, made wholly or in part from animal or vegetable fats other than the fat of pure milk or cream, the words, "dairy," "creamery," "butter," "cream," or any picture of a cow or cows, or the name of any of the breeds of cattle. (L. 1925, c. 187, § 1.)

68. Violations and Penalty Therefor.—Any person, firm, or corporation, or any agent of either, violating any of the provisions of this act, shall be deemed guilty of a misdemeanor and be punished by a fine of not less than \$50.00 (fifty dollars), nor more than \$500.00 (five hundred dollars), or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 2.)

69. Cleansing and Returning to Owners of Containers.—Every company, firm, corporation or person delivering milk, cream or ice cream to any other company, firm, corporation or person, in cans or other vessels, shall have such cans or vessels at all times free from any deleterious substance, filth or rust, and in a clean and wholesome condition for containing such milk, cream or ice cream.

Every company, firm, corporation or person receiving milk, cream or ice cream at the place of final destination in cans or vessels which are to be returned to the sender or seller, shall cause such cans or vessels to be thoroughly cleansed and immediately returned after being emptied. The term "final destination" as used in this act shall include both the final consignee of any milk, cream or ice cream, and also any receiving station or other agent or handler by whom such milk, cream or ice cream is transferred from the original containers thereof. (L. 1925, c. 153, § 1.)

70. Penalties.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and be punished by a fine of not less than \$10.00 (ten dollars), nor more than \$50.00 (fifty dollars). (Id. § 2.)

71. Revoking of License to Make Babcock Test.—The Commissioner of Agriculture, Labor and Industry is hereby authorized and empowered to revoke the license of any person licensed to make a Babcock test of milk or cream under the laws of the State of Montana, who shall fail to fully comply with the provisions of said law or with any of the rules and regulations of the Department of Agriculture, Labor and Industry relating to said Babcock test. (L. 1925, c. 165, § 1.)

72. Representative Samples; What Constitute; Marked or Labeled; Protected From Heat and Cold; Kept, How Long; How Opened.—All persons, firms or corporations in the State of Montana purchasing milk or cream for manufacture, sale or shipment, and paying for the same on the basis of the butter fat contained therein, as determined by the Babcock test, shall take, or cause to be taken, in such places where the said milk or cream is purchased or tested, a representative sample of all such milk or cream, and if any be left on hand after a shipment is made, a representative sample of this shall likewise be taken. Such sample shall be not less than two ounces avoirdupois in weight and shall be immediately transferred to a clean and dry sample jar and properly sealed to prevent evaporation and the escape of any of the contents thereof. All samples of milk or cream so taken shall be plainly marked or labeled and such mark or label shall be entered upon the records of the purchaser to correspond with the name of the person, or persons, from whom such purchase was made, together with the weight of the milk or cream, if any, which is left on hand after shipment is made. Said samples shall then be protected from extremes of heat and cold and held until 5:00 P. M. of the following day, except that all such samples taken on a day preceding a holiday shall be held until 5:00 P. M. of the next day following such holiday. During the period above mentioned that said samples are held, they shall be opened only in the presence of the Commissioner of Agriculture, Labor and Industry, or his authorized agent. (L. 1925, c. 166, § 1.)

73. Unlawful to Sell Substitutes for Dairy Products Without License; Violation and Penalty Therefor.—It shall be unlawful for any person, firm or corporation, by himself, his, or its servant or agent, to sell, exchange, offer for sale or have in possession with intent to sell or offer for sale or exchange any oleomargarine, imitation or filled cheese, or any substitute for any dairy product made from milk or cream, without first securing a license from the State Department of Agriculture, Labor and Industry, to conduct such sale or exchange. The fee for such license shall be \$250.00 (two hundred fifty dollars) for a license to sell at wholesale and \$75.00 (seventy-five dollars) for a license to sell at retail. Said amount or amounts shall be paid at the beginning of each quarter of the calendar year, or at the time when application for license is made, and a license shall be issued to cover the following quarterly period or such part of it as remains at the time such license is issued. Such license shall be posted in a conspicuous place in each store or place of business for the inspection of the public and may be revoked by the Commissioner of Agriculture, Labor and Industry for failure of the holder thereof to comply with the laws of the State of Montana. Whenever any person, firm or corporation, by himself, his or its servant or agent or as the agent or servant of another, conducts such sale or exchange in more than one place of business, a separate license shall be obtained for each place of business and a separate fee shall be paid for each such license.

Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor and punished by a fine of not less than \$100.00 (one hundred dollars) and no more than \$500.00 (five hundred dollars), or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment. (L. 1925, c. 188, § 1, as amended Act of Feb. 10, 1927.)

73a. Oleomargarine; Cigarettes; Warehouses.—Every person, company, or corporation selling oleomargarine, butterine, or imitation cheese, shall pay a license of one cent per pound for all these articles sold.

Every person, or persons, who is engaged in the business of selling cigarettes, cigarette paper, or the material used in the making of cigarettes, except tobacco, shall pay a license of twenty-five dollars per annum.

Each railway company acting in the capacity of a warehouse for the purpose of storing and distributing goods, except any other than the capacity of common carriers, shall pay a license of ten dollars per quarter in each county in which said business may be carried on. (Pol. C. 1921, § 2435.)

73b. Penalty for Failure to Procure License.—Every person who commences or carries on a business, trade, profession, or calling, for the transaction or carrying on of which a license is required by the provisions of any of the license laws of the State of Montana, without taking out or procuring such license is guilty of a misdemeanor, and shall, unless specific punishment is prescribed by some other law of this State, be punishable as in the case of other misdemeanors and in addition thereto shall be liable to a penalty of ten per cent of the amount of said license which said penalty must be added to the amount of said license and collected by the county treasurer at the time of the collection of the license, but the payment of said penalty shall in no event relieve any person from prosecution for such misdemeanor. (Id. § 2443.)

NOTE: See also Nos. 6, 23b et seq., 92 et seq., and 261-262.

Eggs.

74. Sale of Bad Eggs.—It shall be unlawful for any person, persons, firm, or corporation to sell or offer for sale any eggs after the same have been placed in an incubator, or to sell or offer for sale to be used as food, knowingly, eggs in a rotten, decayed or decaying condition. (Pol. C. 1921, § 2585.)*

75. Regulation of Sale of Eggs.—It shall be unlawful for any person, persons, firm or corporation within this State to sell, or offer for sale, or have within his or their possession, with intent to sell, within this State, or ship within this State, or ship into this State for the purpose of sale, or in any manner dispose of, any eggs known as "yolk stuck to the shell," "heavy blood rings," "partly hatched," "mouldy eggs," "black spots," "black rots," "incubated eggs," and all other eggs unfit for food, unless the same are broken in the shell and then denatured, so as to render the same unfit for food. (Id. § 2634.)

76. Foreign Eggs; Regulation of Sale; Incubated Eggs Defined.—All eggs imported into the State of Montana from foreign countries shall be sold as such. The case or container in which they are shipped shall have the words "foreign eggs" displayed thereon in letters two inches high. All retailers of said eggs shall sell them from the container in which he received them and shall inform each purchaser that said eggs are foreign eggs. All restaurants, hotels, cafes, bakeries and confectioners using or serving foreign eggs must place a sign in letters not less than four inches in size in some conspicuous place where the consumer entering their place of business can see it, to read "we use foreign eggs." Incubated eggs shall include all eggs which have been subjected to incubation, whether natural or artificial, for more than forty-eight hours, and it shall be unlawful to expose or offer for sale or sell incubated eggs. (Id. § 2635.)

77. Definitions of Terms.—Unless the context otherwise requires, words and phrases employed in this act shall have the meanings hereinafter defined.

(a) "Storage" eggs mean all eggs which have been sold in cold storage.

(b) "Preserved" eggs mean all eggs in which the natural deterioration has been prevented or retarded by any means, process or treatment whatsoever.

(c) "Yolk stuck to the shell" means an egg in which the yolk has settled to one side and become fastened to the shell.

(d) "Heavy blood rings" means an egg in which the germ has developed to such a stage that blood is formed, and when this development stops the blood collects in a ring on the inside of the shell.

(e) "Partly hatched" eggs mean eggs in which the germ is developed to such an extent that the outline of the embryo chick can be detected.

(f) "Mouldy" eggs mean eggs which through improper care have deteriorated so that mould spores have formed within the eggs. Such eggs when broken usually have a mouldy or musty smell.

(g) "Black spots" mean eggs in which mould or bacteria have developed in isolated areas inside the shell.

(h) "Black rots" mean eggs which have been deteriorated to such an extent that the whole interior presents a darkened appearance.

(i) "A container" means any standard egg case, carton, can, basket, box, bag, or any other receptacle in which eggs are handled.

*For penalty, see No. 10.

(j) The word "person," as used in this act, shall mean and include individuals, and employees or agents of individuals, firms, and members of firms, and their employees and agents, corporations and officers of corporations, and their employees and agents.

(k) The term "candle" means the determination of the condition of any egg by holding it before a strong light in such a way that the rays of light will shine through the egg and reveal its contents to the operator. (Id. § 2636.)

78. Cold Storage and Preserved Eggs.—No person, firm, or corporation, by himself or his agents, shall sell, agree to sell, or advertise for sale, any cold storage or preserved eggs without making it known to the purchaser, or prospective purchaser, that the eggs are cold storage or preserved eggs, and all boxes or other receptacles in which cold storage or preserved eggs are displayed for sale, sold or delivered, in wholesale or retail, shall be marked or lettered in a conspicuous manner with the words "cold storage eggs" or "preserved eggs." (Id. § 2637.)

79. Candler of Eggs.—On and after June 1, 1921, every retail or wholesale merchant or any person buying or selling eggs within this State before offering any eggs for sale shall candle the same, and any eggs found to be unfit for food shall not be offered for sale for food purposes. (Id. § 2638.)

80. Penalty For Violation of Act; Disposal of fines.—Every person who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction for the first offense shall be punished by a fine of not less than twenty-five dollars nor more than seventy-five dollars, for the second offense, a fine of not less than fifty dollars nor more than two hundred dollars; for the third and subsequent offenses, by a fine of not less than one hundred dollars and imprisonment in the county jail for not less than thirty days nor more than ninety days. All fines collected for violations of this act shall be paid to the county treasurer of the proper county, who shall remit the same to the State Treasurer of the State of Montana, and said money shall be placed to the credit of the general fund, the same to become immediately available, and to be paid out upon the presentment of vouchers issued by the secretary of the State Board of Health; provided, also, the county health officer of counties and city health officer of cities shall enforce this act. (Id. § 2639.)

NOTE: See also Nos. 3 and 99-100.

Fish.

See Nos. 3 and 17-18.

Flavoring Extracts.

See No. 170.

Fruits, Vegetables, Etc.

81. Powers and Duties of Department.—The Department of Agriculture, Labor, and Industry shall have power and it shall be its duty: * * *

4. To establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products. * * * (Pol. C. 1921, § 3561.)

82. Destruction of Fruit Pests; Use of Crates.—For the purpose of preventing the spread of contagious disease among fruit and fruit trees, and for the prevention, treatment, cure and extirpation of fruit pests and diseases of fruit and fruit trees, and for the disinfection of grafts, scions, and orchard debris, empty fruit boxes or packages, or other suspected material or transportable articles dangerous to orchards, fruit and fruit trees, the Commissioner of Agriculture may prescribe regulation for the inspection, disinfection or destruction thereof, which regulation shall be circulated in printed form by the commissioner among fruit growers and fruit dealers of the State, and shall be published at least ten days in two newspapers of general circulation in the State, and shall be posted in three conspicuous places in each county in the State, one of which shall be at the county court house thereof. For further prevention of the spread of diseases dangerous to fruit and fruit trees, it shall be unlawful for any person or persons, dealer or dealers, to allow, or cause to be used a second time, any crate, box, barrel, package, or wrapping once having contained fruit or nursery stock, except that at the written request of a nurseryman, an inspector may permit boxes or packages having contained nursery stock to be thoroughly fumigated by him or in his presence, at the expense of the nurseryman, for which said inspector shall give a receipt and duly

mark the box or package; otherwise, the destruction of the same must be made in its entirety, and the finding of such crate, box, barrel, package or wrapping in possession of any person or persons, dealer or dealers, other than the consignee, shall be considered prima facie evidence of a violation of this act.

The Commissioner of Agriculture or his authorized representative is hereby authorized to seize and destroy by burning, without breaking, such crate, box, barrel, package or wrapping wherever found, and to prosecute said violator or violators. (Id. § 3610.)

NOTE: See also Nos. 17-18, 24 et seq., and 235 et seq.

Grain.

83. Establishment of Standard Grain Grades; Procedure.—The Commissioner of Agriculture shall fix and establish standard grades to apply to all grain bought or handled by public warehouses in this State. The Commissioner of Agriculture shall adopt as State grade standards all grades for grain now or hereafter established by the United States Department of Agriculture. Standards for grain, other than those fixed as above, shall be established by the Commissioner of Agriculture after due notice and public hearing, notice thereof to be given by publication in three newspapers of the State, at least ten days prior to such hearing.

Grade standards, or any alteration or modification of such standards which the Commissioner of Agriculture may establish, shall not become effective within thirty days after publication, except in the case of grades established by the United States Department of Agriculture, which shall become effective ten days after publication.

All interested persons desiring to be heard shall be permitted to give testimony, and such other witnesses may be subpoenaed as the Commissioner of Agriculture may deem necessary, which witnesses shall be entitled to the same fees and mileage as are provided for witnesses in civil actions, and shall be paid out of the fund created by the provisions of this act. Such grain standards shall not apply to grain contracted for previous to their disposition.

The Commissioner of Agriculture shall, after such hearing, make and issue reasonable rules and regulations governing the dockage which shall be made on inferior grades and in all executory contracts thereafter entered into; provided, that the same shall not conflict with the terms of the United States federal grain standard act. Where the price or amount to be paid therefor depends upon terminal weight or grade, such rules and regulations shall control the dockage in so far as the same affects the price to be paid, and such rules and regulations shall become part of the contract of sale. The Commissioner of Agriculture shall also make provisions for sample inspection of grain, make rules and regulations governing same and provide that such inspection when made shall be final.

The Commissioner of Agriculture shall have power to require, after personal notice of not less than thirty days served upon any warehouseman and a public hearing, cleaning apparatus to be established where none now exists to remove dockage and return of same to the owner, or its equivalent in value, less cleaning charges, which may be fixed by the Commissioner of Agriculture.

The Commissioner of Agriculture shall, during the grain-marketing season, appoint such deputy inspectors as they deem necessary to visit the grain-growing districts for the purpose of investigating grain grading, dockage, and weighing, and enforcing the rules and regulations laid down by the commissioner.

It shall be the duty of the Commissioner of Agriculture, immediately after the establishment of such grades, and the promulgation of rules and regulations fixing dockage, as herein provided, to supply all public warehousemen, which the records of his office show are then or thereafter engaged in operating such warehouses, with a copy of such grades, rules, and regulations. It shall be the duty of every public warehouseman to keep such copy on file in a convenient place in every such warehouse, and if an office is maintained in connection with such warehouse, a copy of such grades, rules and regulations shall be kept on file in such office, and a placard notice posted in a conspicuous place in every such warehouse and such office, reading as follows: "A copy of Montana grades, rules and regulations is on file here for information of interested parties."

Every such warehouseman shall exhibit such copy of grades, rules, and regulations to any interested party applying therefor at any such warehouse or office, and permit such interested party to examine and consult such copy. (Pol. C. 1921, § 3580.)

NOTE: See also No. 23b et seq.

Meat—Meat Products.

84. Definitions.—Every person, firm, corporation or association who, at a fixed location, slaughters or causes to be slaughtered neat cattle for the purpose of selling or distributing any of the meat or by-products of such cattle in this State, or who at a fixed place of business deals in or sells dressed meats, shall for the purpose of this act be designated as a "butcher." Every other person, firm, corporation or association who slaughters or causes to be slaughtered any neat cattle, or who deals in the selling of dressed meats elsewhere than at a fixed place of business, shall for the purpose of this act be deemed a "meat peddler." (Act of Mar. 9, 1927, § 1.)

85. License From County Treasurer to Sell Meat; Exception.—Every butcher shall pay to the county treasurer of each county wherein such butcher sells or distributes any meat or by-products of neat cattle, an annual license of five dollars, payable in advance in the month of January of each year. Every meat peddler shall pay to the county treasurer of each county wherein such peddler sells or distributes any meat or by-products of neat cattle, an annual license of one hundred dollars. This section shall not apply to the sale of meat by any person, firm, corporation or association who may slaughter or cause to be slaughtered any neat cattle of his own raising. The moneys collected from said license fees shall be placed in the general fund of the county to which they are paid. (Id. § 2.)

86. Hides to be Inspected, Etc.—All butchers and meat peddlers shall have the hide in its entirety with ears and tail attached of each beef inspected by a live stock inspector or deputy, or by a sheriff or his deputy, or by any person designated by the board of county commissioners, who shall mark said hide or hides by a hole at least one inch square near the root of the tail, before the beef is peddled, sold or offered for sale by said butcher or peddler, and, upon demand, must produce such hide or inspection certificate as hereinafter provided. The hide shall also be stamped in at least one place on the flesh side with an indelible stamp to be provided by the county, the form of which shall be specified by the Live Stock Commission, which shall correspond to the stamps on the carcass. Each of the four (4) quarters so presented shall also be stamped with an indelible stamp which shall correspond to the stamp on the hide as hereinbefore provided. Said inspector, or sheriff, or authorized inspector, shall keep a record and issue a certificate of inspection on a form provided by the county, which form shall be specified by the Live Stock Commission, giving the peddler's or butcher's names, place of residence, the number of the stamp, the brand or brands on the hide or hides, the date of inspection, and the place where such inspection was made, and the officer making such inspection, shall forward a copy of all inspections made on or before the first day of each month to the secretary of the Live Stock Commission and to the county clerk of his county, which said record of inspection shall be placed on file in the offices aforesaid. When ownership is claimed by a bill of sale, the officer making the inspection shall demand and secure the original bill of sale, which shall be attached to the inspector's report submitted to the Live Stock Commission. When such bills of sale cover cattle not included in the inspection, the inspector shall issue to the holder his receipt, describing the balance of the cattle covered by the original bill of sale. Whenever such hide or hides shall be presented for inspection to an officer as herein provided, the person exhibiting the same shall pay to such officer a fee of ten cents for each hide so exhibited, which fee shall be retained by the officer making such inspection.

Any person who kills beef or veal in good faith for his own use shall not be required to have such meat inspected or stamped, nor shall he be required to procure any license provided for in this act. (Id. § 3.)

87. Penalty for Disposing Hides Before Inspection.—Every person or persons, firm, corporation, or association slaughtering cattle for their own use, must before disposing of the hide or hides from such cattle, have the same inspected by an officer authorized to make such inspections and secure a certificate of inspection as hereinbefore provided for. It shall be unlawful for any person or persons, firm, corporation or association, to sell or offer for sale any hide or hides from neat cattle which have not been inspected and stamped by an authorized inspector. (Id. § 4.)

88. Unlawful to Purchase Carcass Before Inspection.—It shall be unlawful for any person or persons to purchase the carcass or any part thereof of any beef or veal without first making an examination and inspection for the State or Federal inspection stamp. The provisions of this section shall not apply to any person

or persons who shall purchase at retail beef or veal in quantities less than one-quarter of an animal. (Id. § 5.)

89. Forfeiture of License.—In addition to the penalties provided by section 7 of this act, any meat peddler, as defined by this act, who shall violate any of the terms of this act, shall suffer a forfeiture of the license required by this act and no meat peddlers' license shall again be issued to such person until the expiration of one year from the date of such conviction. (Id. § 6.)

90. Penalty for Violation of Act.—Any person or persons who violate any of the provisions of this act, or who willfully falsifies any of the records required by this act, or who willfully falsifies any of the records required by this act to be kept, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$500.00 or by imprisonment in the county jail for a period of not less than thirty days nor more than six months, or by both such fine and imprisonment for the first offense, and for each subsequent offense shall be deemed guilty of a felony and punished by imprisonment in the State Prison for not less than one year nor more than five years. (Id. § 7.)

90a. Application of Act.—The provisions of this act, excepting section 2, shall not apply to butchers operating under Federal inspection. (Id. § 8.)

90b. Act Effective, When.—This act shall take effect on and after June 1st, 1927. (Id. § 10.)

91. Animals Slaughtered Under Unsanitary Conditions; Unsanitary Conditions Defined.—It shall be unlawful for any person, persons, firm, or corporation to sell within this State, or to have within his or their possession with the intent to sell within this State for human food, the carcass or parts of the carcass of any animal which has been slaughtered, prepared, handled, or kept under unsanitary conditions; and unsanitary conditions shall be deemed to exist whenever and wherever any one or more of the following conditions are found to appear, to wit: If the slaughterhouse is dilapidated or in a state of decay; if the floor or side walls are soaked with decaying blood or other animal matter; if efficient fly screens are not provided; if the drainage of the slaughterhouse yard is not efficient; if maggots or filthy pools or hog wallows exist in the slaughterhouse yard or under the slaughterhouse floor; if the water supply used in connection with the cleaning and preparing of the meat is not pure and uncontaminated; if the hogs are kept in the slaughterhouse yard, or fed therein on animal offal, or if the odors of putrefaction plainly exist in or about the slaughterhouse; if carcasses or parts of carcasses are transported from place to place when not covered with clean white cloths, or if kept in unclean or bad smelling refrigerator or refrigerators, or if kept in unclean or foul smelling store-rooms. It shall be unlawful for any person, persons, firm, or corporation to have in his or their possession, with intent to sell, the carcass of any animal or fowl which has died from any cause other than being slaughtered in a sanitary manner, or the carcass or part of the carcass of any animal that shows evidence of any disease, or that came from a sick or diseased animal, or the carcass or part of the carcass of any calf that was killed before it had attained the age of four weeks. (Pol. C. 1921, § 2584.)*

92. Powers of Live Stock Sanitary Board.—The live stock sanitary board shall have power:

1. To supervise and control the action of the State Veterinary Surgeon, all deputies, inspectors, and other employees, and to prescribe their duties, compensation, and tenure of office.

2. To remove any one or more of its appointees, subordinates, and employees at any time for cause.

3. To supervise the sanitary conditions of live stock in this State, under the provisions of the constitution and statutes of this State and such reasonable rules and regulations as this board may from time to time promulgate, and to this end this board shall have power to quarantine any lot, yard, land, building, room, premises, enclosure, or other place or section in this State, which is or may be used or occupied by live stock, and which, in the judgment of the State Veterinary Surgeon, or of his authorized agent, is infected or contaminated with an infectious, contagious, communicable, or dangerous disease, or disease-carrying medium by which such disease may be communicated; and this board shall have power to quarantine any live stock in this State, whenever, in the judgment of the State Veterinary Surgeon, or of his authorized agent, such live stock is affected with, or has been exposed to such disease or disease-carrying medium; and this board shall have

*For penalty, see No. 10.

power to prescribe treatments and enforce sanitary regulations which, in the judgment of the State Veterinary Surgeon, or of his authorized agent, are reasonable, necessary, and proper to circumscribe, extirpate, control, or prevent such diseases.

4. To foster, promote, and protect the live stock industry in this State by the investigation of diseases and other subjects related to ways and means of prevention, extirpation, and control of diseases, or to the care of live stock and its products; and to this end to establish and maintain a laboratory, and to make, or cause to be made, biologic products, curatives, and preventative agents; and to do or perform such other acts and things as in their judgment may be necessary or proper in the fostering, promotion, or protection of the live stock industry in this State.

5. To promulgate and enforce such reasonable rules, regulations, and orders as they may deem necessary or proper to prevent the introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting live stock into this State, and to this end to promulgate and enforce such reasonable rules, regulations and orders as they may deem necessary or proper governing inspections and tests of all live stock intended for importation into this State, before it may be imported into this State.

6. To promulgate and enforce such reasonable rules, regulations, and orders as they may deem necessary or proper for the inspection, testing, and quarantine of all live stock imported into this State.

7. To promulgate and enforce such reasonable rules, regulations and orders, as may to them seem necessary or proper for the supervision, inspection and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and meat food product, dairies, milk depots, milk and its by-products, barns, dairy cows, factories, and other places and premises where meat, or meat foods, milk or its products, or any thereof intended for sale or consumption as food are produced, kept, handled, or stored; and for the purposes of this act they, or any duly authorized representative of said board, may take samples of any such product or products, so produced, kept, handled, or stored, for analysis or testing by the live stock sanitary board chemist or bacteriologist or the State Chemist, and the records of such samples and their analysis and test, when identified as to the sample by the oath of the officer taking the same and verified, as to the analysis or test, by the oath of such chemist or bacteriologist making the same, shall be prima facie evidence of the facts therein set forth, when offered in evidence in any prosecution or action at law or in equity for violation of the provisions of this act, or any rule, regulation or order of said board, made in pursuance to this act, provided that the standards referred to in this sub-section 7, in so far as they relate to dairies or milk and its by-products, shall not be deemed to include standards of weight or measurement.

8. To promulgate and enforce such reasonable rules, regulations, and orders as may to them seem necessary or proper for the supervision and control of manufactured and refined foods for live stock, and the manufacture, importation, sale, and method of using any biologic remedy or curative agent for the treatment of diseases of live stock; provided, however, that as far as practicable the standards approved by the United States Department of Agriculture shall be adopted.

9. To install an adequate system of meat inspection at any time and in such places as public welfare may demand under the rules and regulations which may provide fees for the maintenance of such inspection, and which shall provide ways and means for shipping home-grown and home-killed meats into any city in Montana. As far as practicable, such rules and regulations shall conform with the meat-inspection requirements of the United States Bureau of Animal Industry.

10. To slaughter, or cause to be slaughtered, any or all live stock in this State known to be affected with, or which has been exposed to, an infectious, contagious, communicable, or dangerous disease, when, in the opinion of the State Veterinary Surgeon, or of a deputy veterinary surgeon, such slaughter is necessary for the protection of other live stock; and to destroy, or cause to be destroyed, all barns, stables, sheds, outbuildings, fixtures, furniture, and personal property infected with any such infectious, contagious, communicable, or dangerous disease, when, in the judgment of the State Veterinary Surgeon or his authorized agent, the same cannot be thoroughly cleaned and disinfected, and in the judgment of that officer, or his authorized agent, such destruction is necessary to prevent the spreading of such disease.

11. To indemnify the owner of any property destroyed by order of this board, or its authorized representatives, under the provisions of this act, or any rules, regulations, or orders promulgated by this board in pursuance of this act.

12. To require persons, firms, and corporations engaged in the production or handling of meat or meat-food products, or dairy products or any thereof, to fur-

nish statistics of the quantity and cost of such food and food products produced or handled, and the name and address of person or persons supplying them any of such products. (Id. § 3267.)

93. Promulgation of Rules.—It shall be the duty of the Live Stock Sanitary board to promulgate and enforce rule and regulations for the inspection and tuberculin test of all dairy cattle, or other animals, and for the inspection, test, treatment, or disposition of all live stock affected with, or which may have been exposed to, any infectious, contagious, communicable, or dangerous disease, and for the quarantines provided for in this act. (Id. § 3268.)

94. Sale of Diseased Carcasses Forbidden.—It shall be unlawful for any person, firm, or corporation to sell as food for human beings, or to hold or possess as human food intended for sale, the carcass or part of carcass of any animal slaughtered under unsanitary conditions, or which carcass or part of carcass has been prepared, handled, or kept under unsanitary conditions; and it shall be the duty of the Live Stock Sanitary Board to see that the provisions of this section are enforced. (Id. § 3269.)

95. Authority of Municipal Corporations.—Nothing in this act shall prevent the governing authority of any municipal corporation from enacting or enforcing ordinances providing for the inspection of slaughterhouses, meat depots, meat markets, meat-food products, creameries, butter or cheese factories, dairies, and dairy products, sold or offered for sale within the limits of such municipal corporation; but no such ordinance shall be enforced in conflict with the powers of this act delegated to the live stock sanitary board, its officers or agents. (Id. § 3270.)

96. Co-operation by Public Officers.—It shall be the duty of the State and several local boards of health of any county, city, town, or village in this State to co-operate with and assist the live stock sanitary board in all matters relating to the execution of its sanitary powers as to live stock and their food products under this act, in such manner as may be by the live stock sanitary board prescribed, either by general regulation or direct order. (Id. § 3284.)

97. Slaughterhouse License Fees and Renewals.—It shall be unlawful for any person, firm or corporation to maintain or conduct any slaughterhouse or meat packing house or meat depot in this State without having a license issued by the live stock sanitary board. The annual fee for all licenses issued under the provisions of this section shall be one dollar and shall be paid into the general fund. All licenses shall be made to expire on the last day of December of the current year in which they are issued, and shall be renewed by said board upon request of the licensee; provided, that when the live stock sanitary board shall find that the place for which such license is issued is not conducted in accordance with the rules, regulations, and orders of said board, made and promulgated in accordance with the provisions of this act, then said board shall revoke such license and shall not renew the same until such place is put in a sanitary condition in accordance with such rules and regulations; provided, further, that all licenses now issued by the State Board of Health for the operation of slaughterhouses or meat packing houses or meat depots shall continue in effect for the period of said license, unless canceled by the live stock sanitary board for good cause shown. (Id. § 3285.)

98. Penalty for Violation of Act.—Any person, persons, firm, or corporation violating any provision of this act, or the rule, regulation, or order promulgated by authority of same, shall be guilty of a misdemeanor; violations of this act shall be tried without undue delay in any court of competent jurisdiction. (Id. § 3288.)

99. Sale of Imported Meat and Dairy Products.—Every person, company, or corporation selling or offering for sale in the State of Montana such food products as meat, lard, eggs, butter, or any other dairy products, imported from foreign countries, shall affix by pasting upon such food products sold or offered for sale, or upon the case or package in which such food products may be contained, a label upon which shall be printed the name of the country or countries from which such product has been imported, the date when shipped, and the date when received by the person, company, or corporation selling or offering same for sale. (Id. § 2632.)

100. Penalty for Violation of Law.—Any person, company, or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than five days or more than thirty days, or by both such fine and imprisonment. (Id. § 2633.)

101. Sale of Diseased Carcasses Without Inspection Forbidden.—It shall be unlawful for any person to sell or offer for sale the carcass or any part of the carcass of an animal having actinomycosis (big jaw), tuberculosis, or any other infectious or contagious disease unless the same shall have been inspected and passed by a rep-

representative of the Live Stock Sanitary Board or the United States Bureau of Animal Industry. (Pen. C. 1921, § 11243.)

102. Penalty for Violation of Act.—Any person guilty of violating this act shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both fine and imprisonment. (Id. § 11244.)

NOTE: See also Nos. 3, 6, 17-18 and 56-58.

Vinegar.

See No. 170.

Sanitation.

See Nos. 3, 6-7, 17-18; the dairy law, No. 39 et seq.; the meat law, No. 84 et seq. For the hotel law, see Political Code 1921, § 2485 et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

103. Advertising to Produce Miscarriage.—Every person who willfully writes, composes or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement or otherwise, to assist in the accomplishment of such purpose is guilty of a misdemeanor. (Pen. C. 1921, § 11142.)

Insecticides and Fungicides.

104. Manufacture of Adulterated Insecticides, Paris Green, etc., Forbidden.—It shall be unlawful for any person to manufacture within the State of Montana any insecticide, Paris green, lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act. (Pol. C. 1921, § 2600.)

105. Same; Shipment and Delivery Forbidden.—Any person who shall offer for shipment, or deliver from any point in the State of Montana to any other point in the State of Montana, any insecticide, or Paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act; or any person who shall receive, or offer to receive, any insecticide, or Paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act, and having received, shall sell or deliver, or shall offer for sale or delivery, such adulterated or misbranded insecticide, or Paris green, or lead arsenate, or fungicide, shall be guilty of a violation of this act. (Id. § 2601.)

106. Adulterated Articles Defined.—For the purpose of this act, an article shall be deemed to be "adulterated"—

In the case of Paris green: First, if it does not contain at least 50 per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

In the case of lead arsenate: First, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As_2O_5); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxide (As_2O_5); fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; provided, however, that extra water may be added to lead arsenate (as described in this paragraph)

if the resulting mixture is labeled "lead arsenate and water," the percentage of water being plainly and correctly stated on the label.

In the case of insecticides or fungicides other than Paris green and lead arsenate: First, if its strength or purity fall five per cent. or more below the professed standard of quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended to use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling or mitigating insects, shall be injurious to such vegetation when used. (Id. § 2602.)

107. "Misbranded," Use of Term.—The term "misbranded," as used herein shall apply to insecticides, Paris green, lead arsenate or fungicide, or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design or device regarding such article or the ingredients of the substances contained therein which shall be false or misleading in any particular. (Id. § 2603.)

108. "Misbranded" Defined.—For the purpose of this act, an article shall be deemed to be "misbranded"—

In the case of insecticides, Paris green, lead arsenate and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure, and they are not plainly and correctly stated on the outside of the package.

In the case of insecticides other than Paris green and lead arsenates and fungicides: First, if they contain arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel or mitigate insects or fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label; provided, however, that in lieu of naming and stating the percentage amount of each and every inert ingredient, the producer may at his discretion state plainly upon the label the correct names and percentage amount of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients except in so far as to state the total percentage of inert ingredients present. (Id. § 2604.)

109. Collection of Samples in Original Packages.—It shall be the duty of the State Entomologist, upon the advice and under the direction of the director of the Experiment Station, to collect from time to time and deliver to the director of the Experiment Station specimens of insecticides, Paris greens, lead arsenates and fungicides in unbroken original packages, manufactured or offered for sale in the State of Montana, for the purpose of determining whether or not such insecticides, Paris greens, lead arsenates, and fungicides are adulterated or misbranded within the meaning of this act. (Id. § 2605.)

110. Delivery of Original Packages to State Entomologist.—When any citizen of the State has reason to believe that any particular brand or lot of insecticide or Paris green, or lead arsenate, or a fungicide, is adulterated or misbranded within the meaning of this act, he may send or deliver to the State Entomologist an original and unbroken package of the article in question. Upon receipt of such a questionable article it shall be the duty of the State Entomologist to deliver it to the director of the experiment station, who shall examine or cause an investigation to be made and, at his discretion, may cause chemical examinations of such questioned articles as hereinafter provided. (Id. § 2606.)

111. Director of Experiment Station to Analyze.—Upon the receipt of specimens of insecticides, Paris greens, lead arsenates and fungicides in unbroken original packages, as hereinbefore provided, the director of the Experiment Station shall make or cause to be made a chemical analysis of such specimens for the purpose of determining whether or not they comply with the requirements of this act; provided, that when the director has information showing that samples delivered to him for examination are out of lots of insecticides, Paris greens, lead arsenates or fungicides that have already been examined a sufficient number of times to indicate whether or not they comply with the requirements of this act then the director may refuse to examine such lots and so notify the State Entomologist or citizens of the State. (Id. § 2607.)

112. Insecticide, Paris Green, Lead Arsenate, and Fungicides Defined.—The term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any insects, mites or ticks which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "Paris green" as used in this act shall include the product sold in commerce as Paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. The term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever. (Id. § 2608.)

113. Dealer's Defense.—No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the State of Montana from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it; said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under the provisions of this act. (Id. § 2609.)

114. Proceedings Against Forbidden Articles in Transportation.—Any insecticide, Paris green, lead arsenate or fungicide that is adulterated or misbranded within the meaning of this act and is being transported from one point within the State of Montana to another point within the State of Montana to be sold, wholly or in part, or, having been transported, remains unloaded, unsold or in original unbroken packages, or if it be sold or offered for sale in the State of Montana, shall be liable to be proceeded against in any District Court of the State of Montana. If any such article is condemned as being adulterated or misbranded within the meaning of this act, the same shall be disposed of by destruction or by sale, as the said court may direct; and the proceeds thereof, if sold, less the legal costs and charges, shall become a part of the expense fund as hereinafter provided; but such goods shall not be sold in any jurisdiction contrary to the provisions of this act or the laws of the jurisdiction; provided, however, that upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of this State, the court may by order direct that such articles be delivered to the owner thereof. (Id. § 2610.)

115. Certificate of Director of Experiment Station; Fees for.—When any particular lot or brand of an insecticide, Paris green, lead arsenate or fungicide, manufactured in the State of Montana, is found to comply with all the requirements of this act, the director of the Experiment Station shall have authority to issue certificate, and the person to whom such certificate is issued may use the same on packages of the article so certified, or in advertising matter concerning such articles; provided, however, that articles bearing such certificate shall be subject to re-examination, and if found to fail to comply with all of the requirements of this act, shall be proceeded against as in uncertified articles. Said director of the Experiment Station shall have authority to levy a fee of from five to fifty dollars for each and every certificate issued in compliance with this section, such fees to be placed in an expense fund as hereinafter provided. (Id. § 2611.)

116. Fines, Disposal of.—One-half of all the fines which shall be levied for violations of this act, as hereinafter provided, shall be retained in the treasury of the Montana Agricultural Experiment Station, and these fines, together with the fees as provided for in the preceding section, shall constitute an expense fund from which the director shall pay the necessary and actual expenses incurred by the State Entomologist and the Experiment Station in carrying out the provisions of this act; provided, however, that whenever such fines and fees amount, at any one time, to more than one thousand dollars, the balance above this sum shall be turned into the State treasury. (Id. § 2612.)

117. Penalty for Violation of Act.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than two hundred dollars for the first offense, and upon conviction for each subsequent offense be fined not less than fifty dollars nor more than three hundred dollars or sentenced to imprisonment for not more than thirty days, in the discretion of the court. (Id. § 2613.)

118. Person to Include What.—The word "person," as used in this act shall be construed to include both the plural and the singular, as the case may be, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such corporation, company, society or association, as well as that of the other person. (Id. § 2614.)

Pharmacy, Poisons and Narcotics.

119. Drugs to be Sold by Registered Pharmacists.—It shall hereafter be unlawful for any person other than a registered pharmacist, as hereinafter defined, to retail, vend, compound or dispense drugs, medicines, poisons, chemicals or pharmaceutical preparations in the State of Montana, or to institute, conduct or manage a store, shop, pharmacy or institution for the selling, vending, compounding or dispensing of drugs, medicines, poisons, chemicals or pharmaceutical preparations in the State of Montana, unless such be a registered pharmacist as in this act provided or unless a registered pharmacist is placed in charge of such store, pharmacy, shop or institution for the retailing, vending, compounding or dispensing of drugs, medicines, poisons, chemicals and pharmaceutical preparations. (Pol. C. 1921, § 3170.)

120. Registered Pharmacists Defined; Fee for Registration.—Registered pharmacists, within the meaning of this act, shall comprise all persons who shall, at the time of the passing of this act, hold certificates of registration granted by the State Board of Pharmacy of the State of Montana, or persons who shall be granted certificates of registration by the said Board of Pharmacy after the passage of this act, either by examination or reciprocity, as hereinafter provided; fees for registration under this act shall be fifteen dollars for an examination and twenty-five dollars for reciprocity; said fees thus collected are to be paid to the State Board of Pharmacy of the State of Montana. (Id. § 3171.)

121. Assistant Pharmacists.—Assistant pharmacists, in the meaning of this act, shall comprise all persons over eighteen years of age, having had at least one year's practical experience in the compounding and dispensing of physician's prescriptions, and who shall pass such examination as the State Board of Pharmacy of the State of Montana shall require, and pay to the State Board of Pharmacy a fee of five dollars. Assistant pharmacists shall not be permitted under this act to institute, conduct or manage on their own account, or to assume the management for others, of any pharmacy, store, shop or institution for the retailing, vending, compounding or dispensing of drugs, medicines, poisons, chemicals or pharmaceutical preparations, and are to be governed by the rules of the State Board of Pharmacy of the State of Montana. (Id. § 3172.)

122. State Board of Pharmacy; Appointment and Term of Office; Vacancies.—Immediately upon the passage of this act, the Montana State Pharmaceutical Association shall submit to the Governor of the State of Montana the names of five registered pharmacists having had at least ten years' practical experience as dispensing pharmacists; provided, however, that nothing herein contained shall be so construed as to apply to or exclude registered pharmacists of less than ten years' practical experience who are graduates in pharmacy; and from this number the Governor shall appoint three, at least one of whom shall be a graduate in pharmacy, and the said three registered pharmacists shall constitute the State Board of Pharmacy of the State of Montana, to have and to hold office for one, two, and three years, respectively, as designated in their appointments, or until their successors have been duly appointed and qualified.

Annually thereafter the Montana State Pharmaceutical Association shall elect five registered pharmacists having ten years' practical experience as dispensing pharmacists; provided, however, that nothing herein contained shall be so construed as to apply to or exclude registered pharmacists of less than ten years' experience who are graduates in pharmacy. And the Governor shall appoint one registered pharmacist from this number to fill the vacancies annually occurring on the board. The term of office shall be three years, or until his successor shall be appointed and qualified. In case of resignation or removal of any member of the said board, or a vacancy occurring from any cause, the Governor shall immediately appoint from the remaining selections of the Montana State Pharmaceutical Association a registered pharmacist to serve as a member of the board for the remainder of the unexpired term; provided, however, that the said board shall always contain at least one graduate in pharmacy. (Id. § 3173.)

123. Organization of Board; Officers; Examination of Applicants.—The said Board of Pharmacy shall within thirty days after its appointment meet in the city of Helena, and organize by the selection of a president, secretary and treasurer, who shall serve for a term of one year and who shall perform the duties prescribed by the said board; said secretary, thus appointed, shall not be a member of the State Board of Pharmacy, but shall be a member of the Montana State Pharmaceutical Association in good standing, and shall perform the duties as prescribed by the board. Meetings for the examination of applicants for registration, granting of certificates, and such other business as is necessary, shall be held not to exceed twice in any one year, and at such times and places as may be fixed by the said board; provided, that thirty days' notice in writing to all applicants and to all registered pharmacists of the State of the time and place of each meeting at which there is to be a meeting for an examination of candidates for registration shall be given. It shall be the duty of the board to receive all applications for examination and registration submitted in proper form, and to grant certificates to such persons as may be entitled to the same under this act; to cause the prosecution of all persons violating any of the provisions of this act; to report annually to the Governor and to the State Pharmaceutical Association upon the condition of pharmacy in the State of Montana, which report shall also furnish a record of the proceedings of the board, as well as the names of all persons registered under this act; on what grounds and under what particular section of this act each person was registered, and any other facts pertaining to the granting of certificate, including financial report. The board shall have power to make by-laws for the full and proper execution of its duties under this act; to prescribe the forms and methods of application, examination, and registration; to demand and receive from applicants the fees herein provided, which shall be held by the said board and applied to the payment of salaries and other necessary expenses incident to the full discharge of its duties. (Id. § 3174.)

124. Salaries and Expenses of Officers.—The salaries of the said board shall be five dollars to each member for each day of actual service, and all legitimate expenses incurred in the discharge of his official duties. The secretary of the board shall receive such salary as may be fixed by the said board, which shall not exceed six hundred dollars per annum, and all of his legitimate expenses incurred in the discharge of his official duties; he shall pay to the treasurer of the State Board of Pharmacy, at each regular meeting of the State Board of Pharmacy, or whenever the State Board of Pharmacy may direct, all funds which are or may come into his possession by virtue of his office as such secretary, and take the said treasurer's receipt therefor; said funds shall be paid out for such purposes only as the State Board of Pharmacy may direct, and only by warrant on said fund on an order drawn by the secretary and countersigned by the president of the State Board of Pharmacy; provided, that no salaries or expense of the board shall be paid out of the State treasury. (Id. § 3175.)

125. Application for Registration; Fees and Certificate.—Every person seeking registration under this act, whose registration is not otherwise provided for, shall make application, in form and manner prescribed by the board, and deposit with the secretary of the board a fee of fifteen dollars; then, on presenting himself at the time and place directed by the board, and sustaining a satisfactory examination, he shall be granted an appropriate certificate, setting forth his particular qualifications; provided, that in case of failure of an applicant to pass a satisfactory examination, he will be entitled to a second examination, without charge, at the next succeeding meeting of the board. (Id. § 3176.)

126. Annual Renewal of Registration; Fees.—Every registered pharmacist and every assistant pharmacist, within the meaning of this act, who desires to continue in the pursuit of pharmacy in this State, shall annually, after the expiration of the first year of registration, and on or before the second day of July of each year, and after having been notified by the secretary of the State Board of Pharmacy, pay to the secretary of the State Board of Pharmacy a renewal fee of three dollars, one dollar of which shall be paid to the Montana State Pharmaceutical Association, in return for which a renewal of registration shall be issued. If a person neglect or fail to procure his annual registration as specified, notice of such failure having been mailed to his post office address by the secretary of the State Board of Pharmacy, as obtained from the books of the secretary, he shall, after the expiration of the thirty days, following the issue of the said notice, be deprived of all of the privileges conferred by this act, and after six months he shall be deprived of his registration, and it shall be necessary for such person to make application and pass an examination as provided in the preceding section. (Id. § 3177.)

127. Certificate; Contents and Display.—Every person registered under this act shall receive from the State Board of Pharmacy an appropriate certificate, not

exceeding in size three hundred and twenty square inches, which shall be conspicuously displayed at all times in his place of business.

If the holder be entitled to manage or conduct a pharmacy in the State for himself or another, the fact shall be set forth in the certificate. (Id. § 3178.)

128. Violation of Act a Misdemeanor.—Any person who is not a registered pharmacist, within the meaning of this act, who shall conduct, manage, or keep, either for himself or others, a pharmacy, store, shop, or institution for the retailing, dispensing, compounding, or vending of drugs, medicines, poisons, chemicals, or pharmaceutical preparations, and who shall not have in his employ a registered pharmacist, within the meaning of this act, shall be guilty of a misdemeanor, and upon conviction pay a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars. (Id. § 3179.)

129. Wrongful Exhibition of Certificate of Registration.—Any person who shall unlawfully and without authority under this act, take, use, or exhibit the title of a registered pharmacist or an assistant pharmacist in the State of Montana, shall be liable to a fine of not less than fifty dollars, nor more than two hundred and fifty dollars, for each and every offense. A like penalty shall attach to any assistant pharmacist who shall, without authority, take, use, or exhibit the title of registered pharmacist in the State of Montana. (Id. § 3180.)

130. Compounding of Drugs by Persons Other Than Registered Pharmacist; Sale of Patent Medicines.—Any proprietor of a pharmacy, or any other person who shall permit the compounding or dispensing of physicians' prescriptions, or the vending of drugs, medicines, poisons, chemicals, or pharmaceutical preparations in his store or place of business, except by a registered pharmacist, in the meaning of this act, or under the immediate supervision of a registered pharmacist, or who, while continuing in the pursuit of pharmacy in the State of Montana, shall fail or neglect to procure his annual registration, or any person who shall willfully make any false representations to procure for himself, or for another, registration under this act, or who shall violate any provisions of this act, shall, for each and every offense, be liable to a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars; provided, that nothing in this act shall interfere with the keeping, distributing, or handling of drugs, acids, or poisons by merchants or corporations, for use in their business, when kept in original and plainly labeled packages; provided, also, that nothing in this act shall interfere with any physician in his regular practice, nor with the wholesale business of any dealers, nor with the business of merchants in towns where there is no regularly licensed pharmacist when selling drugs, medicines, pharmaceutical, or proprietary medicinal preparations in original and plainly labeled packages, as the public may require; provided, also, that nothing herein shall be construed to prevent the sale of any patent or proprietary medicine in the original package, when plainly labeled, nor such non-medicinal articles as are usually sold by general merchants. (Id. § 3181.)

131. Official Preparations Must be Carried for Sale for Compounding Drugs.—Every person who shall keep a pharmacy, store, shop, or institution for the compounding or dispensing of physicians' prescriptions, or for the sale of drugs, medicines, chemicals, or pharmaceutical preparations, must carry the official preparations of the United States Pharmacopœia and the National Formulary, and dispense the same.

The preparations carried in stock, made or dispensed by such person, where the same are covered by the United States Pharmacopœia or the National Formulary, shall conform to the United States Pharmacopœia and the National Formulary. (Id. § 3182.)

132. Registration of Pharmacists Without Examination; Reciprocity.—Any pharmacist having four years' practical experience as a dispensing druggist, upon the payment of a fee of twenty-five dollars to the Secretary of the State Board of Pharmacy, may be registered without examination under such rules as may be provided by the State Board of Pharmacy; provided, further, that such pharmacist be and is registered in some State whose standard of requirements of examination shall be fully equal to the standard of requirements of the State of Montana, and provided that such other State will also register pharmacists duly and regularly licensed in the State of Montana. (Id. § 3183.)

133. Adulterated Drugs.—The proprietors of all pharmacies will be held responsible for the quality of all drugs, medicines, and chemicals sold or dispensed at their respective places of business, except patent and proprietary preparations, and articles sold in the original packages of the manufacturer. Any person who shall willfully adulterate or alter, or cause or permit to be adulterated or altered, any drug, medicine, or pharmaceutical preparation, or shall sell or offer for sale

any such adulterated or altered article, and any person who shall substitute, or cause to be substituted, one material for another, with the intention to defraud or deceive the purchaser, shall be guilty of a misdemeanor and liable to a prosecution therefor. All penalties collected for such violation shall be paid into the county treasurer of the county wherein such conviction may be had, for the benefit of the school fund of such county. (Id. § 3184.)

134. Sale of Poisons Regulated.—It shall be unlawful for any person from and after the passage of this act to retail any of the following named poisons, to wit: Arsenic and its preparations, corrosive sublimate, white and red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnine, and all poisonous vegetable alkaloids and their salts, the essential oil of almonds; opium and its preparations, except paregoric and other preparations of opium containing less than two grains to the ounce; aconite, belladonna, colchicum, conium, nux vomica, digitalis, and their pharmaceutical preparations; croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, oxalic acid, wood alcohol, without labeling the box, bottle, vessel, paper or package in which said poison is contained, with the name of the article, and the word "poison," and the name and place of business of the seller. Also, each label of such poison shall contain a concise statement of the principal antidotes for the poison so labeled. The label hereby required to be placed upon wood alcohol shall contain the following: "Warning. The fumes of wood alcohol burned in a close room, if inhaled, are injurious to eyesight, often producing total blindness." Nor shall it be lawful for any person to deliver or sell any poisons enumerated above, unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it be used for a legitimate purpose. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities or doses upon the prescription of practitioners of medicine. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor; provided, however, that this section shall not apply to manufacturers making and selling at wholesale any of the above poisons, and provided that each bottle, box, vessel, paper, or package in which said poison is contained shall be labeled with the name of the article, the word "poison," and the name and place of business of the seller. (Id. § 3185.)

135. Sale of Opium, Morphine, Mariahuana, and Their Derivatives.—It shall be unlawful for any person to sell, furnish, or dispose of any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine, or codeine, or heroin, or mariahuana (*Cannabis indica*), or any derivative, mixture, or preparation of any of them except upon the signed prescription of a physician or veterinarian duly licensed under the laws of the State; which prescription should be retained by the person dispensing the same, shall be filled but once, and of which no copy shall be taken by any person except as hereafter provided. The person dispensing the same at the time thereof shall endorse on the back of such prescription, the name, street, and house number of the person to whom dispensed; and the proprietor or manager of the store where dispensed shall keep the prescriptions in a permanent file, separate from all other prescriptions, in his place of business for the period of two (2) years after the same should have been dispensed, and at any time shall allow the same to be inspected and copies thereof to be made by any peace officer, prosecuting attorney of the county where sold, or any authorized instructor of drugs, provided that nothing herein contained shall prohibit any manufacturer or licensed druggist from selling or delivering any of the above named to a person known to be a licensed physician, licensed veterinarian, or licensed druggist, nor prohibit a physician or veterinarian from dispensing the same in good faith to his patients, nor prohibit the sale of patent or proprietary or medicinal preparations containing opium or morphine in combination or compound with other active elements, where the dose of opium is less than one-quarter grain, or morphine in more than one-twentieth grain, or codeine in more than one-quarter grain, or heroin in more than one-twelfth grain, or in which Mariahuana (*Cannabis indica*) is present in quantities not greater than one-fourth grain of the solid extract to the fluid or avoirdupois ounce. (Id. § 3186, as amended Act of Mar. 9, 1927.)

136. Restrictions Upon Sale or Prescription of Opiates.—It shall be unlawful for any physician to sell, or give to, or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine, or codeine or heroin, or any derivative, mixture or preparation of any of them, except to a patient believed in good faith to require the same for medical use, and in quantities proportioned to the needs of such patients. (Pol. C. 1921, § 3187.)

137. Penalty for Violation of Act.—Any person found guilty of the violation of this act shall be punished for each separate offense (and each and every

individual case shall constitute a separate offense) by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than sixty days nor more than one hundred days, or by both such fine and imprisonment. (Id. § 3188.)

138. Regulation Sale of Opium and Other Narcotics.—It shall be unlawful for any person to sell, barter, exchange, distribute, give away, or in any manner dispose of, at retail, or to a consumer, opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, within this State, except upon the original written prescription of a duly licensed physician, duly licensed to practice medicine in Montana, and pursuant to all the requirements of this act; provided, that nothing in this act shall be construed as preventing a dentist or veterinary surgeon, duly licensed to practice in Montana, from obtaining, on Federal government permits, for use in his practice, the drugs or narcotics mentioned in this section. (Id. § 3189.)

139. Remedies Excepted From Act.—The provisions of this act shall not be construed to apply to the sale, barter, exchange, distribution, giving away, dispensing, or the disposition in any manner, or the possession, within this State of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce; or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, or to decocanized coca leaves or preparations made therefrom, or to other preparations of coca leaves, which do not contain cocaine; provided, that such remedies and preparations are sold, distributed, given away, disposed [of,] or possessed as medicine and not for the purpose of evading the intendment and provisions of this act, except this act shall apply to liniments, ointments, and other preparations which contain cocaine or any of its salts, or alpha or beta eucaine or any of their salts or any synthetic substitute for them. (Id. § 3190.)

140. Filling of Prescriptions.—The original written prescription required by the provisions of section 3189 of this code shall be signed in full by the duly licensed physician duly licensed to practice medicine in Montana, or by a veterinary surgeon duly licensed to practice in Montana, issuing it and dated as of the day on which so signed, and shall also indicate the office address and office hours of such duly licensed physician duly licensed to practice medicine in Montana, and the name and address of the person to whom such written prescription is issued, and when prescribed by a duly licensed veterinary surgeon, shall indicate in addition the kind of animal for the treatment of which such written prescription is issued and the name and address of the owner thereof. No written prescription containing more than four grains of morphine, thirty grains of opium, two grains of heroin, six grains of codeine, or five grains of cocaine shall be filled unless the due issuance and correctness thereof be first verified. No written prescription shall be filled without sufficient verification, if, for any reason, the proper issuance and presentation thereof appears questionable. Such written prescription shall be exactly filled as soon as received, or as soon thereafter as practicable, but no such written prescription shall be filled more than ten days subsequent to the issuance date which said written prescription bears. The person filling such prescription shall write or indicate thereon the date of filling and the date when and the name and address of the person to whom he delivers the drug so prescribed. Such written prescription shall be filled but once and shall not be copied, except for the purpose of record by the duly licensed physician, duly licensed to practice medicine in Montana, or by the person filling it, and shall be preserved on file, receiving a consecutive file number, by the person filling it, for a period of two years from the date on which such prescription is filled, in such a way as to be readily accessible to the officers, agents, employees and officials mentioned in this act. (Id. § 3191.)

141. Use of Opiates by Physicians, Veterinary Surgeons and Dentists.—A duly licensed physician or veterinary surgeon duly licensed to practice medicine in Montana may prescribe, dispense, distribute or administer, and a duly licensed dentist duly licensed to practice in Montana, may administer, within this State, to his patient any of the drugs mentioned in this act, providing such dispensing, distribution, or administering is made in good faith and in the course of his professional practice for medicinal purposes only; provided, further, that such duly licensed physician, duly licensed to practice medicine in Montana, dentist or veterinary surgeon shall keep a record of all such drugs so dispensed, distributed, or administered, showing in each instance the amount so dispensed, distributed, or administered, the date when and the name and address of the patient to whom such drugs are so dispensed, distributed, or administered, except such drugs as may be dispensed, distributed, or administered to

a patient upon whom such duly licensed physician duly licensed to practice medicine in Montana, dentist or veterinary surgeon shall personally attend in emergency; and such record shall be kept for a period of two years from the date of dispensing, distributing, or administering such drugs, subject to the inspection provided for in this act. It shall be unlawful for any licensed veterinary surgeon to dispense, distribute, or administer any of the drugs mentioned in this act for the treatment of or consumption by a human being. It shall be unlawful, except as provided for in this act, for a duly licensed physician, duly licensed to practice medicine in Montana, to prescribe, dispense, distribute, or administer, and for a duly licensed dentist or veterinary surgeon to administer the drugs mentioned in this act.

The words "good faith" as mentioned, shall be interpreted to mean that where a duly licensed physician, duly licensed to practice medicine in Montana, dentist or veterinary surgeon shall prescribe, dispense, distribute, administer, or in any manner give opium or coca leaves, or any compound manufacture, salt, derivative, or preparation thereof, it shall be for the actual relief or treatment of disease or surgical operation, but if such prescribing, dispensing, distribution, administering, or giving of such drugs is not being issued for relief in the treatment of disease or surgical operation, and such drugs are being used for the purpose of providing the drug addict with the aforesaid drug or drugs sufficient to keep him comfortable, it shall be considered as perversion of the meaning of the words "good faith" as above contained. The prescribing for, dispensing, administering, or giving of such drugs to an addict for self-administration by such patient shall not be deemed to constitute in itself legitimate medical treatment. (Id. § 3192.)

142. Officers Charged With Administration of Act; Secrecy of Record.—The State Board of Health of Montana, through its duly authorized officers, agents, or employees and all officers, agents, and employees of any organized municipalities within this State, who are charged with the enforcement of State laws and city ordinances, are hereby charged with the enforcement of this act, and, also, the officers, agents, and employees of the United States Treasury Department duly authorized to make inspections under the act of Congress approved December 17, 1914, entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," are empowered to inspect any and all of the records required to be kept by any person under the provisions of this act. All records provided for in this act shall be inaccessible to the public, and any officer, agent, or employee mentioned above who shall disclose or use the information contained in said records, except as herein expressly provided for and except for the purpose of enforcing the provisions of this act or said act of Congress, for the purpose of enforcing any ordinance of any organized municipality within this State, regulating the sale, prescribing for, dispensing, dealing in, or distribution of the aforesaid drugs, and except in the public interest unless directed by the court, shall, on conviction, be fined or imprisoned as provided by section 3202 of this code. (Id. § 3193.)

143. Physicians to Report Prescriptions Issued to Drug Addicts.—A duly licensed physician duly licensed to practice medicine in Montana, who prescribes for, dispenses, administers, or in any manner gives any of the drugs mentioned in this act, to a person known to him or believed by him to be an habitual user or a drug addict, shall, within forty-eight hours, report to the county attorney of the county in which said physician prescribes for, dispenses, administers, or in any manner gives any of the drugs mentioned in this act, the name, address, physical and mental condition, and any necessary substantial information regarding such person. "An habitual user of such drugs" or "drug addict" is defined as follows: "Any person who has needed or demanded the prescribing for, dispensing or administering, or in any manner the giving of opium or coca leaves or any of their derivatives, salts, preparations, or compounds, at more or less regular intervals for thirty consecutive days prior to the day such person applies to a physician or to a physician of any institution for the prescribing for, dispensing, administering, or the giving in any way of such drugs or their derivatives." If a physician shall prescribe for, dispense, administer, or in any manner give any of the drugs mentioned in this act, daily for more than thirty days to a patient, such physician shall register with the county attorney the name of such person, together with a statement of the physical and mental condition of such person, and a prognosis as to the probable future necessity for continuing the prescribing, dispensing, administering, or the giving of such drugs to such patient, and such prognosis shall include an estimate as to the length of time which, according to the judgment of the physician, will be required to remove the necessity of administering the aforesaid narcotic drugs to

such patient. It shall be the duty of the county attorney upon receipt of such notice to immediately file a complaint against such habitual user of drugs or drug addict in the District Court of his county. (Id. § 3194.)

144. Arrest and Commitment of Drug Addicts.—Whenever a complaint shall be made to any judge of the District Court that any person is addicted to the use of drugs mentioned in this act in a manner contrary to the public welfare, such judge of the District Court must issue and deliver to some peace officer, for service a warrant of arrest, directing that such person be arrested and brought before said judge for examination, and if, after said examination, said judge is satisfied that said person is addicted to the use of the drugs mentioned in this act, in a manner contrary to the public welfare, he may commit such person to a State, county, city, or other hospital or institution where facilities are provided for the treatment of drug addicts. Whenever it is made to appear to the judge of the District Court that such person is no longer addicted to the use of the aforesaid drugs in a manner contrary to the public welfare, or at any time in his discretion, he may order a discharge from such commitment. The provisions of this act shall not be construed to prohibit any person committed to any institution under its provisions from appealing for a review of the sufficiency of the evidence upon which the commitment was made. (Id. § 3195.)

145. Delivery of Drug Addict to Institution.—The person so committed, together with a copy of the order of the judge committing him, must be delivered by the sheriff of the county to the person in charge of the hospital or institution to which said person is committed. (Id. § 3196.)

146. Payment of Costs.—All costs and expenses incurred in the arrest, examination, commitment and maintenance of such person shall be paid in the manner now provided for by law for the arrest, examination, commitment, and maintenance of persons committed to the State Insane Asylum. (Id. § 3197.)

147. Report of Information Concerning Drug Users.—It is hereby made the duty of police judges and magistrates, judges of municipal courts and justices of the peace to report immediately to the county attorney of the county wherein their said courts are established and conducted, any and all knowledge or information acquired or obtained by said police judge, magistrate, judges of municipal courts, and justices of the peace, in a trial of causes or hearings before them, which knowledge or information shows, or tends to show, that any person is a drug user or drug addict. If said person so shown to be a drug user or drug addict is under arrest or liberated on bail at the time said knowledge or information is acquired or obtained by said police judge or magistrate, judge of a municipal court, or justice of the peace, said person shall not be liberated, if under arrest, nor said bail discharged by said judge, magistrate, or justice of the peace until said report is made to the county attorney, as provided herein. (Id. § 3198.)

148. Revocation of Professional License on Proof That Licensee is Drug User.—The regularly established and constituted board, commission or authority of this State, duly empowered to issue a license to a physician, dentist, veterinary surgeon, pharmacist, or nurse, authorizing the practice of his profession in this State, shall, at any time, and after a fair hearing held upon reasonable notice, revoke such license upon the production of sufficient evidence that the licensee is addicted to the use of the drugs mentioned in this act in a manner contrary to the public welfare. Whenever it shall appear that such physician, dentist, veterinary surgeon, pharmacist, or nurse is no longer addicted to the use of the aforesaid drugs in a manner contrary to the public welfare, they may reissue said license; that a duly licensed physician, duly licensed to practice medicine in Montana, dentist, veterinary surgeon, pharmacist, or nurse duly convicted of a substantial violation of this act shall be liable to a revocation of this license by the regularly constituted and established board, commission, or authority of this State, duly empowered to issue such license, after a fair hearing upon a reasonable notice, provided such revocation shall be in the public interest. (Id. § 3199.)

149. Regulation of Possession or Control of Drugs.—It shall be unlawful for any person to have in his possession or under his control any of the drugs mentioned in this act, if such possession or control is obtained in a manner contrary to the provisions of this act; and such possession or control shall be presumptive evidence of a violation of this act; provided, that this section shall not apply to the possession or control of the aforesaid drugs by any employee or agent, acting within the scope of his employment or agency, or any person dealing in such drugs pursuant to all the requirements of this act, and such possession or control does not operate [obviate] any of the provisions or the intendment of this act; or to the possession or control by a nurse for medicinal treatment only, and not on his own account, acting under the supervision and direction of a duly licensed physician, duly licensed to practice medicine in Montana, or by a dentist or veterinary surgeon engaged in

the legitimate practice of his profession; or to the possession and control of the aforesaid drugs by any United States, State, county, municipal, or other duly authorized public officer or official who has such possession or control by reason of his official duties; or to the possession or control of the aforesaid drugs by a warehouseman or a common carrier holding such possession or control under the direction of a person who has received such drugs pursuant to the requirements of this act; nor to persons conducting wholesale or retail drug establishments who are registered by the Commissioner of Internal Revenue under and pursuant to the provisions of an act of Congress approved December 17, 1914, being an act entitled: "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes"; provided, further that it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, or indictment, or other writ or proceeding laid or brought under this act, and the burden of proof of any such exemption shall be upon the defendant. (Id. § 3200.)

150. "Person" Defined.—The word "person" as used in this act shall be construed to mean and include the partnership, firm, association, company, or corporation, as well as a natural person. (Id. § 3201.)

151. Penalty for Violation of Act.—Any person, either principal or agent, except such persons as are duly authorized by law, having possession or control of any drug mentioned in sections 3189 to 3201, both inclusive, of the Revised Codes of Montana of 1921, shall, upon conviction, be punished by a fine of not less than five hundred dollars (\$500.00), nor more than three thousand dollars (\$3,000.00), and by imprisonment in the State Prison for not less than one year, nor more than five years.

Any person, either principal or agent, who sells, barter, exchanges, distributes, gives away, or in any manner disposes of any of the drugs mentioned in sections above designated to a person over the age of eighteen (18) years, contrary to the provisions of said sections of the Revised Codes of Montana of 1921, shall, upon conviction, be punished by a fine of not less than one thousand [dollars] (\$1,000.00), nor more than three thousand dollars (\$3,000.00), and by imprisonment in the State Prison for not less than five (5) years, nor more than ten (10) years.

Any person, either principal or agent, who sells, barter, exchanges, distributes, gives away, or in any manner disposes of any of the drugs mentioned in the sections above designated, contrary to the provisions of said sections of the Revised Codes of Montana of 1921, to any person of the age of eighteen (18) years, or under, shall, upon conviction, be punished by imprisonment in the State Prison for not less than five years nor more than life. (Id. § 3202, as amended L. 1925, c. 38.)

152. Keeping or Resorting to Place Where Opium is Used.—Every person who opens or maintains, to be resorted to by other persons, any place where opium or any of its preparations are sold or given away to be smoked at such place, and any person who at such place sells or gives away any opium or its preparations to be there smoked or otherwise used, and every person who visits or resorts to any such place for the purpose of smoking opium or its preparations is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or imprisonment in the county jail not exceeding six months or both. (Pen. C. 1921, § 11045.)

153. Apothecary Omitting to Label Drugs, or Labeling Them Wrongfully, etc.—Every apothecary, druggist, or person carrying on business as a dealer in drugs or medicines, or person employed as clerk or salesman by such person, who, in putting up any drugs or medicines, willfully, negligently or ignorantly omits to label the same, or puts an untrue label, stamp or other designation of contents upon any box, bottle or other package, containing any drugs or medicines, or substitutes a different article for any article prescribed or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor, or, if death ensue, is guilty of a felony. (Id. § 11238.)

154. Selling Opium, Etc.—Every person who sells, or in any way disposes of to another person, any morphine, opium, cocaine, chloral hydrate or any of their compounds, except to a licensed physician or on the authority of a certificate of such licensed physician, or fails to keep on file at his place of business any such certificate for inspection of all persons, after the same has been surrendered to him by the buyer of any such drugs or uses or fills out any such certificate more than once for the benefit of the person presenting the same, or any other person, is punishable by fine not exceeding two hundred dollars. The provisions of this sec-

tion do not apply to the sale of paregoric or any other mild compound of any such drugs, nor do they apply to persons who are sick and in actual need of any of such drugs as a medicine. (Id. § 11239.)

154a. Certain Buildings Declared Nuisances.—Every building or place used for the purpose of lewdness, assignation, or prostitution, and every building or place wherein or upon which acts of lewdness, assignation, or prostitution are held or occur, and any building wherein gambling is carried on or occurs, contrary to any of the laws of the State of Montana, or wherein any wine rooms are conducted or maintained, contrary to the laws of the State of Montana, or wherein any opium or coca leaves, their salts, derivatives, and preparations thereof are sold or given away or used contrary to the laws of the State of Montana, is a nuisance which shall be enjoined, abated, and prevented as hereinafter provided, whether the same be a public or private nuisance. (Id. § 11124.)

154b. County Attorney to Abate Nuisance—When Warrant May Issue.—Whenever there is a reason to believe that such nuisance is kept, maintained, or exists in any county of the State of Montana, the county attorney must, or any citizen of the county may, maintain an action in equity in the name of the State of Montana upon the relation of such county attorney or citizens as the case may be to abate and prevent such nuisance and to perpetually enjoin the person or persons conducting or maintaining the same, and the owner, lessee, or agent of the building, or place, in or upon which such nuisance exists, from directly or indirectly maintaining or permitting such nuisance. (Id. § 11125.)

154c. Violation of Injunction—Punishment.—Any violation or disobedience of either any injunction or order expressly provided for by this act shall be punished as a contempt of court by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment. (Id. § 11128.)

155. Possession or Sale of Peyote or Agava Americana Forbidden.—It shall be unlawful for any person, firm, corporation or association to sell, furnish or give away, or offer to sell, furnish or give away, or to have in his or its possession Peyote (Pellote), botanically known as *Lophophora Williamsii*, or *Agava Americana*, commonly known as the Mescal Button, or any compound, derivative or preparation thereon [thereof]. (L. 1923, c. 22, § 1.)

156. Penalty.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed five hundred dollars (\$500.00) or imprisonment in the county jail for a period of not to exceed six months or by both such fine and imprisonment. (Id. § 2.)

157. Preparation, Sale and Approval of Poison.—In any county concerned, poison for the killing and exterminating of the Columbian ground squirrel or other rodents shall be prepared by the Secretary of the State Board of Entomology or his duly authorized representative, and shall be sold by him or his agents at cost to any owner or occupant of land in any control district; and it is further provided that the Secretary of the State Board of Entomology or his duly authorized representative shall also prepare or approve all poison used by persons authorized under this act to lay out poison on lands, the owners of which shall refuse or neglect to poison or otherwise kill and exterminate the Columbian ground squirrel or other rodents as directed by the regulations of the State Board of Entomology. (Pol. C. 1921, § 2558.)

NOTE: See also No. 256.

Tuberculin.

158. Tuberculin; Permission for Sale or Distribution of.—Any person, firm, or corporation desiring to sell or distribute tuberculin for animal use in the State of Montana must first secure permission from the Live Stock Sanitary Board. (Pol. C. 1921, § 3296.)

159. Same; Report of Sales or Distribution.—Any person, firm, or corporation, having secured permission from the Live Stock Sanitary Board to sell or distribute tuberculin for animal use within this State as prescribed in the preceding sections shall, on the same day of selling, furnishing or supplying tuberculin, report in writing to the Live Stock Sanitary Board the name or names and address of the person or persons furnished, including a statement of the amount of tuberculin supplied. (Id. § 3297.)

160. Violation of Act a Misdemeanor; Penalty.—Any person, firm, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor

and punished by a fine of not less than twenty-five dollars and not more than five hundred dollars or by imprisonment for not less than thirty days and not more than ninety days or both fine and imprisonment. (Id. § 3298.)

NOTE: See also No. 92.

Venereal Disease Drugs.

161. Druggists and Unlicensed Persons Prohibited from Prescribing; Duty of Druggists.—No druggist or other person, not a physician licensed under the laws of the State, shall prescribe or recommend to any person any drugs, medicines, or other substances to be used for the cure or alleviation of gonorrhœa, syphilis, or chancroid, or shall compound any drugs or medicines other than proprietary for said purpose, from any written formula or order not written for the person for whom drugs or medicines are compounded, and not signed by a physician licensed under the laws of the State. All druggists are required to keep a record of the names and addresses of all persons to whom proprietary or patent medicines, commonly or presumably used in the treatment of venereal diseases, are sold or supplied to, and shall forward a report to the proper health officer at the end of each week, giving the names and addresses of such persons and the remedy sold in each case. (Pol. C. 1921, § 2573.)

162. Penalty for Violation of Act or Regulations.—Any person who shall violate any of the provisions of this act, or any lawful rule or regulation made by the State Board of Health, pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by the State, county, or local health officer, pursuant to the authority granted in this act, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than a year, or by both such fine and imprisonment. (Id. § 2577.)

163. Prohibition Against a Certain Class of Advertisements.—No newspaper or other paper published or circulated in whole or in part within the State of Montana shall contain advertisements of cures, appliances, or treatments for certain diseases or disorders, to wit: stricture, syphilis, impotency, gonorrhœa, emissions, and so-called "lost manhood," and other private diseases of men and women, and the complications. (Pen. C. 1921, § 11144.)

164. Distribution of Circulars.—It is hereby made unlawful to distribute any circulars, dodgers or advertising matter whatsoever advertising remedies for the cure of any of the diseases mentioned in section 11144 of this code. (Id. § 11145.)

165. Penalties.—The person advertising, as well as the proprietor, editor, or any person in charge of any newspaper or printing establishment, violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months. (Id. § 11146.)

166. Same.—Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter hereinabove prohibited shall be guilty of a misdemeanor and punished as prescribed in the preceding section. (Id. § 11147.)

167. Production of Advertisement Prima Facie Evidence of Guilt.—The production of any advertisement or advertising matter published or distributed contrary to the provisions of this act shall be, of itself, prima facie evidence of the guilt of the person or persons advertising to cure any such disease hereinabove mentioned, or of the publishers who publishes any matter such as is herein prohibited. (Id. § 11148.)

Wood Alcohol.

See No. 134.

Intoxicating Liquors.

168. Definition of Terms.—When used in this act or in any other laws of the State relating to intoxicating liquors, the word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter, and wine, and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of one per centum or more of alcohol by volume which are fit for use for beverage purposes; provided,

that the foregoing definition shall not extend to dealcoholized wine, nor to any beverage or liquid produced by the process by which beer, ale, porter, or wine is produced, if it contains less than one-half of one per centum of alcohol by volume, and is made as prescribed in section 11082 of this code, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from, such sealed and labeled bottles, casks, or containers as the Secretary of State may by regulation prescribe.

1. The word "person" shall mean and include natural persons, associations, copartnerships, and corporations.

2. The term "application" shall mean a formal written request supported by a verified statement of facts showing that the Secretary of State may grant the request.

3. The term "permit" shall mean a formal written authorization by the Secretary of State setting forth specifically therein the things that are authorized.

4. The term "bond" shall mean an obligation authorized or required by or under this act or any regulation, executed in such form and for such a penal sum as may be required by a court, or prescribed by regulation.

5. The term "regulation" shall mean any regulation prescribed by the Secretary of State for carrying out the provisions of this act, and the said Secretary of State is authorized to make such regulations. (Pen. C. 1921, § 11048.)

169. Liquor Traffic Prohibited; Exceptions.—No person shall, on or after the date when this act goes into effect, manufacture, sell, barter, transport, import, export, deliver, furnish, or possess any intoxicating liquor except as authorized in this act, and all the provisions of this act shall be liberally construed to the end that the use of intoxicating liquors as a beverage may be prevented.

Liquor for nonbeverage purposes and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, imported, exported, delivered, furnished, and possessed, but only as herein provided, and the Secretary of State may, upon application, issue permits therefor; provided, that nothing in this act shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposit in government bonded warehouses. (Id. § 11049.)

170. Articles Not Subject to Act; Permits and Regulations.—The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this act if they correspond with the following descriptions and limitations, namely:

1. Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force.

2. Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopœia, National Formulary, or the American Institute of Homeopathy that are unfit for use for beverage purposes.

3. Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

4. Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

5. Flavoring extracts and sirups that are unfit for use as a beverage, or for intoxicating beverage purposes.

6. Vinegar and preserved sweet cider.

A person who manufactures any of the articles mentioned in this section may purchase and possess liquor for that purpose, but he shall secure permits to manufacture such articles and to purchase such liquor, give the bonds, keep the records, and make the reports specified in this act, as directed by the Secretary of State. No such manufacturer shall sell, use, or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, sirup, or the articles named in paragraphs 2, 3 and 4 of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article.

Any person who shall knowingly sell any of the articles mentioned in paragraphs 1, 2, 3 and 4 of this section for beverage purposes, or any extract or sirup for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes, or shall sell any beverage containing one-half of one per centum or more of alcohol by volume in which any extract, sirup, or other article is used as an ingredient, shall be subject to the penalties provided in section 11075 of this code. If the Secretary of State shall find, after

notice and hearing as provided for in section 11054 of this code, that any person has sold any flavoring extract, sirup, or beverage in violation of this paragraph, he shall notify such person, and any known principal for whom the sale was made, to desist from selling such article; and it shall thereupon be unlawful for a period of one year thereafter for any person so notified to sell any such extract, sirup, or beverage without making an application for, giving a bond, and obtaining a permit so to do, which permit may be issued upon such conditions as the Secretary of State may deem necessary to prevent such illegal sales, and in addition the Secretary of State shall require a record and report of sales. (Id. § 11050.)

171. Analysis; Revocation of Permit; Review of Action.—Whenever the Secretary of State has reason to believe that any article mentioned in the preceding section does not correspond with the descriptions and limitations therein provided, he shall cause an analysis of said article to be made, and if, upon such analysis, the Secretary of State shall find that said article does not so correspond he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said article should not be dealt with as intoxicating liquor, such notice to be served personally or by registered mail as the Secretary of State may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear.

If the manufacturer of said article fails to show to the satisfaction of the Secretary of State that the article corresponds to the descriptions and limitations provided in the preceding section, his permit to manufacture and sell such article shall be revoked. The manufacturer may by appropriate proceeding in a court of competent jurisdiction have the action of the Secretary of State reviewed and the court may affirm, modify or reverse the finding of the Secretary of State, as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale or other disposition of such article. (Id. § 11051.)

172. Sales Without Permit, When Prohibited; Exceptions.—No one shall manufacture, sell, purchase, transport or prescribe any liquor without first obtaining a permit from the Secretary of State so to do, except that a person may, without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided, and except that any person who in the opinion of the Secretary of State is conducting a bona fide hospital or sanatorium engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations and conditions as the Secretary of State shall prescribe, purchase and use in accordance with the methods in use in such institution, liquor to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

All permits to manufacture, prescribe, sell or transport liquor may be issued for one year, and shall expire on the thirty-first day of December next succeeding the issuance thereof; provided, that the Secretary of State may without formal application or new bond extend any permit granted under this act or laws now in force after August thirty-first in any year to December thirty-first of the succeeding year; provided further, that permits to purchase liquor for the purpose of manufacturing or selling as provided in this act shall not be in force to exceed ninety days from the day of issuance. A permit to purchase liquor for any other purpose shall not be in force to exceed thirty days. Permits to purchase liquor shall specify the quantity and kind to be purchased and the purpose for which it is to be used. No permit shall be issued to any person who within one year prior to the application therefor or issuance thereof shall have violated the terms of any permit issued under this act or any law of the United States or of this State regulating traffic in liquor. No permit shall be issued to anyone to sell liquor at retail, unless the sale is to be made through a pharmacist designated in the permit and duly licensed under the laws of this State to compound and dispense medicine prescribed by a duly licensed physician. No one shall be given a permit to prescribe liquor unless he is a physician duly licensed to practice medicine and actively engaged in the practice of such profession. Every permit shall be in writing, dated when issued, and signed by the Secretary of State or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the liquor is to be used.

The Secretary of State may prescribe the form of all permits and applications and the facts to be set forth therein. Before any permit is granted the Secretary

of State may require a bond in such form and amount as he may prescribe to insure compliance with the terms of the permit and the provisions of this act. In the event of the refusal by the Secretary of State of any application for a permit, the applicant may have a review of his decision before a court of competent jurisdiction in the manner provided in section 11051 of this code.

Nothing in this act shall be held to apply to the manufacture, sale, transportation, importation, possession or distribution of wine for sacramental purposes, or like religious rites, except section 11052 (save as the same requires a permit to purchase) and section 11055, and the provisions of this act prescribing penalties for the violation of either of said sections. No person to whom a permit may be issued to manufacture, transport, import or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange or furnish any such to any person not a rabbi, minister of the gospel, priest or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister or priest to supervise the manufacture of wine to be used for the purposes and rites in this section mentioned, and the person so designated may, in the discretion of the Secretary of State, be granted a permit to supervise such manufacture. (Id. § 11052.)

173. Physicians' and Pharmacists' Prescriptions; Regulation.—No one but a physician holding a permit to prescribe liquor shall issue any prescription for liquor, and no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought, or if such examination is found impracticable, then upon the best information obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once. Any pharmacist filling a prescription shall at the time indorse upon it over his own signature the word "canceled," together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided.

Every physician who issues a prescription for liquor shall keep a record, alphabetically arranged in a book prescribed by the Secretary of State, which shall show the date of issue, amount prescribed, to whom issued, the purpose or ailment for which it is to be used and directions for use, stating the amount and frequency of the dose; providing nothing herein contained shall be construed as authorizing the issuance of permit to prescribe, sell or transport beer or any malt beverage containing more than one-half of one per centum of alcohol by volume, but the transportation, sale or prescription or use of any beer or malt beverage containing more than one-half of one per centum of alcohol by volume is hereby expressly forbidden. (Id. § 11053.)

174. Citation and Hearing; Revocation of Permit.—If at any time there shall be filed with the Secretary of State a complaint under oath setting forth facts, or if the Secretary of State has reasons to believe, that any person who has a permit is not in good faith conforming to the provisions of this act, or has violated the laws of the State relating to intoxicating liquor, the Secretary of State or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the Secretary of State with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearings shall be held within the judicial district and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it be found that such person has been guilty of willfully violating any such laws, as charged, or has not in good faith conformed to the provisions of this act, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the Secretary of State, the permittee may have a review of his decision before a court of competent jurisdiction in the manner provided in section 11051 of this code. During the pendency of such action such permit shall be temporarily revoked. (Id. § 11054.)

175. Record of Sales to be Kept.—No person shall manufacture, purchase for sale, sell, or transport, any liquor without making at the time a permanent record thereof showing in detail the amount and kind of liquor manufactured, purchased,

sold, or transported, together with the names and addresses of the persons to whom sold, in case of sale, and the consignor and consignee in case of transportation, and the time and place of such manufacture, sale, or transportation. The Secretary of State may prescribe the form of such record, which shall at all times be open to inspection as in this act provided. (§ 11055.)

176. Copy of Permits to be Kept.—All manufacturers and wholesale or retail druggists shall keep as a part of the records required of them a copy of all permits to purchase on which a sale of any liquor is made, and no manufacturer or wholesale druggist shall sell or otherwise dispose of any liquor except at wholesale and only to persons having permits to purchase in such quantities. (Id. § 11056.)

177. Manufacturers' Labels.—All persons manufacturing liquor for sale under the provisions of this act shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorizing the manufacture thereof; and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon; and all persons selling at wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the person to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale was authorized. (Id. § 11057.)

178. Application for Use Confiscated Liquor for Medicinal Purposes.—In all cases in which intoxicating liquors may be subject to be destroyed under the provisions of this act the court shall have jurisdiction upon the application of the Attorney-General or county attorney to order them delivered to any department, institution, or agency of the State or county, for medicinal, mechanical, or scientific uses, or to order the same sold at private sale for such purposes to any person having a permit to purchase liquor, the proceeds to be paid into the treasury of the county in which the violation occurred, and all liquor heretofore seized in any suit or proceeding brought for violation of law may likewise be so disposed of. (Id. § 11074.)

179. Penalty for Violation of Act and False Report.—Any person who manufactures, sells, barter, transports, imports, exports, delivers, furnishes, or possesses any intoxicating liquor, in violation of any of the laws of the State of Montana, relating to intoxicating liquors, shall, for the first offense, be fined not less than two hundred (\$200.00) dollars, nor more than one thousand (\$1,000.00) dollars, and be imprisoned in the county jail not less than sixty days nor more than six months, and for a second or subsequent offense shall be fined not less than three hundred (\$300.00) dollars nor more than two thousand (\$2,000.00) dollars, and be imprisoned not less than six months nor more than two years in the State Prison.

Any person who violates any of the provisions of such laws, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than five hundred (\$500.00) dollars; for a second offense, not less than one hundred (\$100.00) dollars or more than one thousand (\$1,000.00) dollars, and be imprisoned not less than sixty days nor more than six months, and for any subsequent offense, he shall be fined not less than five hundred (\$500.00) dollars and be imprisoned in the State Prison for not less than one year nor more than two years. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted, and to plead the prior conviction in the affidavit, information, or indictment.

Judgment for fine and costs imposed by the court for violation of any of the provisions of this act shall be a lien upon the premises where a breach of the law takes place, if such breach was committed by the owner or by another with the owner's knowledge, assent or acquiescence.

If any person shall be convicted in a criminal action of violating any of the provisions of this act, an injunction shall be issued perpetually enjoining said person from thereafter violating the provisions of said act the same as though a formal application for an injunction had been applied for. (Id. § 11075, as amended L. 1923, c. 116.)

180. Inspection of Records by Prosecutor.—All records and reports kept or filed under the provisions of this act shall be subject to inspection at any reasonable hour by any public prosecutor or by any person designated by him, or by any peace officer in the State, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the original thereof, and verified copies of such records shall be furnished to the Attorney-General or county attorney when called for. (Pen. C. 1921, § 11080.)

181. Storage in Bonded Warehouses; Permit to Develop Liquids.—Nothing herein shall prevent the storage in United States bonded warehouses of all liquor manufactured prior to the taking effect of this act, or prevent the transportation of such liquor to such warehouses or to any wholesale druggist for sale to such druggist for purposes not prohibited when the tax is paid, and permits may be issued therefor.

A manufacturer of any beverages containing less than one-half of one per centum of alcohol by volume may, on making application and giving such bond as the Secretary of State shall prescribe, be given a permit to develop in the manufacture thereof by the usual methods of fermentation and fortification or otherwise a liquid such as beer, ale, porter or wine, containing more than one-half of one per centum of alcohol by volume, but before any such liquid is withdrawn from the factory or otherwise disposed of the alcoholic contents thereof shall, under such rules and regulations [as] the Secretary of State may prescribe, be reduced below such one-half of one per centum of alcohol; provided, that such liquid be removed and transported, under bond and under such regulations as the Secretary of State may prescribe, from one bonded plant or warehouse to another for the purpose of having the alcohol extracted therefrom. And such liquids may be developed, under permit, by persons other than the manufacturers of beverages containing less than one-half of one per centum of alcohol by volume, and sold to such manufacturers for conversion into such beverages.

In any case where the manufacturer is charged with manufacturing or selling for beverage purposes any malt, vinous or fermented liquids containing one-half of one per centum or more of alcohol by volume, or in any case where the manufacturer, having been permitted by the Secretary of State to develop a liquid such as ale, beer, porter or wine containing more than one-half of one per centum of alcohol by volume in the manner and for the purpose herein provided, is charged with failure to reduce the alcoholic content of any such liquid below such one-half of one per centum before withdrawing the same from the factory, then in either such case the burden of proof shall be on such manufacturer to show that such liquid so manufactured, sold or withdrawn contains less than one-half of one per centum of alcohol by volume. In any suit or proceeding involving the alcoholic content of any beverage the reasonable expenses of analysis of such beverage shall be taxed as costs in the case. (Id. § 11082.)

182. Regulation, Use, and Sale of Non-beverage Alcohol.—Any person to whom has been issued a permit to use, purchase, obtain or sell non-beverage alcohol for medicinal, scientific or manufacturing purposes under the terms and provisions of an act of the 66th Congress enacted into law on the 28th day of October, 1919, entitled "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye and other lawful industries," may use, purchase, obtain or sell such non-beverage alcohol for medicinal, scientific or manufacturing purposes, as provided for in said permit, upon compliance with this act. (Id. § 11087.)

183. Recording of Permit.—Every person to whom has been issued a permit as described in the preceding section shall record such permit or a certified copy thereof with the Secretary of State, and it shall thereupon be lawful for said person to use, purchase, obtain or sell such non-beverage alcohol for medicinal, scientific or manufacturing purposes only, as authorized by such permit, and it shall thereupon be lawful for such person to use, purchase, obtain or sell such non-beverage alcohol for medicinal, scientific or manufacturing purposes only, as authorized in such permit. (Id. § 11088.)

184. Same.—Every person to whom has been issued a permit as described in section 11087, and every person to whom has been issued a permit as described in section 11088, shall record said permit, or a certified copy thereof, with the Secretary of State, and it shall thereupon be lawful for said person to use, purchase, obtain or sell such non-beverage alcohol for medicinal, scientific or manufacturing purposes only, as authorized in such permit, and it shall thereupon be lawful for such person to use, purchase, obtain or sell such non-beverage alcohol for medicinal, scientific or manufacturing purposes only, as authorized in such permit. (Id. § 11089.)

185. Fee for Recording Permit; Revocation.—The Secretary of State, upon payment to him of the sum of two dollars, shall record, by separately copying each of said permits or certified copies of permits in a book kept by him for that purpose, and shall consecutively number each of said permits or certified copy thereof in said book, as the same are received. When the recording of said per-

mits or certified copies thereof has been revoked, as hereinafter provided, the Secretary of State, upon proof being presented to him of said revocation, shall, opposite the number in said book of said recorded permit or certified copy, indicate said revocation and the date thereof. (Id. § 11090.)

186. Indorsement by Secretary of State.—The Secretary of State must endorse over his signature upon each permit or certified copy of permit so recorded by him the date of recording and the number given to said permit or certified copy thereof, and upon request shall deliver it to the party leaving the same with him for record. (Id. § 11091.)

187. Penalty; Revocation of Permit.—A conviction, under said act of Congress or any State law relating to intoxicating liquors, of any person holding a permit, such as herein described, shall revoke the recording of said permit. (Id. § 11092.)

188. Suits for Revocation of Permit.—The Attorney-General, or a county attorney, or any taxpayer within the State of Montana may, at any time, commence an action against any person who has recorded such a permit, to cancel the recording thereof, and said recording shall be canceled upon the showing of a violation of the terms of said permit. (Id. § 11093.)

189. Scope of Act.—Nothing herein contained shall amend or repeal or conflict with any of the provisions of the law relating to the introduction, sale and use of intoxicating liquors, adopted by the vote of the people of the State of Montana, known as chapter 175 of the laws of the Fifteenth Legislative Assembly, or of any of the provisions of chapter 143, acts of the Fifteenth Legislative Assembly, except so far as the same shall apply to the introduction, use and sale of non-beverage alcohol for medicinal, scientific or manufacturing purposes, as in this act provided. (Id. § 11094.)

190. "Person" Defined.—The term "person" as used in this act shall mean and include any individual, firm, copartnership and every corporation, joint stock company and association. (Id. § 11095.)

191. "Physician" Defined.—The word "physician" as used in this act shall mean and include a person to whom has been duly and regularly issued a certificate by the Board of Medical Examiners of the State of Montana permitting said person to practice medicine or surgery within the State of Montana. (Id. § 11096.)

192. Physician's Permit to Dispense Intoxicating Liquor.—Any physician to whom has been issued a permit to use, prescribe, dispose of, purchase, sell, or obtain intoxicating liquors for medicinal purposes under the terms and provisions of an act of the sixty-sixth Congress, enacted into law on the twenty-eighth day of October, 1919, entitled, "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," may lawfully use, prescribe, dispose of, purchase, sell, or obtain intoxicating liquors for medicinal purposes, as provided for in said permit. (Id. § 11097.)

193. Federal Permits Valid in State.—Any person to whom has been issued a permit to sell or dispose of intoxicating liquors for medicinal purposes under the terms and provisions of an act of the sixty-sixth Congress enacted into law on the twenty-eighth day of October, 1919, entitled "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," may lawfully sell, dispose of, transport, or import intoxicating liquors for medicinal purposes as provided for in said permit, providing that nothing herein contained will compel any retail druggist or pharmacist to handle whiskey, rum, brandy, ale, beer, wine, or any compound thereof capable of use as a beverage. (Id. § 11098.)

194. Penalty for Violation of Federal or State Act.—Any person violating the provisions of this act, or the terms and provisions of an act of the sixty-sixth Congress, enacted October 28, 1919, entitled "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," shall, upon conviction thereof, be fined for a first offense in a sum not more than five hundred dollars; for a second offense, not less than one hundred nor more than one thousand dollars, and in addition to, have his license to practice revoked, in the case of a physician, or to have his license to do business revoked in the case of a druggist. (Id. § 11099.)

195. Act an Exercise of Police Powers.—This entire act shall be deemed an exercise of the police power of the State, for the protection of the economic welfare, health, peace, and morals of the people of the State, and all of its provisions shall be liberally construed for the accomplishment of that purpose. (Id. § 11100.)

196. "Person" Defined.—The word "person" shall be held and construed to mean natural persons, firms, copartnerships, corporations, and all associations of natural persons, whether acting by themselves or by a servant, agent or employee. (Id. § 11101.)

197. Prohibition Against Dealing in Intoxicating Liquors in Person or as Agent.—It shall be unlawful for any person to act as an agent for any wholesale or retail liquor house, brewery or distillery, in any manner whatever, either for transmitting orders for any such wholesale or retail liquor house, brewery, or distillery, or for the purpose of distributing any of their intoxicating liquors the sale of which is prohibited by the laws of this State; or to take or solicit orders for the purchase or sale of any such intoxicating liquor, either in person, or by sign, circular, letter, poster, handbill, card, price list, advertisement, or otherwise, or to distribute, publish, or display any advertisement, sign, or notice naming, representing, designating, or referring to the quality or qualities of any intoxicating liquor, or giving the name or address of any manufacturer dealing in intoxicating liquor, or stating where any such liquor may be obtained, or to possess or receive any intoxicating liquor except as provided in this act. A violation of any of the provisions of this section shall be deemed a misdemeanor. (Id. § 11102.)

198. Punishment for Misdemeanor.—Whenever a violation of any provision of this act is made a misdemeanor and the punishment is not prescribed, such punishment shall be a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment not more than six months or by both such fine and imprisonment. (Id. § 11121.)

198a. Penalty for Selling Liquor to Minor.—Any person who shall sell, give away or dispose of intoxicating liquors to a minor, shall be guilty of a misdemeanor, and for the first offense, be punishable by a fine of not less than two hundred and fifty dollars, nor more than five hundred dollars and by imprisonment for not less than six months nor more than one year in the county jail, and for the second and subsequent offenses, he shall be guilty of a felony and punishable by a fine of not less than five hundred dollars, nor more than two thousand dollars, and by imprisonment in the State Penitentiary for not less than one year, nor more than two years. Nothing herein contained shall prohibit the furnishing of intoxicating liquor to minors upon any physician's prescription where authorized by the laws of the United States nor the furnishing of wine for sacramental purposes. (Act of Mar. 9, 1927, § 1.)

198b. "Liquor" Defined.—When used in this act, or in any other laws of the State relating to intoxicating liquors, the word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter, and wine, and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of one per centum or more of alcohol by volume which are fit for use for beverage purposes; provided, that the foregoing definition shall not extend to dealcoholized wine, nor to any beverage or liquid produced by the process by which beer, ale, porter, or wine is produced, if it contains less than one-half of one per centum of alcohol by volume. (Id. § 2.)

PART IV.

Miscellaneous Laws.

False Advertising.

199. False Advertising Defined.—False advertising as used in this act shall mean any false statement regarding the quality or price of goods, wares or merchandise, in any advertisement, circular, letter, poster, handbill, display card or other

written or printed matter, by means of which such goods, wares or merchandise are offered for sale to the public. (Pen. C. 1921, § 11422.)

200. False Statements Regarding Merchandise.—It shall be unlawful for any person, corporation, copartnership, or association of individuals to make any false statement regarding the quality or price of goods, wares or merchandise in any advertisement, circular, letter, poster, handbill, display card, or other written or printed matter, by means of which such goods, wares or merchandise are offered for sale to the public. (Id. § 11423.)

201. Penalty for Violation of Act.—Any person violating any of the provisions of this act by means of false advertising, as herein defined, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 11424.)

Flag Desecration.

202. Desecration of Flag.—Any person who, in any manner for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature upon any flag, standard, color, or ensign of the United States of America, or shall expose, or cause to be exposed to public view any such flag, standard, color or ensign upon which shall be printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away or for use for any purpose, any article or substance, being any article of merchandise or receptacle of merchandise, upon which shall have been printed, painted, attached, or otherwise placed, a representation of any such flag, standard, color, or ensign to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, defile, or defy, trample upon, or cast contempt upon, either by words or acts, upon any such flag, standard, color or ensign, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by a term in the State Penitentiary not exceeding five years, and in addition, a fine not exceeding one thousand dollars. (Pen. C. 1921, § 11561.)

203. Meaning of Term "Flag."—The words flag, standard, color, or ensign, as used in this act, shall include any flag, standard, color, ensign, or any picture or representation of either thereof, made of any substance or represented on any substance, and of any size evidently purporting to be said flag, standard, color, or ensign of the United States of America, or a picture, or representation of either thereof upon which shall be shown the colors, the stars, and the stripes in any number of either thereof, or by which the person seeing the same without deliberation may believe the same to represent the flag, color, standard, or ensign of the United States of America. (Id. § 11562.)

204. Exceptions.—This act shall not apply to any act permitted by the statutes of the United States of America, or by the United States Army and Navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, or stationery for use in correspondence, on any of which shall be printed, painted or placed said flag, disconnected from any advertisement. (Id. § 11563.)

Tobacco—Tobacco Products.

205. Penalty for Selling Tobacco to Minors.—Every person who sells or gives any tobacco, cigars, cigarettes, or cigarette paper to any minor under eighteen years of age, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or imprisonment not to exceed three months in the county jail, or both such fine and imprisonment, in the discretion of the court. (Pen. C. 1921, § 11047.)

NOTE: See also No. 73a.

Trade-Marks, Etc.

206. Trade-Mark Defined.—The phrase "trade-mark," as used in this chapter, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, or wrapper usually affixed by any mechanic, manufacturer,

druggist, merchant, or tradesman, to denote any goods to be goods imported, manufactured, produced, compounded, or sold by him, other than any name, word, or expression, generally denoting any goods to be of some particular class or description, or the designation or name for any mill, hotel, factory, or other business. (Pol. C. 1921, § 4286.)

207. Use of Trade-mark; How Secured.—Any person may record any trade-mark or name, by filing with the Secretary of State his claim to the same, and a copy or description of such trade-mark or name, with his affidavit attached thereto, certified to by any officer authorized to take acknowledgments of conveyances, setting forth that he, or the firm or corporation of which he is a member, is the exclusive owner, or agent of the owner, of such trade-mark or name. (Id. § 4287.)

208. Record; Fees.—The Secretary of State must keep for public examination a record of all trade-marks or names filed in his office, with the date when filed and the name of the claimant, and must not record any two like trade-marks or names. He must at the time of filing and recording a trade-mark or name collect from the claimant a fee of three dollars. (Id. § 4288.)

209. Who Are Owners of Trade-marks; How Transferred.—Any person who has first adopted and used a trade-mark or name, whether within or beyond the limits of this State is its original owner. Such ownership may be transferred in the same manner as personal property and is entitled to the same protection by suits at law; and any court of competent jurisdiction may restrain, by injunction, any use of trade-marks or names in violation of this chapter. (Id. § 4289.)

210. Penalties.—The penalty for forging, counterfeiting, or unlawful using of trade-marks is provided in section 11199 of the Penal Code. (Id. § 4290.)

211. Marks and Devices May be Filed.—Any person engaged in manufacturing, bottling or selling soda, mineral or aerated waters, cider, ginger ale or other aerated, non-intoxicating beverages in bottles or siphons with his name or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles or siphons, or the boxes used by him, may have a trade-mark for the same as provided in this chapter. (Id. § 4291.)

212. Penalties.—Every person who violates the provisions of the preceding section is punishable as provided in sections 11199 and 11203 of the Penal Code. (Id. § 4292.)

213. Forging and Counterfeiting of Trade-marks a Misdemeanor.—Every person, association, or corporation who knowingly or willfully forges or counterfeits, or procures to be forged or counterfeited, any trade-mark or name used and recorded by any person in connection with his goods, or affixed thereto to distinguish them from the goods of any other person; or any person, association, or corporation who shall make use of any trade-mark or name, or anything similar thereto, which has been recorded in the office of the Secretary of State for any other person, association, or corporation—with intent to palm off on the public any goods to which said forged, counterfeit, or similar trade-mark or name is affixed, as the goods of such person whose trade-mark or name is recorded—is guilty of a misdemeanor and subject to the penalty therefor provided—it being the intent of this act that any person owning or using a recorded trade-mark or name shall be protected in the exclusive use thereof. (Pen. C. 1921, § 11199.)

214. Selling Goods Which Bear Counterfeit Trade-marks.—Every person who sells or keeps for sale any goods upon or to which any counterfeited trade-mark has been affixed, after such trade-mark has been recorded in the office of the Secretary of State, intending to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor. (Id. § 11200.)

215. Definition of the Phrase "Counterfeit Trade-marks," Etc.—The phrases "forged trade-mark" and "counterfeit trade-mark," or their equivalents, as used in this chapter, include every alteration or imitation of any trade-mark so resembling the original as to be likely to deceive. (Id. § 11201.)

216. "Trade-mark" Defined.—The phrase "trade-mark," as used in the three preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, wrapper, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to denote any goods to be goods imported, manufactured, produced, compounded or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description. (Id. § 11202.)

217. Refilling Casks, Etc., Bearing Trade-mark.—Every person who has or uses any cask, bottle, siphon, vessel, case, box-cover, label, or other thing bearing or having in any way connected with it the duly filed trade-mark or name of another,

for the purpose of disposing, with intent to deceive or defraud, of any article other than that which such cask, vessel, bottle, case, cover, label, or other thing originally contained, or was connected with, by the owner of such trade-mark or name, is guilty of a misdemeanor. (Id. § 11203.)

218. Counterfeiting Certain Trade-marks.—Whenever any person, association or union of workmen have adopted or shall hereafter adopt, for their protection any label, trade-mark, or form of advertisement announcing that goods to which such label, trade-mark, or form of advertisement shall be attached were manufactured by such person or by a member or members of such association or union, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trade-mark, or form of advertisement. Every person violating this section shall, upon conviction, be guilty of a misdemeanor. (Id. § 11204.)

219. Penalty for Unlawfully Using Trade-mark.—Every person who shall use any counterfeit or imitate any label, trade-mark, or form of advertisement of any such person, union, or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor. (Id. § 11205.)

220. Record of Certain Trade-marks.—Every such person, association, or union that heretofore adopted, or shall hereafter adopt, a label, trade-mark, or form of advertisement as aforesaid, may file the same for record in the office of the Secretary of State, by leaving two copies, counterparts or facsimiles thereof, with the Secretary of State; said secretary shall deliver to such person, association, or union filing the same a duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade-mark, or form of advertisement, and of the right of said person, association, or union to adopt the same. No label shall be recorded that probably would be mistaken for a label already of record. (Id. § 11206.)

221. Suits to Protect Certain Trade-marks.—Every such person, association, or union adopting a label, trade-mark, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display, or sale of any such counterfeit or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display, or sale, and shall award the complainant in such suit such damages, resulting from such wrongful manufacture, use, display, or sale as may by said court be deemed just and reasonable, and shall require the defendants to pay such person, association, or union the profits derived from such wrongful manufacture, use, display, or sale; and said court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to any officer of the court or to complainant to be destroyed. (Id. § 11207.)

222. Penalties.—Every person who shall use or display the genuine label, trade-mark, or form of advertisement of any such person, association, or union in any manner not authorized by such person, union, or association, shall be deemed guilty of a misdemeanor. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union. (Id. § 11208.)

223. Same.—Any person or persons who shall in any way use the name or seal of any person, association, or union, or officer thereof, in and about the name of goods or otherwise, not being authorized to use the same, shall be guilty of a misdemeanor. (Id. § 11209.)

NOTE: See also No. 49.

Trading Stamps, Etc.

224. License Required for Furnishing Premiums or Bonuses for Sale of Merchandise.—Every person, firm, or corporation who shall use, and every person, firm, or corporation who shall furnish to any other person, firm, or corporation to use, as a gift or bonus, or otherwise, in, with, or for the sale of any goods, wares, or merchandise, any premium or bonus, including stamps, coupons, tickets, certificates, cards, or other similar devices which shall entitle the purchaser receiving the same with such sale of goods, wares, or merchandise to procure from any person, firm, or corporation, any premium or bonus, including goods, wares, or merchandise, free of charge or for less than the retail market price thereof upon the production of any number of said stamps, coupons, tickets, certificates, cards, or other similar device; and every person, firm, or corporation placing premiums or bonuses of goods, wares, or merchandise, including such as crockery, chinaware, aluminumware, tinware, graniteware, or anything else that

may be included or contained or delivered with packages of any kind of merchandise of any description, shall, before so furnishing, selling, or using the same, obtain a separate license therefor from the county treasurer of each county wherein such furnishing or selling or using of such premiums or bonuses shall take place, for each and every store or place of business in that county from which such furnishing or selling of premiums or bonuses as herein enumerated, or in which such shall take place. (Pol. C. 1921, § 2430.)

225. Issuance of License and Fee for Same.—In order to obtain such license the person, firm, or corporation applying therefor shall pay to the county treasurer of the county for which such license is sought, the sum of six thousand dollars, and upon such payment being made, the county treasurer shall issue to such person, firm, or corporation so paying, a license to, for the period of one year, give or furnish or include in or with sales of goods, wares, or merchandise, premiums or bonuses, or other similar devices, as described in the preceding section, or to pack such premiums or bonuses in or deliver same in connection with packages of merchandise, as premiums or bonuses. (Id. § 2431.)

226. Contents of License.—Such license shall contain the name of the grantee thereof, the date of its issuance and expiration, and name of the town or city or place in which the same shall be used, and shall only operate to license retail sales made in such town, city or place. (Id. § 2432.)

227. Penalty for Violation of Law.—Any person, firm, or corporation violating any of the provisions of this act shall, for each single offense, be deemed guilty of a misdemeanor, and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not to exceed sixty days, or by both such fine and imprisonment. (Id. § 2433.)

Weights and Measures.

228. What Are Standards.—The weights and measures accepted and used by the government of the United States at the present time, except as hereinafter provided, are the lawful standard weights and measures of the State. (Pol. C. 1921, § 4212.)

229. Unit of Weights.—The standard avoirdupois and troy weights are the units of standards of weights from which all other weights are derived and ascertained. (Id. § 4217.)

230. Division of a Pound.—The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, is divided into sixteen equal parts, called ounces; the hundredweight consists of one hundred avoirdupois pounds and twenty hundredweight constitute a ton. The troy ounce is equal to the twelfth part of the troy pound. (Id. § 4218.)

231. Unit of Liquid Measure.—The standard gallon and its parts are the units or standards of measure of capacity for liquids, from which all other measures of liquids are derived and ascertained. (Id. § 4219.)

232. Barrel and Hogshead.—The barrel is equal to thirty-one and a half gallons, and two barrels constitute a hogshead. (Id. § 4220.)

233. Unit of Solid Measure.—The standard half-bushel is the unit or standard measure of capacity for substances other than liquids, from which all other measures of such substances are derived and ascertained. (Id. § 4221.)

234. Division of the Half-Bushel.—The peck, half-peck, quarter-peck, quart, and pint measure for measuring commodities other than liquid are derived from the half-bushel by successively dividing that measure by two. (Id. § 4222.)

235. Division of Capacity for Commodities Sold by Heap Measure.—The measures of capacity for charcoal, ashes, marl, manure, Indian corn in the ear, fruit and roots of every kind, and for all other commodities commonly sold by heap measure, are the half-bushel and its multiples and sub-divisions; and the measures used to measure such commodities must be made cylindrical with plain and even bottom, and must be of the following diameters from outside to outside: The bushel, nineteen and a half inches; half-bushel, fifteen and a half inches; and the peck, twelve and a third inches. (Id. 4223.)

236. Heap Measure.—All commodities sold by heap measure must be duly heaped up in the form of a cone; the outside of the measure, by which the same are measured, to be the limit of the case of the cone, and said cone to be as high as the article will admit. (Id. § 4224.)

237. Contracts Construed.—Contracts made within this State for work to be done or for anything to be sold or delivered by weight or measure, must be construed according to the foregoing standards. (Id. § 4225.)

238. Standard Ton and Bushel.—The standard ton consists of twenty hundred pounds, but a ton of mineral coal is expressed by the conventional quantity of twenty-six and one-third bushels of seventy-six pounds each. A bushel of the articles hereinafter named consists of the number of pounds affixed to each, to wit:

	<i>Pounds</i>
Apples and pears	45
Beans	60
Bran	20
Carrots	50
Barley	48
Beets	50
Buckwheat	52
Coal, mineral	76
Corn, in the ear	70
Corn meal	50
Lime, unslacked	80
Oats	32
Parsnips	50
Peas	60
Salt	50
Corn, shelled	56
Hay, per ton	2,000
Malt	30
Onions	57
Potatoes	60
Rye	56
Seeds	
Blue grass	14
Timothy	45
Hemp	44
Turnips	50
Clover	60
Hungarian grass	50
Flax	56
Wheat	60

(Id. § 4226.)

239. Penalty for Disregarding Standard Weights.—Any person, persons, company or corporation who shall demand, exact or take more than the prescribed number of pounds per bushel or per ton as fixed by the provisions of the preceding section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both such fine and imprisonment, in the discretion of the court. (Id. § 4227.)

240. Weights and Measures Inspected by County Sealer.—All vendors and traders in goods and merchandise, gold dust and other articles of traffic must have their balances, weights and measures compared with the standard of their respective counties and approved and marked by the county sealer, and if the same are found to be correct to be sealed with the name or initial letters of the county inscribed thereon, or condemned by him if found incorrect and marked "condemned." (Id. § 4233.)

241. Penalties.—The penalties for using, marking, or stamping false weights and measures, or selling therewith, is [are] provided for in sections 11428 to 11431* of the Penal Code. (Id. § 4234.)

242. State Sealer of Weights and Measures; Deputies.—The Secretary of State is hereby declared to be and is the ex officio State Sealer of Weights and Measures. The sealers of weights and measures of each municipal corporation are hereby declared to be deputy sealers of weights and measures of their respective municipal corporations. All deputy sealers of weights and measures shall receive no compensation other than such as may be provided by law, and shall be paid by the municipal corporation of which they are such officers. (Id. § 4235.)

243. Supervision of Inspection; Maintenance of Standards; County Auditors Appointed.—(1) The State Sealer of Weights and Measures shall have full authority and supervision over the inspectors of weights and measures, hereinafter

*See Nos. 272-275.

provided for, and all deputy sealers of weights and measures appointed as such by any municipal corporation within the State. Said State Sealer of Weights and Measures shall have general supervision over the weights and measures of the State. He shall take charge of the standards of weights and measures and shall procure at the expense of the State any weights and measures that may be necessary, and shall cause them to be kept and in no case removed from a fireproof vault in his office, except for the purpose of certification or repairs. He shall maintain said standards in good order and submit them once in ten years to the National Bureau of Standards for certification. He shall correct the standards of the several counties, cities and towns as often as he may deem necessary, and at least as often as once in five years, and where not otherwise provided by law he shall have general supervision of the weights and measures, or weighing and measuring devices of the State in use in the State.

(2) The county auditors, in counties of the first, second, third, fourth and fifth class, and county clerks in counties of the sixth, seventh and eighth class are hereby declared to be inspectors of weights and measures in their respective counties. (Id. § 4236.)

244. Bills and Expenses, How Allowed.—The Secretary of State, as ex-officio State Sealer of Weights and Measures, shall be authorized to do and perform any and all acts by this act authorized. All bills and accounts of expense incurred by the State Sealer of Weights and Measures shall be presented to and allowed by the State Board of Examiners, in the same manner as provided for other claims contracted for and in behalf of the State of Montana. (Id. § 4237.)

245. Duties of Sealer of Weights and Measures as to Inspection.—Said State Sealer of Weights and Measures, or his inspectors, shall visit the various counties, cities and towns in the State, and in the performance of his duties he, or his inspectors, may inspect weights and measures and balances which are used for buying or selling goods, wares, merchandise or other commodities, and for public weighing, and shall, upon a written request of any citizen, first [firm] or corporation, or educational institution of the State, test or calibrate weights and measures, weighing devices, or apparatus used as test standards in the State. He or his inspectors shall at least once annually test all scales, weights and measures used in checking the receipts or disbursements of supplies of every State institution, and he shall report in writing his findings to the executive officer of the institution concerned. (Id. § 4238.)

246. Inspection and Certificates.—The State Sealer of Weights and Measures or the State deputy sealer of weights and measures, or inspectors of weights and measures, may, in the discharge of their duties, inspect weights and measures. It is hereby made the duty of the State Sealer of Weights and Measures, or his inspectors, or the State deputy sealer of weights and measures, to at least once each year inspect all weights and measures, balances, measuring or weighing devices of different kinds throughout the State of Montana. The State Sealer of Weights and Measures shall prepare a certificate of suitable size to be attached or affixed to all weights and measures or measuring devices so tested. Said certificate shall bear a facsimile signature of the State Sealer of Weights and Measures, and shall be countersigned by the inspectors of weights and measures, or the State deputy sealer of weights and measures, or such inspectors of weights and measures as may be designated by any municipal corporation. The certificate as prepared by the State Sealer of Weights and Measures shall be numbered in consecutive order and shall have printed or stamped upon such certificate the year, and shall be furnished to the inspector of weights and measures and to the sealer of weights and measures of any municipal corporation of the State, upon application therefor. The inspector of weights and measures of any municipal corporation shall pay to the State Sealer of Weights and Measures for all such certificates so issued to him the sum equal to the actual cost of the number of certificates so received. (Id. § 4239.)

247. Penalty for Using Scales Not Inspected and Certified.—From and after the passage and approval of this act it shall be unlawful for any person or persons, firm, or copartnership, corporation or association of persons engaged in the trade of buying or selling, purchasing or disposing of, or dealing in any merchandise or commodities to any person or persons in the State of Montana, to sell or purchase by weight or by measure, without first having had the weights and measures, scales or measuring devices used by them for the purpose of determining the amount or quantity of any article or articles of merchandise, tested and a certification attached thereto by the State Sealer of Weights and Measures, or by inspectors of weights and measures, or by sealers of weights and measures appointed by any municipal corporation in the State of Montana. Such certificate

shall be attached or placed in a conspicuous place upon such weighing or measuring device. Any person or persons using any weight or measure, or scale or other measuring device after the passage and approval of this act, or annually thereafter, which has not been tested as provided by this act, shall, upon conviction thereof, be deemed guilty of a misdemeanor and fined in the sum of not less than twenty-five dollars, nor more than three hundred dollars. Any person or persons who shall be deemed guilty of a second offense, as provided in this act, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, and each and every successive day any person or persons shall so use any weights and measures, scales or other measuring devices shall be and is hereby declared to be a separate and distinct offense. (Id. § 4240.)

248. Duty of Tradesmen and Public Weighers to Have Scales Adjusted.—Every person or persons, firm, co-partnership, or corporation engaged in the trade of buying and selling, or as a public weigher or user of weights and measures, shall, between the first day of January and the first day of March of each year, have his weights, measures, balances and scales adjusted and sealed, and it is hereby made the duty of the inspector of weights and measures of the various districts of the State to examine and adjust all measures, balances and scales used by persons within district engaged in buying, selling, or as public weighers or users of weights and measures. (Id. § 4241.)

249. Inspection of Hay Scales and Other Scales Used for Public Weighing.—After the first day of March of each year, the Sealer of Weights and Measures, or his inspectors, or the Deputy Sealer of Weights and Measures, shall visit the places of business and enter upon the carts, wagon, or vehicles then in use for the business of all persons engaged in the trade of buying and selling, or selling who have weights, measures, or balances which have not been sealed during the current year, and try, adjust, and seal the same. He shall at least once every six months try, adjust, and seal every hay scale, wagon scale, railroad track scale, or platform scale or balances used in the trade of buying and selling, or selling or for public weighing. (Id. § 4242.)

250. Authority to Inspect Measuring Devices.—The State Sealer of Weights and Measures, the deputy State sealer or his inspectors of weights and measures, or municipal sealer of weights and measures, shall have power to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of any kind, instruments or mechanical devices for measurement, and the tools, appliances, or accessories connected with any or all of such instruments or measurements, used or employed within the State by a proprietor, agent, lessee, or employee, in determining the size, quantity, extent, area, or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by such person or persons for sale, hire, or award. Provided, also, that the State Sealer of Weights and Measures, or his deputy, or his inspectors, or any municipal sealer of weights and measures, shall, at least once a year and as often as may be deemed necessary, try and prove all computing scales and other devices having a device for indicating or registering the price as well as the weight of the commodity offered for sale. Computing devices, which may be used by any person at any place within this State, shall be tested as to the correctness of both weight and arithmetical value indicated by them. (Id. § 4243.)

251. Authority to Inspect Weight of Commodities Offered for Sale.—The Sealer of Weights and Measures, his deputy, or his inspectors, or municipal sealer of weights and measures, may, at irregular intervals, examine all commodities sold and offered for sale and test them for correct weight, measure, or count. He, his deputy, or his inspectors, or municipal sealers may, for the purposes above mentioned, and in the general performance of their official duties, enter or go into or upon, with or without formal warrant, any stand, place, building, or premises, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever, for the purpose of making the proper tests; and in the exercise of such duties they shall have full police power to enforce any and all reasonable measures for testing such weights and measures, and also in ascertaining whether false or short weights and measures are being given in any scales or transfer of articles of merchandise taking place within the State. Whenever the State Sealer of Weights and Measures, or his inspectors or deputies, have reason to believe that any person or persons or corporation is violating the provisions of this act, or any act relating to weights and measures, they shall submit the evidence to the properly constituted authority in the county in which such violation occurs, who shall thereupon prosecute the persons alleged to have violated the provisions of this act, or any act relating to weight and measures, or such evidence may be submitted direct to the

Attorney-General of the State, who shall have authority to prosecute such persons in the proper county. (Id. § 4244.)

252. Inspection of Track Scales Used by Common Carriers; Penalty for Short Weights.—(a) All track scales used by common carriers for the purpose of weighing freight in carload lots within this State shall be under the control and direction and jurisdiction of the State Sealer of Weights and Measures, and subject to inspection by him, his inspectors, or Deputy Sealers of Weights and Measures.

(b) The State Sealer of Weights and Measures, his inspectors, or his deputy sealers of weights and measures, shall have power either on their own motion or on complaint being made, to determine whether any such track scales are defective or inefficient, or whether the time, manner, or method of using same is unreasonable, ineffective, or unjust, and shall have power to condemn any such scale found to be defective or inefficient, and prohibit the use of the same while in that condition, and to render such decision and to make such order, rule, or regulation as may be deemed necessary or advisable.

(c) Any person or persons who shall knowingly and willfully sell, or direct or permit any person or persons in his or their employ to sell any commodity or article of merchandise, and make or give any false or short weight or measure, or any person or persons owning or keeping, or having charge of any scales or steel-yards for the purpose of weighing live stock, hay, grain, coal, or other articles, who shall knowingly and willfully report any false or untrue weight, whereby any other person or persons may be defrauded or injured, shall be fined in any sum not exceeding five hundred dollars, or be imprisoned in the jail of the county not exceeding thirty days, at the discretion of the court, and also be answerable to the party defrauded or injured in double damages. (Id. § 4245.)

253. Weight of Commodities Offered for Sale to be Indicated on Container; Penalty For Selling Short Weight Merchandise.—From and after January 1, 1914, it shall be unlawful for any person or persons, association, or corporation, to sell or offer for sale in this State any commodity or article of merchandise in a package or container, without having such package or container labeled in plain, intelligible words and figures, with a correct statement of the net weight, measure, or numerical count of its contents; provided, that nothing in this section shall prevent the putting up of commodities or articles of merchandise which have been previously sold by net weight, measure, or numerical count, into packages or containers for the purpose of delivering or transporting such commodities or articles of merchandise; provided, further, that nothing in this section shall apply to commodities or articles of merchandise, except milk and cream, offered for sale or sold in packages or containers at a price of ten cents or less per such package.

1. It shall be unlawful for any person to sell or offer for sale in this State any commodity or article of merchandise, except by true net weight, measure, or numerical count, except where the parties otherwise agree. Contracts for work done, or for anything to be sold by weight or measure, shall be construed according to the standards hereby adopted as the standards of this State, except where the parties have agreed upon any other calculations of measurement, and all statements and representations of any kind referring to the weight or measure of commodities or articles of merchandise shall be understood in the terms of the standards of weights and measures aforesaid.

2. It shall be unlawful for any person, in buying or selling any commodity or article or merchandise to make or give false or short weight or measure, or to sell or offer for sale any commodity or article of merchandise less in weight or measure than he represents, or to use a weight, measure, balance, or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, or to have a weight, measure, balance, or measuring device adjusted for the purpose of giving false or short weight or measure, or to use in buying or selling of any commodity or article of merchandise a computing scale or device indicating the weight and price of such commodity or article of merchandise, upon which scale or device the graduations or indications are falsely or inaccurately placed either as to weight or price, or to use any computing scale having a horizontal registering bar with a barrel computing device, unless such scale is adjusted to register the correct weight from all angles of vision.

3. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court having jurisdiction of the offense shall be fined in a sum not to exceed two hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, and any weight, measure, balance, or measuring device

which shall have been used by him in such violation shall be ordered confiscated and destroyed. He shall also be liable in damages to the party injured by his violation in treble the amount of the property wrongfully taken or not given, and twenty dollars in addition thereto, to be recovered in a court of competent jurisdiction. The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of the representation on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary leakage, evaporation, or waste that there may be from the time a package or container is filled by a vendor until he sells the same. A slight variation from the stated weight, measure or quantity for individual packages not to exceed three per cent is permissible; provided, that the variation is as often above as below the weight, measure or quantity stated. (Id. § 4246.)

254. Record of Inspection.—The State Sealer of Weights and Measures shall keep a complete record of all work done under his direction, and shall make an annual report not later than the first day of January of each year preceding the meeting of the legislative assembly. The inspectors of weights and measures, and all municipal sealers of weights and measures, shall keep a complete record of all work done by them under and by direction of the State Sealer of Weights and Measures, and shall report to the State Sealer of Weights and Measures, not later than the fifth of each month, all work done by them for the preceding month. The State Sealer of Weights and Measures shall provide a system of records, to be kept by all inspectors of weights and measures and municipal sealers of weight and measures, together with blank reports, upon which all reports of said inspectors and sealers of weights and measures are to be made. The form of record provided by the State Sealer of Weights and Measures for all inspectors and municipal sealers of weights and measures shall be the form to be observed and kept by them, and after the said State Sealer of Weights and Measures shall have prescribed the form of said records, said records so kept by any municipal sealer shall be filed in the office of the city clerk of the municipal corporation and become a record of said State. (Id. § 4247.)

255. Penalty for False Certificates by Sealers of Weights and Measures.—Any person authorized to seal weights and measures in accordance with this act, who shall, without duly verifying the weights and measures of any person by comparison with the standard of weights and measures, stamp a weight or measure, or attach thereto a certificate that said weight or measure has been duly tested, is hereby declared, upon conviction thereof, to be guilty of a misdemeanor, and shall be subject to a penalty of a fine of not less than fifty dollars, nor more than three hundred dollars. (Id. § 4248.)

256. Denomination of Weights to be Marked Thereon.—Every weight for use in trade, except when the small size of the weight renders it impracticable, shall have the denomination of such weight permanently marked on the top side thereof in legible figures or letters; and every measure of capacity for use in trade shall have the denomination and kind thereof permanently marked on the outside of such measures in legible figures or letters. A weight or measure not in conformity with this section shall not be stamped by the State Sealer of Weights and Measures, or inspector of weights and measures, or deputy sealer of weights and measures.

(a) Apothecaries and all other persons dealing in drugs, medicine, and merchandise, commonly sold by apothecaries' weight or by apothecaries' liquid measure, shall at least once in two years cause such weights and measures so used to be tested and sealed by officers authorized under this act to inspect weights and measures. (Id. § 4249.)

257. Prohibition Against Using Weights Pending Adjustment.—If any weights, measures, or balances can be readily adjusted by such means as the inspector or sealer of weights and measures may have at hand, he may adjust and seal them, but if they cannot be readily adjusted he shall affix to such weights, measures, or balances a notice forbidding their use until he is satisfied they have been so adjusted as to conform with the standard. Any person or persons who remove said notice, without the consent of the officer affixing the same, shall upon conviction be fined in a sum not to exceed fifty dollars. (Id. § 4250.)

258. Condemnation of Weights Not Standard.—All weights, measures, and balances, which cannot be made to conform to the standard weights and measures as herein provided, shall have stamped "condemned" or "C. D." by the sealer of weights and measures. (Id. § 4251.)

259. Weights May be Seized as Evidence Without a Warrant.—The State Sealer of Weights and Measures, or inspector of weights and measures, or deputy sealer of weights and measures, may seize, without a warrant, such weights,

measures, or balance as may be necessary to be used as evidence in case of violation of any act relative to the sealing of weights and measures. They shall be returned to the owners or forfeited as the court may direct. (Id. § 4252.)

260. Scales of Itinerant Peddlers to be Adjusted Before Use; Penalty for Violation.—All itinerant peddlers and hawkers, using scales, balances, weights, or measures, shall take the same to the office of the State Sealer of Weights and Measures, or inspector of weights and measures or deputy sealer of weights and measures, before any use is made thereof, and have the same sealed and adjusted annually; and any such person failing to comply with the provisions of this section shall be fined not less than five dollars nor more than one hundred dollars for each offense, and every day such person shall use such scales, balances, weights, or measures, without having the same adjusted and sealed as hereinbefore provided for, shall constitute a separate and distinct offense. Any itinerant peddler or hawker found using any false scale shall be subject to a fine of not less than ten dollars, nor more than fifty dollars for each offense. (Id. § 4253.)

261. Regulation of Containers of Milk; Penalty for Violation.—All milk cream, and skimmed milk shall be sold only by standard wine measure, and by or in measures, cans, jars, bottles, or other vessels or receptacles, which shall prior to being used in such scale, be sealed by the sealer of weights and measures of the town where the person so using the same shall usually reside in this State, or of the town where such milk shall be sold for use; and every person selling any of the same contrary to this section, or delivering any of the same sold contrary hereto, shall be fined for the first offense not less than fifty dollars and not exceeding one hundred dollars, and for the subsequent offense not less than one hundred dollars or imprisonment not to exceed ninety days, or both such fine and imprisonment. Any purchaser of milk, cream, or skimmed milk, having reason to believe that any measure, can, jar, bottle, or other vessel or receptacle, in which milk, cream, or skimmed milk is sold and delivered to him, is not of sufficient size or capacity to contain, by standard wine measure, the amount thereof purchased, may apply to the sealer of weights and measures, which sealer shall test the capacity of the same and issue to such purchaser his certificate stating the capacity thereof; and if such capacity, according to such certificate, shall be less than the amount purchased, such purchaser may make complaint and deliver such certificate to any officer authorized to make complaint for the violation of this act. (Id. § 4254.)

262. Contents of Milk Bottles to be Indicated Thereon; Penalty for Violation.—No person or corporation shall, after the passage of this act, sell or offer for sale within the State of Montana, any milk or cream in bottles or in glass jars, unless each of said bottles or glass jars in which said milk or cream is sold or offered for sale shall have blown into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner, the capacity thereof, and the State Sealer of Weights and Measures or inspector of weights and measures, or deputy sealer of weights and measures, shall have the right, at any time, to examine any bottle or glass jar in which milk or cream is sold or offered for sale in the State of Montana, or which is used by any person or corporation for the purpose of containing milk or cream to be sold or offered for sale, in order to ascertain whether such bottle or jar is of a capacity not less than that which it purports to be; and if any such bottle or jar is of less capacity than that which it purports to be, or if any such bottle or jar shall not have blown into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner, its capacity as aforesaid, the person or corporation selling or offering for sale milk or cream in any such bottle or jar, or having in his possession any such bottle or jar, to be used or which has been used for the purpose of containing milk or cream to be sold or offered for sale in said State of Montana shall, upon conviction, be fined not less than five dollars nor more than one hundred dollars for each offense; and each and every bottle or glass jar found in the possession of any person or corporation used or to be used, or which has been used by such person or corporation for the purpose of containing milk or cream to be sold or offered for sale in the State of Montana, which shall be found to be of a less capacity than that blown into the same, or otherwise so indelibly and permanently indicated thereon, or which shall not have blown into it, or otherwise indelibly and permanently indicated thereon in a legible and conspicuous manner the capacity as aforesaid, shall constitute a separate and distinct offense on the part of such person or corporation, and upon conviction such person or corporation shall be fined in a sum not less than ten dollars nor more than three hundred dollars. (Id. § 4255.)

263. Penalty for Using False Weights.—A person who uses, or has in his possession for use in trade, any weight, measure, scale, balance, steelyard, or weighing machine, which is false or incorrect, shall be fined not more than one hundred dollars, or in case of a second offense, not more than two hundred dollars, and any contract for gain, deal, or dealing made by the same shall be void, and the weight, scale, measure, balance, or steelyard shall be liable to be forfeited. (Id. § 4256.)

264. Weights Stamped by State Sealer to be Legal Weights.—A weight or measure duly stamped by the State Sealer of Weights and Measures, or inspector of weights and measures, or deputy sealer of weights and measures, or by the National Bureau of Standards, shall be a legal weight or measure throughout the State, unless found to be false or incorrect, and shall not be liable to be resealed because used in any other place than that in which it was originally stamped. (Id. § 4257.)

265. Penalty for Selling Less Quantity Than Represented.—Whoever sells or offers for sale a less quantity than represented, or sells in a manner contrary to law, shall be guilty of fraud, and shall be fined not more than one hundred dollars, or, in case of a second offense, not more than two hundred dollars. (Id. § 4258.)

266. State Sealer to Establish Legal Tolerances.—The State Sealer of Weights and Measures shall, after consultation with, and with the advice of the National Bureau of Standards, establish tolerances for use in the State of Montana, and said tolerances shall be the legal tolerances in the State of Montana. (Id. § 4259.)

267. Penalty for Refusing to Permit Examination by State Sealer or Deputies.—A person who neglects or refuses to produce for the State Sealer of Weights and Measures, or inspectors of weights and measures, or deputy sealer of weights and measures, all weights, measures, or balances in his possession and used in trade, or on his premises, or refuses to permit the said officers to examine the same, or obstructs the entry of said officers, or otherwise obstructs or hinders any official under this law, or violates any of the provisions of this act, shall be fined not more than one hundred dollars, and in case of a second offense not more than two hundred dollars. (Id. § 4260.)

268. State Sealer Authorized to Promulgate Rules.—The State Sealer of Weights and Measures is hereby authorized to make and promulgate such rules and regulations for the government, guidance, and direction of inspectors of weights and measures, and deputy city sealers of weights and measures, in conformity with this act, as may be necessary to carry out the provisions of this act in a uniform manner. Such rules and regulations, when promulgated by the State Sealer of Weights and Measures, with the approval of the Governor of the State of Montana indorsed thereon, shall have the same force and effect as if provided for in this act. Such rules and regulations shall be published at least once in a newspaper of general circulation in each county and city of the State of Montana. (Id. § 4261.)

269. Penalty for Violation of Act.—Any person or persons violating any of the provisions of this act where no other penalty is provided, shall, upon conviction thereof, be fined in a sum of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than thirty nor more than ninety days. (Id. § 4262.)

270. Sealers ex-officio Deputy Sheriffs; Powers.—The State Sealer of Weights and Measures, inspectors of weights and measures, or sealer of weights and measures of the various cities, towns, and counties throughout the State, shall be, by virtue of their respective offices, deputy sheriffs, and as such shall have power to arrest and detain any person violating the provisions of this act, without warrant. (Id. § 4263.)

271. Putting Extraneous Substances in Packages of Goods Usually Sold by Weight, With Intent to Increase Weight.—Every person who, in putting up in any bag, bale, box, barrel, or other package, any hops, cotton, wool, grain, hay, or other goods usually sold in bags, bales, boxes, barrels, or packages, by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel, or package, with intent thereby to sell the goods therein, or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars for each offense. (Pen. C. 1921, § 11240.)

272. False Weight and Measure Defined.—A false weight or measure is one which does not conform to the standard established by the laws of the United States of America. (Id. § 11428.)

273. Using False Weights or Measures.—Every person who uses any weight or measure, knowing it to be false, by which another is defrauded or otherwise injured, is guilty of a misdemeanor. (Id. § 11429.)

274. Stamping False Weight, Etc., on Casks or Packages.—Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor. (Id. § 11430.)

275. Weight by the Ton or Pound.—In all sales of coal, hay, and other commodities, usually sold by the ton or fractional part thereof, the seller must give to the purchaser full weight, at the rate of two thousand pounds to the ton; and in all sales of articles which are sold in commerce by avoirdupois weight, the seller must give to the purchaser full weight, at the rate of sixteen ounces to the pound; and any person violating this section is guilty of a misdemeanor. (Id. § 11431.)

276. Weights and Measures; Size of Gallon and Pound.—In case of food sold by weight or measure, all measures shall be in gallons or fractions thereof, a gallon to contain two hundred and thirty-one cubic inches, and each fraction of a gallon to contain its corresponding fraction of two hundred and thirty-one cubic inches. Where weights or measures are stated in pounds and ounces they shall be exclusive of the wrapper or other container, and each pound shall contain sixteen ounces, each ounce containing four hundred and thirty-seven and one-half grains. Any person, persons, firm or corporation selling or offering for sale any article of food as a pound, or any multiple thereof, except by actual weight, the net weight of which is less than sixteen ounces, or the proper multiple thereof to represent the number of pounds sold or offered for sale, and any person, persons, firm or corporation selling or offering for sale any quantity of food as a gallon, or any fraction thereof, which does not contain two hundred and thirty-one cubic inches net measure, or the fraction thereof represented by the fraction of a gallon offered for sale or sold, shall be guilty of a misdemeanor. (Pol. C. 1921, § 2582.)*

NOTE: See also No. 4; the apple law, No. 24 et seq.; the bread law, No. 34 et seq.; the dairy law, No. 39 et seq.; the farm products law, No. 81 et seq.

Cases.

1. General Food and Drug Law.

Baking Powder—Misbranded: Royal Baking Powder Co. v. Donohue et al., State Board of Health of Montana, 265 Fed. 406 (1920).

Meat—Unwholesome: Kelley v. John R. Daily Co., 56 Mont. 63, 181 Pac. 326 (1919).

2. Special Food Laws.

Bakery—License Tax: See *State v. Hennessy Co., 71 Mont. 301, 230 Pac. 64 (1924).

Fruits, Vegetables, Etc.—Horticultural Act: *Colvill v. Fox, 51 Mont. 72, 149 Pac. 496, L. R. A. 1915 F, 894 (1915). See also: *Welch v. Dean et al., 49 Mont. 263, 141 Pac. 548 (1914).

Meat—Inspection—License: *State v. McKinney, 29 Mont. 375; 74 Pac. 1095 (1904).

Oleomargarine: *State v. Hammond Packing Co., 45 Mont. 343, 123 Pac. 407 (1912), affirmed in *Hammond Packing Co. v. Montana, 233 U. S. 331, 34 S. Ct. 596, 58 L. Ed. 985 (1914).

3. Special Drug Laws.

Narcotics: State v. Toy, 65 Mont. 230, 211 Pac. 303 (1922); *State v. Mark, 69 Mont. 18, 220 Pac. 94 (1923); State v. Hem, 69 Mont. 57, 220 Pac. 80 (1923); State v. Kim, 69 Mont. 64, 220 Pac. 81 (1923); State v. Finley, 72 Mont. 42, 231 Pac. 390 (1924); State v. Wong Hip Chung, 74 Mont. 523, 241 Pac. 620 (1925); State v. McDaniels, 75 Mont. 61, 243 Pac. 810 (1925); State v. Wong Fong, 75 Mont. 81, 241 Pac. 1072 (1925); *State v. Big Sheep, 75 Mont. 219, 243 Pac. 1067 (1926); State v. Charlie Mun, 76 Mont. 278, 246 Pac. 257 (1926).

*For penalty, see No. 10.

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Food: Kelley v. John R. Daily Co., 56 Mont. 63, 181 Pac. 326 (1919).

5. Miscellaneous.

*Cigarettes:**In re May, 82 Fed. 422 (1897).

Gift Enterprise: Territory v. Harris, 8 Mont. 140, 19 Pac. 286 (1888).

Trade-Marks: See Esselstyn v. Holmes, 42 Mont. 507, 114 Pac. 118 (1911).

Trading Stamps: State v. Lutey Bros., 55 Mont. 545, 179 Pac. 457 (1919); State v. Sperry-Hutchinson Co., 55 Mont. 555, 179 Pac. 460 (1919); Lutey Bros. v. Jackson et al., 55 Mont. 556, 179 Pac. 459 (1919).

NEBRASKA.*

PART I.

General Food and Drug Law.

1. Power Delegated.—The Department of Agriculture shall enforce the provisions of this article. It shall make or cause to be made all necessary examinations and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this article. (C. S. 1922, § 7426.)

2. Standards of Food Products Adopted.—The Secretary for the Department of Agriculture shall have authority to adopt such standards for food products as may be necessary to properly enforce the provisions of this article: Provided, said standards are not otherwise established by law and, provided, the standards so adopted shall not be in conflict with the standards for food products adopted by the Secretary of Agriculture of the United States for the enforcement of the Food and Drug act of June 30, 1906. (Id. § 7427.)

3. Adulterations Defined.—For the purpose of this chapter, an article shall be deemed to be adulterated; in case of drugs:

First. If when a drug is sold under or by the name recognized in the United States Pharmacopoeia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in the United States Pharmacopoeia or National Formulary official at the time of the investigation. Provided, no drug defined in the United States Pharmacopoeia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopoeia and National Formulary.

Second. If its strength or purity fall below the professed standard or quality under which it is sold.

In the case of confectionery: If it contains terra alba, barytes, talc, chrome yellow, paraffin or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug.

In the case of ice cream: If it does not contain at least fourteen per cent butter fat, finish, and of fruit cream twelve per cent butter fat, finish, and if it contains any ingredient, deleterious or detrimental to health. In case of food:

First. If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength. The provisions of this act shall not apply to ice cream manufactured in this State for sale and consumption in some other State.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated or stained in any manner whereby damage or inferiority is concealed.

Fifth. If it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health. Provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise and directions for the removal of such preservative shall be printed on the covering of the package, the provisions of this chapter shall be construed as applying only when said products are ready for consumption.

Sixth. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether

*CITATIONS: "C. S. 1922" refers to the Compiled Statutes of the State of Nebraska, 1922, published by the State and in pursuance of Laws of 1921, Chapter 36. "L." refers to the session laws of the year cited.

manufactured or not, or if it is the product of a diseased animal, or one that had died otherwise than by slaughter. (Id. § 7428.)

4. **"Misbranded" Defined.**—The term "misbranded," as used herein, shall apply to all drugs or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substance contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, territory, place or country in which it is manufactured or produced.

An article shall also be deemed to be misbranded

A. In the case of drugs:

1. If it be an imitation of or offered for sale under the name of another article.
2. If it shall be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, phenacetine (acetphenetidine), antipyrine, belladonna or any derivative or preparation of any such substance contained therein.
3. If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein which is false or fraudulent.

B. In the case of food:

1. If it be an imitation of or offered for sale under the distinctive name of another article.
2. If it be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and the other contents shall have been placed in such package, or if it fails to bear a statement on the label of the quantity or proportion of any alcohol in excess of one-half of one per cent; or if it be in a container so made, formed or shaped as likely to deceive or mislead the purchaser as to quantity, quality, size, kind or origin of the food therein.
3. If in package form, if each package does not have a correct statement, clearly printed on the outside of the package, of the contents and the quantity of the contents in terms of weight, measure or numerical count; and in case of wheat flour the name of the manufacturer and the place where manufactured; provided, however, that the provisions of this paragraph shall not apply to packages put up by the retailer at the time of sale.
4. If the true quantity in container (in case of liquids other than medicines) is not correctly stated thereon.
5. If the package containing it or the label thereon shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First, in case of compounds, imitations and blends, which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced;

Second, in case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation" or "blend," as the case may be, and the ingredients composing said article are plainly stated on the package in which it is offered for sale, and in the case of syrups, if the label bear a statement as to the name and percentage of each ingredient contained therein. The term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only.

6. If, in case of food products, there be contained in the package any gifts, premiums or prizes or articles other than the food purported to be contained whether or not declared by label. Provided, that nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from

adulteration or misbranding; and that nothing in this act shall be construed to prevent the manufacture and sale of flour bleached with nitrogen peroxide, provided said flour is distinctly and legibly labeled or branded to show that it has been bleached.

7. If in package form and irrespective of whether or not the quantity of the contents be plainly and legibly stated on the outside of the package in terms of weight, measure or numerical count, if package be not filled with the food it purports to contain. (Id. § 7429.)

5. **"Drug"; "Food" Defined.**—The term "drug" as used in this article shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or animals. The term "food" as used herein shall include all articles used for food, drink, confectionery or condiment by man or animals, whether simple, mixed or compound. (Id. § 7430.)

6. **Inspection of Foods.**—Whenever the Department of Agriculture or any officer, employee, inspector or assistant of the department shall be of the opinion that any liquors, beverages, medicines, remedies, foods, drugs or substitutes therefor or imitations thereof are kept or exposed for sale or held in the possession or under the control of any person in violation of the provisions of this article the department or such officer, employee, inspector or assistant of the department is authorized upon paying or offering to pay to the person entitled thereto the full value thereof, to seize and take possession of one or more samples of such articles, such sample or samples shall be sealed by the inspector and analysis shall thereupon be made by the department. If on inspection or analysis such sample or samples are found to be adulterated or misbranded within the meaning of this article the remainder of such articles may be seized by the department. One sample shall be preserved in the laboratory of the department and shall be delivered to the person from whom it is taken or to his agent or attorney upon application. Any person who shall obstruct the department or any officer, employee, inspector or assistant thereof by refusing to allow entrance into any place for the purpose of carrying out the provisions of this section or by refusing to deliver samples as herein required when the same are requested and the value tendered shall be subject to the penalties hereinafter provided. (Id. § 7431.)

7. **Violation; Prosecution.**—If it shall appear from a chemical analysis that any of the provisions of this article have been violated the Department of Agriculture shall certify the facts to the proper county attorney with a copy of the results of the analysis. (Id. § 7432.)

8. **Guarantee.**—No dealer shall be prosecuted under the provisions of this article when he can establish a bona fide guaranty signed by the wholesaler, jobber or manufacturer in this State from whom he purchased such articles that they are not adulterated or misbranded within the meaning of this article, designating it, and that he has no knowledge of such adulteration or misbranding at the time they were purchased. Such guaranty shall contain the name and address of the vendor who shall be amenable to the prosecutions, fines and other penalties to which the purchaser would otherwise be amenable. (Id. § 7433.)

9. **Misbranding; Adulteration; Penalty.**—Any article of food or drug which is adulterated or misbranded within the meaning of this article and which is sold, offered for sale or delivered within this State shall be liable to be proceeded against where the same is found and seized for confiscation by a process of libel for condemnation. If such article is condemned as being adulterated or misbranded or of a poisonous or deleterious character, within the meaning of this article, the same shall be disposed of by destruction or sale as the court may direct, the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the treasury of this State and such goods shall not be sold in any jurisdiction contrary to the provisions of this article or the laws of that jurisdiction. Any libel proceeding or proceeding in rem, under the provisions of this section, may be joined with any criminal prosecution in personam or may be prosecuted separately. (Id. § 7434.)

10. **Unlawful Acts.**—No person shall, within this State, manufacture for sale therein or have in his possession with intent to sell, offer or expose for sale, or sell any liquors, beverages, remedies, medicines, or articles of food or drug which are adulterated or misbranded within the meaning of this title. (Id. § 7435.)

11. **Violation; Penalty.**—Any person, firm or corporation, violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or imprisoned in the county jail not exceeding three months. (Id. § 7436.)

Miscellaneous General Provisions.

12. Holding or Destroying Food.—It shall be unlawful for any person, firm or corporation dealing in perishable foods knowingly to hold any article of food for the purpose of controlling prices until the same shall have become unfit for human consumption, or wilfully to neglect or destroy or throw such articles of food away, or to purchase crops of perishable food and neglect to market the same but permit them to decay for the purpose of controlling prices. (C. S. 1922, § 7437.)

13. Violation, Penalty.—Any person guilty of such misconduct upon conviction shall be subject to a fine of one dollar to one thousand dollars, or imprisonment in the county jail not exceeding six months. (Id. § 7438.)

14. Investigations, Condemnations.—The State Department of Agriculture, or mayor of any municipality is hereby authorized to investigate and inspect perishable storage food and condemn any article of perishable food about to become unfit for human consumption by inspection of the same, by order of condemnation and shall seize and sell same at public auction and return the proceeds thereof, less the cost of the proceedings, to the owner of such articles of food, provided said act shall be governmental, and said department or mayor shall not be liable for any act of condemnation in proceeding under this statute. (Id. § 7439.)

14a. Powers Enumerated.—The Department of Agriculture shall have power:

1. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture, the live stock industry, dairying, **cheese making**, poultry, bee keeping, forestry, fishing, the production of wool, and all other allied industries;

2. To promote methods of conducting these several industries with a view to increasing the production and facilitate the distribution thereof at the least cost;

3. To collect and publish statistics relating to crop production, marketing and farm economics, the production and marketing of beef, pork, poultry, fish, mutton, wool, butter, cheese and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the State; to co-operate with the Federal Government in the matter of collecting such statistical information. Such department shall include in its publications the reports of agricultural, horticultural and like societies, and of live stock associations. Such published statistics shall be the official agricultural statistics of the State;

4. To encourage the planting of trees and shrubs and the improvement of farm homes generally;

5. To produce and manufacture biological products to be distributed to live stock producers at the actual cost thereof;

6. To inquire into causes of contagious, infectious and communicable diseases among domestic animals, and the means for the prevention and cure of the same;

7. To take all measures necessary for the preservation, distribution, introduction and restoration of fish, game birds and other wild birds;

8. To see that live stock and stockyards, and other like places where live stock is confined, housed or fed, are properly care for;

9. To execute and enforce all laws relating to the inspection of foods, drugs, dairy products, oils, commission merchants, cider and vinegar, oleomargarine and butterine, sanitation of premises used for manufacturing and preparation of foods, cold storage warehouses, paints, seeds, commercial feeding stuffs, live stock remedies, hotels and inns, weights and measures and commercial fertilizer, and from time to time promulgate such rules and regulations and adopt such standards of food products as are necessary and proper to enforce the provisions of this title. (Id. § 7294.)

NOTE: See also No. 122.

PART II.

Special Food Laws.

Beverages.

15. Enforcement, Rules.—The Department of Agriculture shall enforce the provisions of this act. It shall make or cause to be made all necessary examinations and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this act. (C. S. 1922, § 7653 a.)

16. Bottlers, Definitions.—For the purpose of this act, manufacturers or bottlers of beverages shall mean and include all persons, firms, or corporations maintaining and operating any building or buildings, and employing labor or machinery, or both, therein for the purpose of manufacturing beverages commonly known as soft drinks, and where said drinks are placed in bottles, barrels or other closed containers for sale and distribution. For the purpose of this act, a beverage commonly known as a "soft drink" shall mean and include all beverages made from potable water, sugar syrup, and pure flavoring materials, with or without added fruit acid and with or without added coloring, whether carbonated or plain, but shall not include pure fruit juices or malt or cereal beverages. (Id. § 7653 b.)

17. Certificates, How Secured.—Before any manufacturer shall engage in the business of manufacturing or bottling any beverage as defined by this act he shall secure from the Department of Agriculture a certificate of registration to conduct said business. Said certificate of registration shall be issued by the Department of Agriculture upon proper application and upon a proper showing that the place where such beverages are to be manufactured or bottled is in a clean and sanitary condition, and in compliance with the law regulating food establishments. The fee for this certificate of registration shall be ten dollars, and each certificate so issued shall expire June thirtieth of each year, unless sooner revoked for cause, and no certificate shall be transferable. (Id. § 7653 c.)

18. Same, How Revoked.—Any certificate of registration issued in accordance with this act may be revoked by the Department of Agriculture for cause, and for the purpose of this act, failure to comply with the law governing sanitation of food premises or with the rules or regulations of the Department of Agriculture issued incident thereto shall be deemed to be sufficient cause for said revocation. (Id. § 7653 d.)

19. Violation, Penalty.—Any person violating any of the provisions of this act, shall be fined in a sum not less than ten dollars and not exceeding one hundred dollars, or imprisoned in the county jail not exceeding three months. (Id. § 7653 e.)

20. Adulteration and Sale of Liquors.—Whoever puts into any barrel, cask or other vessel having the private stamp, brand, wrapper, label or trade-mark usually affixed by any maker of wine from grapes grown within the State of Nebraska, adulterated liquors for the purpose of deceiving any person by the sale thereof, or whoever knowingly manufactures, vends or gives away or directs or permits any person or persons in his or their employ to manufacture, vend or give away any malt, spirituous liquors or other compound, any of which shall be adulterated with poisonous ingredients, such as strychnine, strontia, sugar of lead or other poisonous substances, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding three months, or both. An analysis made by a practical chemist shall be deemed competent testimony in all cases arising under this section. (Id. § 9909.)

21. Adulteration.—If any person, partnership or corporation shall manufacture or sell any soda, mineral or carbonated water or other nonalcoholic beverages containing saccharine or coal tar sweeteners or containing syrup, extracts or flavoring made from saccharine or coal tar sweeteners such person, partnership or corporation shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars and not exceeding one hundred dollars for each offense. (Id. § 9916.)

NOTE: See also Nos. 14a, 26 et seq., 88, 148 et seq., and 178 et seq.

Bread.

22. Department of Agriculture to Enforce.—It shall be the duty of the Department of Agriculture to enforce all provisions of this act. It shall make or

cause to be made all necessary examinations and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this act. (C. S. 1922, § 7612.)

23. Bread, Standard Weights.—Every loaf of bread made or procured for the purpose of sale, sold or offered for sale in the State of Nebraska, shall be of the following weights avoirdupois: One-half pound, one pound, one and one-half pounds, and also in exact multiples of one pound and of no other weights. Whenever twin or multiple loaves are baked, the weights herein specified shall apply to each unit of the twin or multiple loaf, provided that a twin one and one-half pound loaf may be made and sold, but units of said loaf must not be sold separately. (Id. § 7613, as amended Act of Apr. 20, 1927.)

24. Tolerance.—A tolerance at the rate of one ounce per pound under on all individual loaves shall be allowed and a tolerance at the rate of three and one-half ounces per pound in excess, but none in deficiency of the standard weights herein prescribed shall be allowed on the average weight of at least five loaves of the same nominal weight and of the same manufacturer, or on the average weight of all such loaves when the supply available at the time and place of weighing exceeds five such loaves and is not more than ten loaves. If more than ten such loaves are available, at least ten shall be weighed in determining the average. Whenever the number of such loaves available exceeds the number of loaves so to be weighed, the loaves weighed shall be taken at random. Tolerances shall apply for a period of twelve hours after baking or delivery to retailer. (Id. § 7614.)

25. Penalty.—Any person, firm or corporation violating any of the provisions of this act, shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. (Id. § 7615.)

NOTE: See also No. 94 et seq.

Canned Goods.

See No. 94 et seq.

Cider.

See Nos. 14a, 88 et seq., 149, and 178 et seq.

Cold Storage.

26. Definitions.—The term "cold storage" as used in this article shall be construed to mean a place artificially cooled to a temperature of 40 degrees F., or below, but shall not include such a place in a private home, nor any place having a refrigerating space of less than one hundred feet.

The term "cold storage" as used in this article shall be construed to mean the keeping of "articles of food" in "cold storage" for a period exceeding sixty days.

The term "articles of food" as used in this article shall be construed to mean and include all articles used for food, drink, confection or condiment by man or animal, whether simple, mixed or compound. (C. S. 1922, § 7498.)

27. Cold Storage Warehouse; License.—Any person desiring to operate a cold storage or refrigerating warehouse, shall make application in writing to the Department of Agriculture for that purpose, stating the location of the plant or plants. On receipt of the application, the department shall cause an examination to be made into the sanitary condition of said plant or plants, and if found to be in a sanitary condition and otherwise properly equipped for the business of cold storage, the department shall cause a license to be issued authorizing the applicant to operate a cold storage or refrigerating warehouse for and during the period of one year. All licenses shall expire on the 31st day of December of the year in which they are issued. The license shall be issued upon payment by the applicant of a license fee of five dollars to the Treasurer of the State, subject to the rules of the Secretary of Finance. (Id. § 7499.)

28. Unsanitary Places Prohibited; Inspection.—In the event that any place or places, or any part thereof, covered by a license, under the provision of this article; shall at any time be deemed to be in an unsanitary condition, it shall be the duty of the department to notify licensee of such condition; and upon the failure of the licensee to put such specified place or places, or the specified part thereof, in a sanitary condition within a designated time, it shall be the duty of the department to prohibit the use under its license of such specified place, or part thereof, as it deems in an unsanitary condition until such time as it may be put in a sanitary condition. (Id. § 7500.)

29. Records; Reports.—Every person licensed to operate a cold storage or refrigeration warehouse shall keep an accurate record of the receipts and the withdrawals of the articles of food, and such foodstuffs as may have been previously held in storage, and an accurate record of the length of time of such storage and the department shall have free access to these records at any time. Every such person shall submit a quarterly report to the department setting forth in itemized particulars the quantity of food products held in cold storage. Such quarterly reports shall be filed on or before the sixth day of January, April, July and October of each year, and the reports so rendered shall show the conditions existing on the first day of the month in which the report is filed. The department shall have the authority to require such reports to be made at more frequent intervals than the times herein specified, if in its judgment more frequent reports shall be needed in the interest of a proper enforcement of this article, or for other reasons affecting the public welfare. The reports herein required shall be verified and sworn to by some managing officer or agent of the cold storage plant or refrigerating warehouse. (Id. § 7501.)

30. Food; Unsanitary.—No article of food intended for human consumption shall be placed in cold storage if diseased or tainted or deteriorated so as to injure its keeping qualities, or if not slaughtered, handled and prepared for storage in accordance with the pure food and sanitary food laws and such rules and regulations as may be prescribed by the department of agriculture for the sanitary preparation of food products for cold storage, under the authority hereinafter conferred. Any article of food, if intended for use other than human consumption, before being cold stored, shall be marked by the owner in accordance with forms prescribed by the department (under authority hereinafter conferred) so as to plainly indicate the fact that such articles are not to be sold for human food. (Id. § 7502.)

31. Inspection.—The department shall inspect and supervise all cold storage or refrigerating warehouses in this State, and make such inspection of the entry of articles of food therein as it may deem necessary to secure proper enforcement of this article. The department shall be permitted access to such establishments and all parts thereof at all reasonable times for purposes of inspection and enforcement of the provisions of this article. (Id. § 7503.)

32. Containers; Marking; Recording.—All food, when deposited in any cold storage or refrigerating warehouse, shall be properly and securely packed in suitable containers and each container shall at the time of deposit be plainly, legibly and indelibly marked with a correct distinctive serial lot number of such deposit; said marking to be done under the direction of the operator of the storage so as to readily and certainly identify each item of deposit. Such serial number shall refer to proper records kept by said person licensed to operate said cold storage or refrigerating warehouse; and every such person shall keep an accurate and full record of said serial lot number of such deposit, together with a complete record showing from whom said articles in storage were received, the number and kind of packages and kind of food, and the place in said cold storage or refrigerating warehouse where said goods are deposited, and shall keep an accurate and full record of the date of the receipts and withdrawals of such deposits and shall not remove said deposit from the place designated in said records without making a record thereof. When such food is withdrawn from such storage or refrigerating warehouse, each container thereof shall then in like manner be marked with the true dates of entry and withdrawal. Such markings shall be done under the directions of the operator of the cold storage or refrigerating warehouse so as to readily and certainly identify each article so deposited. Where the owner of foods or operators of the cold storage or refrigerating warehouse shall desire to withdraw such goods for consignment and consumption without this State, such operator may deliver such goods to a carrier for shipment without the State without marking thereon the dates of entry and withdrawal as herein required; but said operator shall keep an accurate record of all such withdrawals that are not so marked and make a full and complete report thereof to the Department of Agriculture. (Id. § 7504.)

33. Length of Time in Storage.—No person as owner or controller shall keep in cold storage any article of food for a longer period than twelve months, except with the consent of the Department of Agriculture as hereinafter provided. The Department of Agriculture may, upon application, grant permission to extend the period of storage beyond twelve months for a particular consignment of foods, if the foods in question are found, upon examination, to be in proper condition for further storage at the end of twelve months. The length of time for which further storage is allowed shall be specified in the order granting the permission. (Id. § 7505.)

34. Notice to Purchasers.—No person shall sell, or offer or expose for sale articles of food which have been held in cold storage, without notifying persons purchasing or intending to purchase the same that they have been so kept, nor represent or advertise as fresh goods articles of food which have been held in cold storage. (Id. § 7506.)

35. Released Food Not Returned.—No person shall return to cold storage any article of food that has once been released from such storage and placed on the market for sale to consumers; but nothing in this section shall be construed to prevent the transfer in good faith of goods from one cold storage or refrigerating warehouse to another. (Id. § 7507.)

36. Inspection Fees.—The operators of cold storage warehouses shall pay an annual inspection fee of [to]the Department of Agriculture of ten dollars for each cold storage place having a refrigerator space of less than fifty thousand cubic feet, and twenty-five dollars for each storage place having a refrigerator space of fifty thousand cubic feet, and less than one hundred thousand cubic feet, and fifty dollars for each such storage place having a refrigerator space of one hundred thousand cubic feet or more. (Id. § 7508.)

37. Rules and Regulations.—The Department of Agriculture may make rules and regulations to secure a proper enforcement of the provisions of this article including rules and regulations with respect to the sanitary preparation of articles of food for cold storage and the use of marks, tags, or labels, and the display of signs, and any person who shall violate any such rule or regulation shall forfeit his license to operate a cold storage warehouse, or the department may in its discretion suspend such license until the rules and regulations have been complied with. (Id. § 7509.)

38. Violation; Penalty.—Any person violating any of the provisions of this article shall, on conviction, be fined in a sum not exceeding one thousand (\$1,000.00) dollars or imprisoned in the county jail not exceeding three months. (Id. § 7510.)

NOTE: See also Nos. 14 and 14a.

Confectionery.

See Nos. 3, 5, 26 et seq., and 94 et seq.

Dairy Products—Substitutes For Dairy Products.

39. Department of Agriculture to Enforce.—The Department of Agriculture shall enforce the provisions of this article. It shall make or cause to be made all necessary examinations and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this article. (C. S. 1922, § 7440.)

40. Definition of Terms.—For the purpose and within the meaning of this article milk is the lacteal secretion obtained from the complete milking of cows. Skimmed milk is milk from which substantially all of the milk fat has been removed. Cream is that portion of the milk rich in milk fat which rises to the surface of the milk on standing, or is separated from the milk by centrifugal force. When construing and enforcing the provisions of this article, the act, omission, or failure of any officer, agent, or other person acting for or employed by any individual or by any corporation, partnership, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such individual, corporation, partnership, society, or association, as well as that of such officer, agent or other person. (Id. § 7440a.)

41. Standards of Cheese [etc.].—No person shall sell or deliver for consumption as milk, cream or cheese, or have in possession with intent to sell or deliver for consumption as milk, cream or cheese; (a) Milk to which water or other foreign substance has been added; (b) Milk containing less than three per cent of milk fat as determined by the Babcock test for butter fat; (c) Skimmed milk which has not been pasteurized or made from pasteurized milk, or which is not labeled "Skimmed milk;" (d) Skimmed milk to which water or any foreign substance has been added, or which does not contain at least 9.25 per cent of milk solids as determined by drying to constant weight at the temperature of boiling water; (e) Milk or cream containing, or which has been exposed to, any disease producing bacteria; (f) Milk or cream which has been produced, stored, handled, or transported in any unclean or unsanitary manner; (g) Milk

or cream, the container of which is labeled or branded so as to deceive or mislead the purchaser; (h) Milk or cream which has been homogenized or emulsified, unless it is plainly and conspicuously labeled: "Homogenized" or "Emulsified" as the case may be; (i) Cream which contains less than eighteen per cent of butter fat; provided, nothing in this article shall be construed to prohibit the sale, when labeled so as to show its true character, of either (1) sour milk or sour cream; or (2) buttermilk; (j) American made cheese unless the minimum standard degree of butter fat and the maximum degree of moisture shall be plainly printed or stamped upon the cheese itself and the package. Cheese having less than fifty per cent of butter fat in the dry matter shall in addition have plainly printed or stamped upon the cheese itself and package the words "skim milk cheese;" (k) Cheese is the sound, solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet, pepsin, or lactic acid, with or without the addition of ripening ferments and seasoning or added coloring matter and contains in the water-free substance, not less than fifty per cent of milk fat and cheese known as American or Cheddar cheese, not more than thirty-eight per cent of moisture, and cheese known as Brick cheese not more than forty-two per cent of moisture; except that Emmenthaler cheese, commonly known as domestic Swiss cheese, shall contain in the water-free substance not less than forty-three per cent of milk fat. (1) Skim milk cheese is the sound, solid, and ripened product made from skim milk by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments and seasoning. (Id. § 7441, as amended L. 1925, c. 5.)

42. Milk, Cream, Conditions of Sale.—No person shall sell, offer or expose for sale, exchange, or deliver any milk or cream which has been taken from any animal, having any disease or sickness or from any animal, during the period of fifteen (15) days preceding parturition, or within such time thereafter as the milk is abnormal; or from any animal which has been fed unwholesome food, or has had access to contaminated water; or from any animal kept in a crowded or unhealthful condition. No person shall sell, offer or expose for sale, exchange or deliver any milk or cream, to be used as such for human consumption, which has been obtained from any animal not examined and tuberculin tested, within one year immediately prior thereto by a duly licensed and authorized veterinarian and certified by him to be free from disease; provided, when such animal is a part of a herd located within an area established and maintained for the inspection, examination and testing of cattle for tuberculosis by the Department of Agriculture, such animal shall be inspected, examined, and tested for tuberculosis only at such time or interval as may be required by the Department of Agriculture; provided, further, that in case of emergency permission may be granted by the Department of Agriculture to any person to sell milk and cream from untested cows when such milk and cream is properly pasteurized before being offered for sale. No prosecution shall be filed for the sale of milk or cream from untested cows until ample opportunity has been given the owner of said cows to have them tuberculin tested as required, provided the milk and cream so sold is not otherwise in violation of the provisions of this act. Milk and cream used by a creamery or dairy for the manufacture of butter, ice cream of [or] any other dairy product shall be pasteurized by a method approved by the Department of Agriculture before or during the process of manufacture. Whenever any animal, not under State and Federal supervision for the eradication of tuberculosis, is required to be tested for tuberculosis by the provisions of this act, the fee for said testing shall be one dollar (\$1.00) per animal for the first five animals, and at the rate of fifty cents (50c) per head for the next twenty (20) animals and at the rate of twenty-five cents (25c) per head for every animal in excess of twenty-five (25) head, and shall be paid by the owner to the Department of Agriculture or its agent at the time the test is made, said fee to apply wherever five or more such animals are assembled at one time and place, and provided that where less than five such animals are tested at one time and place the fee shall be two dollars (\$2.00) per animal. All fees collected under the provisions of this section may be allowed by the Department of Agriculture to the authorized agent performing such tests, said fees to be in lieu of salary or other emolument therefor. (C. S. 1922, § 7442, as amended L. 1925, c. 9.)

43. Dairies Defined.—For the purpose of this article the word "dairy" shall mean and include any building or buildings maintained, operated and used for the collection, bottling, sale and delivery for consumption of milk or cream, or both, in which the supply of milk and cream received or handled in such building or buildings is the product of twenty-five or more cows. No person, firm or

corporation shall operate, maintain and conduct a dairy without first securing a certificate of registration therefor. Such certificate of registration shall be obtained from the Department of Agriculture upon payment of a fee of two dollars (\$2.00). Each certificate of registration shall expire on the 30th day of June next following its issuance. No certificate shall be transferable and no certificate shall be issued for a less amount than provided in this article. (C. S. 1922, § 7443.)

44. Refusal and Revocation of Licenses.—The Department of Agriculture may withhold a license from any applicant therefor whom it may deem unworthy and may revoke any license issued to an owner who has violated the terms thereof, or who has failed to comply with any requirement of this article, or refuses or fails to obey its lawful request or direction, and every conviction of the licensee for an offense punishable under this article shall be sufficient grounds for such revocation. (Id. § 7444.)

45. Containers Required.—No person shall sell or deliver, or have in his possession with intent to sell or deliver, to the consumer, any milk or cream not in bottles or other suitable container effectively sealed to exclude dust and other contamination. (Id. § 7445.)

46. Operation of Creameries and Cheese Factories; License Required.—For the purpose and within the meaning of this article the word "creamery" is defined as a factory where cream, with or without the addition of salt and coloring matter, is churned into butter. The term "cheese factory" is defined as a factory where milk, skimmed milk, or cream, with or without the addition of salt or coloring matter, is manufactured into cheese. No person shall operate a creamery, cheese factory, or milk condensing plant; or manufacture ice cream for sale, except churches or benevolent organizations in society or special benefit entertainments, without first procuring a license from the Department of Agriculture or its secretary. The fees charged for licenses shall be as follows: For each creamery or cheese factory which produces one hundred thousand pounds or less, per annum, of butter or cheese, ten dollars, and an additional tax of two dollars on each additional one hundred thousand pounds or fraction thereof, per annum; for each milk condensing plant ten dollars; for each wholesale manufacturer of ice cream, five dollars, and for each retail manufacturer of ice cream, one dollar; each license shall expire July first next after it is issued and shall not be transferable. No license shall be issued for a less amount than the fee stated in this section. (Id. § 7446.)

47. Receptacles Must be Sanitary.—It is hereby declared a violation of this act for any person having in possession bottles, cans, or other receptacles containing milk or cream of any dairy product including ice cream, not to clean or cause to be cleaned such receptacles immediately upon emptying. No person shall have in possession, or consign for transportation, any receptacle which is used for the transportation or handling of cream or milk or any dairy product, including ice cream, unless said receptacle is thoroughly clean and in a sanitary condition. No person shall use, cause or allow to be used, any receptacle which is used in the transportation or handling of milk or cream or any other dairy product, including ice cream, for any other purpose whatsoever. (Id. § 7447.)

48. Sampling by Inspectors.—The Department of Agriculture, or its authorized agent, shall have access, at all reasonable times, to all dairies, places of business, factories, buildings, warehouses, and cars used in the production, manufacture, sale or transportation of dairy products and such authorized agent upon showing his authority, and upon paying or offering to pay the full value thereof, may take from any producer, handler, or seller, of milk or cream or any other dairy product, whether principal, agent or employee, one or more samples for the purpose of inspection and chemical analysis. Any person who hinders or prevents such access or who refuses to sell or deliver to such authorized agent shall be deemed guilty of a violation of this article. (Id. § 7448.)

49. Licensed Testers Required.—Every creamery, shipping station, or other factory or person receiving, buying and paying for milk or cream on the basis of the amount of butter fat contained therein shall have in its employ a licensed tester, who shall supervise and be responsible for the operation of the Babcock test of milk and cream. The license shall be issued to such person by the Department of Agriculture or its secretary when the applicant has passed a satisfactory examination in person and proved by actual demonstration before an inspector or authorized agent of the Department of Agriculture that he is competent and qualified to conduct the Babcock test for butter fat. Each license shall be valid for one year after its issue and shall not be transferable. The fee for such license shall be two dollars and shall be paid to the Department of Agriculture or its authorized agent before such license shall be issued. The Department of Agriculture shall have authority to revoke any license issued under this article. The testing of each lot of milk or cream by any such unlicensed person shall constitute a separate offense; provided,

that any licensed person, may for valid reasons, appoint a substitute for a period not to exceed thirty days, subject to the approval of the Department of Agriculture. (Id. § 7449.)

50. Fraud in Testing Milk or Cream.—No person receiving milk or cream by weight or test or by weight and test, shall fraudulently manipulate the weights of milk or cream or take unfair samples thereof, or fraudulently manipulate such samples in any way. No person buying and paying for milk or cream on the basis of the amount of fat contained therein shall under-read, over-read or otherwise fraudulently manipulate the Babcock test used for determining the percentage of fat in milk or cream or to falsify the record thereof or to read the test at any temperature except between 135 degrees and 140 degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six tenths (17.6) cubic centimeters for milk and nine (9) grams for cream. In all tests made under the provisions of this section the cream shall be weighed into the test bottle. (Id. § 7450.)

51. Standard Glassware For Testing.—Every person buying or paying for milk or cream on a basis of the amount of butter fat contained therein as determined by the Babcock test, shall use standard Babcock test bottles, pipettes and weights, and accurate scales. All test bottles, pipettes and weights shall be inspected by the Department of Dairy Husbandry of the University of Nebraska, and if found accurate shall be legibly marked by said department with the letters "S. G. N.," (Standard Glassware, Nebraska). The fee for such standardization shall be three (3) cents for each piece of glassware and each weight so tested and marked, and said fee shall be paid to the Department of Dairy Husbandry. No bottle, pipette, or weight shall be used for such test unless so examined and marked by said Department of Dairy Husbandry of the State University. It shall be unlawful for any person to use or have in their place of business any other than standard test bottles, pipettes, and weights which have been examined and marked as provided in this section. (Id. § 7451.)

52. Standards For Scales and Test Bottles.—For the purpose of this article the scales used in the performance of the Babcock test for the purchase of milk or cream on a butter fat basis shall be of the one-bottle type and sensitive to at least 25 milligrams at full load. The standard milk test bottle shall have a total per cent graduation of eight (8) or ten (10). The graduated portion of the neck of the eight (8) per cent bottle shall have a length of not less than two and one-half (2½) inches and the graduated portion of the neck of the ten (10) per cent bottle shall have a length of not less than three (3) inches, and each shall be graduated to tenths per cent. The error at any point of the scale shall not exceed one-tenth (1-10) per cent; total height of bottle shall be between five and seven-eighths (5⅞) and six and one-half (6½) inches. The standard cream test bottle shall be a fifty (50) per cent, nine (9) gram bottle, the total per cent graduation shall be fifty (50). The graduated portion of the neck shall have a length of not less than three (3) inches and shall be graduated to five-tenths (5-10) per cent. The error at any point of the scale shall not exceed five-tenths (5-10) per cent. Total height of the bottle shall be between five and seven-eighths [eighths] (5⅞) and six and one-half (6½) inches. The standard Babcock milk pipette shall be graduated to deliver seventeen and six-tenths (17 6-10) cubic centimeters of water at 20 degrees C. in five to eight seconds. The standard weight shall be nine (9) grams. (Id. § 7452.)

53. Violation; Penalty.—Any person violating any of the provisions of this article* shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than ten dollars (\$10.00), nor more than one hundred dollars (\$100.00), or be imprisoned in the county jail not exceeding three months. (Id. § 7453.)

54. Imitation Butter and Cheese Defined.—For the purpose and within the meaning of this article, every article, substitute or compound, other than that entirely produced from pure milk or cream from the same, made in the semblance of butter and designed to be used as a substitute for butter made from pure milk, or cream from the same, is hereby declared to be imitation butter. Every article, substance, or compound other than that produced from pure milk, or cream from the same, made in the semblance of cheese and designed to be used as a substitute for cheese made from pure milk, or cream from the same, is hereby declared to be imitation cheese. Provided, the use of salt, rennet and other harmless coloring matter for coloring the product of pure milk, or cream, shall not be construed to render such product an imitation.

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For the purpose and within the meaning of this article, any person who in any manner produces imitation butter or imitation cheese shall be considered a manufacturer thereof. Any person who sells imitation butter or imitation cheese in packages or quantities containing ten pounds or more shall be considered a wholesale dealer thereof. Any person who sells imitation butter or imitation cheese in packages or quantities containing less than ten pounds shall be considered a retail dealer thereof. (Id. § 7482.)

55. Shipping Substitutes.—No person, firm, or corporation or their agents or employees shall ship, consign, or forward by any common carrier whether public or private, any imitation butter or imitation cheese, unless such shipping box or package shall be durably and legibly marked with the words "imitation butter" or "imitation cheese" as the case may be, in Roman letters not less than one inch in height. (Id. § 7483.)

56. Imitations; Notice of Use.—No owner, manager or employee of any place where food is served to the public shall offer, deliver or serve in any way to any person therein, whether compensation therefor is received or not, any imitation butter or imitation cheese, having a yellow color or any shade of genuine yellow, or any imitation butter or imitation cheese, unless the person so served is notified either by a statement on each bill of fare or by distinctly legible printed signs or verbally at the time said imitation butter or imitation cheese is served. (Id. § 7484.)

57. Sale of Imitations; License Required.—No person, firm, or corporation or any agent or employee thereof shall produce, manufacture, or sell any imitation butter or imitation cheese, without first procuring a license from the Department of Agriculture. The fees charged for licenses shall be as follows: For each manufacturer of imitation butter or imitation cheese, \$100.00; for each wholesale dealer in imitation butter or imitation cheese, \$25.00; for each retail dealer in imitation butter or imitation cheese, \$1.00. Each license shall expire on July first next after its issue and shall not be transferable. No license shall be issued for a less amount than the fee stated in this section. (Id. § 7485.)

58. Violation; Penalty.—Any person violating any of the provisions of this act* shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (\$10.00) dollars and not more than one hundred (\$100.00) dollars, or be imprisoned for not less than thirty (30) days, as the court may direct. (Id. § 7486.)

59. Condensed or Evaporated Milk; How Labeled.—It shall be unlawful for any person, firm, or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated milk which shall not conform at least to the minimum standards set forth by the department of dairy industry of the Department of Agriculture, and which if contained in hermetically sealed cans does not bear stamped or labeled thereon, the name and address of the manufacturer, or jobber thereof, or dealer therein. (L. 1923, c. 12. § 1.)

60. Sale or Exchange; Fictitious Name.—It shall be unlawful for any person, firm, or corporation, by himself, his servant, or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them, to which has been added any fat or oil other than milk fat, either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. (Id. § 2.)

61. Container to Bear Name and Address of Manufacturer.—It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to sell or exchange, or expose for sale or exchange, or have in possession with intent to sell or exchange any condensed or evaporated or powdered skim milk in containers holding less than ten (10) pounds avoirdupois net weight and each said container shall bear the name and address of the manufacturer, distinctly branded, indented, labeled or printed thereon, together with the words "condensed skim milk," or "powdered skim milk," as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand, indentation or label. (Id. § 3.)

62. Violation; Penalty.—Any violation of any of the provisions of this section is hereby declared to be a misdemeanor and any person, whether individually or as the member of a partnership or as a responsible agent or officer of a corporation who shall be convicted of such violation, either on his own behalf or in the interests of a corporation, shall be punished by imprisonment in the county

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jail for not less than thirty days nor more than sixty days or by a fine of not less than fifty dollars nor more than one hundred dollars or by both such fine and imprisonment. (Id. § 4.)

63. Enforcement by Dairy and Food Commissioner.—The Dairy and Food Commissioner, by himself or by his assistants, chemists, inspectors or agents, shall be charged with the enforcement of the provisions of this section. (Id. § 5.)

64. Shipment From Foreign State.—Nothing in this section shall be construed to prohibit the shipment into this State from a foreign State and the first sale thereof in this State in the original package intact and unbroken of any of the products or articles the manufacture, sale or exchange of which or possession of which with intent to sell or exchange is prohibited hereby. (Id. § 6.)

65. No Dairy Symbols to be Used on Substitute Dairy Products.—No person, firm or corporation shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word butter, creamery or dairy, upon which shall appear the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter. (L. 1923, c. 13. § 1.)

66. Violation; Penalty.—Any person, firm, or corporation that shall violate any provisions of the preceding section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or shall be imprisoned in the county jail not more than thirty days, or both, in the discretion of the court. (Id. § 2.)

NOTE: See also Nos. 3, 14a, 26 et seq., 94 et seq., 178 et seq., 205, 206, and 227.

Eggs.

67. Eggs, When Unfit For Human Food.—For the purposes of this act an egg shall be determined unfit for human food if it be addled or mouldy, a black rot, a white rot or a blood ring; or if it has an addled yolk or a bloody or green white; or if it be incubated beyond the blood ring state [stage]; or if it consists in whole or in part of a filthy, decomposed or putrid substance. (L. 1923, c. 2. § 1.)

68. Eggs to be Canded.—Every person, firm or corporation engaged in the business of buying eggs in this State for re-sale or consignment before or after storage shall, except during the months of January, February, March and April, cause all eggs bought, sold or consigned to be candled and shall pay only for edible eggs. Every person, firm or corporation engaged in the business of buying eggs in this State for re-sale or consignment shall provide an adequate place for the accurate candling of eggs and a suitable place for the handling of eggs intended to be used for human food.

No person, firm or corporation shall in the buying or selling of eggs take or give a greater or less dockage for eggs unfit for human food, as defined in section 1 of this act than the actual dockage which has been determined by the careful handling of such eggs, as herein provided for. (Id. § 2.)

69. Candling Certificate.—There shall be placed on the top layer under the top flap, in each case of candled eggs, by the person who candled same, a candling certificate. Such candling certificate shall be printed on cards or sheets of paper no smaller in size than $2\frac{3}{8}$ by $4\frac{1}{4}$ inches and shall give the date or dates of candling the eggs contained in the case in which it is placed, the name, the initials or number of the person candling the eggs and the name of this State and post office address of such person or firm candling such eggs. (Id. § 3.)

70. Rules and Regulations.—The Department of Agriculture shall have authority to promulgate such rules and regulations as are necessary promptly and effectively to enforce the provisions of this act. (Id. § 4.)

71. Penalty.—Any person, firm or corporation failing to comply with the requirements of or violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than \$10.00 nor more than \$50.00 for each offense. (Id. § 5.)

NOTE: See also No. 26 et seq.

Feeding Stuffs.

72. Commercial Feeding Stuffs; Defined.—The term "concentrated commercial feeding stuffs" as used in this article shall include all feeding stuffs used for feeding live stock and poultry except whole unmixed seeds or grains when not mixed with other materials, whole hays, straws and corn stover and unmixed meals made from the entire grains of wheat, rye, oats, Indian corn, buckwheat or broom corn. (C. S. 1922, § 7531.)

73. Name, Weight, Manufacture, etc., Stated on Package.—Every lot, barrel, bag, pail, parcel or package of concentrated commercial feeding stuff, as defined in section 7531, shall have affixed thereto a tag or label in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, in type as large as ten point, clearly and truly certifying:

1. The net weight of the package.
2. The name, brand or trade-mark under which the feed is sold.
3. The name and address of the manufacturer, importer, dealer or agent.
4. The minimum per centum of crude protein and crude fat, the maximum per centum of crude fiber, and the specific name of each ingredient used in its manufacture.

The several constituents as named above shall be determined by the methods adopted by the Association of Official Agricultural Chemists of the United States. (Id. § 7532.)

74. Sample Delivered to Food Commissioner.—Before any person shall sell, offer or expose for sale or distribute in this State any concentrated commercial feeding stuff, he or they shall file, when so requested, with the Department of Agriculture, a sealed glass jar or bottle containing not less than one pound of the feeding stuff to be sold, offered or exposed for sale or distributed in this State, accompanied with an affidavit that it is a fair average sample thereof and corresponds to the feeding stuff which it represents. (Id. § 7533.)

75. Inspection Tax.—Every person manufacturing or selling any concentrated commercial feeding stuff, as defined in section 1 [7531] of this article shall pay to the Department of Agriculture an inspection tax of ten cents for each ton of concentrated commercial feeding stuffs sold, offered or exposed for sale or distributed in this State, and shall affix to or accompany each lot shipped in bulk, and to each parcel of such concentrated commercial feeding stuffs a tag or stamp, to be furnished by the Department of Agriculture, stating that all charges specified in this section have been paid. Whenever any concentrated commercial feeding stuffs as defined in section 7531 are exposed or offered for sale in bulk or stored the person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section 2 [7532]; and where such feeding stuffs are sold at retail in bulk or in packages belonging to the purchaser the vendor shall furnish the purchaser with sufficient tax tags or stamps to cover the sale, and, upon request, with a card or cards upon which appear the statement required by the provisions of section 2 [7532]. No inspection fee shall be required for the sale of unadulterated wheat, rye and buckwheat bran, nor for the sale of wheat, rye and buckwheat shorts manufactured in this State. (Id. § 7534.)

76. Analysis.—The Department of Agriculture may take for analysis a sample from any lot or package of feeding stuffs not exceeding two pounds in weight. Said sample shall be taken in the presence of a person in interest or his representative and shall be taken from parcel lot or number of parcels which shall not be less than five per cent of the whole lot inspected. The sample so taken shall be divided into two parts, placed in separate containers and carefully sealed and labeled. The label shall state the name or brand of the feeding stuff and the name of the person from whose stock it was taken, and the date and place of taking of sample. The label shall be signed by the representative of the Department of Agriculture. One of the samples shall be left on the premises and the others shall be retained by the department for analysis and comparison of the certified statement on file with the department. (Id. § 7535.)

77. Purchaser May Have Analysis Made.—Any person purchasing any concentrated commercial feeding stuffs in this State for his own use may submit fair samples thereof to the Department of Agriculture, which, upon receipt of an analysis fee of one dollar for each sample shall cause an analysis of the same to be made. (Id. § 7536.)

78. Unlawful Acts.—No person shall counterfeit or use a counterfeit of any of the tags prescribed by this article, or use any tags or stamps a second time or prevent or attempt to prevent the Department of Agriculture, from collecting samples. (Id. § 7537.)

79. Violation; Penalty.—Any person who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor and, on conviction thereof shall be fined in a sum not exceeding one hundred dollars (\$100.00) or be imprisoned in the county jail not exceeding three months. (Id. § 7538.)

NOTE: See also Nos. 14a, 26 et seq., and 109 et seq.

Flavoring Extracts.

See No. 159.

Flour.

See Nos. 4 and 201.

Fruits and Vegetables.

See Nos. 14a, 81 et seq., 94 et seq., 201, and 203-204.

Meal.

See No. 201.

Meat.

80. Diseased Meat; Penalty For Selling.—It shall be unlawful for any person to sell or offer for sale the flesh of a diseased animal, whether such animal shall have died of disease or shall have been butchered when in a diseased condition, and any person violating the provisions of this act shall, upon conviction thereof, be fined in any sum not less than one hundred dollars and not more than one thousand dollars, or be imprisoned in the penitentiary not less than six months or more than five years. (C. S. 1922, § 9844.)

80a. Butchers' Record.—Any person now engaged or who may hereafter engage in the business of a butcher in the State of Nebraska shall keep a record of all branded beef animals he may slaughter, giving age, sex, marks and brands, of whom purchased and date of said purchase, which records shall at all times be open for public inspection at his place of business. (Id. § 92.)

80aa. Penalty.—Any person who shall willfully violate the provisions of the four next preceding sections or willfully neglect or refuse to do any act therein required shall be guilty of a misdemeanor and on conviction shall be punished by imprisonment in the county jail for a period not exceeding three months or pay a fine not exceeding one hundred dollars. (Id. § 96.)

80b. License for Rendering Establishments.—It shall be unlawful for any person, persons, firm or corporation to operate within the State of Nebraska any rendering establishment in which the carcasses of domestic animals, not intended for human consumption, are used for manufacturing purposes, without having secured from the State Department of Agriculture a license or permit to do so. (L. 1923, c. 3, § 1.)

80c. Application to be Filed With State Department of Agriculture.—Any person, persons, firm or corporation intending to operate within the State of Nebraska any rendering establishment in which carcasses of domestic animals, not intended for human consumption, are to be used for manufacturing purposes shall file with the State Department of Agriculture an application for a license or permit to do so subject to the provisions of this act. (Id. § 2.)

80d. Inspection Before License is Issued.—Upon the receipt of said application the State Department of Agriculture shall cause an inspection to be made of any establishment for which a license or permit is required, its equipment, vehicles and manner of conduct with reference and due regard to the safety of animal health and the dangers of disease transmission and dissemination. In the case of said inspection not revealing any danger of disease transmission or any other menace to animal health, the State Department of Agriculture shall issue the license or permit applied for upon payment of a fee of fifty dollars. Such a license or permit will remain valid for a period of one year from the date of issue or until revoked for cause by the State Department of Agriculture. (Id. § 3.)

80e. Authorized to Transport Carcasses.—A rendering establishment within the meaning of this act and provided with a license or permit in accordance with this provision of this act is authorized to transport over any public highway within the State of Nebraska the carcasses of animals dead of disease, provided:

First—That for the purpose of such transportation the carcasses shall be placed in containers or vehicles which are constructed of or lined with impervious material and which do not permit the escape of any liquid and which are covered in such a way that the contents be not accessible to flies or other insects.

Second—That said containers and vehicles are disinfected in a manner prescribed by the State Department of Agriculture, each and every time before leaving the establishment named in the license or permit.

Third—That upon leaving premises from which carcasses were collected and before using the public highway the exterior of the vehicle must be disinfected in a similar manner: Provided, however, that if the owner of any animals which die from disease or sickness does not dispose of such animals which have died from disease or sickness, to a rendering establishment licensed to operate under the terms of this act, then said owner shall have the carcasses of said deceased animals completely burned on the premises where the animal died within 48 hours thereafter. Provided, that the provisions of this act shall not apply to public stockyards where Federal inspection is maintained or to rendering establishments handling dead carcasses from such stockyards. (Id. § 4.)

80f. Secretary of Agriculture to Issue Rules and Regulations.—The Secretary of Agriculture is hereby authorized to issue and enforce such rules and regulations pertaining to the transportation of carcasses as he may deem wise for the protection of the health of animals and to revoke licenses or permits for cause. (Id. § 5.)

80g. Penalty.—Any person violating any of the provisions of this act or any rule or regulation made by the Secretary of Agriculture in accordance with this act shall be guilty of a misdemeanor and be punished by a fine of not less than one hundred dollars or more than three hundred dollars or by imprisonment of not less than 10 days or more than 30 days. (Id. § 6.)

NOTE: See also Nos. 14a, 26 et seq., and 94 et seq.

Potatoes.

81. Department of Agriculture to Inspect.—The Department of Agriculture shall enforce the provisions of this act. It shall make or cause to be made all necessary examinations or inspections requested by producers, warehousemen, shippers, carriers, sellers or buyers of potatoes, according to the provisions of this act, and shall promulgate such rules and regulations as are necessary to effectively enforce the provisions thereof. (C. S. 1922, § 7616, as amended L. 1925, c. 1.)

82. Shipments, Assorting, Trading.—Each car-load shipment of potatoes originating in Nebraska shall be assorted and graded at point of origin according to grades herein specified whenever the same is desired or requested by any producer, warehouseman, carrier, shipper or purchaser of potatoes. Upon every inspection so made a certificate specifying the grade of potatoes shall be issued to the person so requesting. It shall be made in duplicate, one copy of which may be posted in the car before the car is released for shipment and the other copy shall be delivered to the person who requests it. (Id. § 7617.)

83. Grades Defined.—U. S. Grade Fancy. This grade shall consist of sound potatoes of one variety which are mature, bright, smooth, well shaped, free from dirt or other foreign matter, frost injury, sunburn, second growth, growth cracks, cuts, scab, blight, soft rot, dry rot, and damage caused by disease, insects, or by mechanical or other means. The range in size shall be stated in terms of minimum and maximum diameter or weight following the grade name, but in no case shall the diameter be less than two inches. In order to allow for variations incident to commercial grading and handling, five per cent by weight of any lot may vary from the range in size stated, and, in addition, three per cent by weight of any such lot may be below the remaining requirements of this grade; but not more than one-third of such three per cent, that is to say, not more than one per cent by weight of the entire lot, may have the flesh injured by soft rot.

United States Grade No. 1. This grade shall consist of sound potatoes of similar varietal characteristics which are practically free from dirt or other foreign matter, frost injury, sunburn, second growth, growth cracks, cuts, scab, blight, soft rot, dry rot, and damage caused by disease, insects, or mechanical or other means. The diameter of the potatoes of the round varieties shall not be less than one and seven-eighths inches, and of potatoes of long varieties one and three-fourths inches.

In order to allow for variations incident to commercial grading and handling, five per cent by weight of any lot may be under the prescribed size, and, in addition, six per cent by weight of any such lot may be below the remaining requirements of this grade; but not more than one-third of such six per cent, that is to say, not more than two per cent by weight of the entire lot, may have the flesh injured by soft rot.

Nebraska Standard. This grade shall consist of potatoes of similar varietal characteristics which are free from freezing injury and soft rot and from serious damage caused by sunburn, cuts, scab, blight, dry rot, disease, insects or mechan-

ical or other means and which shall consist of seventy-five per cent of United States grade number 1 potatoes. The diameter of potatoes of this grade shall not be less than one and three-quarters inches. In order to allow for variations incident to proper grading and handling, not more than five per cent, by weight, of any lot may be below the prescribed size and, in addition, not more than six per cent, by weight, may be below the remaining requirements of this grade but not to exceed one-third of this six per cent tolerance shall be allowed for potatoes affected by soft rot.

Grade No. 2. This grade shall consist of potatoes of similar varietal characteristics which are practically free from frost injury and soft rot, and which are free from serious damage caused by sunburn, cuts, scab, blight, dry rot, or other disease, insects, or mechanical or other means.

The diameter of potatoes of this grade shall not be less than one and one-half inches.

In order to allow for variations incident to commercial grading and handling, five per cent by weight of any lot may be under the prescribed size, and, in addition, six per cent by weight of any such lot may be below the remaining requirements of this grade; but not more than one-third of such six per cent, that is to say, not more than two per cent by weight of the entire lot, may have the flesh injured by soft rot.

Grade Early Nebraska. This grade is established, and is to apply only for shipments in car lots during the month of July and August. This grade shall consist of sound potatoes of similar varietal characteristics which are practically free from dirt or other foreign matter, frost injury, sunburn, second growth, growth cracks, cuts, scab, blight, soft rot, dry rot, and damage caused by disease, insects, or mechanical or other means.

The diameter of the potatoes of the round varieties shall not be less than one and five-eighths [eighths] inches, of potatoes of long varieties, one and one-half inches. In order to allow for variation incident to commercial grading and handling, five per cent by weight of any lot may be under the prescribed size, and, in addition, six per cent by weight of any such lot may be below the remaining requirements of this grade; but no more than one-third of such six per cent, that is to say, not more than two per cent by weight of the entire lot, may have the flesh injured by soft rot. These grades are subject to such changes by the State Department of Agriculture as may be necessary to conform with the grades recommended by the Bureau of Markets of the United States Department of Agriculture.

Every certificate issued under the terms of this act shall state whether the seed has been grown on irrigated or dry land. It shall be optional with shipper, producer, warehouseman, seller or buyer as to whether a car shall be inspected or not. (Id. § 7618.)

84. Definitions.—For the purpose of this act:

"Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

"Bright" means free from dirt or other foreign matter, damage or discoloration from any cause, to an extent such that the outer skin (epidermis) has the attractive color normal for the variety.

"Smooth" means free from second-growth, growth cracks, and other abnormally rough surfaces.

"Well shaped" means the normal, typical shape for the variety and free from pointed, dumb-bell shaped, excessively elongated, and other ill-formed potatoes.

"Free" means that neither the appearance nor the physical structure has been appreciably damaged by the causes mentioned.

"Diameter" means the greatest dimension at right angles to the longitudinal axis.

"Soft rot" means a soft mushy condition of the tissues from whatever cause.

"Practically free" means that the appearance shall not be injured to an extent readily apparent upon casual examination of the lot, and that any damage from the causes mentioned can be removed by the ordinary process of paring without appreciable increase in waste over that which would occur if the potato were perfect. Loss of outer skin (epidermis) only shall not be considered as an injury to the appearance.

"Free from serious damage" means that any damage from the causes mentioned can be removed by the ordinary processes of paring without increase in waste of more than ten per centum by weight over that which would occur if the potato were perfect. (C. S. 1922, § 7619.)

85. Requests for Inspection.—Any interested party may request a re-inspection at point of destination if the grade established by the inspection theretofore made is not satisfactory to such party. Such re-inspection shall be made at the cost of the party requesting the re-inspection. (Id. § 7620, as amended L. 1925, c. 1.)

86. Fees.—A fee of four (\$4.00) dollars per car shall be paid by the party requesting it on all inspected shipments of potatoes except for re-inspection at points of destination, in which case the fee shall be five (\$5.00) dollars per car. All fees shall be paid to the Department of Agriculture, and shall be collected by the inspector at the time of the issuance of the certificate. (Id. § 7621.)

87. Violation, Penalty.—Whoever shall remove any inspection certificate before a car of potatoes is entirely unloaded, whoever except an authorized inspector shall alter any inspection certificate, whoever without using reasonable diligence to secure inspection fails or neglects to have potatoes inspected before shipping, whoever shall hinder, molest or attempt to influence any inspector in the performance of his duties, or whoever violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined for each violation in a sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or shall be imprisoned in the county jail not exceeding six months, or both. Any inspector who shall fail or neglect to perform the duties enforced upon him by this act shall suffer the penalty herein provided. (C. S. 1922, § 7622.)

NOTE: See also No. 201.

Rice.

See No. 227.

Sugar.

See No. 227.

Syrups.

See Nos. 4 and 159.

Vinegar—Cider.

88. Sale of Cider; Adulteration.—No person shall manufacture for sale, produce, sell, keep for sale, or offer for sale as cider any preparation of cider, containing salicylic acid, formaline, preservit, anti-ferment or any other drug, chemical or substance that does not belong to the apple in its natural state, nor manufacture for sale, sell or keep for sale, or offer for sale, any product or substance as cider or for cider anything other than pure apple juice. If adulterated cider is manufactured for sale, sold or kept for sale or offered for sale, the keg, cask, barrel or package shall be plainly marked "Adulterated Cider," with the approximate proportion of each drug, chemical, or substance used in its contents. (C. S. 1922, § 7476.)

89. Packages to be Marked.—Every manufacturer or producer of cider vinegar, when offering it for sale, shall plainly mark or brand the cask, barrel, keg or other package with his name and place of business and the words "Cider Vinegar," and no person shall label or brand as cider vinegar or for cider vinegar any package which is not cider vinegar. Cider vinegar shall be construed to mean vinegar made exclusively from pure apple juice. (Id. § 7477.)

90. Vinegar.—No person shall sell as apple, orchard, or cider vinegar any vinegar not made exclusively of apple cider, nor any vinegar in which foreign substances, drugs, or acids have been introduced, or which upon proper test shall contain less than one and six-tenths per cent by weight of cider vinegar solids, upon full evaporation at the temperature of boiling water. (Id. § 7478.)

91. Adulterated Vinegar.—Every person manufacturing for sale, keeping for sale, or offering for sale, any of the so-called grain vinegars, wine vinegars, or fruit vinegars, shall place them on the market without artificial coloring, with a brand or label on each barrel, cask or other package, clearly indicating the name and place of business of the manufacturer and the name of the grain or fruit from which the contents are made. All vinegar shall be made wholly from the fruit or grain from which it is represented that it is made and shall contain not less than four per cent by weight of absolute acetic acid. (Id. § 7479.)

92. Same; Harmful Chemicals.—No person shall manufacture for sale or offer for sale, or have in his possession with intent to sell, any vinegar containing any preparation of lead, copper, sulphuric acid, or other substance or ingredients injurious to health.* (Id. § 7480.)

93. Violation; Penalty.—Any person violating any of the provisions of this article, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding one hundred (\$100.00) dollars or, imprisoned in the county jail not exceeding three months. (Id. § 7481.)

NOTE: See also Nos. 14a and 149.

Sanitation.

94. Bakeries, Creameries, Dairies, etc.—Every building, room, basement or cellar occupied or used as a bakery, confectionery, cannery, packing house, slaughter-house, dairy, creamery, cheese factory, restaurant, hotel, grocery, meat market or other place or apartment used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated and conducted with strict regard to the influence of such conditions upon the health of the operatives, employees, clerks and other persons therein employed and the purity and wholesomeness of the food therein produced; and for the purpose of this article the term "Food" as herein used shall include all articles used for food, drink, confectionery, or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof. (C. S. 1922, § 7487.)

95. Storage Rooms to be Kept Sanitary.—The floors, side walls, ceilings, furniture, receptacles, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of food products, shall at no time be kept in an unclean, unhealthful and unsanitary condition and for the purpose of this article unclean, unhealthful and unsanitary condition, shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale, distribution or transportation is not securely protected from flies, dust, dirt and, as far as may be necessary by all reasonable means, from all other foreign or injurious contamination; and if the refuse, dirt and waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, distributing and transporting of food, are not removed daily; and if all trucks, trays, boxes, baskets, buckets and other receptacles, chutes, platforms, racks, tables, shelves and all knives, saws, cleavers and other utensils and machinery used in moving, handling, cutting, chopping, mixing, canning and all other processes are not thoroughly cleaned daily, and if the clothing of operatives, employees, clerks or other persons therein employed is unclean. (Id. § 7488.)

96. Kitchen, Restaurant, Bakery, Kept Sanitary.—The side walls and ceilings of every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen, shall be brick, cement, plastered, wainscoted or ceiled with metal or lumber and shall be oil painted or kept well lime washed, and all interior wood work in every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen, shall be kept well oiled or painted with oil paints or lime washed and kept clean, and every building, room, basement, or cellar occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food, shall have an impermeable floor made of cement or tile laid in cement, brick, wood or other suitable non-absorbent material which can be flushed, and washed clean with water. (Id. § 7489.)

97. Doors and Windows Screened.—The doors, windows and other openings of every food producing or distributing establishment during the fly season shall be fitted with self-closing screen doors and wire window screens of not coarser than fourteen mesh wire gauze. (Id. § 7490.)

98. Toilet Rooms, Lavatories, etc.—Every building, room, basement or cellar occupied or used for the preparation, manufacture, packing, canning, sale or distribution of food shall have convenient toilet or toilet rooms, separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other non-absorbent material and shall be kept in a thoroughly clean and sanitary condition. Such toilet or toilets shall be furnished with separate ventilating flues, or pipes, discharging into soil pipes, or on outside of the building in which they are situated. Lavatories and wash rooms shall be supplied with soap, water and towels and shall be maintained in a sanitary condition. Operatives, employees, clerks, and all other persons who handle the material from which food is prepared, or the finished product, before beginning work or after visiting toilet or toilets, shall wash their hands and arms thoroughly in clean water. (Id. § 7491.)

99. Cuspidors.—Cuspidors for the use of operatives, employees, clerks or other persons shall be provided whenever necessary, and each cuspidor shall be thoroughly emptied and washed out daily with disinfectant solution and five ounces of such solution shall be left in each cuspidor while it is in use. No operative, employee or other person shall expectorate on the floor or sidewalls of any building, room, basement or cellar where the production, manufacture, packing, storing, preparation or sale of any food is conducted. (Id. § 7492.)

100. Kitchen, etc., Not Used For Sleeping.—No person shall be allowed to live or sleep in any room of a bake shop, kitchen, dining room, confectionery, creamery, cheese factory or place where food is prepared, served or sold. (Id. § 7493.)

101. Diseased Persons Not Employed.—No employer shall require, permit, or suffer any person to work, nor shall any person work, in a building, room, basement, cellar or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution and transportation of food, who is affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis, consumption, bubonic plague, asiatic cholera, leprosy, trachoma, typhoid fever, epidemic dysentery, measles, mumps, German measles (Rothein), whooping cough, chicken pox or any other infectious or contagious disease. (Id. § 7494.)

102. Power and Duty of Agricultural Department.—The Department of Agriculture shall have authority at all times to enter and inspect any building or part thereof occupied or used for the production, sale or distribution of food and to inspect all utensils or machinery used in production, sale or distribution, and if upon such inspection the department shall find any violation of the provisions of this article or that food is being produced, sold or distributed in a manner detrimental to health, the department shall issue an order in writing to the person in charge of such production, sale or distribution to abate the condition or violation or to make such improvements as may be necessary to abate such conditions, within a period of five days or such other reasonable time as may be determined by the department. (Id. § 7495.)

103. Non-compliance With Orders; Penalties.—Any person who shall refuse to comply with any lawful orders or requirements of the Department of Agriculture issued under the preceding section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than two hundred dollars (\$200.00) or imprisoned in the county jail not more than ninety (90) days and each day after the expiration of the time limit fixed by the order of the department for abating unsanitary conditions shall constitute a separate offense. (Id. § 7496.)

104. Violation; Penalty.—Any person violating any of the provisions of this article, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars (\$100.00) or imprisoned in the county jail not exceeding three months. (Id. § 7497.)

NOTE: See also Nos. 14a, 15 et seq., 26 et seq., 39 et seq., and 80b et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

105. Advertisement or Sale of Secret Drug, etc., For Females.—If the publishers of any newspaper in the State shall print or publish any advertisement of any secret drug or nostrum, purporting to be exclusively for the use of females, or if any druggist or other person shall sell or keep for sale, or shall give away any such secret drug or nostrum, purporting to be exclusively for the use of females; or if any person shall, by printing or writing, or in any other way, publish an account or description of any drug, medicine, instrument or apparatus for the purpose of preventing conception, procuring abortion or miscarriage, or shall, by writing or printing in any circular, newspaper, pamphlet or book, or in any other way publish or circulate any obscene notice, or shall within the State of Nebraska keep for sale or gratuitous distribution any newspaper, circular, pamphlet

or book containing such notice of such drugs, instruments or apparatus, or shall keep for sale or gratuitous distribution any secret nostrum, drug or medicine for the purpose of preventing conception, procuring abortion or miscarriage, such person or persons so violating any of the provisions of this section shall be fined in any sum not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding six months, or both; provided, nothing in this section shall be so construed as to affect teaching in regular, chartered medical colleges or the publication of standard medical books. (C. S. 1922, § 9569.)

105a. Selling Obscene Literature.—Whoever sells or offers for sale, or gives away or has in his possession with intent to sell, loan or give away, any obscene, lewd, indecent or lascivious book, pamphlet, paper, drawing, lithograph, engraving, picture, photograph, model, cast or any instrument, or article of indecent or immoral use, or advertises the same for sale, or writes or prints any letter, circular, handbill, card, book, pamphlet, advertisement or notice of any kind, giving information, directly or indirectly, when, where, how or by what means any of the articles or things hereinbefore mentioned can be purchased or otherwise obtained or made, shall, on conviction thereof, be punished by a fine of not more than one thousand dollars nor less than fifty dollars, or by imprisonment in the county jail not more than one year, or both. (Id. § 9779.)

105b. Distributing Same.—Whoever deposits in any post office in this State, or places in charge of any person to be carried or conveyed, any of the articles or things named in the next preceding section, or any circular, handbill, card, advertisement, book, pamphlet or notice of any kind, giving information, directly or indirectly, when, how, where or by what means any of the articles or things mentioned in said section can be purchased or obtained, or knowingly or wilfully receives the same to carry or convey, or knowingly carries or conveys the same in any manner, except in the United States mail, shall, upon conviction, be punished by a fine of not more than one thousand dollars nor less than fifty dollars, or be imprisoned in the county jail not more than one year, or both. (Id. § 9780.)

105c. Same—Destruction.—All magistrates in this State are authorized, on due complaint supported by oath or affirmation of one or more persons, to issue a warrant directed to the sheriff of the county within which such complaint shall be made, or to any constable or police officer within said county, directing him or them or any of them to search for, seize and take possession of such books, papers, pictures, circulars, articles and things named in section two hundred and twelve [9779] and two hundred and fifteen [9782];* and such magistrate shall deliver personally or shall transmit, enclosed and under seal, specimens thereof to the county attorney of his county, and shall deposit within the county jail of his county or such other secure place as to him shall seem meet, enclosed and under seal, the remainder thereof, and shall upon conviction of the person or persons offending under the provisions of this article, forthwith, in the presence of the person or persons upon whose complaint the said seizure or arrest was made, if he or they shall elect to be present, destroy or cause to be destroyed the remainder thereof so seized as aforesaid, and shall cause to be entered upon the record of his court the fact of such destruction. (Id. § 9783.)

105d. Saving Clause.—Nothing in the five next preceding sections shall be construed to affect teaching in regularly chartered medical colleges, or the publication or use of standard medical books, or the practice of regular practitioners of medicine, or druggists in their regular business or the possession by artists of models in the necessary line of their art. (Id. § 9784.)

Embalming Fluids.

106. Embalming Fluids Containing Arsenic Prohibited.—No person, firm, or corporation, or co-partnership shall manufacture, give away, sell, expose for sale or deliver any embalming fluid or other fluids of whatsoever name to be used for or intended for use in the embalming of dead human bodies which contain arsenic or strychnine or preparations, compounds or salts thereof without having the words "arsenic contained herein" or "strychnine contained herein" (as the case may be) written or printed upon a label pasted on the bottle, cask, flask or carboy in which said fluid shall be contained. (C. S. 1922, § 9575.)

107. Undertakers Not to Use.—No undertaker or other person shall embalm with, inject into or place upon any dead human body any fluid or preparation of any kind which contains arsenic or strychnine or preparations, compounds or salts thereof. (Id. § 9576.)

*Section 9782 relates to the selling of obscene literature to minors, omitted herein.

108. Penalty.—Any person, firm, corporation or copartnership who shall violate any provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100.00). (Id. § 9577.)

Live-Stock Remedies.

109. Live-Stock Remedy Defined.—The term "live-stock remedy" as used in this article shall be held to include all condimental feeds, medicated stock foods, medicinal stock food, stock food tonics, stock powders, proprietary medicines and all preparations of like nature designed for any animal, except man, to be administered internally for their stimulating, invigorating, curative or other powers. (C. S. 1922, § 7539.)

110. Each Package to be Labeled of Weight, Ingredients, etc.—Every barrel, bag, pail, parcel or package of live-stock remedy as defined in section 1 [7539] of this article shall have affixed thereto in a conspicuous place on the outside thereof, distinctly printed in the English language in legible type, not smaller than eight point heavy Gothic caps, or plainly written, a statement certifying:

1. The net weight or measure in the package.
2. The name, brand or trade-mark under which the article is sold.
3. The name and address of the manufacturer, importer, dealer or agent.
4. The name and percentage of any poisonous or deleterious ingredient and the name and percentage of diluents or bases present. (Id. § 7540.)

111. Diluent or Bases.—For the purpose of this article the term "diluent" or bases shall include millfeeds of all kinds, elevator dust, linseed meal, earth, salt, sand, ashes, slacked lime, gypsum, talc, and other inert or non-medicinal ingredients. (Id. § 7541.)

112. Deceptive Branding Unlawful.—No "live-stock remedy" shall be labeled or branded so as to deceive or mislead the purchaser in any way, and the contents of any such package shall not be substituted in whole or in part for any other contents and no other material shall be substituted for the contents of any such package. Every statement, design or device upon the label or package regarding the substances contained therein shall be true and correct, and every representation made for the feeding, condimental, tonic, or medicinal value, shall be true. (Id. § 7542.)

113. Dealer to Register.—No person shall offer or expose for sale any live-stock remedy as defined in section 1 [7539] of this article, until he shall have registered each brand of live-stock remedy offered for sale, with the department on blanks furnished by it, on which shall be stated a list of ingredients composing said remedy. A fee of \$5.00 shall be collected by the Department of Agriculture for each brand registered. (Id. § 7543.)

114. Violation; Penalty.—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and on conviction thereof be fined in any sum not exceeding one hundred (\$100.00) dollars or be imprisoned in the county jail not exceeding three months. (Id. § 7544.)

NOTE: See also No. 14a.

Pharmacy, Poisons and Narcotics.

115. License Required; Application; Fees; Qualifications; Proof; Examinations.—It shall be unlawful for any person, not heretofore licensed in this State, to practice pharmacy in any of its branches in this State without first having applied for and obtained from the Department of Public Welfare a license so to do. Application therefor shall be in writing and shall be accompanied by an examination fee of five dollars and with proof that the applicant is of good moral character, and is of the age of twenty-one years. Applications from candidates who desire to practice pharmacy shall be accompanied by proof either: First, that the applicant has had three years of practical experience under the instruction of a registered pharmacist and that he is a graduate of an accredited four-year high school and shall have passed a satisfactory examination by the Board of Pharmacy as herein provided showing that the candidate's knowledge of pharmacy is equal to that of a two-year course of pharmacy in a recognized school or college of pharmacy or a department of pharmacy of a university or college whose standards are equal to those recognized by the State Board of Pharmacy, or, Second, that the applicant is a graduate of an accredited four year high school and is also a graduate of a school or college of pharmacy or a department of

pharmacy of a university or college which maintains a four-year course in pharmacy, consisting of not less than thirty-six weeks of instruction each school year with a vacation of not less than two months intervening between each school year, and conferring upon graduation the degree of "Bachelor of science." Examinations shall be of such a character sufficiently strict to test the qualifications of the candidate as a practitioner and shall be conducted under rules and regulations prescribed by the department which shall provide for a fair and wholly impartial method of examination, by a board of three examiners to be chosen by the Department of Public Welfare, who shall be skillful retail apothecaries of seven years' practical experience, actually engaged in said business in the State of Nebraska and for such services they shall receive fifteen dollars (\$15.00) per diem and actual expenses incurred in the actual discharge of their duties. In case of the failure of any applicant to pass a satisfactory examination, the money shall be held to his credit for a second examination at any time within a year. Examination may be dispensed with by the department in case of a pharmacist duly licensed and authorized to practice pharmacy in any other State, territory or the District of Columbia, who presents a certificate or license issued by such State, territory, or District of Columbia, accompanied by a fee of five dollars, provided the requirements of such State, territory or District of Columbia are equal to the requirements of this State. Licensed applicants shall be registered by the department as registered pharmacists. (C. S. 1922, § 8207.)

116. "Licentiates" Defined.—No person other than a licentiate shall be entitled to register as a pharmacist. Licentiate in pharmacy within the meaning of this article shall be such person, not less than eighteen years of age, who shall have had not less than three years practical experience in pharmacy, or is a licentiate of a board of pharmacy of another State or is a graduate of a reputable school or college of pharmacy, and who shall have passed a satisfactory examination touching his competency before said Board of Examiners. Licentiates in pharmacy shall at the time of passing their examination be registered by the Department of Public Welfare as registered pharmacists. (Id. § 8208.)

117. Examination Fees.—All persons making application for examination or registration as in this article provided, shall pay to the Department of Public Welfare the sum of fifteen dollars. (Id. § 8209.)

118. Renewal of Registration.—Every registered pharmacist who desires to continue the practice of his profession shall annually after the expiration of the first year of his registration during the time he shall continue in such practice, on or before the 24th day of March of each year, pay to the said Department of Public Welfare, a registration fee of one dollar, for which he shall receive a renewal of said registration. Every person receiving a certificate under this article shall keep the same conspicuously displayed in his place of business. Every registered pharmacist shall, after changing his place of business or employment, as designated by his certificate, notify the Department of Public Welfare of his new place of business. If any pharmacist shall fail or neglect to procure his annual registration or to comply with the other provisions of this section, his right to act as such pharmacist shall cease at the expiration of ten days from the time notice of such failure to comply with the provisions of this section shall have been mailed to him by the department, and such pharmacist shall be barred from the practice of pharmacy until he shall have made application and passed the examination provided for in this article. (Id. § 8210.)

119. False Representation.—Any registrations obtained through false representations shall be void, and the Department of Public Welfare may hear complaints and evidence, and may revoke such certificates as it may deem improperly held. (Id. § 8211.)

120. Pharmacy Shall Have Registered Pharmacist or Assistant; Penalty.—Any proprietor of a pharmacy who, not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy a registered pharmacist, or any such proprietor who shall by himself or any person permit the compounding or dispensing of prescriptions or the vending of drugs, medicines or poisons in his store or place of business, except by or in the presence of, or in and under the supervision of a registered pharmacist; or any person not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy or store, or who, not being a registered pharmacist shall retail, compound or dispense drugs, poisons or medicines of any kind, or any person violating any provisions of this article to which no other penalty is herein attached, shall be deemed guilty of a misdemeanor, and for every such offense, shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than ninety days. Nothing in this article

shall be construed to prohibit a registered pharmacist from employing an apprentice in pharmacy. (Id. § 8212.)

121. Vendors of Patent Medicines and Physicians Exempt.—Nothing in this article shall prevent any wholesale or retail dealers in any business from selling any patent or proprietary medicines, nor any resident registered physician from dispensing his own medicines on his own prescription. (Id. § 8213.)

122. Adulteration; Penalty.—No person shall add to or remove from any drug, medicine, chemical or pharmaceutical preparation any ingredient or material, for the purpose of adulteration or substitution, which shall deteriorate the quality, commercial value, or medical effect, or which shall alter the nature or composition of such drug, medicine, chemical or pharmaceutical preparation, so that it will not correspond to the recognized tests of identity or purity. Any person who shall thus wilfully adulterate or alter, or cause to be adulterated or altered, or shall sell or offer for sale any such drug, medicine, chemical or pharmaceutical preparation, or any person who shall substitute or cause to be substituted one material for another, with the intention to defraud or deceive the purchaser, shall be guilty of a misdemeanor and, upon conviction thereof shall, for the first offense be fined not less than ten dollars nor more than one hundred dollars, and for each subsequent offense not less than twenty-five dollars nor more than one hundred dollars. (Id. § 8214.)

122a. Administering Medicine While Intoxicated.—If any physician or other, person, while in a state of intoxication, shall prescribe any poison, drug or medicine to another person, which shall endanger the life of such other person, he shall be punished by a fine of not more than one hundred dollars. (Id. § 9564.)

123. Administering Secret Medicine.—If any physician or other person shall prescribe any drug or medicine to another person, the true nature and composition of which he does not, if inquired of, truly make known, but avow the same a secret medicine or composition, thereby endangering the life of such other person, he shall be fined in any sum not exceeding one hundred dollars. (Id. § 9565.)

124. What Done When Poisons Sold.—Every apothecary, druggist or other person who shall sell or give away, except upon the prescription of a physician, any article, or articles of medicine belonging to the class usually known as poisons shall be required:

First. To register in a book kept for that purpose the name, age, sex and color of the person obtaining such poison;

Second. The quantity sold;

Third. The purpose for which it is required;

Fourth. The day and date on which it was obtained;

Fifth. The name and place of abode of the person for whom the article is intended;

Sixth. To carefully mark the word "poison" upon the label or wrapper of each package;

Seventh. To neither sell nor give away any article of poison to minors of either sex. (Id. § 9566.)

125. Indigo or Soot to be Mixed With Arsenic.—No apothecary, druggist or other person shall be permitted to sell or give away any quantity of arsenic less than one pound without first mixing either soot or indigo therewith in the proportion of one ounce of soot or half an ounce of indigo to the pound of arsenic. (Id. § 9567.)

126. Penalty For Violation of Two Preceding Sections.—Any person offending against the provisions of either of the last two preceding sections shall be fined in any sum not less than twenty nor more than one hundred dollars. (Id. § 9568.)

127. Cocaine; Opium; Morphine; Sale of Regulated.—It shall be unlawful for any druggist, drug firm or corporation, or any other person, copartnership or corporation, to sell, barter, exchange, dispense, or give away, any cocaine, alpha or beta eucaine, morphine, or opium, or any salt, compound, or derivative of any of the foregoing substances, or any preparation, product or compound containing any of the foregoing substances, or any of their salts, compounds or derivatives, except, upon the written prescription of a duly licensed practicing physician of the State of Nebraska which prescription shall contain the date when given, the name and address of the person for whom prescribed, and by whom to be used, and be signed by the physician prescribing same, and the address of the physician shall be affixed thereto, and when such a prescription is received, to be filled, the person filling same shall affix to said prescription, his name and address and the date of filling said prescription, and said prescription shall be retained on file within the State of Nebraska where the same shall have been filled, by the person, firm, copartnership, or corporation, filling same, for a period of at least two years, and said prescription shall not be filled more than once, and no copy of it shall be taken by any person, and said original prescription shall at all times be open

to the inspection of the prescriber, to the State Board of Pharmacy, State, county or city health officers, county attorneys, grand juries and all officers of the law, and such agents as may be appointed by them, or any of them, for the purpose of making said inspection, and except also, that such cocaine, alpha or beta eucaine, morphine, or opium or any salt, compound or derivative of any of the foregoing substances or any preparation, product, or compound containing any of the foregoing substances, or any of their salts, compounds or derivatives may lawfully be sold at wholesale to a duly licensed and registered pharmacist or druggist, duly licensed practicing physician, duly licensed practicing veterinarian, or duly licensed practicing dentist, upon the written and signed order of such duly licensed and registered pharmacist or druggist, or duly licensed and practicing physician, veterinarian or dentist, in which case, the wholesale dealer shall, before delivering any of said articles, make, or cause to be made, in a book kept for the purpose, an entry of the sale thereof, stating the date of sale, quantity sold, name and form in which sold, the name and address of the purchaser, the name and address of the person by whom the entry is made, and the name and address of the person filling the order, and the said book shall be preserved and retained within the State of Nebraska, at the place where said order was filled, for a period of at least two years from the date of the last entry therein, and always be open for inspection by the State Board of Pharmacy, State, county and city health officers, county attorneys, grand juries, and all officers of the law, and by agents appointed by them, or any of them for the purpose of making said inspection. (Id. § 9570.)

128. Same; Sale by Druggists.—It shall be unlawful for any person, co-partnership, or corporation, to administer to any person, any cocaine, alpha or beta eucaine, morphine, or opium, or any salt, compound or derivative of any of the foregoing substances, or any preparation, product or compound containing any of the foregoing substances or any of their salts, compounds, or derivatives, except that such drugs, or any of them, may be administered by any duly licensed practicing physician, by any duly licensed practicing dentist, or duly licensed practicing veterinarian, in the course of his professional practice only to a patient, when necessary for medical purposes, except, however, as prohibited in section 4 of this act [9573], or otherwise prohibited by law. (Id. § 9571.)

129. Same; Prescriptions.—The above provisions, contained in sections 1 and 2 of this act [9570 and 9571], shall not apply to prescriptions, preparations and remedies containing not more than two grains of opium, or not more than one-fourth grain of morphine, or not more than one-eighth grain of heroin, or not more than one grain of codeine in one fluid ounce, or if solid preparation, in one avoirdupois ounce, or to liniments, ointments, suppositories or plasters, when said liniments, ointments, suppositories or plasters do not contain cocaine or any of its salts or derivatives or alpha or beta eucaine or any synthetic substitute for either of them, when plainly labeled "for external use only" and in good faith intended for that purpose. (Id. § 9572.)

130. Physicians Prescribe How; When.—It shall be unlawful for any duly licensed practicing physician to prescribe, or for any duly licensed practicing physician, dentist, or veterinarian, to administer, in any manner or form, any cocaine, alpha or beta eucaine, morphine, or opium, or any salt, compound or derivative of any of the foregoing substances, or any preparation, product or compound, containing any of the foregoing substances or any of their salts, compounds or derivatives, for, or to, any person addicted to the habitual use of cocaine, alpha or beta eucaine, morphine, or opium, or any salt, compound or derivative of any of the foregoing substances, or any preparation, product or compound containing any of the foregoing substances or any of their salts, compounds or derivatives except that a reputable and duly licensed practicing physician may personally administer to a patient who is an habitual user of said drugs, or any of them, necessary doses thereof, when it has been in good faith determined by two reputable and duly licensed practicing physicians, in consultation, to be absolutely necessary in the medical treatment of said patient, in which case, the physician administering said drugs, or any of them, shall make and keep a record in writing of the name and address of the person to whom said drugs, or any of them, were administered, date administered, form and quantity of drug administered, name and address of consulting physician, date and place of consultation, which record shall be retained and preserved within the State of Nebraska, and the county where administered, for a period of at least two years, and shall always be open for inspection by the State Board of Pharmacy, State, county and city health officers, county attorneys, grand juries, and all officers of the law, and by agents appointed by them, or any of them, for the purpose of making an inspection, and which record shall be made at the time of

each administering of said drugs, or any of them, and a copy of said record shall, within five days after each administering of said drugs, or any of them, as in this section provided, be filed with the county attorney of the county in which said administering took place, by the physician administering said drugs, or any of them, and shall have affixed thereto, the signature and address of the administering physician. (Id. § 9573.)

131. Violations; Penalty.—Any person violating any of the provisions or requirements of the foregoing and preceding sections of this act,* or any part thereof, shall be guilty of a felony, and for each violation thereof shall be punished on conviction thereof, by imprisonment in the penitentiary, for not less than one year nor more than five years, or by a fine of not less than one hundred dollars (\$100.00), nor more than two thousand dollars (\$2,000.00), in the discretion of the court. (Id. § 9574.)

131a. Cannabis; Importation Prohibited.—It shall be unlawful to import into the State of Nebraska cannabis, also known as hashish and mariguana, in any form or any preparation or derivative thereof: Provided, that cannabis also known as hashish and mariguana, may be imported for medicinal purposes only, and then only by licensed pharmacists, licensed physicians and licensed veterinarians of the State of Nebraska. (Act of Apr. 13, 1927, § 1.)

131b. Penalty.—If any person shall fraudulently or knowingly import or bring into the State of Nebraska, or assist in so doing, any cannabis or any preparation or derivative thereof contrary to law, or shall receive, conceal or in any manner facilitate the transportation or concealment of such cannabis or preparation or derivative thereof, after importation, such cannabis or preparation or derivative thereof shall be forfeited, and shall be destroyed, and the offender shall be fined in any sum not exceeding five hundred (\$500.00) dollars and not less than one hundred (\$100.00) dollars, or by imprisonment in the penitentiary for any time not exceeding three (3) years and not less than one (1) year, or both. (Id. § 2.)

131c. Cannabis; Cultivation and Sale Prohibited.—It shall be unlawful for any person, association or corporation within this State to plant, cultivate, produce, sell, barter, or give any cannabis, be it known by whatever name, or preparation or derivative thereof or offer any such cannabis, or preparation or derivative thereof for sale, gift, barter or trade; Provided, nothing in this section shall be held to apply to such sale, gift, barter or trade of cannabis by licensed physicians or veterinarians or licensed pharmacists upon the written prescription of regular licensed physicians, when the same is intended for medicinal or scientific purposes only. (Id. § 3.)

131d. Penalty.—Any person violating any of the provisions of the last preceding section shall, for the first offense, be imprisoned in the county jail for a period of not less than three months nor more than six months, and for the second and any subsequent offense shall be imprisoned in the penitentiary for not less than one year and not more than two years. (Id. § 4.)

131e. Itinerant Vendors of Drugs, Etc.—Any itinerant vendor of any drug, nostrum, ointment, or appliance of any kind intended for the treatment of any disease or injury, or who shall by writing, printing, or any other method, publicly profess to cure or treat disease or injury, or deformity, by any drug, nostrum, manipulation, or other expedient, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than one hundred dollars, or be imprisoned in the county jail for a period of not less than thirty days nor more than three months, or both. (C. S. 1922, § 8170.)

Serum, Virus and Tuberculin.

132. Serum, Regents May Sell.—The regents of the University of Nebraska are hereby authorized and empowered to manufacture, purchase, sell and distribute hog-cholera serum and virus or to cause hog-cholera serum and virus to be manufactured, purchased, sold and distributed. Said hog-cholera serum and virus shall not be sold at less than the actual cost of manufacture, purchase and distribution. (C. S. 1922, § 6797.)

133. Enforcement, Inspections.—The Department of Agriculture shall enforce the provisions of this article. It shall make or cause to be made all necessary examinations and inspections and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this article. (Id. § 7303.)

*Nos. 127-131.

134. Hog Cholera Serum; Manufacture; Sale.—No person shall manufacture, sell, distribute or transport into the State of Nebraska hog cholera serum or virus until the manufacturer of said serum has made application and obtained a permit from the Department of Agriculture and his brand or brands of serum or virus are registered with the Department of Agriculture. (Id. § 7304.)

135. Permits, Bonds.—If the department is satisfied that the applicant possesses the requisite skill and upon his furnishing a bond in the sum of five thousand dollars (\$5,000), to be approved by the department, it may issue to the applicant a permit to sell hog cholera serum or virus within the State for a period of one calendar year, or part thereof. The department shall prescribe the standard of potency for hog cholera serum and virus: Provided, the state-owned serum plant shall not be required to furnish a bond for the manufacture or distribution of hog cholera serum or virus. Each manufacturer of hog cholera serum or virus in the State shall manufacture hog cholera serum and virus under federal supervision and shall be required to comply with all specifications as to purity and potency imposed by federal regulation. The permit may at any time be changed, or it may be revoked for cause. (Id. § 7305.)

136. Same; Conditions.—The bond of the applicant shall be conditioned that the applicant shall forfeit to the State of Nebraska the sum of one thousand dollars (\$1,000), and in addition thereto the expense of collecting the same whenever upon inspection it shall be ascertained that any serum or virus, sold or used, or kept for sale or distribution, or offered for sale by him, is below the standard of potency prescribed by this article. (Id. § 7306.)

137. Violation; Penalty.—It shall be unlawful for any person to sell, barter, or exchange, carry, give away, ship or deliver for shipment, within the State of Nebraska, any hog cholera serum which is impotent or contaminated with disease producing or other harmful bacteria or substances. It shall further be unlawful for any person or corporation to sell, barter or exchange, carry, give away, ship or deliver for shipment any hog cholera virus which is a virulent or contaminated with disease producing or other harmful bacteria or substances other than the filterable, ultramicroscopic virus of hog cholera. (Id. § 7307.)

138. Serum, When Impotent.—Hog cholera serum shall be deemed to be impotent when it fails to protect swine susceptible to hog cholera, injected in doses as recommended on the label of the container for the weight of swine indicated thereon against a dose of virulent hog cholera virus of not less than two cubic centimeters. (Id. § 7308.)

139. Virus, When Avirulent.—Hog cholera virus shall be deemed to be avirulent when it fails to cause hog cholera in swine susceptible to said disease when injected in doses of not more than two cubic centimeters. (Id. § 7309.)

140. Containers, Labels.—Each container of hog cholera serum shall have thereon a label showing the name of the manufacturer, the name of the contents, the date when its potency is regarded as uncertain and the doses recommended by the manufacturer as protective for swine of varying weights. (Id. § 7310.)

141. Container; Same.—Each container of hog cholera virus shall have thereon a label showing the name of the manufacturer, the name of the contents, the date when its virulence is regarded as uncertain and the doses recommended by the manufacturer. (Id. § 7311.)

142. Violation; Penalty.—Any person or corporation violating any provision of this act shall, on conviction thereof, be fined in any sum not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). (Id. § 7312.)

143. Unlawful to Inject Tuberculin.—It shall be unlawful for any person to inject or apply into or on any meat animal or any other domestic animal or to cause or to permit the same to be done to animals in his control a substance known as tuberculin for any other purpose than the recognition or diagnosis of a disease known as tuberculosis, to inject the same for the purpose of "plugging" or any other fraudulent concealment of the presence of tuberculosis in said animals or for the purpose of preventing future reactions to the tuberculin test. (Id. § 7636.)

144. Tuberculin Defined.—Under the meaning of this act, the term tuberculin shall apply to any substance prepared by the cultivation, extracting, disintegration, crushing, grinding or any other treatment of the bacillus tuberculosis. (Id. § 7637.)

145. Tuberculin; Regulation; Sale.—The Secretary of Agriculture is hereby authorized and empowered to regulate the sale and distribution of said tuberculin, to define to whom it may be sold and to prescribe the manner in which it may be legally used. (Id. § 7638.)

146. Violation; Penalty.—Any person violating any of the provisions of this act or of any rule or regulation made by the Secretary of Agriculture in accordance with it, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment not less than three months or more than one year or both. (Id. § 7639.)

NOTE: See also No. 14a.

Venereal Disease Drugs.

147. Advertising Forbidden; Penalty.—Whoever prints or publishes or causes to be printed or published in any newspaper, periodical, circulars, posters, labels or pamphlets published or circulated in this State any advertisement of medicine, drug, nostrum or apparatus for the cure of private or venereal diseases, or shall circulate or distribute any newspaper, periodical, circulars, posters, labels or pamphlets containing such an advertisement or notice mentioned in this section, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one thousand dollars nor less than fifty dollars, or be imprisoned in the county jail not more than one year, or by both. (C. S. 1922, § 9781.)

NOTE: See also Nos. 105c and 105d.

Intoxicating Liquors.

148. Intoxicating Liquors; Definitions.—The words "intoxicating liquor" or "intoxicating liquors" as used in this act, shall be construed to embrace all malt, fermented, vinous or spirituous liquors, wine, porter, beer, ale or any intoxicating drink, mixture or preparation of like nature, and all malt or brewed drinks, and all mixtures or preparations, whether patented or not, which will produce intoxication, and, in addition thereto, such liquors of a different character and not heretofore enumerated capable of use as a beverage containing over one-half of one per centum of alcohol. Natural persons, unincorporated associations of persons, partnerships and corporations shall be deemed persons. All forms of the pronoun "he" shall be held to stand for persons as herein defined irrespective of gender.

The term "private dwelling house" shall mean a separate dwelling with a separate door for ingress and egress exclusive of outbuildings, and used exclusively as a private residence and not connected by doors or otherwise with any place of business except doctors', dentists' and veterinary surgeons' offices and not connected with any factory, shop, warehouse, club or other place or building. The term shall include a room or a suite of rooms actually used as a residence in an apartment house or block separated by walls from all other rooms in such building and without any door or other opening whereby a communication may be had with other rooms except doors entering into the main hallway. (C. S. 1922, § 3237.)

149. Prohibitions on Liquors in General.—It shall be unlawful for any person to manufacture, sell, keep for sale or barter, give away, barter, exchange, transport, purchase, or to sell or to barter under any pretext, any malt, spirituous, vinous and intoxicating liquors, except only certain liquors, for medicinal, mechanical, scientific or sacramental purposes by persons specially authorized in the manner and to the extent only as hereinafter provided. It shall be lawful, however, for any person to make, keep or sell sweet cider, unfermented wine, wood alcohol and denatured alcohol, and nothing herein contained shall be construed to prevent the bona fide manufacture and sale of vinegar. (Id. § 3238.)

150. Liquor, Sale, Transportation.—Any person who shall, by himself, or through his agent, carry or transport, for the purpose of sale, sell, give away, trade, deliver or otherwise dispose of, any intoxicating liquor contrary to law, shall, for the first offense be guilty of a misdemeanor, and be fined the sum of one hundred dollars (\$100.00) and be imprisoned in the county jail not less than sixty (60) days, nor more than ninety (90) days; and, for the second and each subsequent offense, shall be guilty of a felony, and shall be fined not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000.00) and be imprisoned in the penitentiary not less than six (6) months, nor more than two (2) years, and shall in all cases pay the cost of prosecution. Provided, however, the carrying or transporting of more than one pint of intoxicating liquor shall be prima facie evidence that such liquor is being carried or transported for the purpose of sale. (Id. § 3239, as amended L. 1925, c. 106.)

151. Wholesale Druggists.—Wholesale druggists having and carrying a stock of drugs of the amount and value of twenty-five thousand dollars, and paying

a special tax levied by the United States Internal Revenue Department as wholesale liquor dealer may, upon compliance with the terms of this act, sell wine for sacramental purposes to bona fide religious organizations or churches qualified to purchase the same and pure ethyl alcohol to registered pharmacists and for scientific purposes as herein provided only. Any wholesale druggist may sell to any registered pharmacist owning or conducting a retail drug store, or actually employed in a retail drug store, pure ethyl alcohol and alcohol treated according to some formula permitted by the United States Commissioner of Internal Revenue so as to render it unfit to be used as a beverage. (C. S. 1922, § 3251.)

152. Ethyl Alcohol; Permits.—Any resident of this State or in any corporation authorized to transact business in this State owning and operating a plant for such purpose, and paying special taxes levied by the United States Internal Revenue Department, may upon compliance with the requirements herein provided, manufacture and sell in or out of the State ethyl alcohol for medicinal, mechanical, scientific and other nonbeverage purposes. Such sales in the State, however, to be made only to wholesale and retail druggists, scientific institutions, and hospitals authorized under the provisions of this act to handle such ethyl alcohol.

Except as permitted in this section it shall be unlawful for any person to manufacture any intoxicating liquor or to own, maintain or have possession of any still, or equipment for the manufacture of alcohol or whiskey or of any mash or intoxicating liquor in any stage of manufacture, or any intoxicating liquor after it has been manufactured, except in compliance with the terms of this chapter, as to manufacture and as to obtaining a permit therefor. Any person who shall manufacture intoxicating liquor in violation of this chapter or who shall have possession of any still or any part thereof or of any other equipment for making intoxicating liquor or who shall have in his possession any mash or other material being used in the process of manufacturing intoxicating liquor, or who shall have in his possession any intoxicating liquor made by him for the purpose of sale, or from which a sale has been made, contrary to the provisions of this chapter, shall, upon conviction, be fined not less than \$500 nor more than \$5,000 and imprisoned not less than thirty days nor more than one year in jail for each offense.

None of the provisions of this section and none of its penalties shall apply to persons who have obtained a permit from the United States for the manufacture of ethyl alcohol, and who have filed a certified copy of the same with the Governor as provided in this chapter. (Id. § 3252.)

153. Retail Druggists; Pharmacist.—Any registered pharmacist, as herein described, may keep pure ethyl alcohol to be used by him for scientific, mechanical and medicinal purposes only and may sell and keep for sale alcohol so treated according to some formula permitted by the United States Commissioner of Internal Revenue so as to render it unfit to be used as a beverage.

Registered pharmacists, as hereinbefore described, may make uses of pure ethyl alcohol such as are permitted by the United States Commissioner of Internal Revenue without paying the special revenue tax as retail liquor dealers. Every retail druggist or registered pharmacist, to whom a permit has been issued in accordance with the provisions of this act, shall within ten days after the first day of each month make and file with the county clerk of the county in which such business is conducted, a report in writing, duly verified under oath, setting forth the amount, kind and value of all intoxicating liquors in their possession and all purchases made by them of intoxicating liquors, during the month immediately preceding. (Id. § 3253.)

154. Same; Reports by.—Within ten days after the first day of each month manufacturers and wholesale druggists selling intoxicating liquor as in this act provided, shall make and file with the Governor a report in writing duly verified, on forms furnished by the Governor setting forth the amount, kind and value of all intoxicating liquors in their possession, and all their transactions, purchases and sales of intoxicating liquors, during the month immediately preceding, setting out the name and locality of the purchaser and kind and quantity of liquor sold and the value of their total stock of merchandise then in trade. (Id. § 3254.)

155. Permits, Fees, Penalty.—It is unlawful to manufacture, sell, transport or have in possession any intoxicating liquor in any case which now requires a permit from the United States without the party having such permit first filing a certified copy thereof in the office of the Governor, fee for which shall be \$2.00, and when such permit is so filed no permit from the State shall be necessary. All fees collected by the Governor shall be paid by him into the State school fund. Possession of a permit from the United States, a copy of which is not filed as herein provided, is *prima facie* evidence that the party holds such permit for

the purpose of violating the laws of Nebraska. Any conviction under this chapter, or under the laws of the United States prohibiting intoxicating liquors, shall cancel such registration of permit in the office of the Governor, and the person to whom such permit is issued shall not thereafter manufacture, sell, transport or possess any intoxicating liquor, and to do so shall be a violation of this chapter. Any person may file a petition with the county judge of the county where such business is operated alleging that the holder is not of good reputation or standing, or alleging that he has violated or failed to comply with the laws of the United States or of the State of Nebraska relating to intoxicating liquor. Upon the filing of such petition [the] county judge shall notify the Governor thereof, and notify the holder of such permit and fix a time, within five days, for a hearing thereon, and if at the said hearing the holder of such permit shall be found not to be of good reputation, standing or character, or be found to have violated any of the laws of Nebraska or the laws of the United States relating to intoxicating liquor, where there has been a conviction in a criminal court or not, a judgment shall be entered canceling the registration of such permit with the Governor and the judge shall so notify the Governor. From the judgment of the county judge either party may appeal as in other cases. The manufacture, sale, transportation or possession of intoxicating liquor under the color of registration of such permit, after the registration of such permit has been canceled either by conviction in the United States courts or the State courts, or by a judgment of cancellation of registration by a county court, shall be a violation of the provisions of this chapter. (Id. § 3255.)

156. Scientific Purposes; Hospitals.—All persons who use alcohol in scientific laboratories or hospitals, and who are exempt from the payment of a United States Internal Revenue liquor dealers' tax therefor, and who have complied with all of the conditions required by the United States Collector of Internal Revenue, may purchase from wholesale druggists and manufacturers and keep pure ethyl alcohol for scientific purposes and for use in hospitals. It shall be unlawful for any person who uses alcohol for scientific, laboratory, or hospital purposes, as in this section described, to use or sell any part of such alcohol as an intoxicating liquor or to make therefrom any intoxicating liquor or to sell, give away, or dispose of any ethyl alcohol, or any intoxicating liquor, unless it has been so treated or combined with some other ingredient, or according to some formula permitted by the United States Commissioner of Internal Revenue, as will render it unfit to be used as a beverage. (Id. § 3256.)

157. Physician's Prescriptions.—Nothing in this act contained shall be taken or construed to prevent any regularly licensed and practicing physician or veterinary surgeon from using, prescribing or issuing prescriptions, or compounding and dispensing medicines for his own patients, requiring the use of intoxicating liquors compounded with ingredients, provided the other ingredients with which it is mixed or compounded, are of such character and use in such quantities as to render the same unfit for use as a beverage. All such prescriptions shall be on numbered forms, furnished, dated and signed by said physician or veterinary surgeon, stating specifically the ingredients and the liquor, and giving the name of the person for whom the prescription is issued. All such prescriptions shall be kept on file by the pharmacist or physician or veterinary surgeon filling the same and open to inspection at all times during business hours to the county attorney of the county and the Governor: Provided, that any such prescription issued by any such licensed veterinary surgeon shall, in addition to the requirements above set forth, state the name and names of the owner of such animal for which such prescription is issued. (Id. § 3258.)

158. Dentists.—Nothing in this act shall be construed to prevent any regularly licensed and practicing dentist from using ethyl alcohol for his own patients or in his profession when compounded with other ingredients so as to make it unfit for use as a beverage. (Id. § 3259.)

159. Provisions Defined.—The provisions of this act shall not be construed to apply to the preparation, sale, distribution, giving away, dispensing or possession of any alcoholic compound, preparation or remedy containing drugs or medicine which does not contain more alcohol than is necessary for the legitimate purpose of extraction, solution or preservation, and which contains drugs, whether singly or in compatible combination, in sufficient quantities to so medicate such compound, preparation or remedy as to make them medicinal preparations or compounds, and to render such compound, preparation or remedy unfit for use as a beverage; nor to mechanical, culinary or toilet preparations which contain no more alcohol than is necessary to dissolve the oils or extract the desired active principles and hold them in solution, provided that such compounds, preparations, remedies, perfumes,

essences, extracts and syrups are not manufactured, bought, sold or dealt in for use as a beverage or intoxicant, and provided further that such compounds, preparations, remedies, perfumes, essences, extracts and syrups are unfit for use as beverages.

None of the articles referred to in this section shall be sold or kept for sale or kept in the possession of any person in bowling alleys, pool halls, places of amusement or soft drink parlors.

Every person who shall sell or give away any patent or proprietary medicine, medicinal compounds, preparations, remedies, perfumes, essences, extracts or syrups which contain sufficient alcohol to be used for purposes of intoxication, knowing or having reasonable ground to believe that such patent or proprietary medicines, compounds, preparations, remedies, perfumes, essences, extracts or syrups are being purchased for use as a beverage shall be deemed guilty of a violation of the provisions of this chapter.

Every druggist or other person who shall sell or give away proprietary medicines which contain sufficient alcohol to produce intoxication, shall be required to register in a book kept for that purpose the name and address of the person obtaining the same, the date of the sale and the quantity sold or given away; which register shall be kept open to the inspection at all times, during business hours to [of] the Governor, county attorney of the county or any other peace officer. Failure to make proper entries therein shall constitute a violation of this act. (Id. § 3260.)

160. Violation, Penalty.—Any person who shall, by himself or through his agent, violate any of the provisions of this act, shall, except where another penalty is otherwise expressly provided, be deemed guilty of a misdemeanor, and upon conviction thereof shall, for the first offense, be fined the sum of one hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than sixty days, and for the second offense shall be imprisoned in the county jail not less than sixty days nor more than ninety days, and for the third and all other subsequent offenses shall be guilty of a felony and shall be imprisoned in the penitentiary not less than six months nor more than two years, and shall in all cases pay the costs of prosecution.

In addition to the penalties of this chapter the court shall tax as costs all money paid out by any person or officer for the cost of liquor purchased for evidence, and all such costs shall be repaid when collected to the person or officer who advanced the same. (Id. § 3288.)

PART IV.

Miscellaneous Laws.

False Advertising.

161. Advertising; Untrue; Misleading; Deceptive; Prohibited.—Hereafter in this State it shall be unlawful for any person, firm, corporation or association, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, to make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this State, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, containing any assertion, representation or statement of fact which is untrue, deceptive or misleading. (C. S. 1922, § 9917.)

162. Violation; Penalty.—Any person, firm, corporation or association violating the provisions of the last preceding section shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court. (Id. § 9918.)

Flag Desecration.

163. Advertisement on United States Flag.—Whoever in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing or any advertisement of any nature, upon any flag, standard, color or ensign of the United States or State flag or ensign of this State; or shall expose or cause to be exposed to public view any such flag, standard, color or ensign, upon which shall have been printed, painted or otherwise placed, or to which shall be attached appended, affixed or annexed, any word, figure, mark, picture, design or drawing, or any advertisement of any nature; or who shall expose to public view, manufacture, sell, expose for sale, give away or have in possession for sale or to give away, or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color or ensign, to advertise, call attention to, decorate, mark or distinguish the article or substance, on which so placed; or who shall publicly mutilate, deface, defile or defy, trample upon, or cast contempt, either by words or act, upon any such flag, standard, color or ensign, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days, or both. The words, "flag," "standard," "color," or "ensign," as used in this subdivision or section, shall include any flag, standard, color, ensign or any picture or representation of either thereof, made of any substance, or represented on any substance, and of any size evidently purporting to be either of said flag, standard, color or ensign, of the United States of America, or a picture or a representation of either thereof, upon which shall be shown the colors, the stars, and the stripes, in any number of either thereof, or by which the person seeing the same, without deliberation may believe the same to represent the flag, colors, standard or ensign of the United States of America. The possession by any person, other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be anything made unlawful at any time by this section, or of any article or substance or thing on which shall be anything made unlawful at any time by this section shall be presumptive evidence that the same is in violation of this section. (C. S. 1922, § 9865.)

164. Exceptions Under Preceding Section.—When by any statutes of this State, the use of the flag of the United States of America, or of any picture or representation of such flag, is made penal or unlawful, such statutes shall not apply to any act permitted by the statutes of the United States of America or by the United States army and navy regulations; nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry or stationery for use in correspondence, on any of which shall be printed, painted or placed said flag, disconnected from any advertisement. (Id. § 9866.)

Tobacco—Tobacco Products.

165. Minors Smoking Tobacco.—Whoever, being a minor under the age of eighteen years, shall smoke cigarettes, cigars or use tobacco in any form whatever, in this State, shall be fined in any sum not exceeding ten dollars; provided, any minor so charged with the violation of this section may be free from prosecution when he shall have furnished evidence for the conviction of the person or persons selling or giving him the cigarettes, cigars or tobacco. (C. S. 1922, § 9847.)

166. Sale of Tobacco to Minors Under Eighteen.—Whoever shall sell, give or furnish, in any way any tobacco in any form whatever, or any cigarettes, or cigarette paper, to any minor under eighteen years of age, shall be fined, for each offense, not less than twenty dollars nor more than fifty dollars or be imprisoned for not less than ten nor more than thirty days. (Id. § 9848.)

167. Unlawful Acts.—It shall be unlawful for any person, partnership or corporation, to sell, keep for sale, or give away, any cigars, tobacco, cigarettes or cigarette material, to any one, without first obtaining a license as hereinafter provided, and whoever shall be found guilty of a violation as described in this section shall be fined for each offense not less than one hundred (\$100.00) dollars, and not more than two hundred (\$200.00) dollars, or be imprisoned in the county jail not less than ten days nor more than sixty days. (Id. § 9849.)

168. Licenses.—Licenses for the sale of cigars, tobacco, cigarettes and cigarette material, to persons over the age of twenty-one years, shall be issued to individuals, partnerships and corporations, by the clerk of any city, town or village, and by the county clerk of any county, upon application duly made as hereinafter provided. Provided, that the sale of cigarettes or cigarette materials that shall contain perfumes, or drugs in any form, is prohibited, and is not licensed by the provisions of this law. Only cigarettes and cigarette material containing pure white paper and pure tobacco only shall be licensed. (Id. § 9850.)

169. Same; Application.—Every person, partnership or corporation desiring a license under this act, shall file with the clerk of the city, town or village where his, their or its place of business is located, if within the limits of a city, town or village, or with the clerk of the county where such place of business is located if outside of the limits of any city, town or village, a written application, stating the name of the person, partnership or corporation for whom such license is desired, and the exact location of the place of business; and shall deposit with such application the amount of the license fee hereinafter provided. (Id. § 9851.)

170. Same; Terms; Amount of License Fee.—The term for which said license shall run shall be from the date of filing such application and paying such license fee to and including December thirty-first of the calendar year in which application for such license is made, and the license fee for any person, partnership or corporation selling at retail shall be twenty-five (\$25.00) dollars in cities of the metropolitan class, fifteen dollars (\$15.00) in cities of the first class, and ten dollars (\$10.00) in cities of all other classes and in towns and villages, and in locations outside of the limits of cities, towns and villages. Provided that any person, partnership or corporation selling cigarettes or tobacco in any form at wholesale shall pay a license fee of one hundred dollars (\$100.00.) Provided further that if application for license is made after July first of any calendar year the fee shall be one-half of the fee provided in this section. Provided further that this act shall be effective against tobacco dealers holding licenses in force when this act becomes operative, only from the expiration of the term for which such licenses were issued. (Id. § 9852, as amended L. 1923, c. 136.)

171. Same; Rights of Licensee.—The license hereinbefore provided for when issued shall authorize the sale of cigars, tobacco, cigarettes and cigarette material by the licensee and employees, to persons over the age of twenty-one years, at the place of business described in said license, for a period of one year from the date of such license, unless the same be forfeited as hereinafter provided. (C. S. 1922, § 9853.)

172. Sales to Minors; Penalty.—Any licensee who shall sell, give or furnish in any way to any person under the age of twenty-one years, or who shall willingly allow to be taken from his place of business by any person under the age of twenty-one years, any cigars, tobacco, cigarettes or cigarette material, shall be guilty of a misdemeanor, and shall be punished by a fine for each offense of not less than fifty dollars (\$50.00) nor more than one hundred [dollars] (\$100.00) or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days. And any officer, director or manager having charge or control either separately or jointly with others, of the business of any corporation which violates the provisions of this act, if he have knowledge of the same, shall be subject to the penalties herein provided. In addition to the penalties above provided such licensee shall be subject to the additional penalty of a revocation and forfeiture of his, their or its license, at the discretion of the court before whom the complaint for violation of this act may be heard. If such license be revoked and forfeited, all rights under said license shall at once cease and terminate. (Id. § 9854.)

173. Misrepresentation of Age by Minors; Penalty.—Any person under the age of twenty-one (21) years who shall obtain cigars, tobacco, cigarettes or cigarette material from a licensee hereunder by representing that he is of the age of (21) twenty-one years or over, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00). (Id. § 9856.)

174. Transfer of Licenses.—In case of the sale of a business where the owner has a license hereunder, the licensing authority may authorize such license to be transferred to the purchaser. In case of a change of location by any licensee hereunder, the licensing authority may transfer such license to the new location. (Id. § 9857.)

175. Revocation of Licenses; When License Reissued.—In the event that the license of a licensee hereunder shall be revoked and forfeited as hereinbefore

provided for, no new license shall be issued to such licensee until the expiration of one year from the date of such revocation and forfeiture. (Id. § 9858.)

176. Smoking Cigarettes in Public Eating Places; Penalty.—The smoking of cigarettes in public eating places is hereby prohibited. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not less than ten dollars nor more than twenty-five dollars. (Id. § 9860.)

NOTE: See also No. 227.

Trade-Marks, Etc.

177. Goods With Counterfeit Mark on.—Whoever vends or keeps for sale any goods, merchandise, mixture or preparation upon which any forged or counterfeited stamps, brands, imprints, wrappers, labels or trade-marks be placed or affixed, and intended to represent the said goods, merchandise, mixture or preparation as the true and genuine goods, merchandise, mixture or preparation, of any person or persons, knowing the same to be counterfeit, shall be punished by a fine not exceeding one hundred dollars. (C. S. 1922, § 9687.)

178. Receptacles for Non-Intoxicating Beverage; Milk, Cream, Etc., Brands; Certificate.—Any person engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, cider, ginger ale and other unintoxicating beverages, milk, buttermilk, cream, ice cream or butter in any kind of receptacle having the name of such person or other mark or device printed, stamped, engraved, etched, blown, impressed, riveted or otherwise produced or permanently fixed upon the same, may file in the office of the Secretary of State, for record, a description of the name, mark or device so used and cause such description to be printed once each week for three successive weeks in a newspaper published in the county in which the principal place of business of such person is located, or if the principal place of business of such person is located in another State, then in the county wherein the principal office or depot within the State of Nebraska is located. It shall be the duty of the Secretary of State to issue to the person so filing for record a description of such name, mark or device in his office, a duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate in all prosecutions under this article shall be prima facie evidence of the adoption of such name, mark or device, and of the right of the person named therein to adopt and use the same. (Id. § 9910.)

179. Receptacles; Unlawful Use; Penalty.—It shall be unlawful for any person other than the one named in the certificate issued by the Secretary of State, as provided in the last preceding section, without the written consent of the person named in such certificate to fill any receptacle bearing a name, mark or device recorded as provided in said section with soda water, mineral or aerated waters, cider, ginger ale and other unintoxicating beverages, milk, buttermilk, cream, ice cream or butter, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device on any such receptacle, or to buy, sell, give, take, dispose of in any way, traffic in or destroy any receptacle bearing any such name, mark or device. Any person offending against any provision of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one dollar, nor more than ten dollars, and each such receptacle so unlawfully dealt with as herein set out, shall be deemed and held to be a separate offense. (Id. § 9911.)

180. Receptacles; Unlawful Possession.—Any person having in possession or under control any receptacle bearing any name, mark or device recorded as provided in the second preceding section and not holding a written transfer or bill of sale therefor from the person named in the certificate issued by the Secretary of State as provided in said section, or other authority in writing from such person, upon demand, shall deliver such receptacle to the person named in such certificate or to the authorized agent of such person; and any person failing or refusing to so deliver the same when demanded shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by a fine of not less than one dollar, nor more than ten dollars. (Id. § 9912.)

181. Search Warrants; Prosecution.—Whenever any person who has filed for record any such name, mark or device or who has acquired from such person in writing the ownership of such name, mark or device or the right to the exclusive use thereof, or any one representing such person, shall make oath before any justice of the peace or police judge that he has reason to believe and does believe that any receptacle bearing such name, mark or device is being unlawfully used or filled or

had in possession by any other person, such justice of the peace or police judge shall thereupon issue a search warrant to discover and obtain such receptacle; and may also cause the person in whose possession such receptacle shall be found to be brought before him and shall then inquire into the circumstances of such possession and if it shall be found that such person is guilty of violation of any section of this article he shall be punished as herein prescribed and the possession of the property taken upon such warrant shall be awarded to the owner thereof; but the remedy given by this section shall not be held to be exclusive, and offenders against any provision of this article may also be prosecuted as in case of other misdemeanors. (Id. § 9913.)

182. Definitions; Constructions.—As used in this article, the term receptacle shall include not only bottles, siphons, tins, kegs, one-eighth barrels, quarter barrels, half-barrels, barrels, boxes, ice cream cabinets, cans and tubs, but all other receptacles used for holding any of the commodities in this article mentioned; the singular may include the plural and the plural may include the singular; the term person may include corporation, and the requirement for a written transfer, bill of sale, authority or consent means that it shall be signed by the person named in the certificate issued by the Secretary of State as provided in this article, or by a transferee claiming under a written transfer signed by such person or by an agent whose authority is in writing signed by such person or such transferee. (Id. § 9914.)

183. "Sale" Construed.—The requiring or taking of any deposit for any purpose upon such receptacles shall not be deemed nor held to be a "sale," either optional or otherwise, in any proceeding under this article. (Id. § 9915.)

Trading Stamps—Gift Enterprise.

184. Trading Stamps.—No person shall sell or issue any stamp, trading stamp, cash discount stamp, check, ticket, coupon or other similar device, which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive, either directly from the vendor or indirectly through any other person, money or goods, wares or merchandise, unless each of said stamps, trading stamps, cash discount stamps, checks, tickets, coupons or other similar devices shall have legibly printed or written upon the face thereof the redeemable value thereof in cents. (C. S. 1922, § 9824.)

185. Redemption.—Any person who shall sell or issue to any person engaged in any trade, business or profession, any stamp, trading stamp, cash discount stamp, check, ticket, coupon or other similar device, which will entitle the holder thereof, on presentation thereof, either singly or in definite number, to receive either directly from the vendor or indirectly through any other person, money or goods, wares or merchandise, shall, upon presentation, redeem the same either in goods, wares or merchandise, or in cash, good and lawful money of the United States, at the option of the holder thereof, and any number of such stamps, trading stamps, cash discount stamps, checks, tickets, coupons or other similar devices shall be redeemed as hereinbefore set forth, at the value in cents printed upon the face thereof, and it shall not be necessary for the holder thereof to have any stipulated number of the same before demand for redemption may be made, but they shall be redeemed in any number, when presented, at the value in cents printed upon the face thereof, as hereinbefore provided. (Id. § 9825.)

186. Same; Refusal.—Any person engaged in any trade, business or profession who shall distribute, deliver or present to any person dealing with him, in consideration of any article or thing purchased, any stamp, trading stamp, cash discount stamp, stamp, check, ticket, coupon or other similar device, which will entitle the holder thereof on presentation thereof, either singly or in definite number, to receive, either directly from the person issuing or selling same, as set forth in the next preceding section, or indirectly through any other person, shall upon the refusal or failure of the said person issuing or selling the same to redeem the same, as set forth in the next preceding section, be liable to the holder thereof for the face value thereof, and shall upon presentation redeem the same, either in goods, wares or merchandise, or in cash, good and lawful money of the United States of America, at the option of the holder thereof, and in such case any number of such stamps, trading stamps, cash discount stamps, checks, tickets, coupons or other similar devices shall be redeemed as hereinbefore set forth, at the value in cents printed upon the face thereof, and it shall not be necessary for the holder thereof to have any stipulated number of the same before demand for redemption may be made; but they shall be redeemed in any number, when presented, at

the value in cents printed upon the face thereof, as hereinbefore provided. (Id. § 9826.)

187. Penalty.—Any person, firm or corporation who shall violate any of the provisions of the next preceding sections shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. (Id. § 9827.)

188. Exceptions.—The next four preceding sections shall not apply to tickets, coupons or other vouchers placed by any merchant or manufacturer in or upon packages of goods sold or manufactured by him, if such tickets, coupons or other vouchers are issued by such merchant or manufacturer in his own name, to be redeemed by him. (Id. § 9828.)

189. Gift Enterprise Unlawful.—Whoever sells or offers for sale any real estate or article of merchandise of any description whatever, or any ticket of admission to any exhibition or performance or other place of amusement, with a promise, expressed or implied, to give or bestow, or in any manner hold out the promise or [of] gift or bestowal of any article or thing, for and in consideration of the purchase of any other article or thing, whether the object shall be for individual gain, or for the benefit of any institution of whatever character, or for any purpose whatever, shall be held to be engaged in a gift enterprise which is hereby declared to be unlawful and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars or imprisoned in the county jail not exceeding six months, or both. (Id. § 9821.)

190. Prize Packages.—Whoever, on any railroad car, coach or train, practices any confidence game not mentioned in the preceding section or sells any prize packages or other prize, or offers the same for sale, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three months. (Id. § 9822.)

191. Duties of Conductors and Brakemen.—It is hereby made the duty of railroad conductors, brakemen on railroad trains, and of all other persons cognizant of a violation of the next preceding section and of section 240 of this code, to immediately arrest the person so offending, without warrant or other process, and call upon all bystanders or others for assistance, when the same may be necessary to enable them to make such arrests; and when such offense is committed on any railroad car, coach or train, the venue shall lie, and the person be tried in any county through which such railroad may run, any law to the contrary notwithstanding; and the employees of any railroad company shall have the power and authority to eject any such person or persons by force from the cars of such company whenever such person or persons shall be found practicing or attempting to practice any such game therein. (Id. § 9823.)

NOTE: See also No. 4.

Weights and Measures.

192. Department of Agriculture to Enforce.—The Department of Agriculture shall enforce the provisions of this article. It shall make or cause to be made all inspections and shall have authority to promulgate such rules and regulations as may be necessary to promptly and effectively enforce the provisions of this act. It shall have authority to adopt such additional standards as are not specifically provided for in this act. It shall have authority to establish tolerances and specifications for commercial weighing and measuring apparatus for use in the State of Nebraska similar to the tolerances and specifications recommended by the United States Bureau of Standards, and may make reasonable regulations regarding the varieties or kinds of devices, attachments or parts entering into the construction or installation of weights and measures or weighing or measuring appliances which shall have for their object the tendency to secure correct results in the use of such appliances. (C. S. 1922, § 7571.)

193. Standard Weights and Measures.—Such standard weights and measures as have been furnished to this State by the government of the United States, in accordance with a joint resolution of Congress, approved June 14, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances, and measuring devices, in addition thereto, or in renewal thereof, shall be authorized standards of the State of Nebraska. (Id. § 7572.)

194. Bushel; Subdivisions.—A bushel shall consist of two thousand one hundred and fifty and forty-two hundredths (2150.42) cubic inches. The half bushel, peck, and half peck shall consist of the proper division and subdivision of the bushel. (Id. § 7573, as amended L. 1923, c. 10.)

195. Gallon.—A gallon shall consist of two hundred and thirty-one cubic inches. (C. S. 1922, § 7574.)

196. Pound.—A pound avoirdupois shall consist of seven thousand grains in Troy weights. (Id. § 7575.)

197. Units of Weights.—The units of standard of weight from which all other weights shall be derived and ascertained, shall be the standard weights designated in this article. The hundred weight consists of one hundred avoirdupois pounds, and a ton contains twenty hundredweights. Wherever hereafter in this article the word "pound" is used it shall mean the avoirdupois pound unless otherwise distinctly specified. (Id. § 7577.)

198. Units of Dry Measure.—The units of standards of measure of capacity for commodities not liquids, from which all other measures shall be derived and ascertained, shall be the standards for such commodities designated in this article. The peck, half peck, quarter peck, quart, pint and half pint measures for measuring commodities which are not liquids shall be derived from the half bushel by successively dividing the measure by two. (Id. § 7578.)

199. Units of Liquid Measure.—The units of standards of measure of capacity for liquids, from which all other measures shall be derived and ascertained, shall be the standard liquid measures designated in this article. The liquid gallon shall be divided by continual division by the number two so as to make half gallons, quarts, pints, half pints and gills. (Id. § 7579.)

200. Metric Weights and Measures.—The weights and measures of the metric system shall be legal weights and measures in the State of Nebraska. (Id. § 7581.)

201. Weights Per Barrel and Per Bushel.—Whenever any of the articles or commodities mentioned in this section shall be sold by the bushel or fractional part thereof, and no special agreement shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight and shall be computed as follows:

Apples	48 pounds	Onion top sets	28 pounds
Apples, dried	24 "	Onion bottom sets	32 "
Alfalfa seed	60 "	Orchard grass seed	14 "
Barley	48 "	Osage orange seed	32 "
Beans, green, unshelled	56 "	Parsnips	50 "
Beans, dried	60 "	Peaches	48 "
Beans, lima	56 "	Peaches, dried	33 "
Beets	56 "	Peanuts	22 "
Blue grass seed	18 "	Pears	45 "
Bran	20 "	Peas, green, unshelled	50 "
Bromus inermis	14 "	Peas, dried	60 "
Broom corn seed	50 "	Plums	48 "
Buckwheat	50 "	Popcorn on the ear	70 "
Carrots	50 "	Popcorn, shelled	56 "
Castor beans, shelled	50 "	Potatoes	60 "
Charcoal	20 "	Quinces	48 "
Cherries	40 "	Rape seed	50 "
Clover seed	60 "	Rcd top seed	14 "
Coal	80 "	Rutabaga	60 "
Coke	40 "	Rye	56 "
Corn in ear, husked (field) ..	70 "	Rye grass seed	22 "
Corn in ear, unhusked (field) ..	75 "	Salt	80 "
Corn shelled (field)	56 "	Sand	130 "
Cornmeal	48 "	Shorts	20 "
Cucumbers	48 "	Sorghum saccharatum seed ..	50 "
Emmer	48 "	Spelt (emmer)	48 "
*Flax seed	56 "	Sweet corn	50 "
Grapes, with stems	40 "	Sweet potatoes	50 "
Hemp seed	44 "	Timothy seed	45 "
Hickory nuts, hulled	50 "	Tomatoes	56 "
Kaffir corn	56 "	Turnips	55 "
Lime	80 "	Walnuts, hulled	50 "
Millet seed	50 "	Wheat	60 "
Oats	32 "	All root crops not specified	
Onions	57 "	above	50 "

*Item appears in original act of 1921, chapter 10, but is omitted from the Compiled Statutes.

The net weight per barrel or per hundred or divisible merchantable quantities shall be as follows and no packages other than these sizes shall be permitted for sale in the State of Nebraska: Wheat flour, per barrel, 196 pounds; per half barrel, 98 pounds; per quarter barrel sack, 48 pounds; per one-eighth barrel sack, 24 pounds; per one-sixteenth barrel sack, 12 pounds; per one thirty-second barrel sack, 6 pounds; rye flour, rye graham, wheat graham, whole wheat flour and corn meal in packages of the following weights: one hundred pounds, 50 pounds, 25 pounds, 10 pounds and 5 pounds, or in cartons of three pounds, or one pound; and per one-thirty-second bushel sack or carton, 1½ pounds. Nothing in this article shall be construed to prohibit the sale in other sized packages of flour prepared for special purposes. (Id. § 7582.)

202. Contracts; Sales; Construed.—All contracts, sales or purchases hereafter made for work to be done, or for anything to be sold or delivered or done, by weight or by measure, within this State, shall be taken and construed in terms of and according to the standards of weights and measures adopted by this article, except where parties have agreed in writing upon any other calculations or measurements; and all statements and representations of any kind referring to the weights or measures of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid. (Id. § 7584.)

203. Dry Commodities; How Sold.—All dry commodities not otherwise specified in this article shall be sold only by standard weight, numerical count or linear or surface measure, except where parties shall have a written agreement specifying some other unit of measure, or in the case of fruits and vegetables in containers, other than as specified in section 7586, where the container is labeled or stamped designating the minimum weight, or the minimum numerical count. (Id. § 7585.)

204. Berries; Small Fruit.—All sales of blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets in package of one peck or less, may be sold by the quart, pint or half pint, dry measure; and all berry boxes sold, used, or offered for sale, within the State shall be of an interior capacity of one quart, pint or half pint, dry measure. Any berry boxes not conforming to this section shall be confiscated by the inspector. (Id. § 7586.)

205. Milk Cream; Bottles; Liquid Commodities.—All milk or cream that shall be sold in bottles shall be sold only in bottles containing half-pints, pints, quarts, half-gallons or gallons. All liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties shall have a written agreement specifying some other unit of measure. (Id. § 7587.)

206. Butter Packages.—A print or package of butter shall contain one pound avoirdupois. (Id. § 7588.)

207. False Weights and Measures.—Any person who, by himself, or by his servant or agent or as the servant or agent of another person, shall offer or expose for sale, sell, use in buying or selling of any commodity or thing for hire or award, or retain in his possession a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the Department of Agriculture within two years, or who shall sell or offer or expose for sale less than the quantity he represents, or shall take or attempt to take more than the quantity he represents, when, as the buyer, he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity is determined; or who shall keep for the purpose of sale, offer or expose for sale, or sell any commodity in a manner contrary to law; or who shall sell or offer to sell or use or have in his possession for the purpose of selling or using any device or instrument to be used, or calculated to falsify any weight or measure, shall be guilty of a misdemeanor. The possession of such weight, measure, scale, balance or beam shall be prima facie evidence that the same was intended to be used in violation of law, except as provided for in section 22 [7592] of this act. (Id. § 7589.)

208. Duties of Inspectors.—When not otherwise provided by law the Secretary of Agriculture or his inspectors shall have the power, and it shall be his or their duty to inspect, test, try and ascertain if they are correct, all weights, measures and weighing and measuring devices, kept, offered, or exposed for sale, sold or used or employed by any proprietor, agent, lessee, or employee in proving or ascertaining the size, quantity, extent, area, or measurement of quantities, things, produce or articles of distribution or consumption purchased or offered or submitted by such person or persons for sale, hire or award; and he shall have the power to, and shall, from time to time, weigh or measure and inspect packages or

amount of commodities of whatsoever kind kept for the purpose of sale, offered or exposed for sale, sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be offered for sale or sold in a manner in accordance with law. He may for the purposes above mentioned and in general performance of his official duties, enter and go into or upon, without formal warrant, any stand, place, building, or premises, or stop any vendor, peddler, junk dealer, coal wagon, ice wagon, delivery wagon, or any dealer whatsoever, and require him, if necessary, to proceed to some place which the secretary of agriculture or his inspectors may specify, for the purpose of making proper tests. Whenever the Secretary of Agriculture, or his inspectors, finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. He shall at least once annually test all scales, weights, and measures used in checking the receipts or disbursements or supplies in every institution for the maintenance of which moneys are appropriated by the legislature. (Id. § 7590.)

209. Sealing Weights and Measures.—Whenever the Secretary of Agriculture, or his inspectors, compares weights, measures, or weighing or measuring devices and finds that they correspond or causes them to correspond with the standards in his possession, he shall seal or mark such weights, measures or weighing or measuring devices with the appropriate seals or marks. (Id. § 7591.)

210. Confiscation of False Weights and Measures.—The Secretary of Agriculture, or his inspectors, may confiscate and seize without warrant any incorrect weight, measure, weighing or measuring device, or part thereof which does not conform to the State standards or specifications, and which in his or his inspector's best judgment is not susceptible to repair. He or his inspectors may also confiscate and seize any device required to be licensed by the Department of Agriculture, upon which the license fee has not been paid and said device does not bear the license tag of the current year. Any such inspector who shall make any such seizure shall not be liable to the owner of the property seized for damages caused by such seizure. Any property so seized if not returned to the owner within one year from date of seizure shall be destroyed. Such weights, measures, or weighing or measuring devices as are incorrect and yet may be repaired they shall mark or tag as "Condemned for repairs." The owners or users of any weights, measures, or weighing or measuring devices of which such disposition is made shall have the same repaired or corrected within thirty days, and they may neither use nor dispose of the same in any way, nor remove or deface any such "condemned for repairs" tag or other mark or tag affixed by the Secretary of Agriculture or his inspectors until they shall have received from the Department of Agriculture written permission to do so. Any weights, measures, or weighing or measuring devices which have been "condemned for repairs," and have not been repaired as required above, or have been used or disposed of in any way shall be confiscated by the Department of Agriculture. The removal or defacing of such tag shall be prima facie evidence that the same was removed or defaced by and with the consent of the owner or user of the scale. (Id. § 7592.)

211. Hindering or Obstructing.—Except as in this act otherwise provided any person, firm or corporation preventing, attempting to prevent, obstructing, hindering, or in any way interfering with the Secretary of Agriculture or his inspectors or agents in the performance of his or their official duties, or knowingly failing or neglecting to observe any reasonable rule or regulation of the said Secretary of Agriculture adopted for the enforcement of this act, shall be deemed guilty of a misdemeanor. (Id. § 7593.)

212. Police Powers.—The Secretary of Agriculture or his inspectors are hereby made special policemen, and are authorized and empowered to arrest any violator of the statutes in relation to weights and measures, to enter complaint before any court of competent jurisdiction, and to seize for use as evidence, without formal warrant, any false or unsealed weight, measure, or weighing or measuring device or package or amount of commodities found to be used, retained, or offered or exposed for sale or sold in violation of law. (Id. § 7594.)

213. Municipal Inspection.—Any city or municipality in the State may establish a department of public inspection of weights and measures, and shall have the power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances, not in conflict with the State laws, as may be deemed necessary; and if a city or municipality shall establish such a department, it shall provide the sealer with suitable quarters, a set of standards as hereinafter specified in this article, and all other equipment for the proper performance of his duties. All city and municipal standards shall be tried, proved and sealed under the direction of the

Department of Agriculture and shall be returned to it for verification at least once in every five years. (Id. § 7595.)

214. Municipal Standards.—Sets of standards for municipal sealers, if procured, shall include the following weights, measures, and balances, and they shall be of a type approved for such use by the Department of Agriculture: One yard measure divided into feet and inches, and at least one of the inches divided into thirty-seconds of an inch. Dry capacity measures: One half bushel, one peck, one quart and one pint. Liquid capacity measures: One gallon, one quart and one pint. Avoirdupois pound weights in the following number and denomination: One fifty-pound, one twenty-pound, two ten-pound, one five-pound, two two-pound, and one one-pound. Avoirdupois ounce and fractional ounce weight in the following number and denomination: One eight-ounce, one four-ounce, one two-ounce, two one-ounce, one one-half ounce, one one-quarter ounce, one one-eighth ounce, and two one-sixteenth ounce. Twenty test weights each of fifty pounds for testing platform scales and other large scales, if same are to be tested. One equal arm balance of capacity of fifty pounds to one-sixteenth of an ounce. (Id. § 7596.)

215. Supervision of Local Sealer; Regulations.—The Secretary of Agriculture or his inspectors by his direction, shall at least once in each two years, or oftener if he feels it is for the best interest of the public, visit the various cities of the State in order to inspect the work of the local sealers, and in the performance of such duties he or his inspectors, by his direction, may inspect the weights, measures, balances or any weight or measuring appliance of any person, firm or corporation and shall have the same powers as the local sealer of weights and measures. He shall require a semi-annual report of the work done by the municipal sealer and shall issue from time to time regulations for the guidance of all sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. (Id. § 7597.)

216. Immediate Examinations.—Any inspector who may have reason to believe that any weight, measure, balance, weighing or measuring device used in trade, is inaccurate or not according to the standard, shall have the authority to make an immediate examination of the same and require that the same be tried and tested and conform to the standards herein required. (Id. § 7598.)

217. Compensation; Fees; Disposition.—The Department of Agriculture shall receive fees as follows: For inspecting and sealing; platform scales, each scale over nineteen thousand pounds capacity, five (\$5.00) dollars; each scale over four thousand pounds capacity up to and including nineteen thousand pounds capacity, three dollars and fifty cents (\$3.50); each scale over six hundred pounds capacity up to and including four thousand pounds capacity, two (\$2.00) dollars; each scale over one hundred pounds capacity up to and including six hundred pounds capacity, seventy-five cents (75c.); each scale over five pounds capacity up to and including one hundred pounds capacity, fifty cents (50c.); each scale of five pounds capacity or less, twenty-five cents (25c.) for hopper or grain shipping scales except automatic scales, each scale of over ten thousand pounds capacity, ten (\$10.00) dollars; each scale over five thousand pounds capacity up to and including ten thousand pounds capacity, five (\$5.00) dollars; each scale of five thousand pounds capacity or less, three dollars and fifty cents (\$3.50); and for each automatic scale up to and including six hundred pounds capacity, three dollars and fifty cents (\$3.50) and each automatic scale over six hundred pounds capacity, five (\$5.00) dollars; and shall be entitled to collect from the owner or custodian of such scales herein mentioned an amount sufficient to cover the cost of transporting all necessary test weights to and from the location of said scales. For sealing or marking each beam, ten cents (10c.); for sealing or marking measures of extension, ten cents (10c.) per yard or fraction thereof, not exceeding fifty (50c.) cents for any one measure. For sealing or marking liquid or dry measures ten cents (10c.) for each measure; for measuring pumps or automatic tanks of one gallon or less, twenty-five cents (25c.); for measuring pumps or automatic tanks of over one gallon, fifty cents (50c.); and for linear measuring devices, fifty cents (50c.); for sealing or marking each weight, five cents (5c.); for the inspection of any weighing or measuring device not listed in this section, the Secretary of Agriculture shall have the authority and power to fix a fee. He shall have a reasonable compensation for making weights and measures conform to the standard in his possession. The Secretary of Agriculture shall not require any fee from any county or city and all fees collected by the Secretary of Agriculture or such part as is necessary shall be used in the proper enforcement of this act, the balance to be paid to the State Treasurer and credited to the general fund. The inspection and sealing fees herein provided for shall be and constitute a lien on the weights, scales, measures, weighing

or measuring devices inspected until said fees are paid and the Secretary of Agriculture may sue therefor in the name of the State. (Id. § 7599.)

218. Public Scales.—Scales may be erected in the State of Nebraska for public use at public expense. In counties under township organization, a township may at the annual meeting provide for the erection and determine the location and number of scales for the township and levy a tax to pay for the same. (Id. § 7600.)

219. Weighmaster.—When such scales are provided for, the township board shall appoint a weighmaster, upon petition of the electors living in the immediate vicinity of the scales so located who shall, under oath, promise to perform the duties of his office faithfully and honestly and the weighmaster so appointed shall continue in office until removed by the township board or by resignation. (Id. § 7601.)

220. Scales; Testing.—The township board shall from time to time as in their judgment seems necessary, test the scales as to their accuracy and properly adjust same. (Id. § 7602.)

221. Disputes.—Whenever disputes arise between two parties within the limits of the township where such scales are located, over the first weighing of any articles, the same shall be weighed a second time on the public scales, and the weighmaster's receipt therefor shall be final. (Id. § 7603.)

222. Fees for Weighing.—The township board shall fix and regulate the fee or salary of the weighmaster and the fees, if any, for weighing. (Id. § 7604.)

223. Petitions for Scales.—Townships in counties under the commission organization, desiring to adopt the provisions of the five next preceding sections, shall petition to the county board of such county, and where a majority of the electors so petition, the same shall be granted. All duties and powers imposed upon township officers by said sections where counties are under township organization shall be performed by the county board of counties under commission organization. (Id. § 7605.)

224. Automatic Pay Scales; License for.—It shall be unlawful for any person, firm or corporation by himself, or as the officer, servant, agent, or employee of any person, firm or corporation to operate or use or display for use any scale or scales, known as money in the slot or automatic scale or scales or any weighing device, apparatus or machine, which is used or intended for use to determine the weight of any person or persons, where compensation is derived, or any public or custom scale for which a fee is charged or accepted for weighing, unless said scale or device is licensed by the Department of Agriculture. Upon payment of the license fee of three (\$3.00) dollars, the Department of Agriculture shall issue a metal license tag, tags to be numbered consecutively and bear the year for which the license is valid. The tag shall be displayed prominently on the front of the weighing device and the defacing or wrongful removal of such tag shall be deemed a misdemeanor. Absence of the license tag shall be prima facie evidence that the weighing device is being operated contrary to law. No license shall be issued until the annual fee of three (\$3.00) dollars is paid to the Department of Agriculture for each scale or weighing device operated or used. Any person desiring to secure said license shall make application therefor upon blank to be furnished by the Department of Agriculture. The Department of Agriculture may withhold or revoke any license for cause. All licenses issued under this act shall expire December 31st of each year. (Id. § 7609.)

225. Violation; Penalty.—Any person, firm or corporation violating any of the provisions of this act, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not more than thirty days; provided, however, that upon the second conviction for the violation of any of the provisions of this act such offender shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail not less than thirty days nor more than ninety days. (Id. § 7610.)

226. False Weights and Measures.—Any person or persons who shall knowingly wilfully sell, or direct, or permit any person or persons in his or their employ to sell any commodity or article of merchandise, and make or give any false or short weight or measure, or any person or persons owning or keeping or having charge of any scales or steelyards for the purpose of weighing live stock, hay, grain, coal or other articles, who shall knowingly and wilfully report any false of [or] untrue weight, whereby any other person or persons may be defrauded or injured; shall be fined in any sum not exceeding fifty dollars or be imprisoned in the jail of the county not exceeding thirty days, and also be answerable to the party defrauded or injured in double damages. (Id. § 9905.)

227. Articles Put Up in Casks, Cases, Etc., to be Weighed and Marked.—Any person, agent or clerk who shall put up, or shall order or procure any other person to put up or pack sugar, rice, tobacco, soap, starch, candles, cheese or any

goods or articles sold by weight, packed in kegs, barrels, tierces, casks, boxes, hogsheads, or any case whatever, shall in every instance first weigh the entire box or cask, or whatever it may be, and plainly cut or mark upon the head or most convenient part thereof, the exact number and fractions of pounds it weighs, and when packed or filled shall again ascertain the whole weight, and place the same immediately above the cut or marked tare weights, and subtract the one from the other, showing the net weight of the contents, which calculation shall not be obliterated while the bulk remains unbroken; and said articles, until the bulk is broken, shall be sold by the net weight; provided, however, nothing in this section shall be so construed as to release any person from the liability of allowing the actual tare at the time of sale on all kegs, barrels, tierces, casks, boxes, hogsheads or cases containing articles which by their nature are liable to change their original tare. (Id. § 9906.)

228. Change of Marks on Lids, Etc.—Any brand, mark or stamp, put upon any keg, barrel, box, cask, hogshead or case by the manufacturer, indicating the articles, its quality, quantity or the manufacturer's name or either of them, shall be considered the manufacturer's certified brand, stamp or mark, and shall be put thereon in such manner as to be identified by the manufacturer or his authorized agent, which shall be subject to no erasure or obliteration; neither shall such box lids, keg, barrel, hogshead, tierce or cask heads be transferred from one to the other, for the purpose of taking advantage of said brands, stamps or marks, to sell an inferior article, or repacking take place, putting an inferior article into a superior branded keg, barrel, cask, hogshead, box or case, to accomplish the same design; or to mark or remark anything containing pound bulk, so as to hide from view the original manufacturer's mark, stamp or brand. (Id. § 9907.)

229. Penalty for Violation of Last Two Sections.—Whoever, directly or indirectly, transgresses any of the provisions enumerated in the last two preceding sections shall, in all cases, pay to the party aggrieved double the value of the difference between the actual quantity contained in such keg, barrel, cask, tierce, box or hogshead or in whatever the same may be contained, and the net quantity or weight for which the same may have been sold; and for the first offense be subject to a fine not less than twenty nor more than sixty dollars, or imprisonment in the county jail not less than thirty days nor more than sixty days; and for the second and every subsequent offense shall be subject to a fine not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail not less than thirty nor more than ninety days. (Id. § 9908.)

NOTE: See also Nos. 4 and 14a; the bread law, No. 22 et seq.; the dairy law, No. 39 et seq.; the potato law, No. 81 et seq.

PART V.

Cases.

1. General Food and Drug Law.

Action to Recover Price of Misbranded Drugs: See *Hessig-Ellis Drug Co. v. Harley Drug Co.*, 95 Neb. 267, 145 N. W. 716 (1914).

Beverage Labeled "Non-Alcoholic Cordials Harmlessly and Artificially Flavored . . . Blackberry Flavor"—Not Misbranded: *State v. Smith*, 102 Neb. 570, 168 N. W. 101 (1918).

Constitutionality—Provision Against Gifts, Premiums or Prizes in Packaged Food is Valid: **In re Arrigo*, **Arrigo v. Hyers*, 98 Neb. 134, 152 N. W. 319, L. R. A. 1917A, 1116 (1915); **In re DeKlotz*, **DeKlotz v. Hyers*, 98 Neb. 140, 152 N. W. 321 (1915), reversed in *Same*, 98 Neb. 861, 155 N. W. 240 (1915); **In re Indovina*, **Indovina v. Hyers*, 98 Neb. 140, 152 N. W. 321 (1915).

Constitutionality—State Law Requiring Declaration of Net Weight or Measure of Packaged Food is Valid: **In re Agnew*, 89 Neb. 306, 131 N. W. 817, 35 L. R. A. (N. S.) 836, Ann. Cas. 1912C, 676 (1911). See also the cases cited in the next following paragraph.

Constitutionality—State Law Requiring Declaration of Net Weight or Measure of Certain Packaged Foods, Excepting Packages Put up by Retailer, is Valid: **Freadrich et al. v. State*, 89 Neb. 343, 131 N. W. 618, 34 L. R. A. (N. S.) 650 (1911); **Lichtensteiger v. State*, 89 Neb. 536, 131 N. W. 623 (1911).

Cottolene—Label Within Proviso to Adulteration and Misbranding Definitions: Lichtensteiger v. State, 89 Neb. 356, 131 N. W. 623 (1911).

Deputy Food Commissioner—Salary Appropriation Provision Violates Constitution: *State ex rel. Hibbard v. Cornell, 60 Neb. 276, 83 N. W. 72 (1900).

Food Commissioner—Deputy Food Commissioner—Provision for Appointment and Defining Duties Does Not Violate Constitution: *Merrill v. State, 65 Neb. 509, 91 N. W. 418 (1902).

Intrastate Commerce—Local Sale of Contents of Shipping Package Received by Dealer From Another State, Opened by Him and From Which He Removes Contents for Local Sale, is Intrastate Commerce and Subject to State Law: *In re King, 89 Neb. 298, 131 N. W. 820 (1911); *In re Page, 89 Neb. 299, 131 N. W. 820 (1911); *In re Agnew, 89 Neb. 306, 131 N. W. 817, 35 L. R. A. (N. S.) 836, Ann. Cas. 1912C, 676 (1911).

Knowledge of Adulteration Not Essential Element of Offense Against Law: Lansing v. State, 73 Neb. 124, 102 N. W. 254 (1905).

Meat—Wrapped Ham and Bacon—Not in Package Form and Hence Not Subject to Net Weight Provision: State v. Swift & Co. et al., 84 Neb. 244, 120 N. W. 1127 (1909).

Milk—Added Formaldehyde—Adulterated: Lansing v. State, 73 Neb. 124, 102 N. W. 254 (1905).

Sale of Adulterated Food for Official Analysis, Under Compulsion of Law, is Not a Violation: Lansing v. State, 73 Neb. 124, 102 N. W. 254 (1905).

Syrup—Cane and Maple Syrup Mixture—Label Must Show Percentage of Each Syrup: State v. Paxton & Gallagher Co., 93 Neb. 216, 140 N. W. 167 (1913).

2. Special Food Laws.

Beverages—Essence of Wintergreen: Thamann et al. v. Merritt et al., 107 Neb. 602, 186 N. W. 1003 (1922); Same, 111 Neb. 639, 197 N. W. 413 (1924).

Beverages—Jamaica Ginger: Schemmer v. State, 105 Neb. 324, 180 N. W. 581 (1920).

Beverages—Vinegar: Sommers et al. v. State, 112 Neb. 311, 199 N. W. 549 (1924).

Bread—Standard Weight: *Jay Burns Baking Co. et al. v. McKelvie et al., 108 Neb. 674, 189 N. W. 383, 26 A. L. R. 24 (1922), reversed in *Jay Burns Baking Co. et al. v. Bryan et al., 264 U. S. 504, 44 S. Ct. 412, 68 L. Ed. 813 (1924).

Grocer—Not Peddler and Hence Not Subject to Peddler's License: Village of Scribner v. Mohr et al., 90 Neb. 21, 132 N. W. 734, Ann. Cas. 1912D, 1287 (1911).

Milk—License to Sell: *Littlefield v. State, 42 Neb. 223, 60 N. W. 724, 28 L. R. A. 588, 47 Am. St. Rep. 697 (1894).

Milk & Cream—Overreading Test of Cream—Intent to Defraud Not Essential Element of Offense: State v. Thorp, 94 Neb. 310, 143 N. W. 202, Ann. Cas. 1914D, 180 (1913).

Milk & Cream—Testing of Cream for Commercial Purposes—Rule That Payment for Cream Purchased for Commercial Purposes Shall Not be Made on Day of Purchase, Not Authorized: State v. Elam, 91 Neb. 460, 136 N. W. 59, 39 L. R. A. (N. S.) 686 (1912).

Oleomargarine: *Beha et al. v. State, 67 Neb. 27, 93 N. W. 155 (1903).

Slaughterhouse: State v. Temple, 99 Neb. 505, 156 N. W. 1063 (1916).

3. Special Drug Laws.

Itinerant Vendor of Drugs: See *J. R. Watkins Medical Co. v. S. M. Hunt, 104 Neb. 266, 177 N. W. 462 (1920).

Patent Medicines—Sale Limited to Pharmacists: See *J. R. Watkins Medical Co. v. S. M. Hunt, 104 Neb. 266, 177 N. W. 462 (1920).

Pharmacy: See McKibbin v. F. E. Bax & Co., 79 Neb. 577, 113 N. W. 158, 13 L. R. A. (N. S.) 646, 126 Am. St. Rep. 677 (1907).

Poisons: See Levin v. Muser, 110 Neb. 515, 194 N. W. 672 (1923).

Serum for Hogs: *Hall v. State, 100 Neb. 84, 158 N. W. 362, L. R. A. 1916F, 136 (1916); *Fisher et al. v. Board of Regents of the University of Nebraska, 108 Neb. 666, 189 N. W. 161 (1922).

4. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption or Use of Product.

Drugs: McKibbin v. F. E. Bax & Co., 79 Neb. 577, 113 N. W. 158, 13 L. R. A. (N. S.) 646, 126 Am. St. Rep. 677 (1907); Moses v. Mathews, 95 Neb. 672, 146 N. W. 920, Ann. Cas. 1915 A, 698 (1914); Thamann et al. v. Merritt et al., 107 Neb. 602, 186 N. W. 1003 (1922); Levin v. Muser, 110 Neb. 515, 194 N. W. 672 (1923); Thamann et al. v. Merritt et al., 111 Neb. 639, 197 N. W. 413 (1924).

Serum: Shimerda v. Nebraska Serum Co., 102 Neb. 812, 169 N. W. 785 (1918).

5. Miscellaneous.

Cigarettes: *Alperson v. Whalen, 74 Neb. 680, 105 N. W. 474 (1905); Dempsey v. Stout, 76 Neb. 152, 107 N. W. 235 (1906).

False Advertising: State v. Krasne, 103 Neb. 11, 170 N. W. 494 (1918).

Flag Desecration: *Halter et al. v. State, 74 Neb. 757, 105 N. W. 298, 7 L. R. A. (N. S.) 1079, 121 Am. St. Rep. 754 (1905), affirmed in *Halter v. Nebraska, 205 U. S. 34, 27 S. Ct. 419, 51 L. Ed. 696, 10 Ann. Cas. 525 (1907).

Trade-Marks: Newbro et al. v. Undeland, 69 Neb. 821, 96 N. W. 635 (1903). See also: Nebraska Loan & Trust Co. v. Nine et al., 27 Neb. 507, 43 N. W. 348, 20 Am. St. Rep. 686 (1889); Tulleys v. Keller et al., 45 Neb. 220, 63 N. W. 388 (1895); Miskell v. Prokop et al., 58 Neb. 628, 79 N. W. 552 (1899); Chadron Opera House Co. v. Loomer et al., 71 Neb. 785, 99 N. W. 649 (1904); Knights of the Maccabees of the World v. Searle et al., 75 Neb. 285, 106 N. W. 448 (1905); Regent Shoe Manufacturing Co. v. Haaker et al., 75 Neb. 426, 106 N. W. 595, 4 L. R. A. (N. S.) 447 (1906); Consolidated Fuel Co. v. Brooks et al., 91 Neb. 421, 136 N. W. 60 (1912); Basket Stores of Lincoln, Nebraska v. Allen et al., 99 Neb. 217, 155 N. W. 893 (1915); Carter Transfer & Storage Co. et al. v. Carter et al., 106 Neb. 531, 184 N. W. 113 (1921).

Trading Stamps: *State ex rel. Hartigan v. Sperry & Hutchinson Co., 94 Neb. 785, 144 N. W. 795, 49 L. R. A. (N. S.) 1123 (1913). See also *Constitutionality—Provision Against Gifts, Premiums or Prizes in Packaged Food is Valid*, No. 1, ante.

Weights and Measures: State v. Kellner, 22 Neb. 668, 35 N. W. 891 (1888); Filley v. Billings, 26 Neb. 537, 42 N. W. 713 (1889). See also the net weight or measure law cases under No. 1 and the bread cases under No. 2.

NEVADA.*

PART I.

General Food and Drug Law.

1. **Adulterated Food, Drugs, Medicines, and Liquors Prohibited.**—The manufacture, production, preparation, compounding, packing, selling, offering for sale, or keeping for sale within the State of Nevada, or the introduction into this State from any other State, Territory, or the District of Columbia, or from any foreign country, of any article of food, drug or liquor which is adulterated, mislabeled or misbranded within the meaning of this act is hereby prohibited. Any person, firm, company, society or corporation who shall import or receive from any other State or Territory, or the District of Columbia, or from any foreign country, or who, having so received, shall deliver for pay or otherwise, or offer to deliver to any other person any article of food, drug or liquor adulterated, mislabeled or misbranded within the meaning of this act, or any person who shall manufacture or produce, prepare or compound, or pack or sell or offer for sale, or keep for sale in the State of Nevada any such adulterated, mislabeled or misbranded food, drug or liquor shall be guilty of a misdemeanor; provided, that no article of food shall be deemed adulterated, mislabeled or misbranded within the provisions of this act, when prepared for export beyond the jurisdiction of the United States and prepared or packed according to specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped; but if such foods shall be in fact sold, or kept or offered for sale for domestic uses and consumption, then this proviso shall not exempt said article from the operation of any provision of this act. (R. L. 1919, p. 2967 et seq., which is L. 1913, p. 316, § 1.)

2. **"Food" Defined.**—The term "food," as used in this act, shall include all articles used for food, drink, liquor, confectionery, or condiment by man or other animals, whether simple, mixed or compound. (Id. § 2.)

3. **Standard Defined.**—The standard of purity of foods, drugs, and liquors shall be that proclaimed by the Secretary of the United States Department of Agriculture, and the regulations and definitions adopted for the enforcement of the national food and drugs act of June 30, 1906, shall be adopted by the Nevada Agricultural Experiment Station for the enforcement of this act. (Id. § 3.)

4. **What Constitutes Adulteration.**—Food shall be deemed adulterated within the meaning of this act, in any of the following cases:

First—If any substance has been mixed or packed, or mixed and packed with the food so as to reduce or lower or injuriously affect its quality, purity, strength, or food value.

Second—If any substance has been substituted wholly or in part for the article of food.

Third—If any essential or any valuable constituent or ingredient of any article of food has been wholly or in part abstracted.

Fourth—If it be mixed, colored, powdered, coated or stained in any manner whereby damage or inferiority is concealed.

Fifth—If it contain any added poisonous, or other added deleterious ingredient.

Sixth—If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal or vegetable unfit for food, whether manufactured or not, or if it consists in whole or in part or is the product of a diseased animal, or one that has died otherwise than by slaughter; provided, that an article of liquor shall not be deemed adulterated,

*CITATIONS: "R. L. 1912" refers to the Revised Laws of Nevada, 1912, published by authority of the legislature. (R. L. 1912, §§ 1005-1016.) "R. L. 1919" refers to the supplement thereto. "L." refers to the session laws of the year cited.

mislabeled, or misbranded if it be blended or mixed with like substances so as not to injuriously reduce or injuriously lower or injuriously affect its quality, purity, or strength.

Seventh—If, in the manufacture, sale, distribution or transportation, it is not at all times securely protected from filth, flies, dust or other contamination or other unclean, unhealthy or insanitary conditions.

Eighth—In the case of confectionery: If it contain terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or vinous, malt or spirituous liquor, or compound or narcotic drug. (Id. § 4.)

5. "Drug" Defined.—The term "drug," as used in this act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or other animals. (Id. § 5.)

6. U. S. Standard Required.—The standard of purity of drugs shall be the United States Pharmacopœia and National Formulary official at the time of investigation. (Id. § 6.)

7. What Constitutes Adulteration of Drugs.—Drugs shall be deemed adulterated within the meaning of this act in any of the following cases:

First—If, when a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary, it differs from the standard of strength or purity as determined by the tests laid down in the United States Pharmacopœia or National Formulary official at the time of the investigation; provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the package thereof, although the standard may differ from that determined by the tests laid down in the United States Pharmacopœia or National Formulary.

Second—If the strength or purity fall below the professed standard of purity under which it is sold. (Id. § 7.)

8. "Misbranded" Defined.—The term "misbranded," as used herein, shall apply to all liquors, drugs, or articles of food, or articles which enter into the composition of foods, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food product, liquor or drug which is falsely branded as to the county, city or country, town, State, Territory, District of Columbia, or foreign country in which it is manufactured or produced. (Id. § 8.)

9. Mislabeled or Misbranded, When.—Food, liquor and drugs shall be deemed mislabeled or misbranded within the meaning of this act in any of the following cases:

First—If it be an imitation of or offered for sale under the distinctive name of another article of food, liquor or drugs.

Second—If it be labeled or colored or branded so as to deceive, mislead, or tend to deceive or mislead the purchaser, or if it be falsely labeled in any respect, or if it purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

Third—If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth—If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

Fifth—When any package bears the name of the manufacturers, jobbers or sellers, or the grade or class of the product, it must bear the name of the real manufacturers, jobbers or sellers and the true grade or class of the product, the same to be expressed in clear and distinct English words in legible type; provided, that an article of food shall not be deemed misbranded, if it be a well-known food product of a nature, quality and appearance, and so exposed to public inspection as not to deceive or mislead nor tend to deceive or mislead a purchaser, and not misbranded and not of the character included within the definitions one and four of this section.

Sixth—In the case of drugs: If its package or label shall bear any statement, design, or device regarding the curative or therapeutic effects of such article which is false or fraudulent. (Id. § 9.)

10. **"Package" Defined.**—The term "package," as used in this act, shall be construed to include any phial, bottle, jar, demijohn, carton, bag, case, can, box or barrel, or any receptacle, vessel or container of whatsoever material or nature which can be used by a manufacturer, producer, jobber, packer or dealer, for enclosing any article of food. (Id. § 10.)

11. **Possession of, Prima Facie Evidence.**—The possession of any adulterated, mislabeled or misbranded article of food, liquor or drug by any manufacturer, producer, jobber, packer, or dealer in food, liquor or drugs, or by any broker, commission merchant, agent, employee, or servant of any such manufacturer, producer, jobber, packer or dealer, shall be prima facie evidence of the violation of this act. (Id. § 11.)

12. **Board of Control to Appoint Commission.**—The Board of Control of the Nevada Agricultural Experiment Station shall designate and appoint for the enforcement of this act a commissioner and such other agent or agents as it may deem necessary, and the sheriffs of the respective counties of the State are hereby appointed and constituted agents for the enforcement of this act. (Id. § 12.)

13. **Experiment Station to Analyze Samples.**—The Nevada Agricultural Experiment Station shall make examination and analysis of food products, liquors and drugs, on sale in Nevada, suspected of being adulterated, mislabeled or misbranded at such times and places and to such extent as the said commissioner, with the approval of the board of control, may determine, and the said commissioner shall make uniform rules and regulations for the carrying out of the provisions of this act, and such commissioner, agent or agents and sheriffs shall have free access at all reasonable hours for the purpose of examining into any place wherein it is suspected any article of food, drug or liquors adulterated with any deleterious or foreign ingredient or ingredients exists, and such commissioner, agents or sheriffs, upon tendering the market price of said article, if a sale be refused, may take from any person, firm or corporation samples of any articles suspected of being adulterated as aforesaid, and the board of control of the said experiment station may adopt and affix standards of purity, quality or strength when such standards are not specified or fixed by statute. (Id. § 13.)

14. **Commissioner to Make Sanitary Regulations.**—The said Commissioner, with the approval of the Board of Control of the said Experimental Station, shall make uniform rules and regulations for the sanitary inspection of any place where food, drugs or liquors are prepared, sold, or offered for sale. If, in the opinion of said commissioner, or other agent of said Experiment Station, after an investigation of any place where food, drugs or liquors are prepared, sold or offered for sale, the same is operated in an unclean or insanitary manner, the commissioner or other agent shall notify in writing the person operating such place, to put the same in a clean and sanitary condition within a reasonable time, to be stated in said notice. Any authorized agent shall have the power, when inspecting any place where foods, drugs or liquors are prepared, sold or offered for sale, to order the use of any bottle, can or other utensil which is in an unclean or insanitary condition discontinued, until such can, bottle or other utensil is thoroughly cleaned and put in sanitary condition. Any person or persons failing to comply with the order of the commissioner or other authorized agent, shall be guilty of a misdemeanor and subject to the penalties as provided for in this act. (Id. § 14.)

15. **Samples, How Obtained and Transmitted.**—When an agent or sheriff shall obtain by purchase or otherwise a sample of suspected adulterated, mislabeled or misbranded food, drug or liquor, the said sample shall be sealed by the agent or sheriff with a seal provided for that purpose and shall be sent or taken to the Nevada Agricultural Experiment Station for examination and analysis; but, if the person from whom such sample was taken shall request him to do so, he shall at the same time and in the presence of the person from whom the same is taken, seal with proper seals two samples of the articles taken. One sample shall be delivered to the party from whom procured and the other sample shall be sent or taken to the Nevada Agricultural Experiment Station for examination and analysis. The analyst making the examination and analysis shall report to the said commissioners a certificate of findings, and such certificate shall be admitted in evidence in all courts of this State and shall be prima facie evidence of the truths of the facts contained therein. (Id. § 15.)

16. **Sheriff to Act.**—It is hereby made the duty of the sheriff of any county of this State, on presentation to him of a verified complaint of the violation of any of the provisions of this act, at once to obtain a sample of the suspected adulterated, mislabeled or misbranded food, liquor or drug complained of, in

such manner, and dispose of the same as prescribed in section 15 of this act. (Id. § 16.)

17. Fees of Sheriff County Charge.—For his services hereunder the said sheriff shall be allowed the same fees for travel allowed by law to sheriffs on service of criminal process, together with such other compensation as by the board of county commissioners of his county may be deemed reasonable, and all amounts expended by him in procuring and transmitting the said samples, which fees and amounts expended shall be audited and allowed by the said commissioners and paid by his said county as other bills of said sheriff. (Id. § 17.)

18. Certain Acts Misdemeanor.—It shall be a misdemeanor for any person to refuse to sell to any sheriff or other agent of the Nevada Agricultural Experiment Station, any sample of food, liquor or drug upon tender of the market price, or to conceal any such food, liquor or drug from such officer, or to withhold from him information where such food, liquor or drug is kept or stored. Any such person so refusing to sell, or concealing such food, liquor or drug, or withholding such information from said officer shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not exceeding five hundred dollars or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. (Id. § 18.)

19. Procedure When Adulterated or Unfit.—When it shall appear from any such examination or analysis made by an analyst of the Nevada Agricultural Experiment Station that such sample of food, liquor or drug is adulterated, mislabeled or misbranded within the meaning of this act, the said commissioner shall furnish a notice of the fact, together with a copy of the certificate of findings, by registered mail to the party or parties from whom the sample was obtained or who executed the guarantee as provided for in this act, and a date, hour and place shall be fixed by said commissioner at which said party or parties may be heard before him, under such rules and regulations as may be prescribed by said commissioner. The receipts of the postoffice department for such registered notice shall be received as prima facie evidence that such notice has been given. Parties interested therein may appear in person or by attorney and may propound interrogatives and submit oral or written evidence to show any fault or error in the findings of the analyst or examiner. If the examination or analysis be found correct or if the party or parties fail to appear at such hearing after notice duly served, as provided herein, the commissioner shall forthwith transmit a certificate of the facts so found to the district attorney of the county in which said adulterated, misbranded or mislabeled food, liquor or drug was found. No publication as in this act provided shall be made until after said hearing is concluded. (Id. § 19.)

20. Dealer Not Prosecuted, When.—No dealer shall be prosecuted under the provisions of this act when he can establish a guarantee signed by the wholesale jobber, manufacturer or other party from whom he purchased such article, to the effect that the same is not adulterated, mislabeled or misbranded within the meaning of this act, designating it. Said guarantee, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealers, and in such cases the party or parties shall be amenable to the prosecution, fines and other penalties which would attach, in due course to the dealer under the provisions of this act. (Id. § 20.)

21. Commissioner to Report to District Attorney.—It shall be the duty of said commissioner, whenever he has satisfactory evidence of the violation of any of the provisions of this act, respecting the adulteration, mislabeling or misbranding of foods, liquors or drugs, to report such facts to the district attorney of the county where the law is violated. (Id. § 21.)

22. District Attorney to Prosecute.—It shall be the duty of the district attorney to prosecute all violations of the provisions of this act occurring within his county and which shall be reported to him under the provisions of this act. (Id. § 22.)

23. Record Kept by Commissioner.—Said commissioner shall keep a record of adulterated, mislabeled or misbranded foods, liquors or drugs, in which record shall be included a list of cases examined by said Experiment Station in which violations were found, and a list of the articles found adulterated, mislabeled or misbranded and the names of the manufacturers, producers, jobbers and sellers. Said record, or any parts thereof, may, in the discretion of the commissioner, be included in the annual report which the said commissioner is hereby authorized to make to the Governor. The said commissioner may, in his discretion, publish any part of said record in the bulletins, circulars and reports which he may publish from time to time. (Id. § 23.)

24. Co-operation With U. S. Government.—The Governor of the State, with the Nevada Agricultural Experiment Station, shall co-operate with the Government of the United States for carrying out the purposes of this act, and the said Experiment Station, may appoint, in writing, any inspector or employee of the United States Department of Agriculture as State pure food agent in carrying out the provisions of this act, when in their judgment it may be proper or necessary, who shall have and may exercise the powers of State agents. But no inspectors and employees of the United States Department of Agriculture shall be paid for their services by the State of Nevada, or any county in this State. (Id. § 24.)

25. Penalties for Violation.—Any person, firm, company or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars, or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Foods found to be adulterated, mislabeled, or misbranded within the meaning of this act, may, by order of any court or judge, be seized and destroyed. (Id. § 25.)

26. Principal Responsible.—When construing and enforcing the provisions of this act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such corporation, company, society or association as well as that of the person. (Id. § 26.)

Miscellaneous General Provisions.

27. Person Omitting to Label Drugs, or Labeling Them Wrongly.—Every person who, in putting up any drug, medicine, or food, or preparation used in medical practice, or making up any prescription, or filling any order for drugs, medicines, food or preparation shall put any untrue label, stamp or other designation of contents upon any box, bottle or other package containing a drug, medicine, food or preparation used in medical practice, or substitute or dispense a different article for or in lieu of any article prescribed, ordered, or demanded, or put up a greater or less quantity of any ingredient specified in any such prescription, order or demand than that prescribed, ordered, or demanded, or otherwise deviate from the terms of the prescription, order, or demand by substituting one drug for another, shall be guilty of a misdemeanor; provided, however, that, except in the case of physicians' prescriptions, nothing herein contained shall be deemed or construed to prevent or impair or in any manner affect the right of an apothecary, druggist, pharmacist or other person to recommend the purchase of an article other than that ordered, required or demanded, but of a similar nature, or to sell such other article in place or in lieu of an article ordered, required or demanded, with the knowledge and consent of the purchaser. (R. L. 1912, § 6542.)

28. Misrepresentation of Merchandise.—Every person who makes any misrepresentation regarding the weight, amount, measure, quantity, quality, or ingredients of any goods, wares or merchandise, or personal property, for the purpose of selling the same, or while selling or offering the same for sale, is guilty of a misdemeanor; and if the value of any goods, wares, merchandise, or personal property sold under such misrepresentation shall exceed fifty dollars, the party so making the misrepresentation is guilty of a gross misdemeanor. (Id. § 6709.)

NOTE: See also Nos. 55, 96, 107, 140, and 173.

PART II.

Special Food Laws.

Beverages.

See Nos. 1 et seq., 130 et seq., and 165.

Bread.

See No. 169.

Confectionery.

See No. 4.

Dairy Products—Substitutes for Dairy Products.

29. Duties of Manufacturers.—Every person who shall manufacture for sale any article or substance in semblance of butter, that is not the legitimate product of the dairy, and not made exclusively of milk or cream, but into which the oil or fat of animals, not produced from milk, enters as a component part, or into which melted butter, or any oil thereof has been introduced, to take the place of cream, unless the package containing such article or substance shall be labeled or branded with the word "Oleomargarine," as provided in the next following section shall be deemed guilty of a misdemeanor. (R. L. 1912, § 6526.)

30. Substitute for Butter Stamped or Branded.—Every person who shall sell, or offer, or expose for sale, or have in his or her possession with intent to sell any of the said article or substance mentioned in the next preceding section, shall distinctly mark, brand or label every package containing such substance, whether at wholesale or retail, with the word "Oleomargarine," and every person who shall sell, or offer for sale, such substance not so branded, marked, or labeled, shall be guilty of a misdemeanor. (Id. § 6527.)

31. Letters for Brands.—The branding or marking required in the two next preceding sections, if on rolls or prints, shall be in letters not less than one-fourth of an inch square, and if on tubs or other packages, the letters shall not be less than one-half inch square. (Id. § 6528.)

32. Selling Impure Milk.—Any person who shall knowingly sell or exchange, or expose for sale or exchange, any impure, adulterated or unwholesome milk, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail for not more than six months, or both. (Id. § 6536.)

33. Adulteration and Quality of Milk.—Any person who shall adulterate milk with the view of offering the same for sale or exchange, or shall keep cows for the production of milk for market, or for sale or exchange, in a crowded or unhealthy condition, or feed the same on food that produces impure, diseased or unwholesome milk, or who shall sell or exchange or offer to sell or exchange any milk as pure, from which the cream or any portion thereof has been taken, except as provided in the next following section, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not exceeding six months, or both. (Id. § 6537.)

34. Idem—Sale of Skimmed Milk.—Nothing in the next preceding section shall be construed to prevent the sale of skimmed milk, provided the person or persons selling the same shall first make known the fact that it is skimmed milk, and shall sell it as such. (Id. § 6538.)

35. Adulterations of Milk, What Are.—The addition of water or any substance is hereby declared an adulteration; any milk that is obtained from animals that are fed on distillery, brewery, hotel, or restaurant waste, usually called "swill," or upon any substance in a state of putrefaction, or upon impure matter from stalls and stables, is hereby declared to be impure and unwholesome, and any person or persons offending, as aforesaid, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or be imprisoned in the county jail for not more than six months, or both. (Id. § 6539.)

36. Definition of Certain Terms.—For the purposes of this act butter and ice cream shall be classified as "wholesome" or "impure." Wholesome butter or ice cream is hereby defined to be butter or ice cream made from cream and milk wherein the entire procedure from dairy to creamery, or other place of manufacture, of such product or products, is conducted under sanitary conditions; and wherein the milk or cream has either been produced by cows all of which have been duly certified by some reputable veterinarian, as free from tuberculosis, or, if not so certified, wherein such milk or cream has been pasteurized as hereinafter prescribed. "Impure" butter or ice cream is hereby defined to be all butter or ice cream other than that which is "wholesome" as above defined. "Pasteurized" milk or cream, within the meaning of this act, shall be construed to be milk or

cream which has been pasteurized by the holding process at a temperature of not less than 140 degrees Fahrenheit for 25 minutes, or the continuous flash process at a continuous temperature of not less than 170 degrees Fahrenheit, and which has not thereafter been exposed to recontamination. Pasteurizing plants shall be equipped with a self-registering device for record of the time and temperature of pasteurizing. Such record shall be kept for two months and be available for inspection by any health officer or person charged with the enforcement of this act. (R. L. 1919, p. 2973 et seq., which is L. 1917, p. 272, § 1.)

37. Impure Butter or Ice Cream Prohibited.—It shall be unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange for human consumption, any impure butter or ice cream. Imported butter from States having similar laws, if made by creameries, dairies or farms recognized by the authorities of such States as manufacturing wholesome butter, and imported pasteurized butter from States not having similar laws, but the makers of which shall have satisfied the Department of Food and Drug Control that such butter conforms to the requirements of this act, shall be regarded as wholesome if offered for sale or exchange in this State. All other imported butter shall be deemed impure. Any person, firm or corporation violating the provisions of this section shall be deemed guilty, for the first offense, of a misdemeanor, and for any subsequent offense, of a gross misdemeanor, and upon conviction shall be punished as now provided by law for such offenses. From and after the date on which this section goes into effect all impure butter and ice cream offered for sale or exchange, for human consumption, shall be subject to confiscation by the police authorities and destroyed. (Id. § 2.)

38. Inspection Under Food and Drug Division.—The inspection of butter and ice cream under the provisions of this act, and the determination of the same as wholesome or impure, are hereby made duties of the Department of Food and Drug Control, Public Service Division, University of Nevada, and which said department is hereby given all necessary authority and power for such inspection and determination and may employ such inspectors or agents therefor as may be needful within any appropriation for such purposes provided. On complaint by such department of the violation of section two of this act by any person, firm or corporation, it shall be the duty of the district attorney of the county in which such violation is alleged to have occurred to institute criminal proceedings against the party or parties complained of and to prosecute the same in the proper courts. (Id. § 3.)

39. Who to Enforce Regulations.—Such Department of Food and Drug Control is hereby authorized and empowered to make and enforce such reasonable rules and regulations, within the meaning and purposes of this act, as may be needful in its administration, and which may include the sanitary production, care and handling of milk and cream used in the making of butter or ice cream; provided, that such last-mentioned rules and regulations shall first be approved by the director of the Agricultural Extension Division, University of Nevada. Said department, prior to June 1 next after passage of this act, shall supply local dealers in butter and ice cream with a list, classified as makers of wholesome or impure butter or ice cream, of persons, firms and creameries commonly supplying butter and ice cream for local consumption, and from time to time thereafter shall supply such dealers with additions to, or alterations in such classifications. (Id. § 4.)

40. Small Dealers Exempt.—The provisions of this act shall not apply where the butter or ice cream is retailed by the maker in quantities not exceeding two hundred and fifty pounds per month. (Id. § 5.)

41. Keeping Milch Cows in Unhealthy Places and Feeding Them With Food Producing Unwholesome Milk.—A person who keeps a cow or any animal for the production of milk, in a crowded or unhealthy place, or in a diseased condition, or feeds such cow or animal upon any food that produces impure or unwholesome milk, is guilty of a misdemeanor. (R. L. 1919, p. 3396, which is L. 1919, p. 319, § 13.)

42. Amount of Butter Fat.—It shall be unlawful for any person to sell or offer for sale within this State any cream for domestic purposes and by liquid measure which shall contain less than twenty-two per cent of butter fat. (R. L. 1919, p. 2974, which is L. 1917, p. 291, § 1.)

43. Penalty for Violation.—Any person violating the provisions of section one of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not to exceed one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. (Id. § 2.)

44. Regulating Method of Weighing and Testing Milk, Cream, and Dairy Products.—It shall be unlawful for any hauler of milk or cream, other than a common carrier, or any person, firm or corporation receiving or purchasing milk or cream by weight or test or both, or by measure or test or both, to fraudulently manipulate the weight, measure or test of milk or cream, or to take unfair samples thereof, or to fraudulently manipulate such samples. Such hauler or other agent shall weigh or measure the milk or cream of each patron accurately and correctly and shall report such weights and measurements accurately and correctly to the creamery or factory. He shall thoroughly mix the milk or cream of each patron by pouring or stirring until such milk or cream is uniform and homogeneous in richness, before the sample is taken from such milk or cream. When the weighing or sampling is done at the creamery, shipping station or factory, the same rule shall apply. (L. 1921, c. 167, § 1.)

45. False Tests Declared Unlawful; Licensed Testers.—It shall be unlawful for any person, firm or corporation, by himself or as the agent, servant, employee or officer of any person, firm or corporation, receiving or purchasing milk or cream on the basis of the amount of butter fat contained therein, to underread, overread or otherwise fraudulently manipulate the Babcock test used for determining the per cent of butter fat in milk or cream, or to falsify the records thereof, or to read the test at any other temperature than the correct one, which is one hundred thirty degrees to one hundred forty degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six-tenths cubic centimeters for milk and nine grams or eighteen grams for cream; provided, that in all tests for cream the cream shall be weighed into the test bottle. All testing of milk or cream purchased on the basis of the amount of butter fat contained therein shall be done by licensed tester, who shall supervise and be responsible for the operation of the Babcock test of milk or cream. A license shall be issued to such person by the Commissioner of Food and Drugs, whose duty it shall be to examine into the qualifications of the applicant for such license, and every such applicant shall satisfy said officer of his qualifications and comply with the provisions herein, before any license shall be issued to him. (Id. § 2.)

46. Licenses Revoked, When.—Said licenses shall be revoked at any time by the Commissioner of Food and Drugs, when in his opinion said licensee has not conformed to any or all of the provisions of this act which relate to his duties. (Id. § 3.)

47. Record of Tests to be Kept.—Said licensed tester shall, in addition to the records herein required to be kept, record all tests made by him in a permanent book of record, a form for which shall be supplied by the department, and said tests shall be indelibly recorded in said record book in such a manner as to identify the patron whose milk or cream has been tested, and also in such a manner as to prevent erasures or changes made in these tests, and said record shall be at all times during business hours kept open to the inspection of the Commissioner of Food and Drugs or his agents, or of any officer of the city and county board of health, or of any peace officer of the city, county or State, or of any patron who may be delivering milk or cream to the plant or place where such tests are made. (Id. § 4.)

48. Samples Retained for 24 Hours or More; Containers Furnished by Food and Drugs Commissioner.—Such licensed tester also shall retain in testable condition a sample of all milk or cream so tested by him for a period of not less than twenty-four hours after said tests of milk or cream have been made, and said tester shall be responsible for the safekeeping of such samples of milk or cream and shall retain the same in his custody for said period of time. The Commissioner of Food and Drugs shall make uniform rules and regulations for the proper enforcement of this act and the same shall be printed in the State printing office and distributed by the Commissioner of Food and Drugs upon application therefor to licensed or other dairymen, creameries and other parties interested in the same. The said commissioner shall make analyses of all samples of milk or cream submitted to him, charging therefor only actual cost, exclusive of his salary, when the same are presented in suitable standard containers to be furnished by said Commissioner of Food and Drugs and under directions for taking said samples as he may prescribe. (Id. § 5.)

49. Creamery, Etc., Must Have License From Food and Drugs Commissioner.—Every creamery, shipping station, milk factory, cheese factory, ice cream factory, condensery, or any person, firm or corporation receiving or purchasing milk or cream on the basis of butter fat contained therein, shall be required to hold a license so to do. The license shall be issued to such creamery, shipping

station, milk factory, condensery, ice cream factory, cheese factory, or person, firm or corporation by the Commissioner of Food and Drugs upon complying with all sanitary laws, rules and regulations of the State of Nevada, and upon complying with the provisions of this act and upon payment of a license fee as provided for in this act. (Id. § 6.)

50. Licenses Expire Each December 31.—All licenses required herein shall expire on the thirty-first day of December of each year, and the fee for issuing same shall be one dollar for a full year or fraction thereof. The licenses may be revoked by the Commissioner of Food and Drugs if, after due notice, the licensee fails or has failed to comply with the laws, rules, and regulations under which the license was granted; provided, that the provisions of this section shall not apply to individuals, hotels, restaurants, or boarding houses, buying milk or cream for private use. (Id. § 7.)

51. Food and Drugs Commissioner to Inspect Measures, Etc.; to Mark Apparatus; Fee for Testing.—The Commissioner of Food and Drugs shall, from time to time, inspect and examine as to their accuracy, or their adaptability to give accurate results, all glassware, measures, scales, weights and other apparatus used in creameries and factories of dairy products, where milk and cream are purchased, to determine the amount of percentage of fat in milk or cream. Said Commissioner of Food and Drugs shall supply at cost, and not oftener than once a year, to every creamery, or other factory of dairy products where milk and cream, or either, are purchased, on application, not more than two tubes or bottles and one pipette of the forms used with the Babcock test, which he shall first examine as to accuracy, and if accurate, or adapted to give accurate results under the usual method of operating the Babcock test, said Commissioner of Food and Drugs shall certify to this by marking durably and permanently upon each and every piece of apparatus supplied the letters "C. F. D." Said Commissioner of Food and Drugs shall also, upon payment at the rate of one dollar for each dozen, test or examine into the accuracy of all test bottles or tubes and pipettes sent to it direct from any creamery, or other factory of dairy products, where milk or cream is purchased, and, if found accurate, or adapted to give accurate results, the letters "C. F. D." shall be marked upon each piece of apparatus examined. (Id. § 8.)

52. State's Standard Measure Specified; Babcock Test for All Cream Sold; Details of Requisites; Proviso.—State's standard measure, or pipette, shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard test tubes or bottles for milk shall have a capacity of one cubic centimeter of mercury at a temperature of 65 degrees Fahrenheit between "zero" and "five" on the graduated scale on the neck thereof; the scale to have a length of not less than six and five-tenths (6.5) millimeters for each per cent, or six and five-tenths centimeters between zero and ten on the graduated scale on the neck thereof, said scale to be graduated to at least two-tenths of one per cent. The milk fat in the neck of said bottle to be read from the lower line separation between the fat and the water to the top of the fat column at a temperature not lower than 130 degrees Fahrenheit and not higher than 140 degrees Fahrenheit.

All cream sold in the State of Nevada on the basis of the richness or the percentage of milk fat contained therein shall be tested by the Babcock test, using a weighed sample of eighteen grams, or a weighed sample of nine grams (results to be doubled) weighed on a balance sensitive to 10 milligrams, and tested in a test bottle with a scale graduated to at least five-tenths of one per cent, said scale to be of a length of at least one centimeter to every five per cent where an eighteen-gram sample is used. Where a nine-gram sample is used in a bottle graduated for eighteen grams, the test bottle must have a scale graduated to at least two-tenths of one per cent, said scale to be a length of at least two centimeters to every five per cent. Where a nine-gram sample is used in a bottle graduated for nine grams, the test bottle shall have a scale graduated to five-tenths of one per cent and shall be of a length not less than seven centimeters for every fifty per cent. The milk fat in the test bottle shall be read at a temperature not lower than 130 degrees Fahrenheit and not higher than 140 degrees Fahrenheit. The fat column must be read from the bottom of the lower meniscus to the bottom of the upper meniscus; provided, however, that no test bottles now in use in any creamery or other factory of dairy products or by any private party in this State shall be condemned or declared unfit for use prior to the expiration of one year from the taking effect of this act, if the scale thereof is correctly calibrated. (Id. § 9.)

53. Penalty.—Any person violating any provision of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in the sum

of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of not less than thirty days nor more than six months, or by both such fine and imprisonment. (Id. § 10.)

54. Moneys Must be Accounted for.—All moneys received by the Commissioner of Food and Drugs shall be accounted for by him annually to the State treasury. Such moneys as are received by the Commissioner of Food and Drugs under the provisions of this act may be used by such commissioner for expenses necessary or incident to the carrying into effect of this act and for performing such duties as are required of him hereunder, and the overplus, if any, paid into the State treasury annually at the time of making his annual accounting. (Id. § 11.)

NOTE: See also the weights and measures law, Nos. 170-171 and 201 et seq.

Eggs.

54a. Eggs Unfit for Food; When.—No person, firm, or corporation shall sell, or offer, or expose for sale, any egg unfit for human food unless the same is broken in shell and then denatured so that it cannot be used for human food. For the purpose of this act an egg shall be deemed unfit for human food if it be added or moldy; or if it contains black spots, black rot, white rot, or blood streaks; or if it has an adherent yolk or bloody or green white (albumen); or if it consists in whole or in part of a filthy, decomposed or putrid substance. (L. 1927, c. 164, § 1.)

54b. Words and Phrases Defined.—Unless the context otherwise requires the words and phrases employed in this act shall have the meanings hereinafter defined:

- (a) "Addled" or "white rot" means an egg which is putrid or rotten.
- (b) "Moldy" means an egg in which mold has developed inside the shell.
- (c) "Black spot" means an egg in which mold or bacteria have developed in isolated areas, inside the shell.
- (d) "Black rot" means an egg which has deteriorated to such an extent that the whole interior presents a blackened appearance before the candle.
- (e) "Blood streak" means an egg which contains blood due to partial incubation.
- (f) "Adherent yolk" means an egg in which the yolk has settled to one side and become fastened to the shell.
- (g) "Retailer" means any person, firm or corporation or association which sells eggs to a consumer.
- (h) "Consumer" means any person purchasing eggs for his or her own family use or consumption, or a restaurant, hotel, boarding house, bakery or other institution purchasing eggs for serving to guests or patron, or for its or their use in cooking or baking.
- (i) "Incubated" eggs shall include eggs which have been subjected to incubation, whether natural or artificial, for more than forty-eight hours, and it shall be unlawful to offer or expose for sale or sell incubated eggs unless branded or stamped with the word "incubated." (Id. § 2.)

54c. Unlawful to Sell Eggs; When.—It shall be unlawful for any person, firm or corporation to represent, advertise or sell as fresh eggs any eggs that do not conform to the classifications provided for fresh eggs in this act. (Id. § 3.)

54d. Grade and Quality to be Labeled.—It shall be unlawful for any person, firm or corporation to sell or offer or expose for sale any eggs intended for human consumption without notifying by suitable sign or label the person or persons purchasing or intending to purchase the same, of the exact grade or quality and the size or weight of such eggs, according to the grades prescribed by the State Commissioner of Foods and Drugs as hereinafter provided. (Id. § 4.)

54e. Further Provisions Regarding Labeling of Eggs.—When eggs are removed from the original container for resale, the true grade of said eggs must be stamped upon the subsequent container in letters not less than one-third ($\frac{1}{3}$) inch in height. If placed on display for sale, a sign must be placed immediately over said eggs, in letters not less than one (1) inch in height, giving the true grade of said eggs. When eggs are sold in lots of half-cases or more, the container must be marked, showing plainly and truly the grade or grades of eggs therein contained, and an invoice must accompany said sale plainly and truly indicating the grade or grades of eggs sold; provided, that the provisions of this act shall not apply to any eggs being handled for, or in transit to, or sold to dealers in commercial centers to be candled and graded, but all such eggs offered for sale in half-cases or more shall be plainly stamped or branded "Not Candled" upon the outside of the container in letters one (1) inch in height. The word person, as used in this act, shall mean and include individuals, firms, and members of firms, and their

employees or agents, corporations and officers of corporations, and their employees and agents. (Id. § 5.)

54f. Duty of Food and Drug Commissioner.—It shall be duty of the food and Drug Commissioner to enforce the provisions of this act, to make and fix grades and standards for eggs, and to make such rules and regulations as may be necessary for the enforcement of this act. (Id. § 6.)

54g. Penalties for Violation of Act.—Every person who violates any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction for the first offense, shall be punished by a fine of not less than ten dollars (\$10) and not more than one hundred dollars (\$100), and for each subsequent conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25) and not more than two hundred dollars (\$200). (Id. § 7.)

Fish.

See No. 55.

Flour—Meal.

See No. 168.

Fruits and Vegetables.

See Nos. 55, 168 et seq., and 201 et seq.

Grain.

See No. 188.

Meat—Meat Products.

55. Not to Expose for Sale as Food What.—No person shall bring, expose or offer for sale, or sell in any city, town or hamlet within this State for human food, any—

1. Blown, meager, diseased or bad meat, poultry or game; or
2. Unsound, diseased or unwholesome fish, fruit, vegetables or other market produce. (R. L. 1912, § 2989.)

56. Diseased Animal Not to be Sold.—No person shall bring, expose or offer for sale, or sell in any city, town or hamlet within this State—

1. Any sick or diseased animal, or
2. The flesh of any animal, which, when killed, was sick or diseased, or that died a natural or accidental death. (Id. § 2990.)

57. Calf Must be at Least Four Weeks Old.—No person shall slaughter, expose for sale or sell, or bring or cause to be brought into any city, town or hamlet within this State, for human food, any calf unless it is in good, healthy condition and four weeks of age. (Id. § 2991.)

58. What Deemed Offered for Sale.—Any article or animal that shall be offered or exhibited for sale, in any part of this State, in any market or elsewhere, as though it was intended for sale, shall be deemed offered and exposed for sale, within the intent and meaning of this act. (Id. § 2992.)

59. Article or Animal Forfeited.—Any person or persons who, in violation of the preceding sections of this act, shall bring within this State, city, town or hamlet, slaughter or sell, or expose for sale any article or animal (therein prohibited from sale) which is unfit or unsafe for human food shall forfeit the same to the authorities. (Id. § 2993.)

60. Penalty for Violation.—Every person violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding five hundred dollars, nor less than twenty dollars or by imprisonment in the county jail for a term not more than six months, nor fewer than twenty days. (Id. § 2995.)

61. Horse Meat; Misdemeanor to Sell Without Informing.—It shall be unlawful for any person to sell the meat of any equine animal, without informing the purchaser thereof, at the time of such sale, that said meat is the meat of an equine animal. Any person violating the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine in a sum not exceeding fifty dollars, or be imprisoned in the county jail not more than twenty-five days, or both. (Id. § 6524.)

62. Horse Meat; Seller Must Exhibit Hide.—It shall be unlawful for any person peddling the meat of any equine animal, who is not the keeper of any shop or meat market, to sell such meat without having in his possession then and there, and upon request exhibiting the hide of such animal containing the brand and other marks thereon. Any person violating the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof shall be punished as prescribed in the next preceding section. (Id. § 6525.)

63. Selling Diseased Flesh.—Any person who shall knowingly sell any flesh of any diseased animal is guilty of a gross misdemeanor and shall be punished accordingly. (Id. § 6535.)

63a. Hides of Slaughtered Animals to be Held Ten Days.—Every person, or persons, firm, company, or corporation, slaughtering any bovine animal or animals in the State shall keep the hide or hides from any such animal or animals, with the ears attached, intact with any brand or other marks of identification thereon for a period of ten days after such slaughtering, and shall upon demand therefor by any person or persons within said period exhibit such hide or hides for examination. (L. 1927, c. 140, § 1.)

63b. Record to be Kept of Brands or Marks; Inspection.—It shall be unlawful for the keeper of any slaughterhouse, or any person engaged in slaughtering cattle, or for the keeper of any butcher shop, or other person who buys the meat of a slaughtered bovine animal, or animals, in quantities of a quarter-carass or more to purchase or receive any cattle for slaughter or any meat of a slaughtered bovine animal or animals except meat purchased from a wholesale meat dealer, packing house, or licensed butcher shops without first having exhibited to him, or her, the hide of such animal or animals and examining the brand or other marks on the hide or hides and entering in a book kept for that purpose a description of such brand and any other marks on the hide or hides, the sex, number of head or quantity of meat purchased or received, together with the name and the address of the person whom purchase was made and the date of the purchase, and, in the case of animals purchased for slaughter, the date of slaughtering. Said book shall be kept at the slaughterhouse or butcher shop and shall be open to the inspection of any person or persons during business hours; provided, that in the case of a resale of such cattle or meat by the keeper of an established slaughterhouse or of an established butcher shop such exhibition of hides shall not be required nor shall it be necessary to make entries in such cases in the record book herein provided for. (Id. § 2.)

63c. Forms—Verified and Filed.—Every person, or persons, firm, company, or corporation who shall slaughter, or cause to be slaughtered, any bovine animal, or animals, for sale or distribution shall keep a record thereof in a book such as is provided for in section 2 of this act; and a duplicate of such record, on forms to be supplied by the State Board of Stock Commissioners, shall be by such person, or persons, firm, company, or corporation, or any agent thereof with knowledge of the facts, verified under oath and filed with the county clerk of the county wherein such animal, or animals, shall have been slaughtered within thirty (30) days from the date of such slaughtering. (Id. § 3.)

63d. Permits.—Each person, or persons, firm, company, or corporation, who shall slaughter, sell, or offer for sale, the meat of any bovine animal, or animals, shall first obtain from the county clerk of the county wherein such slaughter, sale, or offer for sale shall take place, a permit permitting and authorizing such slaughter, sale or offer for sale, and shall pay for such permit the sum of one (\$1) dollar, and the said permit shall be in full force and effect for the period of one year from the date of issuance. All fees collected under the provisions of this section shall be placed in the general fund of the county. The provisions of sections 3 and 4 shall not apply to any person, or persons, slaughtering any bovine animal, or animals, in good faith for his, her, or their own use. (Id. § 4.)

63e. Peddler Must Have Hide in Possession.—It shall be unlawful for any person or persons peddling the meat of any bovine animal or animals, who is not the keeper of any shop or meat market to sell or offer for sale such meat without having in his or her possession, and upon request exhibiting, the hide or hides of such animal or animals, with ears attached containing the brand and other marks thereon. (Id. § 5.)

63f. Penalty.—Any person violating any of the provisions of this act shall be guilty of a gross misdemeanor and shall be punished accordingly. (Id. § 6.)

63g. Sale for Human Food Regulated—Insanitary Conditions Defined.—It shall be unlawful for any person, persons, firm, or corporation to sell within this State, or to have within his, her, or their possession with the intent to sell within this State for human food, the carcass or parts of the carcass of any animal which has been slaughtered, or is prepared, handled, or kept under insanitary conditions; and insanitary conditions shall be deemed to exist whenever and wherever any one

or more of the following conditions are found to appear, to wit: If the slaughterhouse is dilapidated or in a state of decay; if the floor or side walls are soaked with decayed blood or other animal matter; if efficient fly screens are not provided; if the drainage of the slaughterhouse yard is not efficient; if maggots or filthy pools or hog wallows exist in the slaughterhouse yard or under the slaughterhouse floor; if the water supply used in connection with the cleaning and preparing of the meat is not pure and uncontaminated; if hogs are kept in or about the slaughterhouse, or within two hundred fifty (250) feet thereof, or fed therein on animal offal or if the odors of putrefaction plainly exist in or about the slaughterhouse; if carcasses or parts of carcasses are transported from place to place when not covered with clean cloths, or if kept in unclean or bad-smelling refrigerator or refrigerators, or if kept in unclean or foul-smelling storerooms (L. 1927, c. 48, § 1.)

63h. Unlawful to Have Diseased Animal or Fowl in Possession.—It shall be unlawful for any person, persons, firm, or corporation to have in his, her, or their possession, with intent to sell, the carcass or part of any carcass of any animal or fowl, which has died from any cause other than being slaughtered in a sanitary manner, or the carcass or the part of any carcass of animal or fowl that shows evidence of any disease, or that came from sick or diseased animal or fowl, or the carcass or the part of the carcass of any calf that was killed before it had attained the age of four (4) weeks. (Id. § 2.)

63i. Penalty.—Any person violating any of the provisions of this act shall be guilty of a gross misdemeanor and shall be punished accordingly. (Id. § 3.)

NOTE See also No. 201 et seq.

Water.

64. Furnishing Impure Water.—Every owner, agent, manager, operator or other person having charge of any waterworks furnishing water for public or private use, who shall knowingly permit any act or omit any duty or precaution by reason whereof the purity or healthfulness of the water supplied shall become impaired, shall be guilty of a gross misdemeanor. (R. L. 1912, § 6540.)

Sanitation.

See Nos. 4, 14, 39, 41, 49 and 63g et seq.

PART III.

Special Drug Laws.

Abortifacients and Contraceptives.

65. Selling Drugs to Produce Miscarriage.—Every person who shall manufacture, sell or give away any instrument, drug, medicine, or other substance, knowing or intending that the same may be unlawfully used in procuring the miscarriage of a woman, shall be guilty of a gross misdemeanor. (R. L. 1912, § 6448.)

65a. Evidence.—In any prosecution for abortion, attempting abortion or selling drugs unlawfully, no person shall be excused from testifying as a witness on the ground that said testimony would tend to incriminate himself, but such testimony shall not be used against him in any criminal prosecution except for perjury in giving such testimony. (Id. § 6449.)

66. Advertising Goods to Prevent Conception.—It shall not be lawful for any person to advertise or publish, or cause to be advertised or published in a newspaper, pamphlet, handbill, book, or otherwise, within this State, any medicine, nostrum, drug, substance, or device for the prevention of human propagation, or which purports to be, or is represented to be, a preventive of conception or pregnancy in women. (Id. § 6451.)

67. Idem; Advertising of Services to Prevent Conception.—It shall not be lawful for any person to advertise or publish, or cause to be advertised or pub-

lished in the manner mentioned in the next preceding section or otherwise, any medicine, nostrum, drug, substance, instrument, or device, to produce the miscarriage or premature delivery of a woman pregnant with child, or which purports to be, or is represented to be, productive of such miscarriage or premature delivery, nor advertise in any manner his or her services, aid, assistance, or advice, or the services, assistance, or advice, of any other person, in the procurement of such miscarriage or premature delivery. (Id. § 6452.)

68. Idem; Penalty for Advertising.—Every person who shall violate the provisions of section 186 [6451] or section 187 [6452] of this act shall be deemed guilty of a gross misdemeanor, and on conviction thereof be punished by a fine of not less than one thousand dollars or more than three thousand dollars, or by imprisonment in the county jail not less than six months or more than one year, or both. (Id. § 6453.)

69. Idem; Liability of Publisher.—The proprietor or proprietors, and the manager or managers of any newspaper, periodical or other printed sheet published or printed within this State, which shall contain any advertisement prohibited by sections 186 [6451] and 187 [6452] of this act, shall, for each publication of such advertisement, be deemed guilty of a gross misdemeanor, and, on conviction thereof, be punished in the same manner as is provided in section 188 [6453] of this act. (Id. § 6454.)

70. Idem; Circulation of Publications Containing Prohibited Matter Forbidden.—Every person who shall knowingly sell, distribute, give away, or in any manner dispose of or exhibit to another person any newspaper, pamphlet, book, periodical, handbill, printed slip, or writing, or cause the same to be so sold, distributed, disposed of, or exhibited, containing any advertisement prohibited in sections 186 [6451] or 187 [6452] of this act, or containing any description or notice of, or reference to, or information concerning, or direction how or where to procure any medicine, drug, nostrum, substance, device, instrument, or service, the advertisement of which is herein prohibited or declared to be unlawful, shall, on conviction thereof, be liable to the same punishment as prescribed in section 187 [6452] of this act; provided, that nothing in this act shall be construed to interfere with or apply to legally licensed physicians in the legitimate practice of their profession. (Id. § 6455.)

Antitoxin.

70a. Diphtheria Antitoxin to be Distributed Free.—It shall be the duty of the Board of Health of the State of Nevada to appoint one or more agents in each of the counties of this State who shall have for distribution, as herein provided, diphtheria antitoxin, certified to by the Board of Health of the State of Nevada, it being the duty of such agents to supply, free of charge, such antitoxin to all physicians within the county applying for and needing the same. The number of agents in any county shall not be greater than is necessary to safeguard the public health in any emergency. The necessary expense of supplying such antitoxin shall be paid from the funds herein provided for, and the State Board of Health shall supply such agents with the necessary quantities of antitoxin to safeguard the public health. The Board of Health of the State of Nevada is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions and intent of this act. (L. 1927, c. 62, § 1.)

70b. Appropriation, \$500.—The sum of five hundred (\$500) dollars is hereby appropriated, out of any moneys in the State treasury not otherwise appropriated, for the purpose of enabling the State Board of Health to carry out the provisions of this act, and the State Comptroller and State Treasurer are directed to honor all orders of the Board of Health in carrying out the provisions of this act. (Id. § 2.)

Dangerous Caustic or Corrosive Substances.

71. Terms Defined.—In this act, unless the context or subject-matter otherwise requires:

A. The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten per centum or more; (b) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H₂SO₄) in a concentration of ten per centum or more; (c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of five per centum or more; (d) carbolic acid (C₆H₅OH), other-

wise known as phenol, and any preparation containing carbolic acid in a concentration of five per centum or more; (e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($\text{H}_2\text{C}_2\text{O}_4$) in a concentration of ten per centum or more; (f) any salt of oxalic acid and any preparation containing any such salt in a concentration of ten per centum or more; (g) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($\text{HC}_2\text{H}_3\text{O}_2$) in a concentration of twenty per centum or more; (h) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten per centum or more by weight of available chlorine, excluding oxal chlorinata, bleaching powder, and chloride of lime; (i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten per centum or more; (j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten per centum or more; (k) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of five per centum or more, and (l) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn," in a concentration of five per centum or more.

B. The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller, or distributor; (c) the word "poison," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance. (L. 1925, c. 52, § 1.)

72. Must Not Use Misbranded Containers.—No person shall sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter, or exchange, in the State of Nevada, any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container being designed for household use. (Id. § 2.)

73. May be Proceeded Against in Justice Court.—Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use that is being sold, bartered, or exchanged, or held, displayed, or offered for sale, barter, or exchange, shall be liable to be proceeded against in any justice court of the county wherein such sale, barter, exchange, display, offer for sale, barter, or exchange shall take place within the jurisdiction of which the same is found, and if such substance is condemned as misbranded, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds, less the actual costs and charges, shall be paid over to the State Treasurer, but such substance shall not be sold contrary to the laws of the State; provided, however, that upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof. (Id. § 3.)

74. Penalty.—Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than two hundred dollars. (Id. § 4.)

75. Duties of Commissioner of Food and Drugs.—The Commissioner of Food and Drugs shall enforce the provisions of this act, and he is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this act as may be submitted to him for that purpose and as may in his judgment conform to the requirements of this statute; provided, however, that in any prosecution under this act the fact that any brand or label involved in said prosecution has not been submitted to said Commissioner of Food and Drugs for approval, or if submitted, has not been approved by him shall be immaterial. (Id. § 5.)

76. Duties of District Attorney.—Every district attorney to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of this act shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided. (Id. § 6.)

Pharmacy, Poisons and Narcotics.

77. Regulating Use and Sale of Poisons and Drugs.—From and after the passage of this act it shall be unlawful for any person to manufacture, compound, sell or dispense any drug, poison, medicine, or chemical, or to dispense or compound any prescription of a medical practitioner, unless such person be a registered pharmacist or a registered assistant pharmacist within the meaning of this act, except as hereinafter provided. Every store, dispensary, pharmacy, laboratory or office for the sale, dispensing or compounding of drugs, medicines or chemicals, or for the dispensing of prescriptions of medical practitioners shall be in charge of a registered pharmacist. A registered assistant pharmacist may be left in charge of a store, dispensary, pharmacy, laboratory, or office for the sale, dispensing or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions of medical practitioners, only during the temporary absence of the registered pharmacist. Temporary absence within the meaning of this act shall be held to be only those absences which may occur during a day's work, and when the registered pharmacist in charge shall be within immediate call, ready and able to assume the direct supervision of said pharmacy. No registered assistant shall conduct a pharmacy. Every store or shop where drugs, medicines or chemicals are dispensed or sold at retail, or displayed for sale at retail, or where prescriptions are compounded, shall be deemed a "pharmacy" within the meaning of this act. Nothing herein shall be construed to prohibit the leaving in charge of a store, dispensary, pharmacy, laboratory or office, for the sale, dispensing or compounding of drugs, medicines or chemicals or for the dispensing of prescriptions, any person other than those herein mentioned; provided, however, that such person so left in charge shall not engage in the compounding of drugs, medicines, or chemicals or the preparation of prescriptions of medical practitioners. (R. L. 1919, p. 3148 et seq., which is L. 1913, p. 569, § 1.)

78. Licentiate in Pharmacy.—Any person in order to be a registered pharmacist must be a licentiate in pharmacy or a practicing pharmacist. (Id. § 2.)

79. Qualifications of Licentiate.—Licentiates in pharmacy must be such persons as possess the fundamentals of a high school education and who have had at least five (5) consecutive years' actual experience in drug stores where the prescriptions of medical practitioners have been compounded, and who have passed a satisfactory examination before the State Board of Pharmacy; provided, however, that the board of pharmacy may in its discretion grant certificates of registration, without further examination, to graduates of such colleges and schools of pharmacy as shall be approved by the Board of Pharmacy. Said Board of Pharmacy may also grant certificates of registration to the licentiates of other States or Territories as it may deem proper. Practicing pharmacists are persons who at the passage of this act are registered as such. (Id. § 3.)

80. Qualifications of Registered Assistant.—Assistant registered pharmacists shall be such persons as possess the fundamentals of a high school education and who shall have had two (2) years' actual experience in drug stores where the prescriptions of medical practitioners have been compounded during such time, and as shall pass a satisfactory examination before the Board of Pharmacy. The fact of such qualifications and experience shall be shown to the satisfaction of the board. (Id. § 4.)

81. Board, How Constituted; Terms; Officers; Bonds.—The Governor shall appoint five competent registered pharmacists, residing in different parts of the State, to serve as a Board of Pharmacy. The members of the board shall, within thirty (30) days after their appointment, individually take and subscribe before the county clerk, in the county in which they individually reside, an oath faithfully and impartially to discharge the duties prescribed by the act. They shall hold office for the term of four (4) years, and until their successors are appointed and have qualified. In case of vacancy in the Board of Pharmacy the Governor shall fill the same by appointing a member to serve for the remainder of the term only. The board shall organize by electing a president, secretary, and a treasurer. The secretary may or may not be a member of the board, as the board in its sound discretion shall determine. The secretary and treasurer shall each give a satisfactory bond running to the State of Nevada in the sum of not less than two thousand dollars, and such greater sum as the board may from time to time require for the faithful discharge of their respective duties. (Id. § 5.)

82. Secretary to Keep Records; Salary.—The secretary of the board shall keep a complete record of all proceedings of the board and of all certificates issued and shall perform such other duties as the board may from time to time require, for which services he shall receive the sum of twenty-five (\$25) dollars

per month. Each member of the board and the secretary shall receive his necessary hotel and traveling expenses in attending formal meetings of the board, the same to be audited and allowed as other claims against the State out of the moneys appropriated by law. (Id. § 6.)

83. Quorum; Meetings; Powers and Duties of Board.—Three members of the board shall constitute a quorum. They shall hold a meeting at least once in every six months.

Powers and duties of the board—

Subdivision 1. The State Board of Pharmacy shall have power:

(a) To make such by-laws and regulations, not inconsistent with the laws of this State, as may be necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties;

(b) To regulate the practice of pharmacy;

(c) To regulate the sale of poisons;

(d) To examine and register as pharmacists and assistant pharmacists all applicants whom it shall deem qualified to be such;

(e) The board shall report annually to the Governor upon the condition of pharmacy in the State, which said report shall contain a full and complete record of the proceedings of the board for the year, a complete statement of all fees received, and also the names of all pharmacists registered under this act. It shall be the duty of the State Printer to print said report. (Id. § 7.)

84. Applicants for Certificates; Fee.—All applicants for certificates as registered pharmacists, whether by examination, or diploma of graduation from college or school of pharmacy or on the license or certificate issued by other State or Territorial Board of Pharmacy, shall, before a certificate be granted, pay to the secretary of the board the sum of ten (\$10) dollars. If an applicant for certificate of registration as a registered pharmacist by examination fail to pass such an examination he shall not be eligible to re-examination within six months from the date of such previous examination. After the said six months shall have expired the applicant shall be entitled to re-examination upon the payment of a fee of five (\$5) dollars. Upon failing to pass the second examination the applicant may be re-examined upon the payment of a fee of three (\$3) dollars at any regular meeting of the Board of Pharmacy; provided, however, that no temporary certificate shall be issued to an applicant who has failed to pass the second examination. (Id. § 8.)

85. Applicants for Registration; Fee.—Applicants for registration as registered assistant pharmacists shall pay to the Secretary of the Board of Pharmacy a fee of five (\$5) dollars before they shall be entitled to take the examination. The certificate of registered assistant pharmacist does not entitle its holder to engage in the practice of pharmacy on his own account, nor to conduct or operate any pharmacy or drug store except under the supervision of a registered pharmacist. (Id. § 9.)

86. Annual Fee for Renewal.—Every registered pharmacist and every assistant registered pharmacist who desires to keep his certificate in force shall annually thereafter, beginning on the first Monday of May, 1913, pay to the Secretary of the Board of Pharmacy, a registry fee, to be fixed by the board, but which in no case shall exceed two (\$2) dollars per annum, for which he shall receive a renewal of said certificate. All persons in possession of certificates, issued by the State Board of Pharmacy, and which are in force at the time of the adoption of this act, shall, beginning on the first Monday in May, 1913, and annually thereafter, pay to the Secretary of the Board of Pharmacy a like sum, for which they shall receive a renewal of said certificate. All certificates issued during the year expire on the first Monday of May next following. (Id. § 10.)

87. Certificate Must be Posted.—Every certificate of registration granted under this act and the current renewal thereof shall be conspicuously exposed in the pharmacy or drug store in which the owner thereof is employed or is conducting. (Id. § 11.)

88. Failure to Renew; Additional Fee.—Any registered pharmacist or any assistant registered pharmacist who shall fail to procure a renewal of his certificate at the time above stated shall not receive a renewal thereof except upon the payment of the renewal fee for each year or fraction thereof that may have elapsed between the expiration of said certificate and the application for renewal thereof, and in addition thereto a penalty of one dollar for each year or fraction thereof so elapsing between the date of expiration of such certificate and application for renewal, before new certificate shall be issued; provided, however, that no certificate shall be renewed after a lapse of registration for a period of five (5) years, excepting upon passing a satisfactory examination before the Board of Pharmacy. (Id. § 12.)

89. Certificate Recorded; Record Evidence.—Every registered pharmacist and every assistant registered pharmacist upon receiving a certificate of registration under this act, shall, before he engages in business as a pharmacist or assistant registered pharmacist, in any county of this State in which he or she shall locate, or into which he or she shall afterward remove, have such certificate recorded in the office of the county clerk of such county, and it is hereby made the duty of the county clerk to record such certificate in a book to be provided and kept for that purpose, and the county clerk is hereby authorized to charge a fee of one dollar for the recording of such certificate for record. Each person holding a certificate entitling him to practice pharmacy in this State and being engaged in business as a pharmacist at the time of the passage and adoption of this act, shall have such certificate recorded, as in this section provided, within thirty days after the taking effect of this act. The record of the certificate required by this section, or a certified copy of the same, shall be evidence in all courts that the person holding it was registered as evidenced by said certificate on the date of same. Upon the certificate being recorded as herein provided, it shall be the duty of the county clerk so recording to notify the Secretary of the Board of Pharmacy of the name of the party and the date of such record. (Id. § 13.)

90. Secretary to be Notified of Change.—From and after the passage and adoption of this act, every registered pharmacist and every assistant registered pharmacist, shall within thirty days after changing his place of business as designated on the books of the Secretary of the Board of Pharmacy, notify the Secretary of the Board of Pharmacy of such change and of his new place of business, and upon receipt of such notification the secretary shall make the necessary change in his register. (Id. § 14.)

91. Failure to Notify, Misdemeanor.—Any registered pharmacist or any assistant registered pharmacist failing to comply with any of the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than twenty-five dollars. (Id. § 15.)

92. Lost Certificate, How Replaced; Fee; License Revoked, How.—In the event any person having registered shall have lost his or her certificate, or the same has been destroyed, or if he or she desires the renewal of the same, a new certificate may be issued by said board upon the applicant paying therefor the sum of three dollars; provided, however, that where the original certificate is not lost or destroyed, then the certificate shall be surrendered before a renewal of the same shall be issued; and provided, further, that the board shall have power to require satisfactory evidence from the applicant of the loss or destruction of the certificate; and provided, further, that where the applicant is delinquent for the annual dues required by this act then he or she shall be required to pay to said board sufficient fees to cover his delinquency in that behalf before he or she shall be entitled to a reissue of the certificate in this subdivision provided for. The board shall have power to provide by proper rules and regulations for the revocation by said board of licenses issued under the provisions of this act, whenever the holder of such license shall be guilty of habitual intemperance or addicted to the use of narcotic drugs, or shall have been convicted of a felony. (Id. § 16.)

93. Proprietor Must Employ Registered Pharmacist.—Any proprietor of a pharmacy who shall fail or neglect to place in charge of such pharmacy a registered pharmacist or any proprietor who shall, by himself or any other person, permit the compounding of prescriptions, or the vending of drugs, medicines, or poisons, in his or her store, or place of business, except by or in the presence and under the direct, immediate and personal supervision of a registered pharmacist; or any person, not being a registered pharmacist who shall take charge of, or act as manager of any pharmacy, or store, or who, not being a registered pharmacist, retails, compounds or dispenses drugs, medicines, or poisons, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty (\$20) dollars and not more than one hundred dollars, or by imprisonment for a term of not exceeding fifty days, or by both such fine and imprisonment. (Id. § 17.)

94. Board of Pharmacy to Issue Certain Permits; Annual Fee of \$8.—The Board of Pharmacy shall issue a permit to general dealers in rural districts in which the conditions, in their judgment, do not justify the employment of a registered pharmacist, which said permit shall authorize the persons or firm named therein to sell in such locality, but not elsewhere, and under such restrictions and regulations as said board may from time to time adopt, the following simple household remedies and drugs, and no other, in such manner and form as may be hereafter authorized by said board, as follows, to wit:

Tincture of arnica, spirits of camphor, almond oil, distilled extract, witch-hazel, paregoric, syrup of ipecac, syrup of rhubarb, hive syrup, sweet spirits of nitre, tincture of iron, epsom salts, rochelle salts, senna leaves, carbonate of magnesia, seidlitz powders, quinine, cathartic pills, chamomile flowers, caraway seeds, chlorate of potash, moth balls, plasters, salves, peroxide of hydrogen, copperas, gum camphor, blue ointment, asafetida, saffron, anise seed, saltpeter.

The board shall charge an annual fee of eight dollars in advance for such permit, and it shall be unlawful for any dealer to sell any drugs or ordinary household remedies without complying with the requirements of this section; provided, that the following drugs, medicines and chemicals may be sold by grocers and dealers generally without restriction, viz:

Glauber salts, vaseline, turpentine, condition powders, cream of tartar, carbonate of soda, bay rum, essence of Jamaica ginger, essence of peppermint, ammonia, alum, castor oil, bicarbonate of soda, chloride of lime, glycerine, witch-hazel, sheep dip, borax, sulphur, bluestone, flax seed, insect powder, fly paper, any rat poison, squirrel poison, and gopher poison, and arsenical poison used for orchard spraying, when prepared and sold in original and unbroken packages and labeled with the official poison labels. (Id. § 18, as amended L. 1925, c. 153.)

95. Board to Furnish Certain Lists.—It shall be the duty of the Board of Pharmacy, by resolution, at least annually, to request of the chief of police, marshal or constable of every city, town or township in this State, to furnish a list of all drug stores, together with the names of the owners, managers, and all employees in said store, and a brief statement of the capacity in which said persons are employed in said store, and also the firm name of all stores retailing drugs, medicines, or poisons. Upon such request in writing it shall be the duty of the chief of police, marshal or constable of said city, town or township to require the patrolmen or deputies under their command, upon their respective beats, to obtain such lists as are in this section specified, and deliver the same to the Board of Pharmacy. It shall be the duty of the owner of any drug store or other store retailing drugs, medicines or poisons, when called upon by an officer, as above set forth, or by a member of the Board of Pharmacy, or a duly authorized inspector, to furnish said officer, member of the Board of Pharmacy, or duly authorized inspector with the information required. Any person refusing to furnish the information or willfully furnishing information that is false or untrue, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than fifty dollars, or by imprisonment for not less than ten days and not more than thirty-five days, or by both such fine and imprisonment. (R. L. 1919, p. 3153 et seq., which is L. 1913, p. 569, § 19.)

96. Food and Drugs Control Officials to Co-operate.—The officials in charge of the food and drugs act of this State are hereby designated and constituted agents for the enforcement of this act, and shall co-operate with the State Board of Pharmacy, herein provided for, in carrying out the provisions of this act, and for this purpose they shall have free access at all times during business hours to all places where drugs, medicines or poisons are offered for sale. (Id. § 20.)

97. Penalties Collected by Civil or Criminal Process.—The several penalties prescribed in this act may be recovered in any court having jurisdiction, by a civil action instituted by the Board of Pharmacy, in the name of the State of Nevada, or by criminal prosecution upon complaint being made; and it shall be the duty of the district attorney of the county wherein violations of the provisions of this act occur to conduct all such actions and prosecutions at the request of the board. (Id. § 21.)

98. Fees go to State Treasury.—All fees collected under the provisions of this act shall be paid into the State treasury at the end of every fiscal year. (Id. § 22.)

99. Druggists Exempt From Jury Duty.—All persons registered under this act shall be exempt and free from jury duty. (Id. § 23.)

100. Restricting Sale and Use of; Druggist to Keep Record.—It shall be unlawful for any person to vend, sell, give away or furnish, either directly or indirectly, any poisons enumerated in schedules "A" and "B" in section 7 of this act as hereinafter set forth, without labeling the package, box, bottle or paper in which said poison is contained, with the name of the article, the word "POISON," and the name and place of business of the person furnishing the same. Said label shall be substantially in the form hereinafter provided. It shall be unlawful to sell or deliver any of the poisons named in schedule "A" or any other dangerously poisonous drug, chemical or medical substance, which may from time to time be designated by the State Board of Pharmacy of Nevada, unless on inquiry it is found that the person desiring the same is aware of its poisonous character, and it satisfac-

torily appears that it is to be used for a legitimate purpose. It shall be unlawful for any person to give a fictitious name or make any false representations to the seller or dealer when buying any of the poisons thus enumerated. Printed notice of all such additions to the schedule of poisons named and provided for in this section, and the antidote adopted by the Board of Pharmacy for such poisons shall be given to all registered pharmacists with the next following renewal of their certificates. It shall be unlawful to sell or deliver any poison included in schedule "A" or the additions thereto, without making or causing to be made an entry in a book kept solely for that purpose, stating the date and hour of sale, and the name, address and signature of the purchaser, the name and quantity of the poison sold, the statement by the purchaser of the purpose for which it is required, and the name of the dispenser, who must be a duly registered pharmacist.

Said book shall be in form substantially as follows:

Date and Hour	Name of Purchaser	Residence	Kind and Quality	Purpose of Use	Signature of Druggist	Signature of Purchaser
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This book shall always be open for inspection by the proper authorities, and shall be preserved for at least five (5) years after the date of the last entry therein. (R. L. 1919, p. 2882 et seq., which is L. 1913, p. 284, § 1.)

101. Form of Label.—The label required by this act, to be placed on all packages of poison, shall be printed upon red paper in distinct white letters, or in distinct red letters upon white paper, and shall contain the word "poison," the vignette representing the skull and cross-bones, and the name and address of the person or firm selling the same. The name of an antidote, if any there be, for the poison sold, shall also be upon the package. (Id. § 2.)

102. Board of Pharmacy to Adopt and Publish Antidotes.—It shall be the duty of the State Board of Pharmacy to adopt a schedule of what in their judgment are the most suitable common antidotes for the various poisons usually sold. After the board has adopted the schedule of antidotes as herein provided for, they shall have the same printed and shall forward by mail one copy to each person registered upon their books, and to any other person applying for the same. The particular antidote adopted (and no other) shall appear on the poison label, provided for in section 2 of this act, or be attached to the package containing said poison. The board shall have power to revise and amend the list of antidotes from time to time, as to them may seem advisable. The entries in the poison book and the printed or written matter provided for in sections 2 and 3 of this act shall be in the English language; provided, that the vendor of said poison may enter the same in any foreign language he may desire, in addition to said entry and label in English. (Id. § 3.)

103. Board May Further Restrict Sale.—When in the opinion of the State Board of Pharmacy it is in the interest of the public health, they are hereby empowered to further restrict or prohibit the retail sale of any poison by rules, not inconsistent with the provisions of this act, by them to be adopted, and which rules must be applicable to all persons alike. It shall be the duty of the board, upon request, to furnish any dealer with a list of all articles, preparations and compounds, the sale of which is prohibited or regulated by this act. (Id. § 4.)

104. Wholesalers Must Use Poison Label.—Wholesale dealers and pharmacists shall affix or cause to be affixed to every bottle, box, bottle or other enclosure of an original package containing any of the articles named in schedule "A" the additions thereto, or in sections 8 or 9 of this act, a suitable label, or brand, with the word "POISON," but they are hereby exempted from the registration of the sale of such articles when sold at wholesale to a registered pharmacist, physician, dentist or veterinary surgeon duly licensed to practice in the State; provided, that the provisions of this act shall not apply to the sale of such upon the prescriptions of practicing physicians, dentists or veterinary surgeons who are duly licensed to practice in this State. (Id. § 5.)

105. District Attorney to Prosecute.—It is hereby made the duty of the district attorney of the county wherein any violation of this act is committed, to conduct all actions and prosecutions for the same, at the request of the Board of Pharmacy; and provided, further, that any narcotic or narcotics, or their derivatives, may be seized by the judge of the court in which final conviction was had, that the judge shall turn all such evidence over to the Nevada State Board of Pharmacy; and provided, further, that the said Board of Pharmacy may dispose of all narcotics now on hand or hereafter coming into their possession,

either by gift to the medical director of the Nevada State Prison, or the State Hospital, or by sale to wholesale druggists, the funds received from such sale to be applied by the Board of Pharmacy to the carrying out of the provisions of this act, creating such Nevada State Board of Pharmacy. (Id. § 6.)

106. Penalty for Illegal Selling of Poisons; Schedule A; Schedule B.—Any person violating any of the provisions of section 8 of this act shall, upon conviction, be punished as follows, viz: For the first offense, by a fine of not less than one hundred dollars, nor more than one thousand dollars, and by imprisonment for not less than sixty days nor more than one year; for the second and for each succeeding offense, by imprisonment in the State Prison for not less than one year and not more than five years. Any person violating any of the provisions of this act, except those contained in section 8, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than thirty dollars nor more than one hundred dollars, or by imprisonment for not more than fifty days, or by both such fine and imprisonment.

The following is schedule "A," referred to in section 1, viz: Schedule "A"—Arsenic, its compounds and preparations, corrosive sublimate, corrosive sublimate tablets, antiseptic tablets containing corrosive sublimate, cyanide of potassium, strychnine, hydrocyanic acid, oils of croton, rue and tansy, phosphorus and its poisonous derivatives or compounds, stropanthus or its preparations.

The following is schedule "B," referred to in section 1, viz: Schedule "B"—Aconite, belladonna, nux vomica, veratrum, veride or preparations, alkaloids or derivatives, hydrochloric or muriatic acid, nitric acid, oxalic acid, bromide, chloroform, sulphuric acid, cowhage, creosote, ether, solution of formaldehyde or formalin, cantharides, cocculus indicus, or their preparations, iodine or its tinctures, oils of savin and pennyroyal, tartar emetic, and other poisonous derivatives of antimony, sugar of lead, sulphate of zinc, and wood alcohol (Id. § 7, as amended L. 1921, c. 36, § 1.)

107. Food and Drug Officials to Co-operate.—The officials in charge of the food and drug act of this State are hereby designated and constituted agents for the enforcement of this act, and shall co-operate with the State Board of Pharmacy herein provided for, in carrying out the provisions of this act, and for this purpose they shall have free access at all times during business hours to all places where drugs, medicines or poisons are offered for sale. (R. L. 1919, p. 2886, which is L. 1913, p. 284, § 9.)

108. Regulating Use of Narcotic Drugs.—Each and all of the following are hereby declared to be narcotic drugs: Cannabis indica, cocaine, opium, yen shee, morphine, codeine, heroin, anhalonium (peyote or mescal button), or any of the salts, derivatives or compounds of the foregoing substances, or any preparation or compound containing any of the foregoing substances, or their salts, derivatives or compounds. (L. 1923, c. 33, § 1.)

109. Possession of Such Drugs a Crime.—It shall be unlawful for any person to have in his possession any narcotic drug. Any person violating the provision of this section shall be guilty of a gross misdemeanor, and shall be punished accordingly. (Id. § 2.)

110. Penalties; "Prior Conviction" Construed.—Where any person is convicted of a violation of the provisions of section 2 of this act and upon trial or upon a plea of guilty a prior conviction shall be proved against him, he shall be deemed guilty of a felony and be punished accordingly. The words "prior conviction" shall be construed as meaning a previous conviction at any time in any court in this or any other State for a violation of either the provisions of this act or of any statute or ordinance dealing with or regulating the use, supply or possession of any or all narcotic drugs. (Id. § 3.)

111. Judge May Commit Addicts to Nevada Hospital for Mental Diseases at County Expense.—It shall be within the discretion of the judge pronouncing sentence upon any person for the violation of section 2 of this act to order that said person be confined for treatment for a part or all of his sentence of confinement, if same be imposed, in the Nevada State Hospital for mental diseases, and it shall be the duty of the officer in charge of said institution to care for and provide treatment to all persons delivered to him in accordance with the provisions of this section. In case of such commitment, the county from which said person is committed shall pay to the officer in charge of said institution the sum of twenty (\$20) dollars per month during the time such person is confined in said institution. No person shall be committed to said institution under the provisions of this section who shall have been previously committed thereto or treated therein. (Id. § 4.)

112. Peddler Defined; Wholesaler Defined; Penalty.—A peddler of any of the narcotic drugs enumerated in section one of this act is hereby defined as

a person selling, furnishing, or giving away or having in his possession for the purpose of sale, furnishing, or gift of any of said narcotic drugs in quantities not exceeding one ounce.

A wholesaler of any of the narcotic drugs enumerated in section one of this act is hereby defined as a person selling, furnishing, or giving away, or having in his possession for the purpose of sale, furnishing, or gift of any of said narcotic drugs in quantities exceeding one ounce. Any person violating the provisions of this section shall be guilty of a felony, and shall be punished as follows: Any person who shall be convicted of being a peddler as herein defined shall be punished by imprisonment in the State Prison for a period of not less than five years, and any person who shall be convicted of being a wholesaler as herein defined shall be punished by imprisonment in the State Prison for a period of not less than ten years. Proof of the possession of any narcotic drug enclosed or wrapped in a package or container or otherwise arranged in such form as to be suitable or adapted for the purposes of sale shall be prima facie proof of possession for the purpose of sale. (Id. § 5, as amended L. 1925, c. 146.)

113. Certain Exceptions for Doctors, Etc.; Proportion of Narcotics in Prescriptions Specified; Provisos; Record to be Kept; Form of Record; Books Open to Inspection; Certain Inhibitions; Provisos; Harmless Prescriptions Allowed; Penalty.—The provisions of this act shall not be applicable to the possession of narcotic drugs upon the written order or prescription of a physician, dentist, or veterinary surgeon licensed to practice in this State, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, written in by the person writing said prescription, or if ordered by a veterinary surgeon it shall state the kind of animal for which ordered and shall be signed by the person giving the order or prescription. Such order or prescription shall be permanently retained on file by the person, firm, or corporation who shall compound or dispense the articles ordered or prescribed, and it shall not be again compounded or dispensed if each fluid or avoirdupois ounce contains more than eight grains of opium, or one grain of morphine, or two grains of codeine, or one-half grain of heroin, or one grain of cocaine, excepting upon the written order of the prescriber for each and every subsequent compounding or dispensing. No copy or duplicate of such order or prescription shall be made or delivered to any person, but the original shall be at all times open to inspection by the prescriber and by properly authorized officers of the law, and shall be preserved for at least three years from the date of the filing thereof; provided, that the above provisions shall not apply to sales at wholesale by jobbers, wholesalers and manufacturers to pharmacies legally licensed and doing business under the laws of the State of Nevada, or physicians, nor to each other, nor to the sale at retail by pharmacies to physicians, dentists, or veterinary surgeons duly licensed to practice in this State; provided, further, that all such wholesale jobbers, wholesalers and manufacturers, in this section mentioned, shall, before delivery to any person, firm, or corporation of any of the articles in this section enumerated, make or cause to be made, in a book kept for that purpose only, an entry of the sale of any such article, stating the date of such sale and quantity and name of the article and form in which sold, the true name and true address of the purchaser, the name of the person by whom such entry and sale was made, also a statement showing how delivery was had, whether delivered personally or forwarded by mail, express, or freight, which book shall be substantially as follows:

FORM OF RECORD.

Date of Sale	Quantity and Name of Article	Name of Purchaser	How Delivered	Name of Person Selling
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And said books shall always be open for inspection by any peace officer or citizen, or any member of the Board of Pharmacy, or any inspector by them authorized, and such books shall be preserved for at least five years after the date of the last entry therein. It shall be unlawful for any practitioner of medicine, dentistry, or veterinary surgeon to furnish to, or prescribe for the use of any habitual user of the same, any cocaine, opium, morphine, codeine, heroin, anhalonium, cannabis sativa, or chloral hydrate, or any salt, derivative, or compounds, and it shall be unlawful for any practitioner of dentistry to prescribe any of the foregoing substances for any person not under his treatment in the regular practice of his profession, or for any veterinary surgeon to prescribe any of

the foregoing substances for the use of any human being; provided, however, that the provisions of this section shall not be construed to prevent any duly licensed physician from furnishing or prescribing in good faith as their physician by them employed as such, for any habitual user of any narcotic drugs who is under his professional care, such substances as he may deem necessary for their treatment when such prescriptions are not given or substances furnished for the purpose of evading the purposes of this act; provided, that the above provision shall not apply to preparations sold or dispensed without a physician's prescription containing less than two grains of opium, or one-fourth grain of morphine, or one-half grain of codeine, or four grains of Indian hemp in one fluid ounce, or if a solid preparation in one avoirdupois ounce, or to the sale of strychnine or other poisons for the purpose of destroying noxious wild animals. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (L. 1923, c. 33, § 6.)

114. Selling Opium, Felony.—Any person who shall sell, barter, exchange, or in any manner dispose of any opium, morphine, yen shee, cocaine, or any by-product thereof, or any spirituous or malt liquor or beverage to any person lawfully confined in the State Prison or any county or city jail or public institution for the insane, or other public institutions where persons are lawfully confined, shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State Prison for a period of not less than one nor more than five years. This section shall not apply to any physician prescribing or furnishing any such drug or liquor to any such person, when said drugs are prescribed or furnished for medicinal purposes only. (R. L. 1912, § 6485.)

115. Use and Sale Prohibited.—It shall be unlawful for any person or persons to have in his, her or their possession any opium pipe, or part thereof, or to smoke opium, or to sell or give away for such purpose, or otherwise dispose of any opium in this State, except druggists and apothecaries; and druggists and apothecaries shall sell it only on the prescription of legally practicing physicians. (Id. § 6486.)

116. Opium Smoking; Punishment.—Any person who shall be found guilty of violating the provisions of the preceding section, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or both, and the court pronouncing a judgment of conviction shall declare such opium and pipes contraband and unlawful, and direct and order that all opium and all pipes and utensils used in smoking opium, taken and found, destroyed by the officer or person having the possession thereof as soon as the same is no longer necessary for the purposes of evidence. (Id. § 6487.)

117. Liability of Property Owner.—Any person who shall keep, or who, being the owner thereof, shall knowingly permit to be kept, any house, room, apartment, or other place of any kind, to be used for the purpose of a resort by any person or for the purpose of indulging in the use of opium, or any preparation containing opium, by smoking or otherwise, shall be guilty of a misdemeanor, and on conviction thereof, be punished accordingly. (Id. § 6488.)

118. Unlawful to Resort.—It shall be unlawful for any person to resort to any house, room, or apartment or other place kept for any of the purposes forbidden by the four next preceding sections, for the purpose of indulging in the use of opium, or any preparation containing opium, by smoking or otherwise, and any person who shall violate the provisions of this section, shall be guilty of a misdemeanor. (Id. § 6489.)

119. Lessor Liable.—If any person shall lease any house, room, apartment, or other place to be used as a place of resort, to any person for the purpose of indulging in the use of opium, or any preparation containing opium, knowing the purposes for which said house, room, or apartment are to be used, any judgment obtained as provided in section 223 [6488], shall be a lien upon such house, room, apartment, or other place of business so leased. (Id. § 6490.)

120. Judgment, Lien on Property.—Any judgment obtained under the provisions of the last four preceding sections, for a fine and costs, or either, shall be a lien on the property wherein the offense was committed, which lien shall not be discharged until such judgment shall have been paid, or otherwise legally satisfied; provided, that such lien shall not attach in cases where it shall appear that the owner of the property was not a party to the commission of the offense, and had no knowledge thereof before its commission. (Id. § 6491.)

121. Forfeiture of Lease.—If any person shall use any house, room, apartment, or other place leased to him or her for any of the purposes forbidden by sections 6485 to 6491, both inclusive, such illegal use shall, at the option of the lessor, operate as a forfeiture of such lease, and of all rights given thereby, whether the same be expressed or not in such lease. (Id. § 6492.)

122. Fee of District Attorney.—In all cases when fines and costs shall be paid by the defendant under the provisions of the two last preceding sections, the fee of the district attorney shall be twenty-five dollars, and the fee of the informer shall be fifteen dollars; but neither of said fees shall in any case be a charge against or be paid by the county in which the offense was committed, or in which the defendant was convicted of the crime, but shall be taxed as costs against the defendant. (Id. § 6493.)

123. Regulating the Sale of Narcotic Drugs.—It shall be unlawful for any person to sell, furnish or dispose of any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine, or any derivative, except upon the signed prescription of a physician, dentist or veterinary surgeon, duly licensed under the laws of this State, and the proprietor or manager of the store shall keep all such prescriptions in a permanent file, and shall be filled but once and of which no copy shall be taken by any person, and shall at any time allow the same to be inspected, and copies thereof to be made by any peace officer, the district attorney of the county where sold, or any authorized inspector of drugs; provided, that nothing herein contained shall prohibit any manufacturer or licensed druggist from selling or delivering any of the drugs named to a person known to be a licensed druggist, licensed physician, licensed dentist or veterinary surgeon, nor prohibit a physician or dentist from dispensing the same in good faith to his patients, nor prohibit the sale of patent or proprietary medicines containing opium or any of its derivatives in combination or compound with other active elements when the dose of opium or any derivative thereof is less than one-quarter grain; nor to the sales of any mixture of the above drugs recognized in the United States Pharmacopœia or National Formulary. Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. (Id. § 6543.)*

124. Fraudulent Prescription by Physician.—Every physician who shall sell or give to or prescribe for any person any opium, morphine, alkaloid-cocaine, or alpha or beta eucaine, or any derivative, mixture or preparation of any of them, except to a patient believed in good faith to require the same for medicinal use, and in quantities proportioned to the needs of such patient, shall be guilty of a gross misdemeanor. (Id. § 6544.)*

125. Presenting Fraudulent Prescription.—Every person who shall falsely make, forge or alter, or, knowing the same to have been falsely made, forged or altered, shall present to any druggist, a physician's prescription with intent, by means thereof to procure from such druggist any opium, morphine, alkaloid-cocaine, or alpha or beta cocaine, or any derivative, mixture or preparation of any of them, shall be guilty of a misdemeanor. (Id. § 6545.)*

NOTE: See also No. 27.

Venereal Disease Drugs.

126. Prohibiting Certain Advertising of Alleged Cures for Venereal Diseases, Etc.—It shall be unlawful for any person to publish or cause to be published, to deliver or distribute or cause to be delivered or distributed in any manner whatsoever, or to post, or display, or to knowingly permit to be posted, displayed, or to remain on any buildings, windows, or outhouses, or premises or other surface owned or controlled by him in the State of Nevada, or to manufacture or sell, or to knowingly have displayed in or on any window or place where the same could be read by passers-by or the public, any advertisement, label, statement, print, or writing which refers to any person or persons from whom, or to any means by which, or to any office or place at which may be obtained any treatment or cure of syphilis, gonorrhea, chancroid, lost manhood, sexual weakness, lost vitality, impotency, seminal emissions, gleet, varicocele, or self-abuse, whether described by such names, words, terms, or phrases, or by any other names, words, terms, or phrases, calculated or intended to convey to the reader the idea that any of said diseases, infirmities, disabilities, conditions, or habits are meant or referred to, or which refers to any medicine, article, device, or preparation that may be used for the treatment, cure, or prevention of any of the diseases, infirmities, disabilities, conditions, or habits mentioned in this act. (L. 1921, c. 221, § 1.)

127. "Person" Defined.—The word "person," as used herein, shall mean and include natural persons, copartnerships, corporations and associations, and shall include persons of both sexes. (Id. § 2.)

128. Applicability of Act.—This act shall not apply to publication, advertisement, or notices of the United States government, the State of Nevada, or of

*But see the subsequent act of 1923, in No. 108 et seq.

any city or town or other political subdivision of the State of Nevada. (Id. § 3.)

129. Penalties.—Any persons violating any of the provisions of this act shall be punished by a fine of not more than five hundred (\$500) dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. (Id. § 4.)

Intoxicating Liquors.

130. Volstead Act Adopted for Nevada.—Nevada hereby recognizes the requirements of the Eighteenth Amendment to the Constitution of the United States, for its concurrent enforcement by Congress and the several States. To that end, the penal provisions of the Volstead act are hereby adopted as the law of this State; and the courts of this State are hereby vested with the jurisdiction, and the duty is hereby imposed upon all prosecuting attorneys, sheriffs, grand juries, magistrates and peace officers in the State, to enforce the same. (L. 1923, c. 37, § 1.)

131. Same.—All acts or omissions prohibited or declared unlawful by the Eighteenth Amendment to the Constitution of the United States or by the Volstead act, or by both, are hereby prohibited and declared unlawful; and violations thereof are subject to the penalties provided in the Volstead act. (Id. § 2.)

132. Future Enactments Ratified.—Nevada hereby recognizes that its power to enforce the eighteenth amendment to the Constitution of the United States should at all times be exercised in full concurrence with the exercise of the like power of Congress; and to that end, whenever Congress shall amend or repeal the Volstead act, or enact any other law to enforce the Eighteenth Amendment to the Constitution of the United States, then the provisions of sections one and two of this act shall apply thereto. (Id. § 3.)

133. Cities May Make Further Prohibition Laws.—Nothing in this act shall be construed as limiting the power of any city to prohibit the manufacture, sale, transportation or possession of intoxicating liquors for beverage purposes; and all fines and forfeitures collected under any ordinance now or hereafter enacted in the exercise of such power shall be paid into the treasury of the city whose ordinance is violated. (Id. § 4.)

134. "Volstead Act" Defined.—The phrase "Volstead Act," as used herein, is defined as title two of the act of Congress enacted October 28, 1919; such title two being enacted under the authority of the Eighteenth Amendment to the Constitution of the United States and providing for the enforcement thereof. (Id. § 5.)

135. Liquor Prescription Filled Only at Licensed Pharmacy.—It shall be unlawful for any pharmacist within the State of Nevada to fill any prescription for intoxicating liquor at any place within the State other than at a duly licensed pharmacy as defined in this act. (L. 1923, c. 173, § 1.)

136. "Pharmacy" Defined.—A "Pharmacy" is defined for the purposes of this act as a going concern which has been regularly and continuously in operation in the same city, town or locality for at least one year and which has for said length of time been continuously legally engaged in the business of compounding and dispensing drugs. (Id. § 2.)

137. Pharmacy to Procure State License; Must Comply With Federal Requirements; Fee \$10; 50 Cents to State for Each Liquor Prescription.—Any pharmacy desiring to fill prescriptions for liquor shall make application to the State Board of Revenue, upon a form to be prepared and furnished by said board, for a license. If the board is satisfied that the applicant represents a pharmacy as defined by this act, and has complied with all Federal license requirements, upon payment of the sum of ten dollars and filing a good and sufficient bond in an amount to be fixed by said board, a license shall be granted to said pharmacy to be in full force and effect until suspended or revoked for cause as hereinafter provided. Said license shall provide that the licensee may fill prescriptions for liquor on condition that he will pay to the Treasurer of the State of Nevada, on the last day of March, June, September and December of each year, the sum of fifty cents for each and every liquor prescription filled during the three months preceding the fifteenth day of said respective months. (Id. § 3.)

138. Unlawful Acts; Each One a Separate Offense.—It shall be unlawful for any pharmacy to fill any prescription for intoxicating liquor without having first secured the license required in section three hereof, and it shall be unlawful for any pharmacy, after having secured a license, to fail to pay the required fifty cents on any prescription for liquor filled by said pharmacy. Each and every prescription for liquor filled in violation of this act shall constitute a separate offense. (Id. § 4.)

139. Penalties.—Every violation of any of the provisions of this act shall constitute a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment. (Id. § 5.)

140. Commissioner of Food and Drugs to be Pharmacy Inspector.—For the purpose of securing the enforcement of this act the Commissioner of Food and Drugs and Weights and Measures, appointed by the Board of Control of the Nevada Agricultural Experiment Station, is hereby designated and constituted inspector of pharmacies, and such inspector shall only be allowed his necessary travel and incidental office expenses, such travel and office expenses not to exceed the sum of \$500 in any one year; it being specially provided that no salary or salaries whatever shall be allowed or paid in carrying out the provisions of this act. (Id. § 6, as amended L. 1925, c. 71.)

141. Fund Created.—All revenues derived from the operation of this act shall be placed in a fund to be known as "The Pharmacy Inspection Fund." All revenues remaining in said fund at the end of each calendar year shall be transferred to the general fund of the State. (L. 1923, c. 173, § 6½, added L. 1925, c. 71.)

142. Unlawful Pharmacy, How Prosecuted; Hearings; License Revoked, When; Court Review of Decision, When; Criminal Action Not Barred.—If at any time there shall be filed with the Inspector of Pharmacies a complaint, under oath, setting forth facts showing, or if the inspector himself has reason to believe that any licensed pharmacy is not in good faith conforming to the provisions of this act, or has violated the State or Federal laws relating to intoxicating liquor, the said inspector is hereby authorized and empowered to issue an order citing such licensee to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such licensee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the inspector, with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearings shall be held within the county and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree to another place. If it be found by the inspector that such licensee has been guilty of willfully violating any of such laws as charged, or has not in good faith conformed to the provisions of this act, said inspector shall so report to the Board of Revenue, and said board shall revoke the license of said pharmacy, and no new license shall be granted to said pharmacy or its assigns within one year thereafter. Should the license be so revoked by the board, the licensee may have a review of the decision before the District Court of the county in which said pharmacy is licensed to operate, and the court may affirm or reverse the finding of the inspector, as the facts and law of the case may warrant, but during the pendency of such proceeding such license shall be suspended. Nothing in this section contained shall operate as a bar to criminal proceedings against the licensee for any violation of law. Neither shall the duties of such inspector be limited to the enforcement of this section alone. (L. 1923, c. 173, § 7.)

PART IV.

Miscellaneous Laws.

False Advertising.

143. Certain False Advertising Prohibited.—It shall be unlawful for any person, firm, corporation or association, who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in this State in a newspaper or other publication or in form of a book, notice, handbill, poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement con-

tains any assertion, representation or statement of fact which is untrue, deceptive or misleading. (R. L. 1919, p. 3389, et seq., which is L. 1917, p. 390, § 1.)

144. Penalties.—Any person, firm, or any officer or managing agent of any corporation or association, who shall violate the provisions of this act shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. (Id. § 2.)

Flag Desecration.

145. U. S. Flag or Nevada State Flag, Penalty for Desecration of.—Any person, who in any manner, for exhibition or display, puts or causes to be placed, any inscription, design, device, symbol, portrait, name, advertisement, words, character, marks, or notice, or sets or places any goods, wares, and merchandise whatever upon any flag or ensign of the United States, or State flag of this State, or ensign, evidently purporting to be either of said flags or ensign, or who in any manner appends, annexes or affixes to any such flag or ensign any inscription, design, device, symbol, portrait, name, advertisement, words, marks, notice or token whatever, or who displays or exhibits or causes to be displayed or exhibited, any flag or ensign, evidently purporting to be either of said flags upon which shall in any manner be put, attached, annexed, or affixed any inscription, design, device, symbol, portrait, name, advertisement, words, marks, notice or token whatever, or who publicly or willfully mutilates, tramples upon, or who tears down or willfully and maliciously removes while owned by others, or defames, slanders, or speaks evilly or in a contemptuous manner of or otherwise defaces or defiles any of said flags, or ensign, which are public or private property, shall be deemed guilty of a misdemeanor; provided, however, that this act shall not apply to flags or ensigns the property of or used in the service of the United States or of this State, upon which inscriptions, names of actions, words, marks or symbols are placed pursuant to law or authorized regulations. (R. L. 1919, p. 3385, § 6603.)

Tobacco—Tobacco Products.

146. Unlawful to Sell Tobacco to Minors; Penalty.—It shall be unlawful for any person or persons within this State to sell or give to any minor, under the age of twenty-one years, any cigarette or cigarettes, or any tobacco of any description, except that upon the written order of the parent or guardian of the minor, the person applied to may give or sell to the minor, for the use of the guardian or parent, tobacco or cigars; said written request to be kept on file by the seller or giver of the article so sold or given away. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine in any sum not exceeding five hundred dollars and not less than one hundred dollars, or by imprisonment in the county jail for a period not exceeding six months nor less than fifty days, or both. The justice of the peace shall also tax as costs fifty dollars, in addition to the fine, which sum shall be paid to the informer. (R. L. 1912, § 6502.)

147. Idem; Dealer to Forfeit License.—If any dealer in cigarettes, cigars and tobacco shall be convicted twice for the commission of the offense described in the preceding section, he shall forfeit his license or licenses for carrying on his business, and no license shall be again granted to him to carry on a like business in this State. (Id. § 6503.)

148. Cigarette License.—Any person, firm, association, or corporation engaged in dealing, in selling, giving away, or offering to sell cigarettes or cigarette paper after the passage of this act shall take out a quarterly license therefor (or fractional quarterly license as hereinafter provided). The cost of such license shall be fifteen dollars (\$15) per quarter year. It shall be unlawful for any person or persons, firm, association, corporation, or managing agent of any person, firm, association, or corporation to sell, give away, or offer to sell cigarettes or cigarette paper to any person or persons under the age of twenty-one years, and any person, firm, association, or corporation, or the managing agent of any person, firm, association, or corporation violating the provisions of this section shall be guilty of a misdemeanor. (R. L. 1919, p. 3016, which is L. 1915, p. 236, § 2.)

Trade-Marks, Etc.

149. Trade-Mark and Union Labels Protected; Filing Fee; Evidence.—Every person or association or union of workmen or others that has adopted or shall adopt for their protection any label, trade-mark or form of advertisement, may file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof with the Secretary of State. Said Secretary shall thereupon deliver to such person, association or union so filing the same a duly attested certificate of the record of the same, for which he shall receive a fee of two (\$2) dollars. Such certificate of record shall in all actions and prosecutions, under the following three sections be sufficient proof of the adoption of such label, trade-mark or form of advertisement, and the right of said person, association or union to adopt the same. (R. L. 1912, § 4635.)

150. Idem; Exclusive Use; Counterfeiting of May be Enjoined; Damages; Attorney's Fee.—Every person, association or union adopting a label, trade-mark, or form of advertisement, as specified in the preceding section, may proceed by action to enjoin the manufacture, use, display or sale of any counterfeit or imitation thereof; and all courts having jurisdiction of such actions shall grant injunctions to restrain such manufacture, use, display or sale and a reasonable attorney's fee, to be fixed by the court, and shall require the defendant to pay to such person, association or union the profits derived from such wrongful manufacture, use, display or sale, and a reasonable attorney's fee to be fixed by the court, and said court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court to be destroyed. Such actions may be prosecuted for the benefit of any association or union by any officers or members thereof. (Id. § 4636.)

151. Idem; Counterfeiting of; Penalty.—It shall be unlawful for any person or corporation to imitate any label, trade-mark or form of advertisement adopted as provided in the second preceding section, or to knowingly use any counterfeit or imitation thereof, or to use or display such genuine label, trade-mark or form or [of] advertisement or the name or seal of such person, union, or association, or of any officer thereof, unless authorized so to do, or in any manner not authorized by him or it. Any person violating any provisions of this section shall be imprisoned in the county jail not more than thirty days or be fined not less than twenty-five nor more than one hundred dollars. (Id. § 4637.)

152. Counterfeiting Stamps and Labels.—Every person who shall knowingly and willfully forge or counterfeit, or cause or procure to be forged or counterfeited, upon any goods, wares, or merchandise, the private stamps or labels of any mechanic or manufacturer, with intent to defraud the purchasers or manufacturers of any goods, wares, or merchandise whatsoever, shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a term not exceeding six months, or by a fine of not less than three hundred or more than six hundred dollars. (Id. § 6689.)

153. Goods Containing Forged Stamps.—Any person who shall sell any goods, wares, or merchandise having thereon any forged or counterfeit stamps or labels, purporting to be the stamps or labels of any mechanic or manufacturer, knowing the same to be forged or counterfeited, without disclosing the fact to the purchaser, shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a term not exceeding six months, or by a fine of not less than three hundred nor more than six hundred dollars. (Id. § 6690.)

154. Counterfeiting Trade-Mark or Design.—Every person who shall use or display or have in his possession with intent to use or display, the genuine label, trade-mark, term, design, device, or form of advertisement of any person, corporation, association or union, lawfully filed for record according to law of the State, or the exclusive right to use which is guaranteed to any person, corporation, association or union, by the laws of the United States, or of this State, without the written authority of such person, corporation, association or union, or who shall willfully forge or counterfeit or use or display or, have in his possession with intent to use or display any representation, likeness, similitude, copy or imitation of any genuine label, trade-mark, term, design, device, or form of advertisement, so filed or protected, or any die, plate, stamp or other device for manufacturing the same, shall be guilty of a gross misdemeanor. (Id. § 6691.)

155. Displaying Goods With False Trade-Mark.—Every person who shall knowingly sell, display or advertise, or have in his possession with intent to sell, any goods, wares, merchandise, mixture, preparation or compound having affixed

thereto any label, trade-mark, term, design, device, or form of advertisement lawfully filed for record in the office of the Secretary of State by any person, corporation, association or union, or the exclusive right to the use of which is guaranteed to such person, corporation, association or union under the laws of the United States, which label, trade-mark, term, design, device or form of advertisement shall have been used or affixed thereto without the written authority of such person, corporation, association or union, or having affixed thereto any forged or counterfeit representation, likeness, similitude, copy or imitation thereof, shall be guilty of a misdemeanor. (Id. § 6692.)

156. Fraudulent Registration of Trade-Mark.—Every person who shall for himself, or on behalf of any other person, corporation, association or union, procure the filing of any label, trade-mark, term, design, device or form of advertisement, by any fraudulent means, shall be guilty of a misdemeanor. (Id. § 6693.)

157. Form and Similitude Defined.—A plate, label, trade-mark, term, design, device or form of advertisement is in the form and similitude of the genuine instrument imitated if the finished parts of the engraving thereupon shall resemble or conform to the similar parts of the genuine instrument. (Id. § 6694.)

Trading Stamps.

158. Separate License for Merchants Giving.—Every person, firm or corporation who shall use, and every person, firm, or corporation who shall furnish to any other person, firm, or corporation to use, in, with, for, or about the sale of any goods, wares, or merchandise, any stamps, coupons, tickets, certificates, cards, or other similar devices which shall entitle the purchaser receiving the same with such sale of goods, wares or merchandise to procure from any person, firm, or corporation any goods, wares, merchandise, or other article or thing of value, free of charge or for less than the retail market price thereof, upon production of any number of said stamps, coupons, tickets, certificates, cards, or other similar devices, shall, before furnishing, selling, or using the same, obtain a separate license from the auditor of each county wherein such selling or furnishing or using shall take place for each and every store or place of business in that county owned or conducted by such person, firm, or corporation from which such furnishing or selling, or in which such using, shall take place. (R. L. 1919, p. 3031, which is L. 1917, p. 420, § 1.)

159. License.—In order to obtain such license the person, firm, or corporation applying therefor shall pay to the county treasurer of the county for which such license is sought the sum of two thousand dollars, and upon such payment being made to the county treasurer he shall issue his receipt therefor, which shall be presented to the auditor of the same county who shall, upon the presentation thereof, issue to the person, firm, or corporation making such payment a license to furnish or sell, or a license to use, for one year, the stamps, coupons, tickets, certificates, cards or other similar devices mentioned in section 1 of this act. Such license shall contain the name of the licensee thereof, the date of its issue, the date of its expiration, the town or city in which and the location at which the same shall be used, and such license shall be used at no place other than that mentioned therein. (Id. § 2.)

160. For One Firm Only.—No person, firm or corporation shall furnish or sell to any other person, firm, or corporation or use in, with, for or about the sale of any goods, wares, merchandise or any such stamps, coupons, tickets, certificates, cards, or other similar devices for use in any town, city or county in this State other than that in which such furnishing or selling shall take place. (Id. § 3.)

161. Penalty.—Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor. (Id. § 4.)

Weights and Measures.

162. Standards of Weights and Measures Adopted.—The standard weights and measures as have been adopted by the Government of the United States of America, and such weights, measures, balances and measuring devices as heretofore have been, or hereafter may be, furnished this State by the United States, as standard weights, measures, balances and measuring devices, shall be the legal standard of weights and measures throughout the State of Nevada. This section shall not prevent the use of the weights and measures of the metric system, authorized by Congress of the United States, as it appears in the Revised Statutes of the United States. (R. L. 1912, § 4792.)

163. Units of Weight.—The units of standards of weights from which all other weights shall be derived and ascertained shall be the standard avoirdupois and troy weights adopted by the Government of the United States. (Id. § 4797.)

164. Pound, Avoirdupois; Ton; Ounce; Troy Weight.—The avoirdupois pound which bears to the troy pound the ratio of seven thousand to five thousand seven hundred and sixty, shall be divided into sixteen equal parts called ounces. The hundredweight, except of pig iron and iron ore, shall consist of one hundred avoirdupois pounds, and twenty hundredweight shall constitute a ton. The troy ounce shall be equal to the twelfth part of a troy pound. Whenever hereafter in this act the word pound is used it shall mean the avoirdupois pound unless otherwise distinctly specified. (Id. § 4798.)

165. Units of Measure of Capacity; Gallon and Fractions.—The unit of standard measure of capacity for liquids from which all other measures of liquid shall be derived and ascertained shall be the standard gallon, adopted by the Government of the United States. The half-gallon, quart, pint, half-pint and gill measures for measuring liquids shall be derived from the gallon by dividing it and each successive measure by two. (Id. § 4799.)

166. Barrel.—The barrel shall contain thirty-one and one-half gallons and two barrels shall constitute a hogshead. (Id. § 4800.)

167. Bushel and Fractions.—The unit of standard measure for capacity for commodities other than liquids, from which all other measures of such commodities shall be derived and ascertained, shall be the standard bushel measure adopted by the Government of the United States. The half-bushel, peck, half-peck, quarter-peck, quart, and pint measures for measuring commodities other than liquids shall be derived from the bushel by dividing it and each successive measure by two. (Id. § 4801.)

168. Barrel and Bushel of Certain Commodities; Weights of.—Whenever any of the following articles shall be contracted for, or sold, or delivered, and no special contract or agreement shall be made to the contrary, such sale and computations for payment or settlement thereof shall be by weight. The net weight per barrel or bushel, or divisible merchantable quantities of a barrel or bushel, shall be as follows: Wheat flour, per barrel, one hundred and ninety-six pounds; per half barrel, ninety-eight pounds; per quarter-barrel sack, forty-nine pounds; per one-eighth-barrel sack, twenty-four pounds; per one-sixteenth-barrel sack, twelve pounds; corn meal, per bushel sack, forty-eight pounds; per half-bushel sack, twenty-four pounds; per quarter-bushel sack, twelve pounds; and the following commodities per bushel: Wheat, sixty pounds; rye, fifty-six pounds; Indian corn on the ear, seventy pounds; Kaffir corn, fifty-six pounds; rice corn, fifty-six pounds; corn, shelled, fifty-six pounds; sorghum seed, fifty pounds; buckwheat, fifty pounds; barley, forty-eight pounds; malt, thirty-two pounds; bran, twenty pounds; beans, sixty pounds; clover seed, sixty pounds; Hungarian and millet seed, fifty pounds; potatoes, sixty pounds; sweet potatoes, fifty pounds; turnips, fifty-six pounds; flax seed, fifty-six pounds; onions, fifty-seven pounds; salt, eighty pounds; castor beans, forty-six pounds; hemp seed, forty-eight pounds; native bluegrass seed, fourteen pounds; English bluegrass seed, twenty-two pounds; timothy seed, forty-five pounds; dried peaches, thirty-three pounds; dried apples, twenty-four pounds; green apples, forty-eight pounds; parsnips, fifty pounds; carrots, fifty pounds; beets, fifty-six pounds; tomatoes, fifty-six pounds; peaches, forty-eight pounds; shelled dried peas, sixty pounds, and alfalfa seed, sixty pounds; oats, thirty-two pounds. (Id. § 4802.)

169. Standard Bread Loaf.—A standard loaf of bread sold or offered for sale in this State shall weigh one pound and a standard loaf of bread need not be labeled with a statement of its weight. Whenever a loaf of bread sold or offered for sale weighs more or less than a pound, it shall be labeled in plain, intelligible English words and figures with its correct weight, together with the name of its manufacturer. (Id. § 4803.)

170. Butter.—Butter in a standard package or container, sold or offered for sale in this State, shall weigh one pound and a standard package or container of butter need have no statement of the net weight of its contents thereon. Whenever butter is sold or offered for sale in a package or container, the net weight of which is more or less than one pound, such package or container shall be labeled in plain, intelligible English words and figures with the correct net weight of its contents, together with the name of the manufacturer or jobber. (Id. § 4804.)

171. Milk or Cream; Other Liquids.—All milk or cream that is sold or offered for sale in this State in bottles shall be sold or offered for sale only in bottles, containing standard gallons, half-gallons, quarts, pints or half-pints. All other liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree. (Id. § 4805.)

172. Berries and Fruits.—Berries and small fruits whenever sold or offered for sale in this State in boxes, shall be sold or offered for sale in boxes containing a standard dry quart or dry pint, and if said boxes contain more or less than this amount the information must be given the purchaser, or such boxes must be labeled in plain, intelligible English words and figures with a correct statement of the quantity of its contents. (Id. § 4806.)

173. All Packages to Bear Correct Statement of Weight, or Number; Proviso.—It shall be unlawful for any person to put up any commodity or article of merchandise into a package or container and sell or offer for sale in this State such commodity or article of merchandise in that form without having such package or container labeled in plain, intelligible English words and figures with a correct statement of the net weight, measure or numerical count of its contents; provided, that nothing in this section shall prevent the putting up of commodities or articles of merchandise, which have been previously sold by net weight, measure or numerical count, into packages or containers for the purpose of delivering or transporting such commodities or articles of merchandise. (Id. § 4809.)

174. Mutual Agreement; Contracts, How Construed.—It shall be unlawful for any person to sell or offer for sale in this State any commodity or article of merchandise, except by true net weight, measure or numerical count, except where the parties otherwise agree. Contracts for work to be done, or for anything to be sold by weight or measure, shall be construed according to the standards hereby adopted as the standards of this State, except where the parties have agreed upon any other calculations or measurement, and all statements and representations of any kind referring to the weight or measure of commodities or articles of merchandise shall be understood in the terms of the standards of weights or measures aforesaid. (Id. § 4810.)

175. False or Short Weight or Measure Unlawful.—It shall be unlawful for any person, in buying or selling any commodity or article of merchandise, to make or give false or short weight or measure, or to sell or offer for sale any commodity or article of merchandise less in weight or measure than he represents, or to use a weight, measure, balance or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise, or to have a weight, measure, balance or measuring device adjusted for the purpose of giving false or short weight or measure, or to use in buying or selling of any commodity or article of merchandise a computing scale or device indicating the weight and price of such commodity or article of merchandise upon which scale or device the graduations or indications are falsely or inaccurately placed, either as to weight or price. (Id. § 4811.)

176. Penalties; Treble Damages; Variations Considered; Proviso.—Any person, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and, upon conviction thereof before the justice of the peace having jurisdiction of the offense, shall be fined in a sum not to exceed two hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, and any weight, measure, balance or measuring device which shall have been used by him in such violation shall be ordered confiscated and destroyed. He shall also be liable in damages to the party injured by his violation in treble the amount of the property wrongfully taken or not given and twenty dollars in addition thereto, to be recovered in a court of competent jurisdiction. The selling and delivery of any commodity or article of merchandise shall be prima facie evidence of the representation on the part of the vendor, that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary leakage, evaporation or waste that there may be from the time a package or container is filled by the vendor until he sells the same. A slight variation from the stated weight, measure or quantity for individual packages is permissible; provided, that variation is as often above as below the weight, measure or quantity stated. (Id. § 4812.)

177. District Attorney to Prosecute.—It shall be the duty of the district attorney to prosecute all violations of the provisions of this act occurring within his county. (Id. § 4813.)

178. Sealer of Weights and Measures; Duties; Standards.—The commissioner appointed by the Board of Control of the Nevada Agricultural Experiment Station is hereby designated and constituted sealer of weights and measures and shall be charged with the proper enforcement of the provisions of this act, and he may appoint such deputy or deputies as he may deem necessary therefor. He shall have the care and custody of the authorized public standards of weights and measures, and of balances and other apparatus of all kinds owned by the State under section 1 [4792] of this act. He shall maintain the State standards

in good order and submit them at least once in every ten years to the National Bureau of Standards for verification. He shall at once, after the approval of this act, obtain from the Government of the United States all standard weights and measures mentioned in this act which this State does not at that time own. (R. L. 1919, p. 3309, § 4814.)

179. Duties of Sealer and Assistants; Tests to Make; Duty to Prosecute Violations.—It shall be the duty of the sealer and his duly authorized deputy to test and prove all weights, measures, balances and measuring devices when requested so to do by any person, without expense to such person, and when the same are found or made to conform to the authorized standards he shall seal and mark such weights, measures, balances and measuring devices with a seal to be kept by him for that purpose. It shall be the duty of the sealer and his deputy to inspect and test all weights, measures, balances and measuring devices and when any weight, measure, balance or measuring device is found by the sealer or his deputy or deputies to be false or untrue or not of the approved type, or which does not conform to the standards, or which cannot be made to conform to the standards by such means as the sealer or his deputy may have at his disposal he shall condemn the same and mark it condemned in a conspicuous manner, and such condemnation mark shall not be removed or defaced except by authorization of the said sealer or his deputy. It shall be the duty of the sealer and his deputy to inspect packages or containers of commodities or articles of merchandise, put up and sold or offered for sale in this State, and he shall mark in a conspicuous manner any package or container which does not have a statement of the net weight, measure or numerical count of its contents on it, and such mark shall not be removed or defaced except by authorization of the said sealer or his deputy. Whenever the sealer or his deputy has reason to believe that there has been a violation of any of the provisions of this act he shall swear to, or cause to be sworn to, a complaint before the justice of the peace having jurisdiction, charging the suspected person with a misdemeanor, and shall take charge of, pending the trial of the accused person, the weight, measure, balance or measuring device used in such suspected violation. (R. L. 1912, § 4815.)

180. Powers of Sealer and Deputies.—The sealer and his duly authorized deputy shall have full power to enter any premises in or on which any weights, measures, balances or measuring devices may be located or used for the purpose of trade, or any premises in or on which any commodities or articles of merchandise are put up into packages or containers for the purposes of trade, for the purpose of inspecting, adjusting, sealing, condemning or marking such weights, measures, balances or measuring devices and such packages or containers. (Id. § 4816.)

181. Unlawful to Obstruct Sealer or Deputies; Penalty.—It shall be unlawful for any person to hinder, obstruct or in any way interfere with the sealer or his duly authorized deputy while in the performance of such inspection, and it shall be unlawful for any person to fail to produce upon demand by the sealer or his deputy all weights, measures, balances or measuring devices and all packages or containers of commodities or articles of merchandise, in or upon his place of business or in his possession, for use in manufacture or trade. Any such person so violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not to exceed one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. (Id. § 4817.)

182. Sealer Must Test Before Condemning Weights; Penalty.—If the sealer or any of his deputies shall seal any weight, measure, balance or measuring device before first testing and making the same conform to the authorized standard or if he shall condemn or take charge of any weight, measure, balance or measuring device without first testing the same, the one so doing shall be deemed guilty of a misdemeanor and upon conviction thereof in a court of competent jurisdiction shall be subject to a fine of not less than five dollars nor more than one hundred dollars. (Id. § 4818.)

183. Neglect of Duty by Sealer or Deputies, How Punished.—If the sealer or any of his deputies neglects to keep the standards under his charge in good order or repair, or suffers any of them through his neglect to be lost, damaged or destroyed, or fails to perform any of the duties imposed upon him by this act, the one so doing shall be deemed guilty of a misdemeanor and upon conviction thereof, in a court of competent jurisdiction, shall be subject to a fine of not less than ten dollars nor more than two hundred dollars. (Id. § 4819.)

184. Sealer to Keep Records and Report to Governor.—The sealer shall keep a record of all the weights, measures, balances or other measuring devices sealed, and of all convictions had and confiscations made under this act and shall make an annual report to the Governor on or before January first of each year,

a copy of which shall be filed with the National Bureau of Standards. He shall issue from time to time regulations for the guidance of his deputies and the said regulations shall govern the procedure to be followed by the aforesaid deputies in the discharge of their duties. (Id. § 4820.)

185. Terms Defined.—The terms "package," and "container" as used in this act shall include any carton, box, barrel, bag, keg, drum, bundle, jar, jug, crock, demijohn, bottle, crate, basket, hamper, pail, can, parcel, package or paper wrapper. (Id. § 4821.)

186. Person Defined.—The term "person" as used in this act shall be construed to import both singular and plural as the case demands and shall include corporation, company, society and association. When construing and enforcing the provisions of this act omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society or association within the scope of his employment or office, shall in every case be also deemed omission or failure of such corporation, company, society or association, as well as that of the person. (Id. § 4822.)

187. Appropriation.—The sum of four thousand dollars (\$4,000) is hereby appropriated out of any money in the State treasury, not otherwise appropriated, for the compensation of sealer, deputy or deputies, office supplies and for apparatus necessary to carry out the provisions of this act. The State Controller is hereby authorized to draw his warrants for the sum herein appropriated in favor of the Nevada Agricultural Experiment Station, and the State Treasurer is hereby directed to pay the same. (Id. § 4823.)

188. Buying or Selling by False Weight.—If any person or persons shall knowingly buy or sell any goods, wares, or merchandise, or any valuable thing by false weight or measure, or shall knowingly use any false measure or false weight at any mill in taking toll for grinding corn, wheat, rye or other grain, or shall knowingly use any false weight or weights, or false scales, or false steelyards, or false balances, or false measures for any purpose in buying or selling or trading any article whatever, he or she shall be deemed a common cheat, and on conviction shall be punished by a fine in any sum not exceeding two hundred dollars, or be imprisoned in the county jail not more than six months, or both. (Id. § 6708.)

189. Office of Public Weighmaster Created; Bond, \$1,000 Filed With State Sealer of Weights and Measures; Seal.—Any persons, firms, corporations, co-partners, or individuals engaged in the business of public weighing for hire, or any person, firm or corporation who shall weigh or measure any commodity, produce, article or articles, and issue therefor a weight certificate which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce, article or articles is based, may, upon application as hereinafter described, be known as a public weighmaster, and shall file a bond with the State Sealer of Weights and Measures in the sum of one thousand dollars \$1,000 for the faithful performance of his duties, and shall obtain from the State Sealer of Weights and Measures a seal for the stamping of weight certificates hereinafter provided; the said seals shall be the property of the State, and shall be forfeited and returned to the State Sealer of Weights and Measures upon termination of the appointment herein prescribed of the public weighmaster. Said seal shall be of a form and design prescribed by the State Sealer and furnished by him to the weighmaster. Said seal shall be a recognized authority of accuracy when applied to weight certificates. (L. 1923, c. 92, § 1.)

190. Weight Certificates.—The State Sealer of Weights and Measures shall prescribe a form of weight certificates to be used by all public weighmasters, which certificates shall be known as the "State Certificate of Weights and Measures," and shall state thereon the kind of product, the owner, agent or consignee, the total weight of the products, the number of units of same, the date of receipt of the product, the railroad, team or other means by which the product was received, any trade or other mark thereon, and such other information as may be necessary to distinguish or identify the product from a like kind. No certificate other than the one herein prescribed shall be used by public weighmasters. (Id. § 2.)

191. Records of All Public Weighings Must be Kept.—All public weighmasters shall keep and preserve correct and accurate records of all public weighings, as provided by this act, which records shall at all times be open for inspection by the State Sealer of Weight and Measures, or his deputy. (Id. § 3.)

192. Uniform Rules; Weighing Fees.—The State Sealer of Weights and Measures shall make uniform rules for carrying out the provisions of this act, and shall designate a reasonable fee to be charged by public weighmasters for weigh-

ing, such fee to be retained by the public weighmaster as compensation for his services. (Id. § 4.)

193. Penalty for False Certificate.—All State certificates of weights and measures, as provided by this act, shall contain the accurate and correct weight of any and all commodities weighed when issued by the public weighmaster. Any public weighmaster who shall issue a State certificate of weights and measures giving a false weight or measure of any article or commodity weighed or measured by him, or his representative, to any person, firm or corporation, shall be guilty of a misdemeanor, and the State sealer may direct and compel the return to him of the State seal, or declare his bond as public weighmaster forfeited, or both. (Id. § 5.)

194. Penalty for Encouraging False Weighing.—Any person, firm, or corporation who shall request a public weighmaster, or any person employed by him to weigh any product, commodity, article or articles falsely, or incorrectly, or who shall request a false or incorrect State certificate of weights and measures, or any person issuing a State certificate of weights and measures, who is not a public weighmaster, as provided for in this act, shall be guilty of a misdemeanor. (Id. § 6.)

195. Correctness of Weight, How Decided; Costs, How Met; Principal Responsible for Deputy.—When doubt or difference arises as to the correctness of the net or gross weight of any amount, or part of any commodity, produce, article or articles for which a State certificate of weights and measures has been issued by a public weighmaster, the owner, agent or consignee may, upon complaint to the State Sealer of Weights and Measures, or his deputy, have said amount or part of the amount of any commodity, produce, article or articles reweighed by the State Sealer of Weights and Measures, or a public weighmaster designated by him upon depositing a sufficient sum of money to defray the actual cost of reweigh with the State Sealer of Weights and Measures. If, on reweighing, a difference in the original weight is discovered as the result of fraud, carelessness, or faulty apparatus, the cost of reweighing shall be borne by the public weighmaster responsible for the issuance of such faulty State certificate of weights and measures. All public weighmasters employing or designating any person to act for them as deputy public weighmaster shall be responsible for all acts performed by such person, and the public weighmaster shall forward to the State Sealer of Weights and Measures the name and address of persons so appointed. (Id. § 7.)

196. Net Weight Defined.—When any product is sold subject to public weighmaster weights, such weight shall be the true net weight of the product. Net weight, within the meaning of this act, shall be the correct or actual weight of the commodity, excluding the weight of the container. (Id. § 8.)

197. State Sealer to Appoint Public Weighmasters; Apparatus Tested.—The State Sealer of Weights and Measures shall appoint public weighmasters; provided, that he or his deputy shall test all weighing apparatus to be used, inspect the premises intended for such use and satisfy himself that the applicant is in every way equipped, qualified, competent and of such character that he should be appointed a public weighmaster. The State Sealer of Weights and Measures, if satisfied with the applicant's qualifications, shall issue a certificate of appointment as public weighmaster, for which there shall be a charge of ten dollars (\$10) paid to the State Sealer of Weights and Measures, which amount shall be used by said State Sealer of Weights and Measures in the costs incurred under the premises of this act. The State Sealer of Weights and Measures has the right to suspend or revoke the authority or appointment of any public weighmaster at any time for cause or upon complaint filed. (Id. § 9.)

198. "Person" Defined.—The term "person," as used in this act, shall be construed to imply both singular and plural as the case demands, and shall include corporations, company, society, and association. When construing and enforcing the provisions of this act, omission or failure of any officer, agent or other person acting for or employed by any corporation, company, society, or association within the scope of his employment or office shall, in every case, be also deemed omission or failure of such corporation, company, society or association, as well as that of the person. (Id. § 10.)

199. Penalty.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof before a court of competent jurisdiction shall be fined in the sum not exceeding two hundred dollars (\$200), or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. (Id. § 11.)

200. Appropriation, \$600.—The sum of six hundred dollars (\$600) is hereby appropriated, out of any money in the State treasury not otherwise appropriated, for carrying out the provisions of this act. (Id. § 12.)

201. Definition of Certain Terms.—In this act the term "Sealer" means the State Sealer of Weights and Measures. "Agricultural products" shall include horticultural, viticultural, dairy, bee, and any and all farm products; the word "person" shall include individuals, partnerships, corporations, associations, or two or more individuals having a joint or common interest; words used import the singular or the plural as the case may demand. (L. 1923, c. 105, § 1.)

202. Official Standards for Agricultural Products.—In order to promote, protect, further and develop the agricultural interests of this State, the sealer is hereby authorized and empowered after investigation and public hearing to fix and promulgate official standards for grading and classifying any or all agricultural products grown or produced in this State and to fix and promulgate official standards for containers of farm products and to change any of them from time to time. (Id. § 2.)

203. Date to be Specified When Standards Become Effective.—In promulgating the standards or any alterations or modification of such standards, the sealer shall specify the date or dates when the same shall become effective and shall give public notice not less than thirty (30) days in advance of such date or dates by such means as he deems proper, and he is hereby authorized and empowered to employ reasonable methods for diffusing information concerning the standard that may be fixed by him for any agricultural product or container. (Id. § 3.)

204. Federal Standards to be Adopted.—The sealer is authorized to fix and promulgate as the official standard for this State for any agricultural product or container the standard for such product or container which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this act the sealer is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein. (Id. § 4.)

205. State Sealer to Appoint Inspector; State Sealer to Specify Fees; License Revoked, When.—The sealer is hereby authorized to designate any competent employee or agent of the Department of Weights and Measures and upon satisfactory evidence of competency may license any other person, and charge and collect a reasonable fee for such license, to inspect or classify agricultural products in accordance with such regulations as he may prescribe at such places as the volume of business may be found to warrant the furnishing of such inspection service, at the request of persons having an interest in such products, and to ascertain and to certify to such persons the grade, classification, quality or condition thereof, and such other pertinent facts as the sealer may require. The sealer is authorized to fix, assess, and collect, or cause to be collected, fees for such services when they are performed by employees or agents of the Department of Weights and Measures. Licensed inspectors may charge and collect as compensation for such services only such fees as may be approved by the sealer. The sealer may suspend or revoke any license whenever, after an opportunity for hearing has been afforded to the licensee, the sealer shall determine that such licensee is incompetent or has knowingly or carelessly failed to correctly certify the grade, classification, quality or condition of any agricultural product, or has violated any provisions of this act or of the regulations made hereunder. Pending investigations the sealer may suspend a license temporarily without a hearing. (Id. § 5.)

206. Appeal to State Sealer, When.—Whenever any quantity or agricultural product shall have been inspected hereunder and question arises as to whether the certificate issued therefor shows the true grade, classification, quality or conditions of such product, any interested person, subject to such regulations as the sealer may prescribe, may appeal the question to him and he is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine and issue a finding of the true grade or classification of the product or of the quality or condition thereof. Whenever an appeal shall be taken to the sealer under this act, he shall charge and assess and collect, or cause to be collected, a reasonable fee, to be fixed by him, which shall be refunded if the appeal is sustained. (Id. § 6.)

207. Certificate Prima Facie Evidence.—A certificate when not superseded by a finding on appeal, or a finding on appeal of the grade, classification, quality or condition of any agricultural product issued under this act, and all certificates issued under authority of the Congress of the United States relating to the grade, classification, quality, or condition of agricultural products, shall be accepted in any court of this State as prima facie evidence of the true grade, classification, condition or quality of such agricultural product at the time of its inspection. (Id. § 7.)

208. State Sealer to Promulgate Regulations.—The sealer is hereby authorized and empowered to promulgate regulations for carrying out the purpose and provisions of this act. All fees and moneys collected or received by employees or agents of the Department of Weights and Measures under this act and the regulations which may be promulgated hereunder shall be turned into the State treasury to be there maintained in a separate fund which is hereby appropriated for carrying out the provisions of this act. (Id. § 8.)

209. State Sealer May Appoint Agents.—The sealer may appoint employees and agents to assist in carrying out the provisions of this act, and may fix their compensation. (Id. § 9.)

210. Incorrect Certificate, Penalty for.—Any employee or agent employed under this act or any inspector licensed hereunder who shall knowingly inspect, grade or classify improperly any agricultural product or shall knowingly give any incorrect certificate of grade, a classification, quality or condition or shall accept money or other consideration directly or indirectly for any incorrect or improper performance of duty, and any person who shall improperly influence or attempt to improperly influence any such agent, employee or licensed inspector in the performance of his duty shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned not more than one year, or both. (Id. § 10.)

211. Official Standards and Containers Must be Used; Penalty.—If any quantity of any agricultural product shall have been inspected and a certificate issued hereunder showing the grade, classification, quality or condition thereof, no person shall represent that the grade, classification, quality or condition of such product at the time and place of such inspection was other than as shown by such certificate. Whenever any standard for a container for an agricultural product becomes effective under this act, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell and deliver, in a container, any such agricultural product to which the standard is applicable, unless the container conform to the standard, subject to such variations therefrom as may be allowed in the regulations made under this act, unless such product be brought from outside the State and offered for sale, consigned for sale or sold in the original package. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars, or be imprisoned not more than one year, or both. (Id. § 11.)

212. Appropriation, \$2,000.—There is hereby appropriated, out of any moneys in the State treasury not otherwise appropriated, the sum of two thousand dollars annually, or so much thereof as may be necessary, to be expended in carrying out the provisions of this act. (Id. § 12.)

213. Each Provision Independent.—If any provision of this act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the act and of the application of such provisions to other persons or circumstances shall not be affected thereby. (Id. § 13.)

NOTE: See also Nos. 9, 28, and 44 et seq.

PART V.

Cases.

1. Special Food Laws.

Beverages—Soft Drinks—License: *State v. Douglas et al., 46 Nev. 121, 208 Pac. 422 (1922).

Meat—Peddler—License: Thompson v. Hancock, 49 Nev. 336, 245 Pac. 941 (1926).

2. Special Drug Laws.

Narcotics: *State v. Ah Sam, 15 Nev. 27 (1880); State v. On Gee How, 15 Nev. 184 (1880); *State v. Ah Chew, 16 Nev. 50, 40 Am. Rep. 488 (1881); *State v. Ah Gonn, 16 Nev. 61 (1881); State v. Ching Gang, 16 Nev. 62 (1881); *State v. Chin Gim, 47 Nev. 431, 224 Pac. 798 (1924). See also: *State v. McCormick et al., 14 Nev. 347 (1879).

NEW HAMPSHIRE.*

PART I.

General Food and Drug Law.

1. Forbidden Sales.—No person shall, within the State, manufacture for sale, offer for sale, have in possession with intent to sell or sell, any adulterated or misbranded article of food or substance to be used in the manner of food or drink, or any adulterated or misbranded drug or substance to be used in the manner of medicine. (Public Laws of 1926, c. 139, § 1.)

2. Terms Defined.—The term food, as used in this chapter, shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound. Drug shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary, for internal or external use, and any substance intended to be used for the cure, mitigation or prevention of disease of either man or other animals. (Id. § 2.)

3. Adulterations, Foods.—For the purposes of this chapter an article of food shall be deemed to be adulterated:

I. If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength.

II. If any substance has been substituted wholly or in part for the article.

III. If any valuable constituent of the article has been wholly or in part abstracted.

IV. If it be mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed.

V. If it contains any added substance or ingredient that is poisonous or injurious to health.

VI. If it contains any added antiseptic or preservative substance except common table salt, saltpetre, cane or beet sugar, vinegar, spices or wood-smoke; provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such a manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, and directions for the removal of said preservative are printed on the covering of the package, this provision shall apply only when said products are ready for consumption. Nor shall it apply to the addition of not more than one-tenth of one per cent of benzoate of soda in the case of cider, tomato catsup, fruit jams, jellies or preserves, or such other perishable articles of food or drink as the State Board of Health may from time to time determine cannot be successfully marketed without such addition. The presence and percentage of said benzoate of soda shall be stated upon the label of the said articles, or of other articles hereafter determined, in type as large or larger than eight-point caps. In case the size of the package will not admit of the use of eight-point caps, the size of the type may be reduced proportionately.

VII. If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of any animal unfit for food, whether manufactured or not; or if it is a product of a diseased animal, or one that has died otherwise than by slaughter. (Id. § 3.)

4. —, Confections.—Confectionery is adulterated if it contains terra alba, barytes, talc, chrome yellow or other mineral substance or poisonous flavor or color, or other ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug. (Id. § 4.)

5. —, Drugs.—Drugs shall be deemed to be adulterated in the following cases:

I. When a drug is sold under or by a name recognized in the United States Pharmacopœia or National Formulary and differs from the standard of strength, quality or purity, as determined by the test laid down in said authorities, official

*CITATION: "Public Laws of 1926" refers to the Public Laws of New Hampshire, revision of 1926, published by authority of the legislature. (Laws 1925, c. 183.)

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at the time of investigation. No drug shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the container thereof, although the standard may differ from that determined by the test laid down as aforesaid.

II. If its strength or purity fall below the professed standard or quality under which it is sold. (Id. § 5.)

6. **Misbranding.**—The term misbranded, as used herein, shall apply to all drugs or articles of food, or articles which enter into the composition of foods, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular; and to any food or drug product which is falsely branded as to the State, territory or country in which it is manufactured or produced. (Id. § 6.)

7. ———, **Foods.**—Foods shall also be deemed to be misbranded in the following cases:

I. If it be an imitation of or offered for sale under the distinctive name of another article.

II. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so; or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; or if it fail to bear a statement on the label of the presence and quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, acetanilid or benzoate of soda, or any derivative or preparation of any such substances contained therein.

III. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; provided, that reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established, by rules and regulations made in accordance with the provisions of section 12.

IV. If the package containing it or its label shall bear any statement, design or device regarding the ingredients, or the substances contained therein, which statement, design or device shall be false or misleading in any particular. (Id. § 7.)

8. ———, **Exceptions.**—An article of food that does not contain any added poisonous or deleterious ingredients shall not be deemed to be misbranded or adulterated in the following cases:

I. Mixtures or compounds which may be known as articles of food, under their own distinctive names, and not imitations of, or offered for sale under the distinctive name of, another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

II. Articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word compound, imitation or blend, as the case may be, is plainly stated on the packages in which they are offered for sale; provided, that the term blend, as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring or flavoring only, and that nothing in this chapter shall require manufacturers or proprietors of proprietary foods which shall contain no unwholesome added ingredient to disclose trade formulas, except in so far as may be required to secure freedom from adulteration or misbranding. (Id. § 8.)

9. ———, **Drugs.**—Drugs shall also be deemed to be misbranded in the following cases:

I. If the article be an imitation of, or offered for sale under the name of, another article.

II. If the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilid, or any derivative or preparation of any such substances, contained therein.

III. If the package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effects of such article, or any of the ingredients or substances contained therein, which is false or fraudulent. (Id. § 9.)

10. **Guaranty to Dealer.**—No dealer shall be convicted of a violation of the provisions of this chapter when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States, from

whom he purchased such articles, to the effect that the same in original or unbroken packages is not adulterated or misbranded within the meaning hereof. Said guaranty, to afford protection, must contain the name and address of the party or parties making the sale of such articles to such dealer. (Id. § 10.)

11. Defense to Civil Suit.—In all civil actions to recover the purchase price of any product used for food, drink or medicine by man, it shall be competent for the defendant to prove that the product was adulterated or misbranded within the meaning of this chapter, and such fact shall be a defense to the plaintiff's demand. (Id. § 11.)

12. Rules; Publication.—The State Board of Health shall make uniform rules and regulations for carrying out the provisions of this chapter, including the collection and examination of specimens of foods and drugs manufactured, offered for sale or sold in this State, and including the adoption of such definitions and standards of purity as may from time to time be promulgated by the United States Secretary of Agriculture under the Federal Pure Food and Drugs Act. The examination of foods and drugs shall be made at the laboratory of the board, and the results shall be published in the bulletin issued by the board. (Id. § 12.)

13. Prosecutions.—It shall be the duty of the State board through its authorized agent, whenever it has satisfactory evidence of the violation of this chapter, to prosecute the same, or to make complaint to a prosecuting officer; provided, that where the violation was not willful the institution of a prosecution shall be at the discretion of said board. (Id. § 13.)

14. Penalty.—Whoever violates any of the foregoing provisions of this chapter shall be fined ten dollars, or imprisoned thirty days, or both. (Id. § 14.)

Miscellaneous General Provisions.

15. Drugs; Foods.—They [the State Board of Health] shall take cognizance of the interests of the public health, relating to the sale of drugs and foods and the adulteration of the same, and shall make all necessary investigations and inquiries in reference thereto, and for these purposes may appoint inspectors, analysts and chemists, who shall be subject to their supervision and removal. (Public Laws of 1926, c. 125, § 6.)

16. Laboratory of Hygiene—Purposes.—The State Board of Health may establish and equip a laboratory with the proper and necessary apparatus, utensils and instruments for the chemical and bacteriological examination of water supplies, milk, food products, drugs, etc., and the investigation of cases and suspected cases of diphtheria, typhoid fever, tuberculosis, pneumonia, malaria, glanders and other infectious and contagious diseases. (Public Laws of 1926, c. 127, § 1.)

17. Chemists; Duties.—They shall employ a chemist, and shall make investigations and analyses of public water supplies and of foods and drugs offered for sale in our markets, with a view to discovering adulterated, misbranded and unhealthful or unsafe products, and shall make investigations concerning food sanitation, the disposal of sewage and similar matters of sanitation, and shall enforce the laws relative to all such matters. They shall conduct such toxicological investigations as may be requested by the Attorney-General or by county solicitors. They may also employ, in the laboratory of hygiene, a chief clerk and such other technical and clerical assistants as may be necessary. (Id. § 2.)

18. Service Free.—All investigations conducted in the said laboratory shall be free to the people of this State. (Id. § 6.)

19. Bulletin.—They may publish in a bulletin the results of the analytical work done in said laboratory, naming fraudulent and adulterated articles of food found on sale in this State, together with such other information relating to sanitary matters as they may deem advisable. (Id. § 7.)

NOTE: See also Nos. 177 and 378.

PART II.

Special Food Laws.

Apples.

20. Standard Barrels; Boxes.—The standard barrel made of wood for apples shall be of the following dimensions when measured without the distention of its parts: Length of stave $28\frac{1}{2}$ inches; diameter of head, $17\frac{3}{8}$ inches; distance between heads, 26 inches; circumference of bulge outside measurements, not less than 64 inches; representing as nearly as possible, 7,056 cubic inches. A barrel made of any other material must contain not less than 7,056 cubic inches. The standard box for apples shall be of the following dimensions: Inside measurements, 18 inches $\times$ $11\frac{1}{2}$ inches $\times$ $10\frac{1}{2}$ inches without any distention of parts, representing as nearly as possible, 2,174 cubic inches. (Public Laws of 1926, c. 165, § 1.)

21. Grades.—The standard grades or classes for apples grown in this State when packed in closed packages shall be as follows:

I. N. H. standard fancy, shall consist of apples of one variety, which are well-matured specimens, hand-picked, above medium color for the variety, normal shape, of good and reasonably uniform size, sound, free from dirt, disease, insect or fungous injury, bruises, and any other defects except such as are necessarily caused in the operation of packing, and shall be properly packed in clean, strong packages; or apples of one variety which are not more than three per cent below the foregoing specifications.

II. N. H. standard A grade, shall consist of apples of one variety, which are well-matured specimens, hand-picked, properly packed, of medium color for the variety, normal shape, sound, practically free from dirt, disease, insect or fungus injury, bruises and other defects except such as are necessarily caused in the operation of packing; or apples of one variety which are not more than five per centum below the foregoing specifications.

III. N. H. standard B grade, shall consist of apples of one variety, which are well matured, properly packed, practically normal shape, practically free from dirt, disease, insect or fungous injury, or any other defect that materially injures the useful quality of the apples, and which may be less than medium color for the variety; or apples of one variety which are not more than ten per centum below the foregoing specifications.

IV. N. H. unclassified apples not conforming to the foregoing specifications of either grade, or, if conforming, are not branded in accordance therewith, shall be deemed unclassified, and so branded. (Id. § 2.)

22. Additional Marking.—The marks indicating grade as above prescribed may be accompanied by any other designation of grade or brand if that designation or brand is not inconsistent with or marked more conspicuously than the one of the said four marks which is used on the package. (Id. § 3.)

23. Size or Count.—The minimum size or numerical count of the fruit in all grades, including the unclassified, shall be marked upon the package and may be designated by figures instead of words. The minimum size shall be determined by taking the transverse diameter of the smallest fruit in the package at right angles to the stem and blossom end, and shall be stated in variations of one-quarter of an inch, such as two inches, two and one-quarter inches, and so on, in accordance with the facts. The word minimum may be designated by using the abbreviation min. (Id. § 4.)

24. Closed Package.—A package whose contents cannot be seen or inspected shall be deemed a closed package. Every such package of apples which is packed, sold, distributed, offered or exposed for sale, within or without the State, by any person, shall have marked in a conspicuous place on the outside thereof in plain letters a statement clearly and truly stating the quantity of the contents, the name and address of the packer, or the person by whose authority the apples were packed, and shall be marked with the true name of the variety, the grade and the minimum size of the apples contained therein and the name of State where grown. If the true name of the variety shall not be known to the packer or the person by whose authority the apples are packed or branded, then such statement shall include the words variety unknown. (Id. § 5.)

25. Repacking.—Every package of apples which is repacked shall bear the name and address of the repacker or the name of the person by whose authority it is repacked in place of that of the original packer. (Id. § 6.)

26. Marking.—Barrels shall be marked or branded as prescribed herein in block letters and figures of size not less than thirty-six point Gothic. The Commissioner of Agriculture shall prescribe rules and regulations consistent herewith relative to branding other closed packages. (Id. § 7.)

27. Adulteration.—It shall be unlawful for any person within the State to pack, sell, distribute, offer or expose for sale or distribution, apples which are adulterated or misbranded within the meaning of this chapter. (Id. § 8.)

28. ———, Defined.—For the purpose hereof, apples packed in a closed package shall be deemed to be adulterated if their measure, quality or grade does not conform in each particular to the claims made upon the affixed guaranty. (Id. § 9.)

29. Misbranding.—Apples packed in a closed package shall be deemed to be misbranded:

I. If the package shall fail to bear all the statements required by sections 2 to 6.

II. If the package shall be falsely branded; or shall bear any statement, design or device regarding such apples which is false or misleading; or if the package bears any statement, design or device indicating that the apples contained therein are N. H. standard grade and said apples when packed or repacked do not conform to the requirements prescribed for such grade. (Id. § 10.)

30. Regulations.—The Commissioner of Agriculture shall, after such public hearings as to him shall seem necessary, establish, promulgate and publish rules and regulations to meet the requirements of standard classes for apples as follows: Color and size requisite for each variety of N. H. standard fancy; color for each variety and the number and size of each type of defect permissible as being practically free from dirt, disease, insect or fungous injury, bruises and other defects, of N. H. standard A grade; number and size of each kind of fungous or insect injury, which shall be considered not sufficient to materially injure the useful quality of N. H. standard B grade. He shall also make uniform rules and regulations for carrying out the provisions of this chapter. (Id. § 11.)

31. Inspection.—The Commissioner of Agriculture, in person or by deputy, shall have free access at all reasonable hours to any place or building wherein apples are packed, stored, sold, offered or exposed for sale, and may open any box, barrel or other container and, upon tendering the market price, take samples therefrom. (Id. § 12.)

32. Notice of Violation.—When the commissioner becomes cognizant of the violation of any of the provisions of this chapter he shall cause notice of such fact, together with a copy of the findings, to be given to the person concerned. The person so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the commissioner. Notices shall specify the time and place of hearing, which shall be held in the county where the inspection was made. (Id. § 13.)

33. Penalty.—Any person who adulterates or misbrands, or any person who packs, sells, distributes, offers or exposes for sale or distribution, apples in violation of any of the provisions hereof, shall be fined not more than fifty dollars for the first offense, and not more than one hundred dollars for each subsequent offense. (Id. § 14.)

34. ———, Exception.—No person shall be prosecuted under the provisions of this chapter when he can establish that he acted solely as a distributor, and that he was not a party to the packing, grading or branding of such articles; or when he can establish a guaranty, signed by the person from whom he received such articles, that the same are not adulterated or misbranded. To afford protection, such facts shall include the name and address of the party making the sale or shipment of such articles to said distributor; and said party shall be amenable to the prosecution, fines and other penalties which would otherwise attach to the dealer or distributor. (Id. § 15.)

35. Enforcement.—The Commissioner of Agriculture shall diligently enforce all of the provisions of this chapter, and, in this connection, he shall be entitled to the advice and assistance of the Attorney-General and the county solicitors. (Id. § 16.)

36. Recovery of Penalties.—The Commissioner of Agriculture, in his discretion, may recover the penalties for the violation of the provisions of this chapter in an action on the case in his own name, but in behalf of the State, the venue to be as in other civil actions, and the party prevailing in any such action shall

recover costs; or he may prosecute violators by complaint or indictment. All fines received under this chapter shall be paid to the State Treasurer. (Id. § 17.)

Beverages.

37. Bottlers' Licenses.—No person, firm or corporation shall bottle for sale any beverage without having obtained a license, to be issued by the State Board of Health. The word "beverage" as used in this sub-division shall be construed as meaning all carbonated drinks, fruit juices and all beverages compounded therefrom, bottled spring and mineral waters, and all bottled proprietary beverages by whatever names called. (Public Laws of 1926, c. 137, § 9.)

38. Application; Issue; Fees.—Upon receipt of an application, if the board is satisfied that the plant or place is properly equipped and in a sanitary condition, and the products therein manufactured are not adulterated or misbranded, it shall cause a license to be issued authorizing the applicant to conduct said business for the period of one year or fraction, all licenses to expire on the first day of January next following their issuance. The annual license fee shall be ten dollars for each establishment operated. (Id. § 10.)

39. Registration by Non-Resident Vendors.—No beverage or beverage concentrate or syrup, for retail sale, manufactured out of the State, shall be sold or offered for sale within the State unless the same has first been registered by the manufacturer or proprietor thereof with the State Board of Health. Such registration shall be in form similar to that provided in section 10 and shall be issued subject to the same requirements, limitations, restrictions, and liability to cancellation as elsewhere specified in this sub-division for licenses. The annual registration fee to be paid by each non-resident manufacturer and covering all of his product shall be ten dollars. (Id. § 11.)

40. Revocation of Licenses, etc.—In case any establishment, or any part thereof, licensed hereunder, shall be deemed by the State Board of Health to be conducted in an unsanitary manner, or there shall be any practice deemed in violation of any law, or of any legally adopted rule or regulation of the board, it shall be the duty of the board to notify the licensee or registrant concerned, and in case the required changes in conditions, methods, composition or branding are not effected within a reasonable time, to close such establishment or part thereof, or to suspend or to revoke or cancel the license or registration according as the board may deem expedient. (Id. § 12.)

41. —, Procedure.—Before revoking or canceling any license or registration the State Board of Health shall give written notice, stating that it contemplates such action and giving its reasons therefor. Said notice shall appoint a time of hearing and shall be sent by registered mail. On the day of the hearing the party concerned may present such evidence as he deems fit. (Id. § 13.)

42. —, Effect.—Any person, firm or corporation whose license has been suspended or revoked, or for whom a renewal therefor has been denied, shall discontinue the manufacture and sale within the State of the products concerned. The sale of the products of any manufacturer or bottler not licensed or registered as herein provided shall constitute a violation of this sub-division. (Id. § 14.)

43. Regulations.—All bottles used in the manufacture of beverages shall be cleaned and sterilized in such manner as may be provided in the regulations made hereunder. All materials, including water, used in the manufacture of beverages shall be pure and wholesome and shall be stored, handled, transported and kept in such manner as to protect them from spoilage, contamination and unwholesomeness. All products shall comply as to composition, labeling, conditions of manufacture, transportation, storage, handling and sale with existent statutory provisions relating thereto and with regulations made hereunder. (Id. § 15.)

44. Penalty.—Whoever violates any provision of this sub-division, or any rule or regulation lawfully made hereunder, shall be fined not less than twenty-five nor more than two hundred dollars, or imprisoned for not more than sixty days, or both. (Id. § 16.)

NOTE: See also Nos. 3, 185 et seq., 277 et seq., and 318 et seq.

Bread.

45. Sales Tickets; Bread, Etc.—All persons selling tickets for bread, milk or cream shall use some form of coupon ticket which shall be detached by the

purchaser as used, or, if single tickets be used, they shall be defaced, punched or cancelled in some way at the time of sale and shall not be again used. (Public Laws of 1926, c. 162, § 1.)

46. Penalty.—Any person using such ticket a second time shall be fined ten dollars. (Id. § 2.)

NOTE: See also No. 380.

Catsup.

See No. 3.

Cider.

See No. 3.

Cold Storage.

47. Terms Defined.—Terms used in this chapter shall have the following meanings:

I. Cold storage, the storage of articles of food at or below a temperature of forty degrees Fahrenheit in cold storage or refrigerating warehouses.

II. Cold storage or refrigerating warehouse, an establishment employing refrigerating machinery or ice for the purpose of refrigeration, or a place otherwise artificially cooled, in which articles of food are stored for thirty days or more at such temperature.

III. Article of food shall include fresh meat, fresh meat products except in process of manufacture, fresh food fish, game, poultry, eggs and butter. (Public Laws of 1926, c. 138, § 1.)

48. License.—No cold storage or refrigerating warehouse shall be operated without a license issued by the State Board of Health. (Id. § 2.)

49. Application; Issue; Fee.—Application for such a license shall be made to the board in writing, stating the location of the plant or plants. On receipt of the application the board shall cause an examination of such plant to be made, and if it is found to be in a sanitary condition and otherwise properly equipped for the business of cold storage the board shall cause a license to be issued authorizing the applicant to operate a cold storage or refrigerating warehouse for the period of one year, upon payment of a license fee of ten dollars, for the use of the State. (Id. § 3.)

50. Suspension; Closing Premises.—In case any such warehouse, or any part thereof, shall be deemed by the State board to be conducted in an unsanitary manner it shall be the duty of the board to close such warehouse or part thereof until it shall be put in a sanitary condition, and the board shall have power also to suspend the license in case the required changes are not made within a reasonable time. (Id. § 4.)

51. Licensees' Reports.—Every such licensee shall submit a quarterly report to the State board on a printed form to be provided by the board. The reports shall be filed on or before the twenty-fifth days of January, April, July and October of each year, and shall state the quantities of articles of food placed in cold storage during the three months preceding the first day of the month in which the report is filed. (Id. § 5.)

52. Unwholesome Food.—No article of food intended for human consumption shall be placed in cold storage if deemed by the State board to be diseased, tainted or otherwise unwholesome. (Id. § 6.)

53. Inspection.—It shall be the duty of the State board to inspect and supervise all cold storage or refrigerating warehouses in this State, and to make such inspection of the entry of articles of food therein as the board may deem necessary to secure proper enforcement of this chapter. The members of the board, or its duly authorized agents, inspectors or employees, shall be permitted access to such establishments and all parts thereof at all reasonable times, for purposes of inspection and enforcement of the provisions of this chapter, or of any other provision of law relating to food products. (Id. § 7.)

54. Marking Foods; Dates.—Pending retail sale, all cold stored foods shall be plainly marked with both the original date of entry into and date of withdrawal from cold storage, together with the necessary distinguishing words. (Id. § 8.)

55. ———, Imports.—Cold stored articles of food received from without the State shall be similarly marked with the original date of entry into cold storage and date of withdrawal therefrom. (Id. § 9.)

56. Removed Goods.—In the case of cold stored poultry and eggs, which have been removed from the original containers and placed upon display, there

shall be plainly exhibited in connection therewith a sign or placard, giving the above required information, in such manner as the State board may direct. (Id. § 10.)

57. Poultry; Eggs.—All retail packages of cold stored poultry and eggs, as delivered to the purchaser, shall be plainly marked with the words: Cold Stored, or Cold Storage. (Id. § 11.)

58. Information to Buyer.—Whenever requested, the dealer shall inform the purchaser as to the date of original entry and withdrawal; and it shall be unlawful to represent or advertise as fresh goods, cold stored articles of food. (Id. § 12.)

59. Storage Periods; Limitation.—No article of food shall be held in cold storage for a longer period than twelve calendar months, except with the consent of the State board as hereinafter provided. (Id. § 13.)

60. Extension.—The State board may, upon application, grant permission to extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found, upon examination, to be in proper condition for further storage at the end of twelve months. The length of time for which storage is allowed shall be specified in the order granting permission. (Id. § 14.)

61. ———, Report.—A report on each case in which such extension of storage may be permitted, including information relating to the reason for the action of the board, the kind and the amount of goods for which the storage period was extended, and the length of time for which the continuance was granted, shall be included in the biennial report of the board. (Id. § 15.)

62. Transfer, etc.—It shall be unlawful to return to cold storage any article of food that has once been released therefrom, for the purpose of placing it on the market for sale to consumers; but nothing in this section shall prevent the transfer of goods from one cold storage or refrigerating warehouse to another; provided, that such transfer is not made for the purpose of evading any provision of this chapter. (Id. § 16.)

63. Regulations.—The State board is empowered to make all necessary rules and regulations for the enforcement of this chapter, including rules and regulations with respect to the use of marks, tags, labels and signs. (Id. § 17.)

64. Penalty.—Whoever violates any provision of this chapter, or any lawful orders or regulations of the State board duly made as herein provided, shall be fined not less than twenty-five nor more than two hundred dollars, or imprisoned not more than sixty days, or both. (Id. § 18.)

Confectionery.

See Nos. 4 and 185 et seq.

Dairy Products—Substitutes for Dairy Products.

65. Agents.—The boards of health of cities shall be in charge of the inspection of milk, skim milk and cream, and may appoint one or more persons as their agents for that purpose, who shall act under their direction in their respective cities, and who may be removed by them at any time. (Public Laws of 1926, c. 163, § 1.)

66. Compensation; Qualifications.—The compensation to such agents shall be fixed by said boards of health; but no milk inspector shall be paid for his services unless he is a registered chemist, or is the holder of a certificate from the superintendent of the dairy department of the New Hampshire College of Agriculture and the Mechanic Arts showing the holder to be qualified to perform such work. (Id. § 2.)

67. Inspectors.—The selectmen of towns may annually appoint one or more persons to be inspectors of milk, skim milk and cream, under the same provisions and conditions as agents are appointed in cities. (Id. § 3.)

68. Licenses.—The boards of health of cities and the selectmen of towns may grant to any person who applies therefor and pays the sum of two dollars a license to sell milk, skim milk and cream within their city or town, until June first next following, and may renew such license annually in the month of May upon application and the payment of a like fee; provided, that said applicant will satisfy the board of health or selectmen that he understands the care and handling of said product, and files the name and address of all his producers, and gives reasonable assurance that the cows from which the milk is taken are healthy and are properly

fed and cared for. Any person selling only the product of his own cows shall be exempt from paying any fee for such license. (Id. § 4.)

69. ———, **Record.**—They shall make a record of all licenses granted and renewed by them, which, together with all registries made with them shall be open to public inspection; and they shall pay to the treasurer of their city or town all fees received, within thirty days after receipt. (Id. § 5.)

70. ———, **Contents; Revocation.**—The license shall state the name of the party to whom granted, his residence, place of business, the names of all persons employed by him in carrying on the business, the number of carriages or other vehicles used, the name of the town for which it is granted and the number of the license. It shall not be transferable, and may be revoked at any time for cause. (Id. § 6.)

71. ———, **Posting.**—The person to whom any license is granted shall cause his name, place of business and the number of his license to be legibly placed on the outer side of all carriages and vehicles used in the business, and in the case of a merchant selling or offering for sale in a store, booth or market place, in a city or town in which said licenses are granted, the license shall be posted in a conspicuous place in his place of business. (Id. § 7.)

72. **Penalty.**—Whoever goes about in carriages or makes a business of selling milk, skim milk or cream in any such city or town, or offering for sale or having in possession with intent to sell milk, skim milk or cream, unless a license has first been obtained as herein provided, or whoever violates any of the provisions of the preceding sections, shall be fined not more than ten dollars for the first offense; and for any subsequent offense he shall be fined fifty dollars, or imprisoned not more than sixty days, or both. (Id. § 8.)

73. **Testing Milk.**—The boards of health of cities and their agents, and the selectmen and inspectors of towns, may enter places where milk, skim milk or cream are stored or kept for sale, and into and upon carriages used for the conveyance thereof, may examine the product there found, may take such samples thereof as they may deem necessary, upon payment of the current price therefor, and, if requested, shall leave a sample of the same product, securely sealed, with the person from whom said sample was taken. If they have reason to believe that any such product is adulterated they shall cause specimens thereof to be analyzed or otherwise satisfactorily tested, and shall make a record of the result of the analysis or test. (Id. § 9.)

74. **Where in Force.**—The preceding sections shall be in force only in such towns and cities as have inspectors of milk, and those which may adopt the same. (Id. § 10.)

75. **Milk Testing Regulations; Inspector's Certificates.**—Every milk inspector in any city or town in this State, or whoever, either for himself or in the employ of another, manipulates the Babcock test or any other test, whether mechanical or chemical, for the purpose of measuring the contents of butter fat or solids in milk or cream as a basis for apportioning the value of such milk or cream, or the butter or cheese made from the same, shall, except as provided in section 70, procure from the superintendent of the dairy department of the New Hampshire College of Agriculture and the Mechanic Arts, a certificate showing that the holder is competent and well qualified to perform such work. The fee for issuing such certificate shall in no case exceed one dollar, the same to be paid by the applicant to said superintendent, and to be used by the superintendent in meeting the expense incurred by him under this section. (Id. § 11.)

76. **Instruments.**—Every instrument or piece of glassware used for testing or measuring milk or cream, at any creamery, butter factory, cheese factory or condensed milk factory in determining the value of milk or cream received from different persons, or by any milk inspectors in any city or town in this State, shall be tested for accuracy of measurement, and for the accuracy of the per cent scale marked thereon, by said superintendent or by some competent person designated by him. The superintendent or person thus designated shall mark such instruments or glassware with such marks or characters as cannot be erased, which marks or characters shall stand as proof that they have been so tested; and no incorrect instruments or glassware shall be thus marked. The superintendent shall receive for such service the actual cost incurred and no more, the same to be paid by the person for whom the test is made. (Id. § 12.)

77. **Record.**—He shall keep a record of all persons to whom certificates are issued, with the dates thereof, and of the number and description of all instruments and pieces of glassware inspected and marked, and for whom each was inspected. (Id. § 13.)

78. Penalty.—Any person who tests milk or cream contrary to the provisions of this subdivision, or who tests milk or cream to determine or apportion its value with appliances that have not been inspected and marked by the authorities herein named, shall be fined not less than five dollars for each week that he serves or that such unmarked and untested appliances are used. (Id. § 14.)

79. Exceptions.—The provisions of this subdivision shall not apply to graduate chemists in the employ of the State Board of Health, nor to the glassware and other instruments verified and used by such chemists at the State Laboratory of Hygiene. (Id. § 15.)

80. Certified and Inspected Milk; Regulations.—For the purpose of improving the dairy interests of the State of New Hampshire, and for the better protection of public health, the State Board of Health may establish rules and regulations, under which may be produced and sold a grade of milk known as certified milk, and also a grade known as inspected milk. (Id. § 16.)

81. ———, Observance.—No person shall exchange or offer or expose for sale or exchange, as certified or inspected milk, any milk which does not conform to the regulations prescribed for the respective grade by the State Board of Health, or by a commissioner appointed by a county medical society, with the approval of said board. (Id. § 17.)

82. Labeling; Quality.—All milk sold as certified or inspected milk shall be conspicuously marked or labeled in accordance with such regulations, and must be produced from healthy, tuberculin-tested animals, must be free from antiseptics, added preservatives, pathogenic germs and bacteria in excess of the established regulations. (Id. § 18.)

83. Penalty.—Any person who violates any of the provisions of this subdivision, or the regulations established under it, shall be fined not more than ten dollars. (Id. § 19.)

84. Standardized Milk Defined.—Standardized milk is the product resulting from the blending of milk or skim milk with clean, fresh, natural cream, under proper sanitary conditions and in such manner as to afford a milk of a certain definite composition. Such milk shall conform in all respects to the standards of quality and purity as provided in section 32. (Id. § 20.)

85. License.—Whoever desires to produce a standardized milk shall make application to the State Board of Health for a license therefor, to be issued by said board at its discretion, limited to a period of one year, and revocable for cause. (Id. § 21.)

86. Label.—Every can, bottle or other container in which standardized milk is shipped, sold or delivered, at wholesale or retail, shall bear a label or tag giving the name of the producer or distributor. (Id. § 22.)

87. Penalty.—Whoever shall standardize milk as herein provided without first having procured a license so to do, or following revocation of his license, or who shall ship, sell or deliver any such milk not truthfully labeled as provided in section 22, or any milk which has thus been reduced below the legal standard of quality, shall be fined not less than twenty-five nor more than two hundred dollars, or be imprisoned not more than sixty days, or both. (Id. § 23.)

88. Care of Cans, etc.; Cleansing.—No person shall furnish or provide any can or other receptacle, used for the purpose of transporting milk or cream, unless said receptacle, and the cover or stopple thereto be thoroughly cleansed by the use of hot water or steam, or both, before said receptacle is delivered to the person who is to fill the same. (Id. § 24.)

89. Use.—No person shall use a milk receptacle as a container for any substance, other than milk or cream. (Id. § 25.)

90. Penalty.—Any person violating any provision of the two preceding sections shall be fined five dollars for each can or other receptacle wrongfully furnished or used. (Id. § 26.)

91. Measure of Milk; Standard.—Milk shall be bought and sold by wine measure, the standard for which shall be two hundred and thirty-one cubic inches to the gallon, and for subdivisions of the gallon in the same proportion. (Id. § 27.)

92. Measures.—All measures or vessels used in the sale of milk shall be tried and proved by the standard of wine measure, and the quantity they hold agreeably to such standard shall be marked thereon. Any person selling any milk by any other than measures so tried, sealed and marked shall be fined ten dollars. (Id. § 28.)

93. Cans, Sealing.—All milk cans used by persons engaged in the business of purchasing milk at wholesale shall be sealed annually by the sealer of weights and measures in the city or town where the purchaser resides; and no milk can

shall be sealed which does not contain one or more quarts, and the capacity of the can shall be legibly marked upon it by the sealer. (Id. § 29.)

94. ———, **Capacity.**—When milk is purchased by the can, such can shall hold eight quarts of milk and no more. (Id. § 30.)

95. **Penalty.**—Any person violating the provisions of the two preceding sections shall be fined not more than fifty dollars. (Id. § 31.)

96. **Milk and Butter; Standard Quality.**—If, upon analysis, any milk shall be found to contain less than eleven and eighty-five one hundredths per cent of milk solids, or less than three and thirty-five one hundredths per cent of butter fat, or more than five hundred thousand bacteria per cubic centimeter, at the time of sale; or, in the case of skim milk, less than eight and one-half per cent of milk solids exclusive of fat; or, in the case of cream, less than eighteen per cent of butter fat; or, in the cases of butter and renovated butter, less than eighty per cent of butter fat, or more than sixteen per cent of water, such product shall not be deemed to be of standard quality. (Id. § 32.)

97. **Natural Milk.**—Pure natural milk which shall contain less than the amounts of solids and fats specified in the preceding section may be sold if every can, bottle or other container in which such milk is shipped, sold or delivered, at wholesale or retail, is plainly labeled so as to show its guaranteed composition. (Id. § 33.)

98. **Skimmed Milk.**—No dealer in milk, and no servant or agent of a dealer, shall sell, exchange, deliver or have in his custody or possession with intent to sell, exchange or deliver, milk from which the cream or any part thereof has been removed, unless in a conspicuous place above the center upon the outside of every vessel, can or package from or in which such milk is sold the words "skimmed milk" are distinctly marked in letters not less than one inch high. (Id. § 34.)

99. **Penalty.**—Whoever sells, offers for sale, or has in possession with intent to sell, any milk, skim milk, cream, butter or renovated butter which fails to conform to the requirements of the three preceding sections, or otherwise violates any provision thereof, shall be fined ten dollars. (Id. § 35.)

100. **Adulteration, etc.**—If any person shall adulterate milk, skim milk or cream, with water or otherwise, to be sold; or shall sell or offer for sale, or have in possession with intent to sell, any adulterated or unwholesome milk, skim milk or cream containing any coloring matter or preservative, or any milk produced from sick or diseased cows, or cows fed upon any substance which may be deleterious to the quality of milk, skim milk or cream; or shall sell or offer for sale, or have in possession with intent to sell as milk, any milk from which the cream or a part thereof has been removed, he shall be fined not less than twenty-five nor more than two hundred dollars, or imprisoned not more than sixty days, or both. (Id. § 36.)

101. **Added Fats.**—It shall be unlawful for any person, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, ice cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products or articles or of any of the derivatives thereof or under any name whatever. (Id. § 37.)

102. **Penalty.**—Whoever violates the provisions of the preceding section shall be fined not less than one hundred nor more than five hundred dollars. (Id. § 38.)

103. **Sale of Process Butter.**—No renovated or process butter shall be exposed for sale in other than the original package in which it was received, and which bears the labeling required by the United States Commissioner of Internal Revenue. (Id. § 39.)

104. ———, **Marking.**—Whoever shall sell any renovated butter, or process butter, in quantity less than the original unbroken package, as duly labeled in accordance with the regulations of the United States Internal Revenue Department, shall stamp upon the outside of such broken or retail package as delivered to the purchaser the words Renovated Butter in letters not less than three-eighths of an inch square, of plain, uncondensed Gothic caps. (Id. § 40.)

105. **Penalty.**—Whoever violates any provision of the two preceding sections shall be fined ten dollars. (Id. § 41.)

106. **Labeling Substitutes.**—No person, by himself or his agents or servants, shall render or manufacture, sell, offer for sale, expose for sale or have in his possession with intent to sell, any article, product or compound made wholly or partly

out of any fat, oil or oleaginous substance, or compound thereof, not produced from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure, unadulterated milk or cream of the same, or in imitation of cheese produced from unadulterated milk or cream of the same, unless the same is contained in tubs, firkins, boxes or other packages, each of which has upon it, to indicate the character of its contents, the words Adulterated butter, Oleomargarine, or Imitation cheese, as the case may be, in plain Roman letters not less than one-half inch high, and so made, placed or attached that they can readily be seen and read, and cannot be easily defaced; and, if the substance or compound is a substitute for cheese, unless the cloth surrounding it has a like inscription; and, if it is a substitute for butter, unless it shall be of some other color than that of yellow butter. (Id. § 42.)

107. —, Broken Package.—When any such substance or compound is sold in less quantities than the original packages contain, the seller shall deliver to the purchaser with it a label bearing the words indicating its character as above, in like letters; provided, that nothing in this subdivision shall be construed to prohibit the manufacture and sale of oleomargarine in separate and distinct form, and in such manner as will advise the consumer of its real character, free from any coloration or ingredient that causes it to look like butter. (Id. § 43.)

108. Peddling.—It shall be unlawful for any person to peddle, sell or deliver from any cart, wagon or other vehicle, upon the public streets or ways, oleomargarine, butterine or any similar substance, unless branded and marked as required in the two preceding sections. (Id. § 44.)

109. Furnishing.—It shall be unlawful for any person to furnish or cause to be furnished, in any hotel, boarding-house, restaurant, or at any lunch-counter, oleomargarine, butterine or any similar substance to any guest or patron of said hotel, boarding-house, restaurant or lunch-counter, without first notifying such guest or patron that the substance so furnished is not butter. (Id. § 45.)

110. Advertisements.—No person, with intent to deceive, shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word butter, cream, dairy, cow or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter. (Id. § 46.)

111. Penalty.—Any person violating any of the provisions of the five preceding sections shall be fined not less than twenty-five nor more than fifty dollars for the first offense, and for each subsequent offense not less than fifty nor more than one hundred dollars, or imprisoned not less than ten nor more than ninety days, or both. (Id. § 47.)

112. Soliciting Orders.—If any person shall, within this State, solicit or take any order for any substance or compound, the sale, offer to sell or keeping in possession of which with intent to sell, is prohibited by the provisions of this subdivision, to be delivered at any place without this State, knowing or having reasonable cause to believe that if so delivered the same will be transported to this State and be sold in violation of the laws thereof, he shall be fined fifty dollars for the first offense, and for any subsequent offense one hundred dollars, or imprisoned not more than ninety days. (Id. § 48.)

113. Definition.—The terms butter and cheese shall be understood to mean the products usually known by those names, and which are manufactured exclusively from milk, or cream, or both, with salt and with or without coloring matter, and, if cheese, with rennet. (Id. § 49.)

114. Prosecutions; Official Duty.—It shall be the duty of the Commissioner of Agriculture, the State Board of Health, its agents and the health officers or milk inspectors of cities and towns, whenever they may have evidence of a violation of any of the provisions of this chapter, relating to oleomargarine, to file the necessary information with the proper chief of police or the county solicitor, and it shall be the duty of such chief of police and county solicitor to prosecute the offenders. (Id. § 50.)

115. Analyses.—The complainant in any such action may cause specimens of butter or cheese suspected of being imitations to be analyzed or tested. The expense of such analysis or test, not exceeding twenty dollars in any one case, may be taxed as costs. (Id. § 51.)

116. Record.—A record shall be made and kept by said boards of health and selectmen of each conviction in their respective cities and towns of any violation of the provisions of this chapter. (Id. § 52.)

117. Connivance.—Any board of health, or any agent thereof, or selectman or inspector appointed under the provisions of this chapter, who wilfully connives

at or assists in a violation of the provisions of this chapter, shall be fined not more than three hundred dollars, or imprisoned not more than sixty days, or both. (Id. § 53.)

118. Definition.—The term receiving station as used in this sub-division shall include creameries, cheese factories, condensaries, receiving stations, milk depots and processing plants for milk and cream. (Id. § 54.)

119. Inspection, Stations.—The Commissioner of Agriculture, or his deputy, shall inspect all receiving stations and shall secure the correction of all conditions and practices found therein detrimental to the maintenance or improvement of the quality of the products. The persistent existence of any conditions or practices deemed to be in violation of chapter 137* shall be reported to the State Board of Health, which board shall exercise jurisdiction in prosecuting such violations. (Id. § 55.)

120. ———, Dairies.—If the commissioner, or his deputy, has reason to believe that milk or cream, or part thereof, is produced or kept under unsanitary conditions he shall inspect the dairy and premises of the producer thereof, and shall issue such instructions as in his judgment will effect improvement to a satisfactory standard. In case his instructions are not complied with he may order, in writing, the owners, operators or managers of any station receiving such milk or cream and of neighboring receiving stations, to refuse to receive such milk or cream until permitted so to do by order of the commissioner. Whoever disobeys such order shall be fined fifty dollars. (Id. § 56.)

121. Testing, Samples.—The commissioner, or his deputy, may enter upon the premises of a receiving station and upon any place where milk or cream is received for transportation, and take samples drawn for the purpose of testing butter fat content or the various constituents of milk or cream, which is on the premises or in the possession of an employee, or may take samples from vendors' deliveries for the purpose of testing the same. (Id. § 57.)

122. ———, Owners' Records.—The owner, operator or manager of such a receiving station, if requested by the commissioner or his deputy, shall give him full access to all creamery records appertaining to the tests thereof, and the commissioner or his deputy may make transcripts therefrom. (Id. § 58.)

123. ———, Notice of Result.—The results of the tests made by the commissioner or his deputy may, at the discretion of the commissioner, be communicated to the owner, operator or manager, or to any of the patrons of such receiving station from which such samples have been taken and tested, or to all of them. (Id. § 59.)

124. Further Tests.—The owner, operator or manager of a receiving station at which tests, under the provisions hereof, are made may require the commissioner or his deputy to take duplicate sealed sub-samples thus tested and to promptly forward the same to the dairy department of the New Hampshire college for further test, in which case communication of the results of the tests made by the commissioner or his deputy shall not be made to the patrons of such receiving station, unless the same shall substantially agree with the results of the tests made by said dairy department. or unless the commissioner is notified by said dairy department that the samples were received in a condition unfit to analyze or test. (Id. § 60.)

125. ———, Fees.—The party who requires the taking and forwarding of sub-samples shall pay in advance all the charges thereon and all other expenses attendant on further tests made under the provisions hereof. (Id. § 61.)

126. ———, Reports.—The said dairy department shall report in duplicate to the commissioner and to the owner, operator or manager of the receiving station, the results of such tests made by it. If said sub-samples shall be received in poor condition the dairy department shall not be required to analyze, but in such cases the advance payment required by section 61 shall be returned to the party making the same. (Id. § 62.)

127. Inspection of Apparatus.—The commissioner, or his deputy, may enter the premises of any receiving station and may inspect or test all apparatus and materials used in weighing or making tests of the product received, for the purpose of determining the accuracy of the same, and may order any apparatus to be repaired, or may condemn the same or any part thereof, or any materials used in making tests. (Id. § 63.)

128. Rules.—The commissioner may give such instruction and make such regulations concerning the taking of samples of milk and cream, making the butter fat test and computing the results thereof, as he deems proper. (Id. § 64.)

*See Nos. 185-192.

129. Station Records.—The owner, operator or manager of each receiving station where milk or cream is bought and paid for on the basis of butter fat content shall keep on file for at least one year all the original records of butter fat tests of milk and cream made of each vendor's product. Such original records shall contain the names or numbers of vendors whose butter fat tests are made, the percentage of butter fat contained in said vendor's milk or cream, the period of time which said tests cover, and shall be signed by the licensed tester who made the test. (Id. § 65.)

130. Penalty.—Any owner, operator or manager who credits a vendor delivering milk or cream with a greater or less percentage of fat than is actually contained in the milk or cream so delivered, or who hinders, impedes or obstructs the commissioner or his deputy in the discharge of his duty, or who refuses him access to testing apparatus or records of tests, or who neglects to follow the instructions given by the commissioner or his deputy as hereinbefore provided, shall be fined not more than one hundred nor less than twenty-five dollars. (Id. § 66.)

131. Statements, For Vendors.—The owner, operator or manager of each receiving station for milk or cream shall make and deliver at least monthly to each vendor a statement such as the commissioner may deem proper, stating the quantity of milk and cream delivered by said vendor during the period covered by the statement, the price per unit paid for such milk or cream, and, in the absence of an agreement in writing to the contrary, the butter fat content as determined by tests approved by the commissioner. Any party failing to render such a statement shall be fined not more than twenty-five nor less than ten dollars. (Id. § 67.)

132. Inspection; Changes.—The commissioner, or his deputy, may examine the records of the purchasers of milk and cream to ascertain whether correct returns are being made to the producers and, in case they are unsatisfactory, shall recommend a more suitable form of statement. If, within sixty days, such receiving station does not comply with said recommendation, the owner, operator or manager, or any officer thereof, shall be fined not more than one hundred nor less than twenty-five dollars. (Id. § 68.)

133. Annual Reports.—On or before March first of each year all receiving stations shall file with the commissioner a full and accurate report of the amount of milk and cream received, the amount of milk and cream sold as such, and the amount of butter, cheese and other dairy products manufactured during the preceding calendar year together with such other statistical information as he may require. Whoever violates a provision of this section shall be fined twenty-five dollars. (Id. § 69.)

134. Testers' Licenses.—Any person who manipulates the Babcock test or any other mechanical or chemical test, for the purpose of measuring the percentage of butter fat or solids in milk or cream as a basis for paying for product purchased by a receiving station, shall procure from the commissioner a license showing that the holder is competent and qualified to perform such work, the competency and qualification of such testers to be determined by examination by the State Dairy Inspector. (Id. § 70.)

135. Rules; Fees; Revocation.—The commissioner may make rules and regulations governing the application for and the granting of such licenses and shall charge a fee of one dollar for the same. Licenses must be renewed annually during the month of January. There shall be no charge for renewal. Licenses may be revoked by the commissioner if, after due notice, the licensee fails or has failed to comply with the law, rules and regulations under which the license was granted. (Id. § 71.)

136. State Dairy Inspector.—The commissioner shall, with the approval of the Governor, appoint some person who is qualified for the position of State Dairy Inspector. The inspector shall give full time in the performance of the duties set forth in this sub-division and in promoting the dairy interests of this State, under the advice and authorization of the commissioner. ((Id. § 72.)

137. Purchase of Milk, etc., for Resale or Manufacture; License.—Every person who purchases milk or cream within this State, to be either resold as milk or cream, or manufactured into other dairy products, shall first obtain a license and give bonds in accordance with sections 4 and 5; provided, that no resident person, association or corporation, making such purchases and sales, shall be required to obtain a license as long as payment for such purchases is made within seven days after the first day of the calendar month following that in which such milk or cream is purchased and delivered. (Public Laws of 1926, c. 164, § 1.)

138. Application.—Every such applicant for a license shall file with the Commissioner of Agriculture a statement showing:

I. The full name and address of the dealer, if an individual.

II. If it be a partnership, the full names and addresses of all partners, and their respective interests in the firm.

III. If it be an association, the full names and addresses of all members of the association, a copy of the articles of association, a list of all officers of the association and a copy of any by-laws or regulations thereof attested by its clerk or secretary.

IV. If it be a corporation, a copy of its charter or articles of agreement, a copy of its by-laws or regulations and a copy of such portions of its records as show the extent of its paid up capital, a list of its stockholders and their respective holdings, a list of its officers and a statement showing its financial condition, all of which shall be signed by the president, treasurer and secretary or clerk of the corporation.

V. A complete statement of all real estate within this State, owned by such applicant, and of the incumbrances thereon, which shall also contain the place and details of the record of the applicant's title thereto.

VI. A statement of the amount of such business done by the applicant, within this State, during each month of the year preceding such application.

VII. Such further information relative to its organization or past business, or the proposed course of future business, as the Commissioner of Agriculture may require. (Id. § 2.)

139. Power of Attorney.—All residents giving bond, as hereinafter provided, and all non-residents shall, prior to receiving such a license, file with the Secretary of State a power of attorney, appointing the secretary the applicant's agent, for receiving service of process, returnable to any court within this State; and shall also file a copy of such power of attorney with the Commissioner of Agriculture. (Id. § 3.)

140. Issue.—Upon the filing of such statement and power of attorney and the payment of one dollar for each month that a license is applied for the Commissioner of Agriculture shall license such applicant to make such purchases within this State, until the first day of the next April, if the applicant shall be found by the commissioner to have sufficient real estate within this State to afford ample security for the protection of those from whom such applicant purchases the aforesaid products. (Id. § 4.)

141. Bond.—Any applicant, not having such real estate, shall be permitted to furnish security by a bond signed by such applicant and some surety company authorized to do business within this State, in such sum as the Commissioner of Agriculture shall fix, and conditioned upon the payment by the principal of all his accounts for milk or cream so purchased within this State, within fifteen days after the same shall become due, and for the faithful performance of and compliance with all the conditions and requirements imposed upon such dealers by the Commissioner of Agriculture or by the laws of the State. Such bond shall run to the State as trustee for the benefit of all residents of the State who may sell to the principal any of the aforesaid products. (Id. § 5.)

142. ———, Additional.—The Commissioner of Agriculture may require such licensee to furnish detailed statements of the business transacted by such licensee thereunder; and may require the licensee to furnish further bond whenever in the opinion of such commissioner it becomes necessary for the protection of resident creditors of such licensee. (Id. § 6.)

143. Selling Realty.—Any licensee, whom the commissioner has accredited with security consisting of real estate, shall, before conveying or encumbering said real estate, notify the commissioner, and shall comply with such order as to furnishing bond in lieu of such real estate as he may make, before selling or encumbering said realty. (Id. § 7.)

144. Payment for Products.—Such licensees may contract with their vendors for the payment of the several sums due them for milk or cream at such times and in such manner as may be mutually agreed upon; but in the absence of any written memoranda thereof signed by both parties, in respect thereto, such payment shall be due and payable on the Tuesday next, after the fifteenth day of each month, for all milk or cream delivered or furnished during the preceding calendar month. (Id. § 8.)

145. ———, Statements.—At the time payment is made therefor, such licensee shall furnish to each payee a statement of the quantity delivered or furnished by him during the period covered by the payment so made, together with the price allowed for the same. (Id. § 9.)

146. Forfeiture of Bond.—If such licensee, for the space of fifteen days after the date upon which the payment of the several amounts due his vendors becomes due, shall, without the consent of such creditor, fail to pay the amount due for

milk or cream delivered or furnished by such creditor the bond given by such licensee shall be forfeited. (Id. § 10.)

147. ———, **Suit.**—Upon the violation of any such bond, any creditor injured by such violation may make written application to the Governor for leave to sue said bond, and, upon indemnifying the State from any expense, in such sum as the Governor may prescribe, not exceeding three hundred dollars, leave shall be given such creditor to bring suit upon said bond in the name of the State, within such period of time as may be limited in such permission. (Id. § 11.)

148. ———, **Other Creditors.**—Upon the forfeiture, by judgment or order of court, of any such bond, any creditor of the principal, whose claim for milk or cream is overdue, may enter his name in said suit, as a plaintiff in interest, upon such conditions or terms as the court may order; and, upon proof of his claim, execution may be issued in his favor for the amount of such claim, with interest for the overdue period, together with costs, against the principal and surety. (Id. § 12.)

149. ———, **Service.**—Whenever suit is instituted upon any such bond, as aforesaid, service shall be made upon the Secretary of State, as the resident agent of non-resident and bonded resident licensees; and there shall be given to him, by the sheriff serving the same, an extra copy of the writ or document served, together with twenty-five cents for filing and docketing the same, and for transmitting such additional copy to the Commissioner of Agriculture. (Id. § 13.)

150. ———, **Secretary's Duty.**—It shall be the duty of the Secretary of State, upon the service of any such process upon him, to enter the same in a docket, showing the name of the plaintiff and defendant, the term of court to which said process is returnable, the date when and the officer by whom the same was served, and to forthwith transmit the extra copy to the Commissioner of Agriculture. (Id. § 14.)

151. **Suspension of License.**—Upon the receipt of such process by the Commissioner of Agriculture, it shall be his duty to suspend the defendant's license until the licensee shall furnish such new security as the commissioner may order. (Id. § 15.)

152. **Penalty.**—Whoever makes a false statement to secure a license, or purchases milk or cream within this State without first having obtained a license so to do, or, having obtained such license, shall continue to do such business after being notified by the Commissioner of Agriculture that such license has been suspended, and before permission to resume such business has been granted, shall be fined not more than five hundred dollars, or imprisoned not more than one year, or both. (Id. § 16.)

153. **Ice Cream.**—No person, firm, company, or corporation shall manufacture for sale within the State, keep for sale, or sell, ice cream which shall contain any substance other than milk, cream, other suitable milk products, eggs, sugar (sucrose), flavoring substances, coloring, more than one-half of one per cent of wholesome, edible stabilizer, or which shall contain, in the case of plain ice cream, less than fourteen per cent of butter fat, and in the case of ice cream prepared with fruits or fruit juices, nuts, or nut products, less than twelve per cent of butter fat. For the purpose of this section, the words "ice cream" shall be construed as meaning and including any sweetened and flavored frozen product having the general appearance of ice cream in the preparation of which a substantial amount of milk or of a milk product has been incorporated, regardless of the name by which such frozen product may be called or under which it may be sold, kept for sale, or offered for sale. (Public Laws of 1926, c. 139, § 17, as amended Act of Feb. 10, 1927.)

154. **Penalty.**—Any person who shall violate any provision of the three preceding sections shall be fined not less than ten nor more than fifty dollars. (Public Laws of 1926, c. 139, § 18.)

154a. **Milk.**—The milk of such animals* may, with the approval of the commissioner, be used, after boiling or heating to a temperature of 212 degrees Fahrenheit, or after proper pasteurization. (Public Laws of 1926, c. 187, § 62.)

154b. **Original Bottles.**—No person, firm or corporation owning or leasing any hotel, restaurant, store, lunchroom, fountain, roadside booth or stand, or any boarding house which makes a practice of serving meals to transients, or his, her, or its agents, servants, or employees shall sell or serve milk for drinking purposes to his, her, or its patrons unless such milk is served or sold in the original bottle or like container in which the milk was delivered to the said hotel, restaurant, store,

*Registered pure-bred bovines which have responded to the tuberculin or other approved test but which show no marked indication of tuberculosis.

lunchroom, fountain, roadside lunch booth or stand, or boarding house. (Act of Apr. 6, 1927, § 1.)

154c. Milk Standard.—It shall be unlawful for any person, firm or corporation owning or leasing any hotel, restaurant, boarding house, store, lunchroom, fountain, roadside booth or stand, or his, her, or its agents, servants, or employees to serve milk for drinking purposes to his, her, or its patrons unless said milk complies with the standards for milk fixed by the laws of the State. (Id. § 2.)

154d. Penalty.—Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than fifty dollars, or imprisoned for not less than thirty days nor more than ninety days or both. (Id. § 3.)

154e. Limitation.—Nothing contained in this act shall be construed to prevent or prohibit the person, firm or corporation owning or leasing any hotel, restaurant, boarding house, store, lunchroom, fountain, roadside booth or stand, or other person from purchasing milk in bulk for uses other than for serving patrons for drinking purposes, nor to prevent the sale or serving of cream, skimmed milk, or buttermilk from bulk, if the same is pure and wholesome and is sold and served as cream, skimmed milk, or buttermilk, nor shall it prevent or prohibit the sale of milk in mixed drinks at soda fountains. (Id. § 4.)

154f. Enforcement.—The State and local board of health shall be charged with the enforcement of this act. (Id. § 5.)

154g. Takes Effect.—This act shall take effect June 1, 1928. (Id. § 6.)

NOTE: See also Nos. 16, 45-46, 47 et seq., and 318 et seq.

Eggs.

See No. 47 et seq.

Feeding Stuffs.

155. Labeling.—Every person who shall sell, offer or expose for sale or for distribution in this State any concentrated commercial feeding-stuff used for feeding farm livestock shall furnish with each car or other quantity shipped in bulk, and shall affix to every package of such feeding-stuff, in a conspicuous place on the outside thereof, a plainly printed statement clearly and truly certifying the number of net pounds in the package sold or offered for sale, the name or trade-mark under which the article is sold, the name of the manufacturer or shipper, the place of manufacture, the place of business, and a chemical analysis stating the minimum percentages only which it contains of crude protein (allowing one per cent of nitrogen to equal six and one-fourth per cent of protein), the minimum percentage only of carbo-hydrates, the minimum percentage only of crude fat, and the maximum percentage only of crude fibre, each constituent to be determined by the methods prescribed by the Association of Official Agricultural Chemists, and shall state in bold type upon the container or a tag attached thereto, if a compounded feed, the names of the several ingredients therein contained. (Public Laws of 1926, c. 184, § 1.)

156. Certificates.—Whenever any feeding-stuff is sold at retail in bulk, or in containers belonging to the purchaser, the agent or dealer, upon request of the purchaser, shall furnish to him the certified statement named in the preceding section. (Id. § 2.)

157. Foods Included.—The term "concentrated commercial feeding-stuffs," as used in this chapter, shall include linseed meals, cotton-seed meals, pea meals, cocoanut meals, gluten meals, gluten feeds, maize feeds, starch feeds, sugar feeds, dried brewer's grains, malt sprouts, hominy feeds, cerealine feeds, rice meals, oat feeds, corn and oat chops, wheat, rye and buckwheat, bran and middlings, ground beef or fish scraps, mixed feeds, and all other materials of similar nature; but shall not include hay, straw and whole seed, nor the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, broom corn or buckwheat. (Id. § 3.)

158. Filing With Commissioner.—Before any person shall sell or offer for sale in this State any concentrated commercial feeding-stuffs he shall, for each and every feeding-stuff bearing a distinguishing name or trade-mark, file annually during the month of December with the Commissioner of Agriculture a certified copy of the statement specified in the preceding sections, said certified copy to be accompanied, when the commissioner shall so request, by a sealed glass containing at least one pound of the feeding-stuff to be sold or offered for sale; and the person furnishing said sample shall thereupon make affidavit that said sample corresponds, within

reasonable limits, to the feeding-stuff which it represents in the percentage of protein, carbo-hydrates, fat and crude fibre which it contains. (Id. § 4.)

159. Fees.—An analysis fee of fifteen dollars for each calendar year or fraction thereof shall be paid to the commissioner by each manufacturer, importer, agent or seller of any concentrated commercial feeding-stuffs. (Id. § 5.)

160. Exceptions.—Whenever the manufacturer, importer or shipper of concentrated commercial feeding-stuffs shall have filed the statement required by section 4, and paid the analysis fee as prescribed in section 5, no agent or vendee of such manufacturer, importer or shipper shall be required to file such statement or pay such fee. (Id. § 6.)

161. Analyses.—The commissioner shall annually cause to be analyzed, at the New Hampshire College Agricultural Experiment Station, at least one sample, to be taken in the manner hereinafter prescribed, of every concentrated commercial feeding-stuff sold or offered for sale under the provisions of this chapter. (Id. § 7.)

162. Samples.—He shall cause a sample not exceeding two pounds in weight to be taken, for such analysis, from any lot or package of such commercial feeding-stuff which may be in the possession of any manufacturer, importer, agent or seller in this State. The sample shall be drawn in the presence of the parties in interest, or their representatives, and taken from a parcel or a number of packages, which shall not be less than ten per cent of the whole lot sampled, and shall be thoroughly mixed and then divided into two equal samples placed in glass vials carefully sealed, and a label placed on each stating the name of the party from whose stock the sample was drawn and the time and place of drawing, and signed by the person taking the sample and by the party in interest, or his representative, at the drawing and sealing of said samples. (Id. § 8.)

163. ———, Use.—One of said duplicate samples shall be retained by the commissioner, and the other by the party whose stock was sampled, and the sample retained by the commissioner shall be for comparison with the certified statement named in section 4. (Id. § 9.)

164. Publication.—The result of the analysis of the sample so procured, together with such additional information as circumstances advise, shall be promptly published in reports or bulletins by the commissioner, or by the New Hampshire College Agricultural Experiment Station, as the Governor and council may determine. (Id. § 10.)

165. Penalty.—Any person who shall sell, offer or expose for sale or for distribution in this State any concentrated commercial feeding-stuff, without complying with the requirements of this subdivision, or any feeding-stuff which contains substantially a smaller percentage of the constituents than are certified to be contained, shall be fined not more than one hundred dollars for the first offense, and not more than two hundred dollars for each subsequent offense. (Id. § 11.)

166. Notice; Prosecution.—Whenever said commissioner becomes cognizant of the violation of any of the provisions of this or the next succeeding chapter, he shall prosecute the offender if he otherwise fails to secure proper compliance with the law. (Id. § 12.)

Fish.

See No. 47 et seq.

Fruit Jams, Jellies and Preserves.

See No. 3.

Fruits and Vegetables.

See Nos. 375 and 391 et seq.

Grain.

167. Labeling.—Every person who shall sell, offer or expose for sale in this State any corn, whole, ground or cracked, oats, rye, barley, wheat or buckwheat, used for feeding live stock or poultry, shall furnish with each car or other quantity shipped in bulk a plainly printed statement showing net weight and grade, as hereafter provided, and shall affix to each bag of grain a plainly printed statement or tag, showing the grade of goods and net weight contained therein, and the name and address of the dealer selling the same if the grain be below the following standards: Below No. 1 for clipped oats; below No. 2 for natural oats, rye, barley or buckwheat. (Public Laws of 1926, c. 184, § 13.)

168. Corn Standard.—The standard for corn shall be that it may not contain more than seventeen and one-half per cent moisture, not more than four per cent of foreign material and cracked corn, not more than six per cent of damaged kernels which must not include more than three-tenths of one per cent of heat damaged kernels. Such corn may grade No. 3 according to United States standard, or No. 2, if it loses two per cent of moisture and contains not over fifteen and one-half per cent. (Id. § 14.)

169. Oats.—If oats have been sulphured, bleached or otherwise whitened by any artificial process every bill or invoice for such oats in any quantity whatever, whether sold at wholesale or retail, shall be plainly marked in bold type Sulphured or Bleached, as the case may be. (Id. § 15.)

170. Treated Grain.—If any grain shall have been polished, degerminated, or treated in any manner to conceal, change or destroy its identity, or change its analysis, or had chit or other part removed, or shall have been damaged, each bag shall be tagged with full information as to the quality and kind of such grain, net weight, treatment it has undergone and description of damage suffered, if any. (Id. § 16.)

171. Penalty.—Any person who shall sell, offer or expose for sale or distribution in this State any of the grain herein mentioned, without complying with the foregoing requirements, shall be fined not more than one hundred dollars for the first offense, and not more than two hundred dollars for each subsequent offense. (Id. § 17.)

172. Adulteration.—Any person who shall adulterate any kind of meal or ground grain with milling or manufacturing offals, or any other substance whatever, for the purpose of sale, unless the true composition, mixture or adulteration thereof is plainly marked or indicated upon the package containing the same, or in which it is offered for sale; or any person who knowingly sells or offers for sale any meal or ground grain which has been so adulterated, unless the true composition, mixture or adulteration is plainly marked or indicated upon the package containing the same, or in which it is offered for sale, shall be fined not less than twenty-five nor more than one hundred dollars. (Id. § 18.)

Ice.

173. Weighing, by Dealer.—A dealer in ice who, on request of the purchaser, refuses or neglects to weigh the same when delivered, or gives a false weight, shall be fined not more than fifty dollars. (Public Laws of 1926, c. 162, § 39.)

174. ———, Employee.—Whoever, having charge of the delivery of ice from a wagon, not being a dealer in ice, refuses to weigh the same on the request of the purchaser when it is delivered, or gives a false weight, shall be fined not more than ten dollars. (Id. § 40.)

Maple Products.

175. Maple Products.—No person shall sell, expose for sale, exchange, barter, deal in or have in his possession with intent so to deal with, any article as and for maple sugar, maple candy or maple syrup unless the same shall be made solely from the sap of the maple tree. (Public Laws of 1926, c. 139, § 15.)†

Meat—Meat Products.

176. Veal.—Whoever kills, or causes to be killed, for the purpose of sale, a calf less than four weeks old and of a net dressed weight of less than forty pounds not including the head and feet, or knowingly sells, or has in possession with intent to sell for food, the meat of any such calf, shall be fined not more than fifty dollars, or imprisoned not more than thirty days, or both. (Public Laws of 1926, c. 139, § 19.)

177. Forfeitures.—Any meat, unwholesome provisions or articles sold, kept or offered for sale and any articles adulterated or misbranded in violation of any provision of this chapter, or of chapter 137‡ may be forfeited. (Id. § 20.)

†For penalty, see No. 154.

‡See Nos. 185-192.

177a. Sale.—If no marked physical indications of tuberculosis have developed such animals* may be sold for immediate slaughter in any slaughterhouse under regulations provided by the State Board of Health, or in accordance with the rules and regulations of the bureau of animal industry of the United States under the Federal meat inspection laws. (Public Laws of 1926, c. 187, § 65.)

NOTE: See also Nos. 47 et seq. and 179 et seq.

Vinegar.

178. Vinegar.—No person shall sell, expose for sale, exchange, barter, deal in or have in his possession with intent so to deal with, any article as and for cider vinegar unless the same shall be vinegar made solely from cider made of apples and shall have an acidity equal to the presence of not less than four per cent, by weight, of absolute acetic acid, and shall contain not less than one and six-tenths per cent, by weight, of apple solids. (Public Laws of 1926, c. 139, § 16.)†

Water.

See Nos. 16-17 and 37.

Sanitation.

179. Employment.—The State Board of Health may employ one or more persons as inspectors, for such period of service as the board may require. They shall be paid a reasonable per diem and actual expenses, legally incurred when engaged in the performance of their duties. (Public Laws of 1926, c. 136, § 1.)

180. Meat.—It shall be the duty of the inspectors, acting under the direction of the State board, to make examinations as far as may be of the meat supplies sold in this State not guaranteed by government inspection, with reference to the detection of illegal, unsuitable or diseased meats, the sanitary condition of slaughtering establishments and places where meats are kept, the methods of preparing meat products for sale and such other investigations of meat products as may be authorized by the State board. (Id. § 2.)

181. Food Products.—The inspectors shall investigate food manufacturing processes and food products offered, or to be offered, for sale in this State, and may take samples of food for examination at the State laboratory of hygiene. (Id. § 3.)

182. Sanitation.—The inspectors shall, under the direction of the State board, investigate local sanitary conditions, in conjunction with and upon request of local boards of health, in cases where such expert advice is deemed necessary by the State board. (Id. § 4.)

183. Public Health.—In addition to the specific duties herein prescribed, the inspector shall perform such other duties in connection with public health matters as the State board shall direct. (Id. § 5.)

184. General Penalty.—Whoever hinders, obstructs or in any other way interferes with said inspectors or with any member of said board, or any of their other officers, agents or employees, in the performance of any of their duties, shall be fined not more than fifty dollars for the first offense, and one hundred dollars for each subsequent offense. (Id. § 6.)

185. Food Defined.—For the purpose of this chapter the term food shall include all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances and ingredients used in the preparation thereof. (Public Laws of 1926, c. 137, § 1.)

186. Unsanitary Conditions.—The existence or maintenance of any unclean, unhealthful or unsanitary condition or practice in any establishment or place where food is produced, manufactured, stored or sold, or of any car or vehicle used for the transportation or distribution thereof, is forbidden. (Id. § 2.)

187. —, Defined.—Unclean, unhealthful or unsanitary conditions or practices shall be deemed to exist if the floors, side-walls and ceilings are not properly constructed and maintained; or if food in the process of production, storage, sale or distribution is unnecessarily exposed to flies, dust or dirt, or to the products of decomposition or fermentation incident to such production, storage, sale or distribution; or if any person is permitted to use as a sleeping room any place where

*See footnote to No. 154a.

†For penalty, see No. 154.

food is prepared for sale, stored, served or sold; or if any employer shall knowingly permit or suffer any person who is affected with tuberculosis, or any other communicable disease to work in such place; or if there is any other condition or practice which endangers the wholesomeness of food. (Id. § 3.)

188. Inspections.—The State Board of Health, or its inspectors, or special agents designated for that purpose, shall have full power and authority at all times to enter and inspect every building, room or other place occupied or used for the production, storage, sale or distribution of food, and all utensils and appurtenances relating thereto. (Id. § 4.)

189. Orders.—In the event that a person infected with any communicable disease is employed, or if structural alterations are necessary for the protection of food products as herein required, the State board shall issue an order prohibiting the employment of such person, or requiring such structural changes as in the opinion of the board are necessary. Such order shall be transmitted by registered mail, and the receipt of the postoffice department therefor shall be prima facie evidence of its receipt by the person affected. (Id. § 5.)

190. Regulations.—The State board may make all necessary rules and regulations for the enforcement of this chapter; and it shall be the duty of local boards of health to assist in carrying out its provisions. (Id. § 6, as amended Act of Feb. 8, 1927.)

191. Penalty.—Whoever violates any of the provisions of this sub-division, or fails to comply with the lawful orders and requirements of the State board duly made as herein provided, shall be fined not more than ten dollars. (Public Laws of 1926, c. 137, § 7.)

192. To Whom Payable.—All fines collected for the violation of this and the two succeeding chapters shall be paid to the State. (Id. § 8.)

NOTE: See also the beverage law, No. 37 et seq.; the cold storage law, No. 47 et seq.; the dairy law, No. 65 et seq.

PART III.

Special Drug Laws.

Antitoxin.

193. Purchase; Distribution.—The State Board of Health may purchase antitoxin for the treatment of diphtheria and distribute the same free of charge under such rules and regulations as they may prescribe. (Public Laws of 1926, c. 125, § 18.)

194. Methods.—The antitoxin shall be kept at stations designated by the State board, and shall be furnished to physicians duly registered and licensed under the State law, upon application by prescription of regular form. (Id. § 19.)

195. Penalty.—A person selling or disposing of any antitoxin purchased or distributed under the provisions of this subdivision, for personal gain, shall be fined ten dollars. (Id. § 20.)

Caustic Potash, Etc.

196. Warning Label.—No person shall manufacture for sale, keep for sale, or sell, for household use. (a) any caustic potash, caustic soda or lye, or any preparation containing either of these substances in concentration of ten per cent or more of the caustic, or (b) any oxalic acid or salt of such containing the equivalent of ten per cent or more of oxalic acid, or (c) any ammonia water in concentration of five per cent or more, unless the can, carton, bottle, or other container as retailed shall bear the word POISON in heavy-faced caps running parallel with the main body of the reading matter on the front of such container and conspicuously displayed upon a clear, plain background of a distinctly contrasting color, and unless such container shall also bear a statement instructing as to treatment in case of accidental swallowing of or injury by such chemical. (Public Laws of 1926, c. 162, § 55.)

196a. Misbranding; Standards of Quality.—No person shall manufacture for sale, keep for sale, or sell, for household use, any ammonia or any chlorinated form of bleaching fluid the label or package of which shall bear any false or misleading statements, or in the case of ammonia, which shall contain less than eight per cent of actual ammonia, or in the case of chlorinated bleaching fluid, which shall contain less than two and one-fourth per cent of available chlorine. (Id. § 55-a, as added Act of Feb. 10, 1927.)*

197. Enforcement.—The State Board of Health shall enforce the provisions of this sub-division, and is authorized and empowered to approve such brands and labels intended for use hereunder as may be submitted to it for that purpose and as may in its judgment conform to the requirements hereof; provided, however, that in any prosecution hereunder the fact that any brand or label involved in said prosecution has not been submitted to said board for approval, or if submitted, has not been approved by it, shall be immaterial. (Public Laws of 1926, c. 162, § 56.)

198. Penalty.—Whoever violates any provision of this sub-division shall be fined not more than one hundred dollars. (Id. § 57.)

Embalming Fluids.

198a. Embalming Fluids.—The sale or use for embalming purposes of any fluid containing arsenic, zinc, mercury, copper, lead, silver, antimony, chloral, or cyanogen, or of any compound containing any of these, or any poisonous alkaloid, is prohibited and all brands of such embalming compounds used within the State shall be subject to test and approval by the State Board of Health. (Public Laws of 1926, c. 143, § 16.)

198b. Penalty.—Any person who shall violate any provision of this chapter, or any rule or regulation prescribed by said board of health for the preparation, embalming, shipping or burial of any dead human body, shall be fined not less than ten nor more than fifty dollars, or imprisoned not less than ten nor more than sixty days. (Id. § 31.)

Insecticides and Fungicides.

199. Labeling.—Every lot or package of fungicide or insecticide which is manufactured, sold, distributed, or offered or exposed for sale in this State shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the net weight in the package or container, the name or trade-mark under which the article is sold, the name and address of the manufacturer or shipper, the place of manufacture, and also a statement of the chemical or physical composition of the material as follows:

I. In case of Paris green and lead arsenate, the minimum per cent of total arsenic and the maximum per cent of water-soluble arsenic which it contains.

II. In the case of other fungicides and insecticides, the name and per cent of active ingredients, or the quality or strength under which the material is sold, and in addition the per cent of inert materials which it contains, as hereinafter provided. (Public Laws of 1926, c. 185, § 1.)

200. Filing With Commissioner; Fee.—Every person shall, before selling, offering or exposing for sale or distribution in this State any fungicide or insecticide, file annually during the month of December with the Commissioner of Agriculture a certified copy of the statement specified in the preceding section, said copy to be accompanied, when the commissioner shall so request, by a sealed glass enclosing at least one pound of the fungicide or insecticide sold or offered for sale; and the person furnishing the sample shall thereupon make affidavit that it corresponds to the statement as printed upon all packages or containers sold or offered for sale or distribution. At the time of filing such certificate there shall be paid to the commissioner a registration fee of ten dollars. (Id. § 2.)

201. —, Exception.—Whenever a person shall have filed the statement required in section 2, and paid the registration fee, no agent or vendee of such person shall be required to file such statement or pay such fee. (Id. § 3.)

202. Testing; Publication.—The commissioner may cause to be analyzed, or otherwise tested, at the New Hampshire agricultural experiment station, samples of fungicides or insecticides sold or offered for sale under the provisions of this chapter. The result of the analyses or tests, together with such additional information as may be deemed necessary, may be published in bulletins from time to time

*In effect January 1, 1928.

by the commissioner or by the experiment station, as the Governor and council may direct. (Id. § 4.)

203. Penalty.—Whoever sells, or offers or exposes for sale, any adulterated or misbranded insecticide or fungicide, or whoever shall refuse to comply with the provisions of this chapter, shall be fined not more than fifty dollars for the first offense, and not more than one hundred dollars for each subsequent offense. (Id. § 5.)

204. Adulteration.—For the purposes of this chapter any brand of fungicide or insecticide shall be deemed to be adulterated, in the following instances: (Id. § 6.)

205. —, Paris Green.—In case of Paris green: I. If it does not contain at least fifty per cent of arsenious oxide (As_2O_3). II. If it contains arsenic in water-soluble forms equivalent to more than three and one-half per cent of arsenious oxide (As_2O_3). III. If any substance has been mixed or packed with it so as to reduce or injuriously affect its quality or strength. (Id. § 7.)

206. —, Arsenate Paste.—In case of lead arsenate paste: I. If it contains more than fifty per cent water. II. If it contains total arsenic equivalent to less than twelve and one-half per cent of arsenic oxide (As_2O_5). III. If it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per cent of arsenic oxide (As_2O_5). IV. If any substances have been mixed with it so as to reduce or injuriously affect its quality or strength; provided, that extra water may be added to lead arsenate paste if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label. (Id. § 8.)

207. —, Arsenate Powder.—In case of lead arsenate powder: I. If it contains total arsenic equivalent to less than twenty-five per cent of arsenic oxide (As_2O_5). II. If it contains arsenic in water-soluble forms equivalent to more than one and one-half per cent of arsenic oxide (As_2O_5). III. If any substances have been mixed with it so as to reduce or injuriously affect its quality or strength. (Id. § 9.)

208. —, Other Fungicides.—In the case of fungicides or insecticides, other than Paris green and lead arsenate: I. If its strength or purity fall below the professed standard or quality under which it was sold. II. If any substance has been substituted wholly or in part for the article. III. If any valuable constituent of the article has been wholly or in part abstracted. (Id. § 10.)

209. Misbranding.—For the purpose of this chapter any brand of fungicide or insecticide shall be deemed to be misbranded: I. If it be an imitation, or offered for sale under the name of another article. II. If it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package. III. If the name of the article and the weight or measure are not plainly and correctly stated on the outside of the package. (Id. § 11.)

210. —, Composition.—In the case of any fungicide or insecticide, other than Paris green and lead arsenate, it shall also be deemed to be misbranded: I. If it contains arsenic in any of its combinations or in the elemental form, and the total amount of arsenic present (expressed as per cent of metallic arsenic) is not stated on the label. II. If it contains arsenic in any of its combinations or in the elemental form, and the amount of arsenic in water-soluble forms (expressed as per cent of metallic arsenate) is not stated on the label. III. If it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel or mitigate insects or fungi, and does not have the names and per cent amounts of each of such inert ingredients plainly and correctly stated on the label. (Id. § 12.)

211. Optional Labeling.—Instead of naming and stating the per cent amount of each inert ingredient, the producer may, at his discretion, state plainly upon the label the correct names and per cent amounts of each ingredient having fungicidal or insecticidal properties, and make no mention of the inert ingredients, except in so far as to state the total per cent of the same present. (Id. § 13.)

Jamaica Ginger.

See No. 298 et seq.

Pharmacy, Poisons and Narcotics.

212. Definitions.—I. Commission or board, when not otherwise limited, means the New Hampshire Commission of Pharmacy and Practical Chemistry.

II. Drugs, when not otherwise limited, means all substances used as medicines or in the preparation of medicine.

III. Medicine, when not otherwise limited, means a drug or preparation of drugs in suitable form for use as a curative or remedial substance.

IV. Pharmacy, when not otherwise limited, means the place registered by the board in which drugs, chemicals, medicines, prescriptions or poisons are compounded, dispensed or retailed.

V. Physician means a practitioner of medicine duly registered under the laws of this or some other State.

VI. Dentist means a practitioner of dentistry duly registered under the laws of this or some other State.

VII. Veterinarian means a practitioner of veterinary medicine duly registered under the laws of this or some other State.

VIII. Poisons, when not otherwise limited, means any drug, chemical, medicine or preparation liable to be destructive to adult human life in quantities of sixty grains or less.

IX. Supervision means under direct charge or direction, and does not contemplate any continued absence of such supervision.

X. Potent drugs include all substances the average adult medicinal dose of which is less than sixty grains of solid or sixty minims of liquid and all compounds, combinations, mixtures and preparations thereof which contain more than an average adult dose in each fluid ounce of liquid and each avoirdupois ounce of solid, or, when in capsule, pill, tablet, powder or other like subdivision, more than one adult dose in less than ten of such subdivisions.

XI. Proprietary remedies, when not otherwise limited, means remedies that a certain individual or individuals have the exclusive right to manufacture or sell.

XII. Registered pharmacist, when not otherwise limited, means a person holding a registration under the provisions of section 18 hereof. (Public Laws of 1926, c. 210, § 1.)

213. The State Commission; Appointment.—There shall be a commission of pharmacy and practical chemistry consisting of three members, one to be appointed each year by the Governor, with the advice and consent of the council, for a term of three years and until his successor is appointed and qualified. Vacancies shall be filled in like manner for the unexpired term. (Id. § 2.)

214. Eligibility.—The members shall have been registered pharmacists in this State for at least ten years, and at the time of their appointment shall be engaged in conducting a retail pharmacy. (Id. § 3.)

215. Compensation.—The members of the commission shall be paid ten dollars a day and their necessary expenses while actually engaged in the performance of their duties, not exceeding twenty-five days annually. (Id. § 4.)

216. Officers.—The commission shall have a president and secretary-treasurer, who shall be elected annually from among their number. (Id. § 5.)

217. Secretary-Treasurer.—It shall be the duty of the secretary-treasurer to keep a record of the meetings of the commission and conduct its correspondence. He shall file a record of the registration of pharmacists and assistants in the office of the Secretary of State, which shall be open to the inspection of any person. (Id. § 6.)

218. Disposal of Fees.—The secretary-treasurer shall receive all fees from the candidates for registration, re-registration of registered pharmacists and assistant pharmacists and the fees derived from the registration of stores, and shall pay the same to the State Treasurer monthly. (Id. § 7.)

219. Enforcement.—It shall be the duty of the commission, through officials and employees appointed by it or under its supervision for that purpose, to enforce all the provisions of this chapter. (Id. § 8.)

219a. Assistance.—The commission shall have the right with the approval of the Governor and council, to employ such assistance in the way of inspectors as may in their judgment be deemed necessary, payment for such services to be made from the State Treasury. (Id. § 9.)

220. Examinations.—The commission shall hold meetings for the examination of applicants for registration, granting of certificates and the transaction of other business at least quarterly, and at such time and place as they may see fit. They shall examine all persons, in the art and science of pharmacy and its allied branches, who meet the requirements herein provided and who make application for registration as registered pharmacists or assistant pharmacists. (Id. § 10.)

220a. Reports.—The commission shall file with the Secretary of State, on or before December first in each year, a report to the Governor and council upon the condition of pharmacy in the State and containing a record of their acts and proceedings. (Id. § 11.)

221. Dealing With Drugs.—The compounding, manufacture, sale and distribution of drugs and medicines at retail, when of potent or poisonous character as defined in this chapter, shall be limited to persons who are registered for that purpose under the provisions hereof; provided, that all persons registered within this State as pharmacists or assistant pharmacists on July 1, 1921, shall have all the rights which are granted to pharmacists and assistant pharmacists under this chapter when complying with the requirements hereinafter set out. (Id. § 12.)

222. ———, Exceptions.—Nothing contained in this chapter shall prevent the personal administration of drugs and medicines carried or kept for emergencies by licensed dentists, physicians and veterinarians, in order to supply the immediate needs of their patients while in their presence; and the provisions of this chapter shall not apply to physicians compounding and putting up their own prescriptions. (Id. § 13.)

223. Pharmacists.—A registered pharmacist shall have the right to conduct a pharmacy for the compounding of medicines upon physicians' prescriptions, and for the manufacture, sale and distribution of drugs, medicines and poisons. (Id. § 14.)

224. Assistants.—Assistant pharmacists shall have the right to do all things that may be done by a registered pharmacist in a pharmacy conducted under the supervision of a registered pharmacist, but only under direct supervision, and not during the absence of such registered pharmacist. An assistant pharmacist may be left in charge of a pharmacy only during the temporary absence of a registered pharmacist, and such temporary absence shall in no case exceed forty-eight hours at any one time, nor fourteen days in any one calendar year, unless consent is obtained from the commission. (Id. § 15.)

225. Special Permits.—In case of death or under extreme conditions the commission may, in its discretion, issue a special permit to operate a pharmacy in a manner and under conditions that will safeguard the interests of the public, for a period not to exceed sixty days. (Id. § 16.)

226. Examinations and Registrations; Requirements.—Applicants for registration as pharmacists or assistant pharmacists shall, before being admitted to examination, meet the following preliminary requirements, proof of which must be first filed with the secretary of the commission under rules and regulations adopted by it. (Id. § 17.)

227. ———, Pharmacists.—Applicants for registration as pharmacists shall be citizens of the United States and not less than twenty-one years of age; they shall have at least four years of practical experience in a drug store or pharmacy in the United States where physicians' prescriptions are compounded; provided, that not more than two years of credit in meeting such requirement may be given for attendance of at least two full school years at a recognized college or school of pharmacy; and shall pass a satisfactory examination before the commission. (Id. § 18.)

228. ———, Assistants.—Applicants for registration as assistant pharmacists shall be citizens of the United States and not less than eighteen years of age, and shall have at least two years of practical experience in a drug store or pharmacy in the United States where physicians' prescriptions are compounded; provided, that a credit of one year in meeting such requirement may be given for attendance of not less than one full school year at a recognized college or school of pharmacy; and shall pass a satisfactory examination before the commission. (Id. § 19.)

229. Examinations.—Applicants for registration as pharmacists and assistant pharmacists shall, to prove their respective requisite knowledge, be examined to a properly varying degree in the subjects of chemistry, botany, materi medica, toxicology and the theory and practice of pharmacy, and such other subjects as the commission may prescribe. (Id. § 20.)

230. Impersonating Applicant.—No one shall impersonate an applicant before the commission of pharmacy applying for registration under the provisions of this chapter. (Id. § 21.)

231. Reciprocal Registration.—The commission may in its discretion grant certificates of registration as pharmacist or assistant pharmacist to persons who furnish proof that they have been registered as such by examination in some other State, and that they are of good moral character, when such other State in its examination requires the same general degree of fitness that is required by examination in this State and the applicant qualifies in all other respects as required for registration by examination in this State, excepting that persons who have become registered by examination in other States prior to July 1, 1921, shall be required to meet only the requirements which existed in this State at the time when they became registered

in such other State; provided, that such other State in like manner grants reciprocal registration to pharmacists and assistant pharmacists of this State. (Id. § 22.)

232. ———, Limitation.—Such reciprocity certificate shall not be granted until the person so applying shall certify his intention of acting under it in this State. (Id. § 23.)

233. ———, Expenses.—Applicants for reciprocal registration in this State shall defray all necessary expense for making an investigation of their character, general reputation and pharmaceutical standing, in the State where they have resided, such expense not to exceed the sum of fifteen dollars. (Id. § 24.)

234. Fees.—Each applicant for a registered pharmacist's certificate shall pay an examination fee of ten dollars, and for an assistant pharmacist's certificate, five dollars. Applicants for reciprocal registration as registered pharmacists and assistant pharmacists, in addition to the fee covering costs of investigation, shall pay a fee of ten dollars. (Id. § 25.)

235. Re-registration.—Every registered pharmacist, assistant pharmacist and holder of a reciprocity certificate who desires to continue the business of apothecary and druggist shall re-register on January 1, 1926, and biennially thereafter, and shall pay a fee of two dollars. When making application for such re-registration the applicant shall give his place of residence and employment, whether as proprietor or employee, and any change of location or employment shall be reported to the secretary of the board within fifteen days. (Id. § 26.)

236. Failure to Report.—For failure to report such change of location or employment the commission may in its discretion suspend such certificate of registration, reinstatement to be made only upon the payment of two dollars. (Id. § 27.)

237. Failure to Re-register.—For failure to re-register within sixty days, the commission may suspend such certificate of registration, and the holder shall not be entitled to reinstatement until ten dollars, together with any sum in arrears, shall have been paid. Before acting upon such suspension, a notice of the proposed action shall be sent by registered mail, to the last known address of the registrant, at least thirty days prior to such action. (Id. § 28.)

238. Display of Certificates.—All certificates as pharmacists and assistant pharmacists shall at all times be conspicuously displayed in the place of business or dispensary where the registrant is engaged as such. (Id. § 29.)

239. Revocation.—The registration of any pharmacist or assistant pharmacist may be suspended or revoked by the commission when the registration is proved to have been obtained by fraudulent means, or when the registrant has been convicted of a felony, or is found by the commission to be guilty of gross immorality or to be addicted to the liquor or drug habit to such a degree, as to render him unfit to compound, sell or distribute drugs and medicines. (Id. § 30.)

240. ———, Notice; Hearing.—Suspension or revocation of a certificate shall be only after notice and hearing, and for the purposes of such hearing the board or any member thereof is authorized to examine witnesses under oath and to take oaths or affirmations, and to reduce the testimony given in any such case to writing. The registrant may appear with witnesses and be heard by counsel. (Id. § 31.)

241. ———, Appeal.—Within thirty days after the suspension or revocation of a certificate of registration the registrant may appeal to the Superior Court, and pending such appeal the decision of the commission shall be suspended until the court renders judgment, which shall be final in the case, and if the decision of the commission is not sustained the registrant shall be reinstated. (Id. § 32.)

242. Regulations.—The Board of Pharmacy may prescribe educational requirements or standards for the admission of candidates for registration and it shall make rules and regulations which are to govern it and all employees in the enforcement of this chapter. It shall prescribe and publish all application forms and blanks required under this chapter. (Id. § 33.)

243. Conferences of Commissioners, Etc.; Attendance.—The commission, in order to be informed and to determine the status of boards of pharmacy of other States desiring reciprocal registration, and in order to be advised regarding the progress of pharmacy throughout the country, may annually select at least one of its members to meet, at the expense of the State not to exceed one hundred dollars, with like representatives from other State Boards of Pharmacy. At such meetings, when arranged, there shall be discussed the degree of fitness for registration which is required by the several State Boards of Pharmacy. (Id. § 34.)

244. Rules.—Such representatives of the several State Boards of Pharmacy may adopt rules and regulations, which shall guide the several boards in the matter of reciprocal registration; but abidance by such rules and regulations as

may be proposed at annual conferences shall be optional and at the discretion of the commission. (Id. § 35.)

245. Association.—The commission, through its representatives, may, with like representatives from other State Boards of Pharmacy, join in creating and maintaining an association of representatives of the several State Boards of Pharmacy, to be engaged in the general advancement of pharmacy and the keeping of records pertaining to reciprocal registration of pharmacists, and at its discretion the commission may give to such association information which it possesses relating to such aims and objects. (Id. § 36.)

246. Information.—The commission, at an expense not to exceed fifty dollars a year, may subscribe for and secure the service of an association engaged in the compilation of pharmaceutical information, knowledge and progress, specially adapted to secure efficiency in the work of the commission. (Id. § 37.)

247. Registration of Pharmacies; Required, When.—No person shall conduct a store for the sale at retail of drugs and medicines unless such store is registered with, and a permit therefor has been issued by, the Board of Pharmacy, except as herein provided. (Id. § 38.)

248. Permits.—The board shall, upon application, issue a permit to maintain a store for the sale at retail of drugs and medicines to such persons, firms or corporations as they may deem to be qualified to conduct such a store, such permit to be known as a registered pharmacist's permit, for the compounding of medicines upon physicians' prescriptions and for the manufacture, sale and distribution of drugs, medicines and poisons, such place of business to be under the direct supervision of a registered pharmacist. The permit shall expire on January first following the date of issue. (Id. § 39.)

249. Application; Fee; Display.—Application for a permit shall be made in such manner and in such form as the board may determine. The fee for such permit shall be five dollars. The permit shall at all times be exposed in a conspicuous place in the store for which it is issued. (Id. § 40.)

250. Evidence of Sale.—Keeping a store or shop where drugs and medicines or chemicals are dispensed or sold or displayed for sale at retail, or where prescriptions are compounded, or which has upon it or in it as a sign the words pharmacist, pharmaceutical chemist, apothecary, druggist, pharmacy, drug store, drugs or their equivalent in any language, or advertising such store or shop as a drug store, apothecary shop or pharmacy, or by any method or means, shall be prima facie evidence of the sale of drugs. (Id. § 41.)

251. Regulation of Pharmacies; Books.—There shall be kept in every pharmacy a copy of the latest revision of the United States Pharmacopœia and the latest revision of the National Formulary, which books must be open to the inspection of the commission and their properly authorized agents or employees. (Id. § 42.)

252. Dealing With Drugs.—It shall be unlawful for any person who is not a registered pharmacist or assistant pharmacist to compound, dispense, dispose of or offer for sale any potent drug or medicine, except as herein provided; but this shall not in any way interfere with the prescribing and dispensing to their patients by physicians, dentists or veterinarians, nor the sale by wholesale dealers or manufacturers, or of proprietary remedies, in original packages, nor with the sale of drugs and medicines when intended for agricultural, technical and industrial use. (Id. § 43.)

253. Original Packages.—Dealers shall have the right to sell at retail the following named articles in original packages only, when put up by or under the direction of a registered pharmacist of this or some other State; compound licorice powder, Rochelle salts, sodium phosphate, tannin, tincture of aconite, tincture of arnica, tincture of iodine, sweet tincture of rhubarb, aromatic tincture of rhubarb, chloroform liniment, sulphuric ether, aromatic spirits ammonia, stronger water of ammonia, ointment oxide of zinc, pills or tablets sulphate of quinine, extract cascara, calomel, cathartic compound, soda mint, soda mint and pepsin, and chlorate of potassium. (Id. § 44.)

254. ———, Label.—Such packages shall bear the label of the distributor or manufacturer, with the proper medicinal dose if a remedy used internally, and in case of poisons the word poison shall be displayed thereon in a conspicuous manner, with the antidote for a poisonous dose. (Id. § 45.)

255. Sales Permitted.—This chapter shall in no way interfere with the sale at retail of the following: Alum, blue vitriol, borax, camphor gum, chlorinated lime, copperas, essence peppermint, essence wintergreen, Epsom salts, extract witch hazel, Glauber salts, castor oil, oil turpentine, liniment camphor, peroxide of hydro-

gen saltpetre, sulphur, sweet spirits nitre, cottonseed oil, household ammonia and household or flavoring extracts. (Id. § 46.)

256. Record Book.—The proprietor of a pharmacy shall at all times keep in his place of business a record book in which shall be entered all sales of the following, other than sales to physicians, dentists and veterinarians and sales made upon a prescription of a physician, dentist or veterinarian: arsenous acid (arsenic trioxide), mercuric chloride, hydrocyanic acid, potassium cyanide, cyanide mixture, strychnine and its salts except in proper dosage in pill or tablet form. (Id. § 47.)

257. —, Keeping; Inspection.—Such record shall show in parallel columns the date of sale, name of article sold, quantity of article sold, purpose for which it is to be used, the name or initials of the dispenser with the signature and address of the purchaser, and shall at all times during business hours be open for inspection by any police officer, sheriff, city or town representative, or any representative of the commission; and shall be preserved for a period of not less than two years from the date of the last entry made therein. (Id. § 48.)

258. Manufacture and Sale of Cocaine; Compounds.—It shall be unlawful to manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine or any of its salts, or alpha or beta eucaine or any of their salts or any synthetic substitute for the aforesaid. (Id. § 49.)

259. Sales.—It shall be unlawful to sell, exchange, deliver, expose for sale, give away or have in possession or custody with intent to sell, exchange, deliver or give away in any public place, or in any place to which persons are permitted generally to resort, any cocaine or any of its salts, or any synthetic substitute therefor, or any preparation containing any of the same, morphine, heroin, codeine or any derivatives of the same. (Id. § 50.)

260. —, Exceptions.—The foregoing provision shall not apply to sales of liquid preparations sold in good faith as medicines and containing not more than two grains of opium, or not more than one-fourth grain of morphine, or not more than one-eighth grain of heroin or not more than one grain of codeine, in one fluid ounce, or, if a solid preparation, in one avoirdupois ounce; nor to sales to pharmacists, physicians, veterinarians, or dentists; nor to sales by apothecaries or druggists upon the original prescription of a physician; provided, that the prescription is retained and kept on file for two years as authority for the sale and not refilled. (Id. § 51.)

261. Inspections.—The chief of police of a city or the selectmen of a town, or any officer authorized by either of them, may at any time enter upon any premises used by a pharmacist for the purpose of his business and inspect such original prescriptions; and every pharmacist, his clerk, agent or servant shall exhibit to such officer on demand every such original prescription so kept on file. (Id. § 52.)

262. Sale After Notice.—It shall be unlawful for any pharmacist or other person employed or serving in a pharmacy, to the proprietor of which a written notice has been sent by registered mail by an officer or employee of the State Board of Health, stating that any patent or proprietary medicine or article, naming the same, contains cocaine or any of its salts or any alpha or beta eucaine or any of their salts, or any synthetic substitute for the aforesaid, to thereafter sell any such medicine or article, except upon a physician's prescription. (Id. § 53.)

263. Penalty.—Any person violating the provisions of this chapter shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than one year, or both. (Id. § 54.)

263a. Fabrics, Etc., Containing Arsenic.—No person shall sell or offer for sale or exchange any woven fabric or paper containing arsenic in any form, or any article of dress or of household use composed wholly or in part of such woven fabric or paper, or any article of dress containing arsenic; provided, that this section shall not apply to dress goods or articles of dress containing not more than one one-hundredth grain, nor to other material containing not more than one-tenth grain, of arsenic per square yard of material. (Public Laws of 1926, c. 162, § 49.)

263b. Penalty.—Whoever violates any provision of the preceding section shall be fined not more than one hundred dollars. (Id. § 50.)

Tuberculin.

264. Sale and Use of Tuberculin; Label.—All tuberculin sold, given away or used within this State shall bear a label stating the name and address of the person, firm or institution making it and the date of preparation. (Public Laws of 1926, c. 187, § 78.)

265. Report.—A person selling or giving away tuberculin shall report to the commissioner the amount of tuberculin disposed of, the degree of strength, the name and address of the person to whom sold or given and the date of delivery. Such report shall include the address of, and be signed by, the person or firm making the report. (Id. § 79.)

266. Use.—A person buying or procuring tuberculin shall not use or dispose of it until assured in writing by the person from whom the tuberculin is received that its delivery has been reported to the commissioner, unless he has reported its receipt to the commissioner with information required to be furnished by those who distribute tuberculin. (Id. § 80.)

267. Record; Report.—The person buying or procuring tuberculin shall keep a correct record of the amount received, the amount used and the amount on hand, and shall report these facts whenever any tuberculin is used, and, if at any time unused tuberculin is not deemed fit or is not to be used, shall forward it to the commissioner, with a statement showing his name and address, where and when such tuberculin was procured, the amount procured at the time and the amount used. If the amount forwarded to the commissioner and the amount used do not equal the amount procured a statement shall be made as to the disposition of the remainder. (Id. § 81.)

268. Exception.—The provisions of this sub-division shall not apply to tuberculin manufactured or issued by the Department of Agriculture of the United States Bureau of Animal Industry. (Id. § 82.)

269. Penalties; Interference With Tests.—Any person who intentionally interferes with or hinders the work of the commissioner or his agents; or who attempts to defeat the object of a test by a previous injection of tuberculin, or any other drug, known as plugging; or who in any other way attempts to prevent an accurate and truthful determination of the condition of the animal tested; or who shall treat any animal with material or substance to prevent normal reaction, except for experimental purposes and with the consent of the commissioner, shall be fined not more than one hundred dollars, or imprisoned not more than thirty days, or both, and each such treatment shall constitute a separate offense. (Id. § 83.)

270. General Penalty.—Any person who violates a provision of the preceding sections of this chapter, or a regulation made by the commissioner in accordance therewith, for which a penalty is not otherwise provided, shall be imprisoned not more than six months, or fined not more than two hundred dollars, or both. (Id. § 84.)

271. Veterinarians.—Any veterinarian who violates any of the provisions relating to the sale and use of tuberculin, in addition to fines and penalties prescribed, shall be reported to the Board of Veterinary Examiners. Said board, after hearing, may revoke the license of the said veterinarian for a period not to exceed one year; provided, that this section shall not limit the power otherwise conferred upon said board. (Id. § 85.)

272. Definitions.—Person, owner or importer means any person, corporation, association, partnership, company, firm or other aggregation of individuals. Domestic animals mean all animals, including poultry, that are kept or harbored as domesticated animals. (Id. § 86.)

Wood Alcohol, Etc.

273. Wood Alcohol.—No person shall sell, offer for sale, deal in or supply, or have in his possession with intent to sell, offer for sale, give away, deal in or supply, any article of food or drink, or any medicinal or toilet preparation or perfume intended for human use internally or externally, which contains any wood naphtha, otherwise known as wood alcohol, or methyl alcohol, either crude or refined, under or by whatever name or trade-mark the same may be called or known. (Public Laws of 1926, c. 162, § 51.)

274. Warning Label.—No person shall sell, offer for sale, give away, deal in or supply any wood naphtha, otherwise known as wood alcohol or methyl alcohol, either crude or refined, under or by whatever name or trade-mark the same may be called or known, unless the container in which the same is sold, offered for sale, given away, dealt in or supplied shall bear a notice containing the following conspicuously printed or stenciled thereon, viz:

"POISON, WOOD NAPHTHA OR WOOD ALCOHOL.

WARNING.—It is unlawful to use this fluid in any article of food, beverage or medicinal or toilet preparation for human use internally or externally." (Id. § 52.)

275. Denatured Alcohol.—No person shall sell or offer for sale any alcohol which has been denatured by the addition of wood, or methyl alcohol, unless the container in which the same is sold or offered for sale shall be conspicuously labeled in red with the words: "Poison. Denatured Alcohol." (Id. § 53.)

276. Penalty.—Whoever violates any provision of this sub-division shall be fined not more than two hundred dollars, or imprisoned not more than thirty days, or both. (Id. § 54.)

Intoxicating Liquors.

277. Intoxicating Liquors.—By the words "spirit," "liquor," "spirituous liquor," "intoxicating liquor" shall be intended all distilled liquors, or rectified spirits; vinous, fermented, brewed and malt liquors; and any beverage, by whatever name called, containing more than one per cent of alcohol by volume at sixty degrees Fahrenheit; and any beverage any part of which is intoxicating. (Public Laws of 1926, c. 2, § 33.)

278. State Agents; Appointment.—The Governor, with the advice and consent of the council, shall appoint one or more suitable persons, residents of the State, as State liquor agents, who shall hold office during the pleasure of the Governor and council and until others are appointed in their stead. (Public Laws of 1926, c. 144, § 1.)

279. Regulations.—The Governor shall prescribe the terms, regulations and restrictions under which the State agent shall furnish pure and unadulterated spirituous, vinous and malt liquors to such persons and institutions as are authorized by law to procure the same from him for medicinal, sacramental, scientific and mechanical purposes. (Id. § 3.)

280. Notice.—The Governor, upon the appointment of the State agent, shall give public notice, in such manner as he may deem proper, of the appointment and the terms, restrictions and regulations by him prescribed for the government of the agent. (Id. § 5.)

281. Report.—The State agent, on or before August first, annually, shall make to the Governor and council an itemized report, under oath, of all purchases made by him and from whom purchased; the cost thereof per gallon, quart or case; and of all sales; the prices received, and the quantities and kinds sold to each person or institution authorized to procure the same from him, for the fiscal year ending June thirtieth preceding. The report shall be filed in the office of the Secretary of State, and a duplicate thereof shall be filed in the office of the State Commissioner of Law Enforcement, and shall be open to inspection of persons interested therein. (Id. § 7.)

282. Penalty.—If the State agent violates any provision of this chapter he shall be fined one hundred dollars, or imprisoned three months, or both, and forfeit his bond. (Id. § 8.)

283. Permits.—If a town, at a regular or special town meeting, or a city government, shall vote in favor of permits to druggists for the sale of liquor in the town or city for medicinal, sacramental, scientific and mechanical purposes the mayor of the city or selectmen of the town may give such permit to a druggist applying for the same in the city or town. (Id. § 9.)

284. Fee; Form.—The fee for the druggist's permit provided for herein shall be one dollar, and the permit shall be in the following form:

STATE OF NEW HAMPSHIRE.

This is to certify that A..... B....., a duly registered pharmacist doing a regular business as a druggist in the city or town of is hereby authorized to sell liquor for bona fide medicinal use on the prescription of a regular physician, who is practicing his profession in the State; and also to sell wine for sacramental use on the purchasing certificate of an officer of the church for which such sacramental wine is intended; and to sell alcohol for mechanical or scientific use on the certificate of the purchaser stating the particular mechanical or scientific use for which such alcohol is intended; such sales to be made in accordance with the law providing therefor. All intoxicating liquor sold under this permit must be plainly labeled. The labels must bear the name and address of the druggist, the name of the liquor, the physician's name and his directions for the use of the liquor.

Signed.....

(Id. § 10.)

Mayor or selectmen.

285. Expiration.—Such permit shall be for not more than one year, and all permits shall expire April thirtieth. (Id. § 11.)

286. Cancellation; Penalty.—If any druggist shall sell intoxicating liquor for any other purpose or use, or in any other way, than as specified in his permit providing for such sale; or if he shall sell any intoxicating liquor other than that furnished him by the State liquor agent; or shall dilute, adulterate or change in any way the composition of such liquor; or if he shall violate any of the provisions hereof, he shall be punished as for the unlawful selling of intoxicating liquor, and his permit shall be cancelled. (Id. § 12.)

287. Druggists, Purchases.—A druggist receiving such permit shall procure all liquors to be possessed, used or sold by him from the State liquor agent. (Id. § 13.)

288. —, Records.—Every druggist, selling intoxicating liquor, shall keep the record of such sales in a book, furnished to him at cost by the commissioner of law enforcement, in which book the druggist shall enter at the time of such sale the date thereof, the kind, quantity and price of said liquor, the purpose for which it is sold and the residence by street and number, if there be such, of each purchaser, and the name of the physician who gave the prescription. The purchaser shall also sign his true name therein, if able to do so, and if not, shall make his mark, which shall be properly witnessed as a part of said entry. The druggist shall make such reports of sales to the commissioner as he shall require. (Id. § 14.)

289. —, Inspections.—The books, certificates and prescriptions provided for herein, shall at all times be open to the inspection of the mayor, aldermen, police commissioners, police officers, selectmen, overseers of the poor, sheriffs, constables, justices of the peace, attorney-general, solicitors, prosecuting agents, State Commissioner of Law Enforcement and his deputies. (Id. § 15.)

290. Physician's Prescriptions; Form.—Before a physician shall give to any person a prescription for intoxicating liquor he shall make a diagnosis of the disease of the person applying for the prescription, and shall exercise the same professional skill and care in giving a prescription for intoxicating liquor as in giving one for any poisonous or habit-forming drug, and shall give definite directions as to the amounts and frequency of the dose. The prescription for intoxicating liquor for medicinal use shall be in the form required by the National Prohibition Act. (Id. § 16.)

291. —, Sales On.—A druggist with such permit may sell intoxicating liquor for medicinal use only upon the prescription of a regular physician who is practicing his profession in the State. Only one sale shall be made on any prescription; and the prescription shall be cancelled by writing across its face the word "Cancelled," with the date on which the same is filed. (Id. § 17.)

292. —, Penalty.—If any physician shall fail to make the examination and exercise the care in giving a prescription for intoxicating liquor specified in section 16, or if he shall prescribe an unreasonable amount, or if he shall violate any of the provisions hereof, he shall be deemed to give a fraudulent or false prescription, and for the first offense he shall be fined ten dollars, and for any subsequent offense he shall be fined not more than fifty dollars, and imprisoned not more than sixty days. (Id. § 18.)

293. —, The State liquor agent may furnish alcohol to scientific laboratories and manufacturing chemists, and alcohol and wines for manufacturing pharmacists for scientific and manufacturing purposes, sacramental wine to the proper church officers, and intoxicating liquors to hospitals for medicinal purposes, but not for sale or beverage use, under regulations as prescribed in section 3. (Id. § 19.)

294. False Statement, etc.; Penalty.—If any person shall make a false statement regarding the purchase, procuring or possession of intoxicating liquor, or the use for which the liquor was obtained, or in reference to the person for whom it was obtained; or if he shall use, or suffer anyone else to use, for a beverage any of the liquor so obtained, he shall be fined fifty dollars for the first offense, and for any subsequent offense he shall be fined one hundred dollars, and imprisoned not less than sixty days nor more than six months. (Id. § 20.)

295. Sales by Executors, etc.—Any administrator, executor, sheriff, assignee or trustee may sell in bulk such intoxicating liquors as come into his hands in said capacity, to any licensed dealer in intoxicating liquors. (Id. § 21.)

296. Selling, etc.—If any person, not being authorized by law to sell intoxicating liquor, shall sell, or keep for sale, any intoxicating liquor in any quantity he shall be fined not less than twenty-five nor more than two hundred dollars, and imprisoned not less than thirty nor more than ninety days; and for any subsequent offense he shall be fined not less than one hundred nor more than five hundred dollars, and imprisoned not less than three nor more than twelve months. (Id. § 22.)

297. Procuring, etc.—The procuring, possessing, furnishing, giving away or transporting intoxicating liquors, except as provided for in Part I* and any shift or device to evade the provisions of any law in relation to intoxicating liquor, are prohibited, and the penalties for a violation of any provisions of this section shall be the same as in the case of selling or keeping for sale intoxicating liquor; provided, that this section shall not apply in the case of any intoxicating liquor in the possession of any person within this State which has been lawfully procured by such person; but the possession of any intoxicating liquor within this State shall be prima facie evidence of a violation of this section. (Id. § 23.)

298. Sales of Jamaica Ginger, Etc., Regulated; Permits.—The sale of alcoholic extract of ginger (Jamaica or any other kind), or other medicinal compounds of alcohol, in such quantity, or with such frequency as to indicate that it is intended for beverage use, shall be deemed unlawful selling of intoxicating liquor, within the provisions hereof; and the punishment shall be the same as in the case of selling or keeping for sale intoxicating liquor. Alcoholic extract of ginger shall not be sold except by persons authorized to do so by a permit issued by the State Commissioner of Law Enforcement. Such sales shall be only for strictly medicinal use, or for manufacturing purposes. (Id. § 31.)

299. Records; Reports.—Each sale shall be recorded in a book, furnished at cost by the commissioner and kept for the purpose by the dealer, in which book shall be recorded the date of the sale and quantity of the article sold, with the signature and address of the purchaser, and such other information as may be required by the commissioner. Said book shall be open to the inspection of any person interested.

Sales of alcoholic extract of ginger without having a label on each bottle, giving the name and address of the dealer who by virtue of his permit sold the goods to the consumer, shall be subject to the penalties provided for the sale of or keeping for sale intoxicating liquor. Any person holding a permit to sell alcoholic extract of ginger shall make reports to the State Commissioner of Law Enforcement as often and in such form as may be required by him. Any refusal or neglect to make such reports shall be sufficient ground for the suspension or cancellation of the permit. (Id. § 32.)

300. Purchaser's Statements, Etc.; Penalty.—If any person purchasing alcoholic extract of ginger or other alcoholic medicinal compound shall make a false statement regarding the purpose for which it is intended to be used by the purchaser, or the person for whom it is obtained, or if he shall use, or suffer anyone else to use, for a beverage any of the alcoholic extract of ginger or other alcoholic medicinal compound so purchased, he shall be fined not less than twenty-five dollars, and imprisoned thirty days, for the first offense; and for any subsequent offense he shall be fined not less than one hundred dollars, and imprisoned not less than sixty days nor more than six months. (Id. § 33.)

300a. Manufacture Prohibited.—The manufacture of intoxicating liquor for beverage use is prohibited. If any person shall violate the provisions of this section he shall be fined not less than fifty nor more than two hundred dollars, and imprisoned not less than thirty nor more than ninety days, for the first offense; and for a second, or any subsequent offense, he shall be fined not less than two hundred nor more than five hundred dollars, and imprisoned not less than three nor more than twelve months. All of the provisions of this chapter for the enforcement of the laws prohibiting the unlawful sale of intoxicating liquor shall be applicable to the enforcement of this section. (Id. § 35.)

PART IV.

Miscellaneous Laws.

False Advertising.

301. False Advertisement.—Whoever with intent to sell or in any wise dispose of or to increase the demand for merchandise, securities, services or anything offered by him directly or indirectly for sale or distribution, shall make or cause to

*See Nos. 278-295.

be disseminated in any manner any printed advertisement containing a statement known by him to be false, shall be fined not more than three hundred dollars, or imprisoned not more than ninety days, or both. (Public Laws of 1926, c. 387, § 10.)

Flag Desecration.

302. Marking Flags, Etc.—No person shall in any manner, for exhibition or display, place or cause to be placed any inscription, design, device, symbol, name, advertisement, words, character marks or notice whatever upon the national flag, or upon any flag, standard, color or ensign of the United States, or upon the flag of this State, or upon any State flag or ensign of any other State, or upon any flag or ensign evidently purporting to be either of said flags, standards, colors or ensigns. (Public Laws of 1926, c. 381, § 1.)

303. Affixing to Flags, Etc.—No person shall in any manner append, annex or affix, or cause the same to be done, to any such flag, standard, color or ensign any inscription, design, device, symbol, name, advertisement, words, marks or notice whatever, or exhibit or display, or cause to be exhibited or displayed, any such flag, standard, color or ensign, or any flag or ensign evidently purporting to be either of the same, upon which shall in any manner be placed, attached, annexed or affixed any inscription, design, device, symbol, name, advertisement, words, marks or notice whatever. (Id. § 2.)

304. Using as Advertisement.—No person shall expose, or cause to be exposed, to public view, manufacture, sell, expose for sale, give away or have in possession for sale or to give away or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color or ensign, to advertise, call attention to, decorate, mark or distinguish the article or substance. (Id. § 3.)

305. Mutilation, etc.—No person shall publicly mutilate, trample upon, defile, deface or cast contempt upon, either by words or acts, any of said flags, standards, colors or ensigns, whether the same are public or private property. (Id. § 4.)

306. Penalty.—Whoever violates any of the foregoing provisions shall be fined not more than fifty dollars, or imprisoned not more than thirty days, or both. (Id. § 5.)

307. Exceptions.—Flags, standards, colors or ensigns, the property of, or used in the service of, the United States or of this State, may have inscriptions, names, actions, words, marks or symbols placed thereon, pursuant to law or authorized regulations. (Id. § 6.)

Matches.

307a. Discharging Firearms, Etc.—No person shall within the compact part of a town, . . . improperly use or expose any friction matches; . . . (Public Laws of 1926, c. 378, § 6.)

307b. Penalty.—A person convicted of any offense mentioned in the preceding sections shall be fined not more than ten dollars, or imprisoned not more than six months. (Id. § 23.)

Tobacco—Tobacco Products.

308. Selling Tobacco to Minors.—If any person shall sell cigarettes or tobacco in any other form to a minor he shall be fined not more than fifty dollars. (Public Laws of 1926, c. 379, § 19.)

309. Giving Tobacco.—If any person other than the minor's parent or guardian shall give or deliver any cigarette, snuff or tobacco in any of its forms to any minor under eighteen years of age he shall be fined not more than fifty dollars. (Id. § 20.)

Trade-Marks, Etc.

310. Counterfeit.—Whenever any person, association or union of working-men have adopted for their protection any label, trade-mark or form of advertisement announcing that goods to which such label, trade-mark or form of advertise-

ment shall be attached were manufactured by such person, or by a member or members of such association or union, it shall be unlawful for any person to counterfeit or imitate such label, trade-mark or form of advertisement. (Public Laws of 1926, c. 170, § 1.)

311. —, Using.—No person shall use any counterfeit or imitation of any label, trade-mark or form of advertisement of any such person, union or association, knowing the same to be counterfeit or imitation. (Id. § 2.)

312. —, Remedies.—Every such person, association or union adopting a label, trade-mark or form of advertisement as aforesaid may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeits or imitations, and shall be entitled to such damages resulting from such wrongful manufacture, use, display or sale as may be deemed just and reasonable. The court shall also order that all counterfeits or imitations in the possession or under the control of the defendant in such case be delivered to an officer of the court, or to the complainant to be destroyed. (Id. § 3.)

313. Recording.—Every such person, association or union that has adopted a label, trade-mark or form of advertisement as aforesaid may file the same for record in the office of the Secretary of State by leaving two copies, counterparts or facsimiles thereof with the secretary; and the secretary shall deliver to such person, association or union so filing the same a duly attested certificate of the record of the same, for which he shall be paid a fee of one dollar. Such certificate of record shall, in all suits and prosecutions under this sub-division, be prima facie proof of the adoption of such label, trade-mark or form of advertisement, and of the right of said person, association, or union to adopt the same. No label shall be recorded that probably would be mistaken for a label already of record. (Id. § 4.)

314. Unauthorized Use.—No person shall use or display the genuine label, trade-mark or form of advertisement of any such person, association or union, in any manner not authorized by them. (Id. § 5.)

315. —, Name; Seal.—No person shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized so to do. (Id. § 6.)

316. Actions.—In all cases where such association or union is not incorporated, suits under this subdivision may be commenced and prosecuted by any officer or member thereof, in its behalf for its use. (Id. § 7.)

317. Penalty.—Whoever violates any of the foregoing provisions of this chapter shall be imprisoned not less than three months nor more than one year, or fined not less than one hundred nor more than two hundred dollars, or both. (Id. § 9.)

318. Brands for Bottles, Etc.; Registering.—A person engaged in buying, selling or dealing in milk or cream in cans or bottles, or bottling or selling beverages in bottles or vessels with his name and the word registered branded, engraved, blown or otherwise produced thereon, or on the boxes used by him, may register the same by filing in the office of the clerk of the city or town in which his principal place of business is situated, and also in the office of the Secretary of State, a description of the name so used by him, and publishing such description once in each of four successive weeks in a newspaper, if any, published in the city or town in which said description has been filed; otherwise, in a newspaper published in the county. (Id. § 10.)

319. Unauthorized Use.—Whoever fills with milk, cream or any manufactured beverage any registered container, or defaces, erases, covers up or otherwise removes or conceals the name or the word registered thereon, or sells, uses, buys, gives, takes or otherwise disposes of or traffics in the same, without the written consent of, or unless the same has been purchased from, the person who registered the same shall, for the first offense, be fined fifty cents for each such container, or imprisoned not less than ten days nor more than one year, or both; and for each subsequent offense he shall be fined not less than one nor more than five dollars for each such container, or imprisoned not less than twenty days nor more than one year. (Id. § 11.)

320. —, Evidence.—The use by any person, without the written consent of, or purchase from, the owner thereof, or the possession by any junk dealer or dealer in second-hand articles, of any registered container, without the written consent of, or purchase from, the owner thereof, shall be prima facie evidence of unlawful use, possession of or traffic in the same. (Id. § 12.)

321. Search Warrants.—Upon complaint of a person who has complied with the provisions of section ten, or his agent, to a municipal court, or justice of the peace, that he has reason to believe that any of his registered containers are being unlawfully used, or that a junk dealer or dealer in second-hand articles, or a vendor of cans or bottles, has any such cans, bottles or vessel in his possession,

or secreted in any place, said justice may issue a search warrant, may cause the person in whose possession such property is found to be brought before him, and shall inquire into the circumstances of such possession, and award possession of the property taken upon such search warrant to the owner thereof. (Id. § 13.)

Trading Stamps.

322. License Required.—No corporation engaged in the business of selling, issuing, exchanging or redeeming stamps, known as trading stamps or other similar devices, not organized under the laws of this State, shall do business within this State, unless it has obtained a license authorizing it so to do, as herein provided. (Public Laws of 1926, c. 173, § 1.)

323. Application.—Application for such license shall be made to the Governor and council, and with the application the corporation shall file a certified copy of its charter and by-laws and a full statement under oath of its president and secretary, showing the amount of its capital stock, the number of shares and their par value, its assets, liabilities and surplus and the dividends paid or declared in each year since its organization. (Id. § 2.)

324. ———, Schedules.—It shall also file a complete list of the articles kept or furnished by it that are customarily given or offered in exchange for trading stamps or other similar devices, issued or sold by it to tradesmen, showing the cost price of every such article, and the price placed upon every such article when given, offered or taken in exchange for such trading stamps or other similar devices, and also the gross and net profit upon every such article so given or offered or taken in exchange. (Id. § 3.)

325. Hearing; Evidence.—It shall also, at the hearing upon the application for a license, furnish to the Governor and council complete evidence, under oath, as to its methods of doing business, including the prices at which its stamps are sold or furnished to tradesmen, and the advertised or alleged value of such stamps when given or offered by such tradesmen in connection with the sale of articles, entitling the holders to receive articles other than the articles so sold, and any other information that the Governor and council may desire, to enable them to determine whether the business of such corporation is legitimate, and does not involve any element of fraud or imposition upon individuals or the general public. (Id. § 4.)

326. Service of Process.—Before a license is granted to such corporation it shall file with the State Treasurer a written stipulation that legal process affecting it, served on the State Treasurer, shall have the same effect as if served on the company within the State. (Id. § 5.)

327. Deposit.—It shall also deposit with the State Treasurer the sum of ten thousand dollars, as security for the payment of any judgments which may be obtained against it, and for the payment of any taxes that may be assessed against it in any city or town. The State Treasurer is authorized to pay from said deposit any executions issued upon judgments obtained against such corporation, and taxes assessed against it in any city or town; and, upon the renewal of the license issued to such corporation, it shall make good any impairment of said deposit, and keep the same unimpaired so long as it shall continue to do business within this State. (Id. § 6.)

328. License, Issue.—If the foregoing provisions are complied with, and the Governor and Council are satisfied that such applicant is a safe and reliable company and entitled to public confidence, and that its business methods are trustworthy and involve no element of fraud or imposition, they may grant to such corporation a license to do business within this State until July first thereafter. (Id. § 7.)

329. ———, Renewal.—Such license may be renewed, so long as such corporation shall comply with the law and the Governor and Council regard it as safe and reliable and entitled to confidence, and that its business or methods are not detrimental to the general mercantile, commercial and business interests of the State. (Id. § 8.)

330. ———, Revocation.—Such license may be revoked at any time by the Governor and Council, upon reasonable notice to such corporation or its authorized agents, when the Governor and Council are satisfied that its methods of doing business are not such as entitle it to public confidence, or involve an element of fraud or imposition upon the public or individuals. (Id. § 9.)

331. Fees.—Every such corporation shall pay to the State Treasurer a license fee of not less than two hundred and fifty dollars nor more than one thousand dollars, to be determined by the Governor and Council. (Id. § 10.)

332. Penalty.—Any officer or agent of any such unlicensed foreign corporation who shall undertake to transact its business within this State shall be fined not more than five hundred dollars, or imprisoned not more than six months, or both. Whoever offers or delivers trading stamps, or other similar devices of such foreign corporation, in connection with the sale of goods, wares or merchandise, shall, for the purposes hereof, be deemed the agent of such corporation. (Id. § 11.)

333. License Required.—No individual, firm or corporation organized under the laws of this State shall engage in such business without obtaining a license as herein provided. (Id. § 12.)

334. Application.—Application for such license shall conform to the requirements of the foregoing subdivision, except that firms or individuals shall file with the application a full statement, under oath, showing the amount of the capital employed in the business and the assets and liabilities of such individual or firm, instead of the copy and statement required by section 2. (Id. § 13.)

335. License.—If the foregoing provisions are complied with license may be issued and revoked as provided in sections 7 to 10. (Id. § 14.)

336. Tax.—Every licensee shall pay an excise tax of ten per cent of all its sales of trading stamps or other similar devices to tradesmen within this State. (Id. § 15.)

337. Return.—Every such licensee shall, on April first in each year, make a return in writing, under oath, to the treasurer of the city or town in which such business is carried on, stating the number of trading stamps or other similar devices sold or delivered during the preceding year to tradesmen within this State, and intended to be sold or delivered by them, in connection with the sale of goods, wares and merchandise, and the gross receipts from such sales. (Id. § 16.)

338. Assessment; Collection.—The Treasurer shall compute the amount of such tax and shall issue his warrant for the collection thereof to the collector of taxes in such city or town, who shall collect the same for the use of such city or town in the manner prescribed for the collection of resident taxes. (Id. § 17.)

339. Omitting Return.—Whoever omits to make and file the returns required by this or the next subdivision shall forfeit not less than five nor more than ten dollars for each day for fifteen days after the date upon which said returns are required to be made, and not less than ten nor more than two hundred dollars for each day thereafter during which such omission continues; and whoever knowingly makes a false statement under oath in such return shall be guilty of perjury. (Id. § 18.)

340. Forfeited Licenses.—Any licensee who shall neglect or refuse to make such return, or to pay such tax shall be deemed ipso facto to have forfeited his license, and to be no longer authorized or entitled to do business within this State. (Id. § 19.)

341. Tax.—Every tradesman giving or delivering trading stamps or other similar devices, in connection with the sale of articles, entitling the holders to receive articles other than the articles so sold, shall pay an excise tax for carrying on such business, equivalent to three per cent of the gross receipts by such tradesman from the sale of the articles so sold. (Id. § 20.)

342. Return.—Every such tradesman shall, on April first in each year, make a return in writing, under oath, to the treasurer of the city or town in which such business is carried on, stating the number of trading stamps or other similar devices given or delivered in connection with the sale of articles, and the gross receipts from the sales made in connection with the issuing or giving of such trading stamps or other similar devices during the previous year. (Id. § 21.)

343. Assessment; Collection.—The tax shall be assessed and collected as provided in section 17. (Id. § 22.)

344. Value of Stamps.—All trading stamps or other similar devices sold or delivered to any tradesman to be sold, given or delivered in connection with the sale of articles, entitling the holders to receive articles other than the articles so sold, shall have legibly and distinctly printed across the middle of the face thereof, in letters or figures not less than one-sixteenth of an inch in height, the alleged or advertised value of the same, or the value of the personal property for which they may be exchanged or redeemed, and said value shall not be less than one cent. (Id. § 12.)

345. Penalty.—Whoever sells or issues any trading stamp or other similar device, or gives away or delivers the same in connection with the sale of goods, not having the alleged or advertised value thereof printed thereon, as prescribed by the preceding section, shall be fined five dollars. (Id. § 24.)

346. Redemption by Issuer.—Every person, firm or corporation who shall sell or issue any such trading stamps or other similar devices to any tradesman, with the promise or assurance, express or implied, to give or deliver to any person

presenting said trading stamps or other similar devices money or goods therefor, shall redeem the same at their face value, when presented in lots or numbers aggregating at their face value not less than five cents, either in cash or in goods, at the option of the holder. In case such holder elects to receive goods the same may be selected by him. (Id. § 25.)

347. —, by Tradesmen.—Any tradesman who shall distribute, deliver or present to any person dealing with him any stamp known as a trading stamp or other similar device issued by or procured from any dealer in the same, in consideration of any article or thing purchased, shall, upon the failure of said dealer to redeem said trading stamps or other similar devices, in the manner prescribed in the preceding section, be liable to the holder of any of said stamps to their alleged advertised, stipulated or face value, when presented in lots or numbers aggregating at their face value not less than five cents, and shall redeem the same in goods or in money, at the option of the holder thereof, at the value printed upon the face thereof. (Id. § 26.)

348. Suits.—Any holder of any said stamps or other similar devices may recover the advertised, alleged, stipulated or face value thereof from any of the aforesaid dealers or tradesmen in an action of assumpsit. (Id. § 27.)

349. Penalty.—Whoever violates any provisions of this chapter, for which a different penalty is not herein provided, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both. (Id. § 28.)

Weights and Measures.

350. Standards.—The weights and measures received from the United States under joint resolution of Congress approved June 14, 1836, and July 27, 1866, and such new weights and measures as shall be received from the United States as standard weights and measures in addition thereto or in renewal thereof, and such as shall be supplied by the State in conformity therewith and certified by the National Bureau of Standards, shall be the State standards, by which all municipal standards of weights and measures shall be tried, proved and sealed. (Public Laws of 1926, c. 161, § 1.)

351. Commissioner.—There shall be a State Commissioner of Weights and Measures, appointed by the Governor, with the advice and consent of the Council, for a term of five years and until his successor is appointed and qualified. (Id. § 2.)

352. Inspectors.—There shall be not exceeding three inspectors of weights and measures, who shall be appointed by the commissioner, with the advice and consent of the Governor and council. Their annual salaries shall not exceed seventeen hundred dollars each. (Id. § 3.)

353. Salaries; Expenses.—The salary of the commissioner shall be three thousand dollars a year, and he shall be allowed for salaries for inspectors, clerical services, traveling and contingent expenses for himself and inspectors such sums as shall be necessary to carry out the provisions of this chapter, to be paid upon warrant of the Governor. (Id. § 4.)

354. Commissioner's Bond.—The commissioner shall give a bond in the sum of five thousand dollars, with sureties to be approved by the Governor, for the faithful performance of the duties of his office and for the safety of the standards intrusted to his care, and for the surrender thereof to his successor or to the person appointed by the Governor to receive them. (Id. § 5.)

355. Inspector's Bond.—Each inspector shall give a bond in the sum of one thousand dollars, with sureties, to be approved by the Secretary of State, for the faithful performance of the duties of his office and for the safety of any apparatus intrusted to his care. (Id. § 6.)

356. Commissioner's Duties.—The commissioner shall take charge of the standards of the State, and cause them to be kept in a safe and suitable place in his office, from which they shall not be removed except for repairs or for certification, and he shall take all other necessary precautions for their safe keeping. He shall maintain the State standards in good order, and shall submit them at least once in ten years to the National Bureau of Standards for certification. He shall keep a complete record of the standards, balances and other apparatus belonging to the State and take a receipt for the same from his successor in office. (Id. § 7.)

357. Testing, Local Standards.—He shall, at least once in five years, try and prove by the State standards all standard weights, measures and other apparatus which may belong to any city, and shall seal the same when found to be accurate, by stamping on them the letters N. H. and the last two figures of the year with seals which he shall have and keep for that purpose, and shall keep a record of

such inspections. He shall, upon the written request of any citizen, firm, corporation or educational institution in the State, test or calibrate weights, measures, weighing and measuring devices, and instruments or apparatus used as standards in the State. (Id. § 8.)

358. State Institutions.—He, or the inspectors by his direction, shall at least once annually test all scales, weights and measures used in checking the receipts or disbursements of supplies in every institution for the maintenance of which moneys are appropriated by the Legislature, and he shall report in writing his findings to the supervisory board and to the executive officer of the institution concerned; and, at the request of such board, or executive officer, the commissioner shall appoint in writing one or more employees then in the actual service of such institution, who shall act as special deputies for the purpose of checking the receipts or disbursements of supplies. (Id. § 9.)

359. Inspections.—The commissioner, or his inspectors at his direction, shall at least once in two years visit the various cities of the State in order to inspect the work of the local sealers, and in the performance of his duties he may inspect the weights, measures, balances or any other weighing or measuring appliances of any citizen, firm or corporation, and shall have the same powers as the local sealer of weights and measures. (Id. § 10.)

360. Supervision.—He shall have and keep a general supervision of the weights, measures and weighing and measuring devices offered for sale, sold or in use in the State. (Id. § 11.)

361. Regulations.—The commissioner shall issue from time to time regulations for the guidance of city sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties (Id. § 12.)

362. Inspectors' Powers.—When not otherwise provided by law the inspectors shall have the power, under the direction of the commissioner, to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, weighing or measuring instruments, or mechanical devices for measuring, and tools, appliances or accessories connected with any and all such instruments or measures kept, offered or exposed for sale, sold, used or employed within the State by any proprietor, agent, lessee or employee in proving the size, quantity, extent, area or measurements of quantities, things, produce, articles for distribution or consumption offered or submitted by such person or persons for sale, hire or reward; and they shall have like power to, and shall from time to time weigh or measure packages or amounts of commodities of whatever kind kept for the purpose of sale, offered for sale or sold, or in the process of delivering, in order to determine whether the same contain the amounts represented, and whether they are offered for sale or sold in a manner in accordance with the laws relative to weights and measures. (Id. § 13.)

363. ———, Duties.—They shall at least once each year, and as much oftener as the commissioner may deem necessary, see that the weights, measures and all apparatus used in the State are correct. They may for the purposes mentioned, and in the general performance of their official duties, stop any vendor, peddler, junk dealer, or the driver of any coal wagon, ice wagon or delivery wagon, or any dealer whatever, and require him to proceed to such place as the inspector may specify, for the purpose of making the proper tests, and for that purpose they may, without formal warrant, enter any stand, place, building or premises. Whenever an inspector finds a violation of the statutes relating to weights and measures he shall report the same to the commissioner, who shall cause the violator to be prosecuted. (Id. § 14.)

364. Sealing.—Whenever an inspector compares weights, measures or weighing or measuring instruments and finds that they correspond with the standards in his possession and conform to the specifications and regulations of this department, or causes them to correspond with said standards and to conform to said specifications and regulations, he shall seal or mark such weights, measures, weighing or measuring instruments with appropriate devices to be approved by the commissioner. (Id. § 15.)

365. Condemning.—He shall condemn and seize to hold as evidence, and may, upon order of the court, destroy incorrect weights, measures, or weighing or measuring instruments which, in his judgment, are not susceptible of satisfactory repair; but such as are incorrect and may be repaired he shall mark or tag as condemned for repairs in a manner prescribed by the commissioner. (Id. § 16.)

366. Correcting.—The owners or users of any weights, measures or weighing or measuring instruments, of which such disposition is made, shall have the same repaired or corrected within the time prescribed by the commissioner, and they may

neither use nor dispose of the same, except as permitted by the commissioner, but shall hold the same at his disposal. (Id. § 17.)

367. Confiscating.—Any apparatus which has been condemned for repairs, and has not been repaired as herein required, shall be confiscated as provided in section 16. (Id. § 18.)

368. Records; Reports.—The inspectors and city sealers shall keep a complete record of all their official acts, and shall make reports to the Commissioner of Weights and Measures as he may direct, on blanks approved by him. (Id. § 19.)

369. City Sealers.—There shall be a sealer of weights and measures in cities of not less than ten thousand population, according to the latest United States census, to be appointed by the mayor, with the consent of the city council. He shall, in said city, have the same powers and duties as the State inspectors have elsewhere. (Id. § 20.)

370. Apparatus.—The Common Council of each city required to appoint a sealer shall procure at the expense of the city, and shall keep at all times, a complete set of weights and measures and other apparatus of such materials and construction as the commissioner may direct. All such weights, measures and other apparatus, having been tried and accurately proven by him, shall be sealed and certified to by the commissioner as hereinbefore provided, and shall be then deposited with and preserved by the city sealer as public standards for the city. Whenever the common council of such city shall neglect for six months to provide such standards the city clerk of said city, on notification and request by the commissioner, shall provide the same and cause them to be tried, sealed and deposited at the expense of the city. (Id. § 21.)

371. Authority as Police.—The Commissioner of Weights and Measures, his inspectors, and the city sealers of weights and measures, are special policemen, and are authorized and empowered to arrest, without formal warrant, any violator of the statutes in relation to weights and measures, and to seize for use as evidence, and without warrant, any false or unsealed weight, measure or weighing or measuring device, or package or amounts of commodities found to be used, retained or offered or exposed for sale or sold in violation of this chapter. (Id. § 22.)

372. False Weights, etc.—Any person who, by himself or by his servant or agent, or as the servant or agent of another, shall offer or expose for sale, sell, use or retain in his possession for use, a false weight or measure or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed by the commissioner or inspector, or by a sealer of weights and measures within one year, for the purpose or the apparent purpose of buying or selling of any commodity or thing, or for hire or reward; or shall dispose of any condemned weight, measure or weighing or measuring device contrary to law, or remove any tag placed thereon by the commissioner or inspector, or by a sealer of weights and measures, without his permission; or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall sell or offer or expose for sale less than the quantity he represents, or sell or offer or expose for sale any commodity in a manner contrary to the laws relative to weights and measures, or, in purchasing, misrepresents the amount purchased, shall be fined not less than twenty nor more than two hundred dollars, or imprisoned not more than three months, or both, upon a first conviction; upon a second or subsequent conviction he shall be fined not less than fifty nor more than five hundred dollars, or imprisoned not more than one year, or both. (Id. § 23.)

373. Obstructing Officials.—Any person who shall hinder or obstruct in any way the commissioner, any inspector or any city sealer in the performance of his official duties shall be fined not less than twenty nor more than two hundred dollars, or imprisoned not more than ninety days, or both. (Id. § 24.)

374. Impersonating Official.—Any person who shall impersonate in any way the commissioner, any inspector or city sealer, by use of his seal or counterfeit of his seal or otherwise, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned not more than one year, or both. (Id. § 25.)

375. Certain Commodities; Provisions Governing.—In proceedings under section 23, for false or insufficient weights or measures in connection with the sale of any article, the following weights and provisions shall govern:

I. Bushel by Weight. Except where the parties shall expressly agree to sale by some other standard than by weight, a bushel shall contain the number of pounds hereinafter set forth: Dried apples, 25; beets, 60; small white beans, 60; soybeans (*glycine hispida*), 58; barley, 48; bran, 20; buckwheat, 48; Indian corn, 56; corn meal, 50; cracked corn, 50; cranberries, 32; carrots, 50; clover seed, 60; flaxseed, 56; herds grass or timothy seed, 45; Japanese barnyard millet (*P. crusgalli*), 35; lime, 70; oats, 32; onions, 52; pears, 58; peaches, 48; dried

peaches, 33; peas, 60; parsnips, 45; roasted peanuts, 20; green peanuts, 22; Irish potatoes, 60; sweet potatoes, 54; quinces, 48; rye, 56; rye meal, 50; coarse salt, 70; fine salt, 50; shorts, 20; tomatoes, 56; turnips, 55; wheat, 60; string beans, 24; unshelled green peas, 28; beet greens, 12; dandelions, 12; parsley, 8; spinach, 12; and for fractional parts of a bushel like fractional parts of the above weights shall be required.

II. Dry Measure. All fruits, nuts and vegetables, if sold by measure, shall be sold by dry measure, United States standard.

III. Heaping Measures. Commodities, the individual units of which are determined by the commissioner as large in size, shall be measured by heaping measures; that is: the measure shall be heaped up in the form of a cone, the outside rim of the measure to be the base of the cone and the cone to be as high as the commodity will admit; other commodities shall be measured by struck or level measure.

IV. Baskets. Baskets or other receptacles holding one quart or less, which are used in the sale of berries, cherries or currants, shall be of the capacity of one quart, one pint, or half-pint, United States standard dry measure. Said baskets or other receptacles shall not be required to be tested and sealed, but any sealer or health officer may test the capacity of any basket or other receptacle in which such fruit is sold or intended to be sold; and if the same is found to contain less than the standard measure, or if the quantity of such fruit is otherwise less than as herein provided, he shall seize the same and make complaint against the vendor. (Id. § 26.)

376. **Posting Notice.**—The proprietor of any place where articles named in paragraph IV of the preceding section are sold or kept for sale shall post conspicuously, in a place ordered by the commissioner and where patrons may easily read the same, a printed notice to be furnished by the commissioner, containing said paragraph and such other information as the commissioner may direct. (Id. § 27.)

377. **Penalty.**—Whoever sells or offers for sale, or has in possession with intent to sell, any such fruit in any receptacle holding one quart or less which does not conform to said standard, or, conforming thereto, is not at least level measure, or fails to keep posted the notice hereinbefore provided, shall be punished as provided in section 23. (Id. § 28.)

378. **Packages.**—It shall be unlawful for any person to sell or offer for sale any commodity in package form unless the contents thereof is [are] expressed in terms of net weight, measure or numerical count in a conspicuous place on the outside of the package, in a plainly printed statement in large type. Reasonable variations or tolerances shall be permitted, and these variations or tolerances as provided in section 41 and also exemptions as to small packages shall be established by rules and regulations made by the commissioner. (Id. § 29.)

379. **Penalty.**—Any person violating the preceding section shall be fined not less than twenty nor more than two hundred dollars. (Id. § 30.)

380. **Sale of Bread.**—It shall be unlawful for any person to make for sale, sell, offer to sell or procure to be sold any bread unless each loaf is enclosed in a wrapper plainly showing its weight and the name of the manufacturer thereof, the size of stamp and type used to be specified by the commissioner. (Id. § 40.)

381. **Public Weighers, Appointment.**—Any town or city may appoint one or more public weighers of coal and other merchandise. Such weighers shall be appointed in towns by the board of selectmen and in cities by the body which appoints the city sealers of weights and measures, and shall hold office during the pleasure of the body by which they are appointed, or until their successors are chosen and qualified. (Id. § 41, as added Act of Mar. 10, 1927.)

382. **Certificates Required.**—All coal and hay sold by weight in any city or town adopting the provisions hereof shall be weighed by one of such public weighers, at the expense of the seller. The weigher shall deliver to the seller, or his agent, a certificate of the weight of all merchandise weighed by him which certificate shall be delivered by the seller to the buyer or his agent at the time of the delivery of such merchandise. No person shall act as a public weigher of coal, hay or other merchandise of which he is either the buyer or seller, or a servant or agent of the buyer or seller, or in the sale whereof he has any interest, except when such servant or agent is acting in behalf of the town or city. The weigher shall keep a record of all such certificates, which record shall at all times be open to inspection by any person interested therein. (Id. § 42.)

383. **Sales to City or Town.**—Every person selling to any city or town by weight any merchandise, the weight whereof is more than one hundred pounds, shall

furnish therewith, at his own expense, the certificate of a public weigher of said city or town. (Id. § 43.)

384. Other Purchases.—Any person, not a city or town, purchasing by weight any merchandise, the weight whereof is more than one hundred pounds, other than coal or hay, may require therewith the certificate of a public weigher of the city or town in which such purchaser resides, such certificate to be delivered with said merchandise at the expense of the seller. (Id. § 44.)

385. Fees.—Public weighers shall be paid such fees, not exceeding fifteen cents for each weighing, as shall be prescribed by the body by which they are appointed, which shall be in full for the use of the scales, the certificates furnished, the recording thereof and all official services performed. (Id. § 45.)

386. Maintenance.—Any city or town may erect and maintain public scales within the limits of any public highway, or on any other lands and may appropriate money therefor. In case of the failure of the owner of lands to sell the property required for the erection and maintenance of public scales, proceedings may be had for the acquisition of such property by a town or city in the same manner as for the taking of land for highway purposes. (Id. § 46.)

387. Penalty.—Any person who shall sell any merchandise without furnishing therewith the certificate of a public weigher as required by the provisions hereof, or any public weigher who, on tender to him of his lawful fees, shall refuse to perform any duty imposed upon him by the provisions hereof, shall be fined not more than twenty dollars. (Id. § 47.)

388. Adoption by City or Town.—The provisions hereof when adopted by lawful vote of any city or town shall continue in force until said vote is rescinded. (Id. § 48.)

389. Specifications.—The commissioner shall, after consultation with and with the advice of the National Bureau of Standards, establish specifications and tolerances for weights and measures and weighing and measuring devices, and said specifications and tolerances shall be legal specifications and tolerances in this State, and shall be observed in all inspections and tests. (Public Laws of 1926, c. 161, § 49.)*

390. Hawkers, Etc.—No license shall be issued to any hawker, peddler or itinerant vendor unless he presents a certificate from the sealer of weights and measures, showing that the weights or measures used by him have been properly inspected, tested and sealed immediately preceding the issuance of such license. Upon conviction of any hawker, peddler or itinerant vendor of any violation of the provisions of this chapter, such license shall be revoked. (Id. § 50.)*

391. Farm Produce; Standard Boxes.—Farm produce may be sold in, or shipped from, New Hampshire at either wholesale or retail in standard boxes, in original or unbroken form, and such standard boxes shall contain two thousand one hundred sixty-two and eighty-nine one hundredths cubic inches and shall be of the following dimensions by inside measurements: seventeen and one-half inches in length by seventeen and one-half inches in width and seven and one-sixteenth inches in depth. The New Hampshire standard half-box for farm produce shall contain one thousand eight-one and fifty-five one hundredths cubic inches, and shall be of the following dimensions by inside measurements: twelve and three-eighths inches in length by twelve and three-eighths inches in width and seven and one-sixteenth inches in depth. When the above specified boxes are made of wood the ends shall be not less than five-eighths of an inch, and the sides and bottom not less than three-eighths of an inch in thickness. All such boxes and half-boxes of the dimensions specified herein shall be marked on at least one outer side in bold, uncondensed capital letters, not less than one inch in height: "Standard Box Farm Produce" and "Standard Half-Box Farm Produce," respectively. Except as above provided, farm produce shall be sold at wholesale or retail by avoirdupois weight, measure or numerical count. (Public Laws of 1926, c. 162, § 11.)

392. Penalty.—Whoever represents, by marking or otherwise, any box or half-box to be a standard box or standard half-box for the sale of farm produce, unless it conforms to the foregoing requirements, shall be fined not more than fifty dollars. (Id. § 12.)

393. Enforcement.—The commissioner and inspectors of weights and measures shall enforce the provisions of this subdivision. (Id. § 13.)

NOTE: See also No. 7; the apple law, No. 20 et seq.; the dairy law, No. 65 et seq.; the ice law, Nos. 173-174.

*Sections renumbered by Act of March 10, 1927.

PART V.

Cases.

1. Special Food Laws.

Beverages—Jamaica Ginger: State v. Agalos, 79 N. H. 241, 107 Atl. 314 (1919).

Bread: See post.

Milk—Duty of Carrier in Transportation: Baker v. Boston & Maine Railroad, 74 N. H. 100, 65 Atl. 386, 124 Am. St. Rep. 937 (1906).

Milk—Maximum Watery Fluid and Minimum Milk Solids Standard: *State v. Campbell, 64 N. H. 402, 13 Atl. 585, 10 Am. St. Rep. 419 (1887). See also: Bisbee v. Pulpit Farm Dairy, 78 N. H. 372, 100 Atl. 672 (1917).

Milk—Recovery of Purchase Price of Adulterated Milk: Moskwa v. Nassikas et al., 133 Atl. 821 (1926).

Oleomargarine: *State v. Marshall, *Slayton v. Same, 64 N. H. 549, 15 Atl. 210, 1 L. R. A. 51 (1888); *State v. Collins, 67 N. H. 540, 42 Atl. 51 (1893), reversed in *Collins v. New Hampshire, 171 U. S. 30, 18 S. Ct. 768, 43 L. Ed. 60 (1898); *State v. Ball, 70 N. H. 40, 46 Atl. 50 (1899); State v. Ryan, 70 N. H. 196, 46 Atl. 49, 85 Am. St. Rep. 629 (1899); *State v. Collins, 70 N. H. 218, 45 Atl. 1080 (1899), affirmed in *Collins v. New Hampshire, 187 U. S. 636, 23 S. Ct. 844, 47 L. Ed. 344 (1902).

Sanitation—Wrapping of Bread: *State v. Normand et al., 76 N. H. 541, 85 Atl. 899, Ann. Cas. 1913 E, 996 (1913).

2. Special Drug Laws.

Pharmacy: *State v. Forcier et al., 65 N. H. 42, 17 Atl. 577 (1883).

3. Civil Action to Recover Damages for Injury Alleged to Have Been Caused by Consumption of Product.

Food: Kenney v. Wong Len et al., 81 N. H. 427, 128 Atl. 343 (1925). See also: C. C. King Co. v. Aldrich, 81 N. H. 42, 121 Atl. 434 (1923).

4. Miscellaneous.

Gift Enterprise: State v. Clarke et al., 33 N. H. 329, 66 Am. Dec. 723 (1856); Main v. Berlin Dry Goods Co., 75 N. H. 511, 77 Atl. 483 (1910).

Trading Stamps: *State v. Ramseyer, 73 N. H. 31, 58 Atl. 958 (1904).

Weights and Measures: Pike v. Jenkins et al., 12 N. H. 255 (1841).

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